

# THE ARCTIC COUNCIL: ITS PLACE IN THE FUTURE OF ARCTIC GOVERNANCE

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# THE ARCTIC COUNCIL: ITS PLACE IN THE FUTURE OF ARCTIC GOVERNANCE

ISBN# 978-0-9737651-5-1

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The following is a collection of papers originally presented during THE ARCTIC COUNCIL: ITS PLACE IN THE FUTURE OF ARCTIC GOVERNANCE, January 17-18, 2012. The conference was a collaboration between the Munk-Gordon Arctic Security Program and the University of Lapland.

We would like to thank our generous sponsors, Baffinland Iron Mines Corporation, Borden Ladner Gervais (BLG) and Cisco for their support in making this publication possible.

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# FOREWORD

This book has its origins in the final conference of the prestigious Arctic Governance Project, which took place at the beginning of 2010 in Tromsø, Norway. Two eminent professors, Oran Young and Robert Corell, led this project, of which the goal was to influence the development of the Arctic Council and Arctic governance, more generally. As participants of the conference, Tom Axworthy and Timo Koivurova “found” each other in the sense that we both envisaged and aspired for more critical, broader, and forward-looking discussion surrounding governance in the Arctic as the aim of the Arctic Governance project, instead, focused on more immediate policy influences. In retrospect, the project likely served as a spark towards the overall movement to strengthen the Arctic Council.

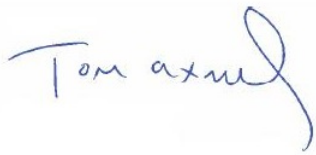
We must acknowledge that the Arctic Council has stepped up its efforts. The May 2011 Nuuk ministerial meeting was a clear indication of this trend with the signature of the *Agreement on Cooperation on Aeronautical and Maritime Search and Rescue in the Arctic* and the decision to establish a permanent secretariat for the Council. While these movements are positive, in our view, we do not think this means that there is no longer a need for the type of discussion and reflection that we sought back in 2010. Why?

The Arctic will face vast challenges in the years to come, requiring all levels of governance – especially the Arctic Council – to constantly adjust their modes of operation. Critical discussion is a necessary component in adapting to new policy realities. Broader forward-looking approaches enable us to step back and thoroughly reflect on what direction we should be heading in. The time is right for this type of discussion: the chairmanship of the Arctic Council has passed through its first full rotation and the chair will soon return to its initiator, Canada, in 2013. It will then pass to the United States in 2015. Now it is moment to discuss in which direction Canada – and perhaps Canada and the US together – want to take the Arctic Council.

To seize upon this critical moment in Arctic governance the Munk-Gordon Arctic Security Program and the Arctic Centre, University of Lapland commissioned contributions from scholars and other professionals whom we knew could provide the type of critical and forward-looking perspectives that we wanted. We are very proud of the diverse group viewpoints that we were able to put together and whose contributions are the outcome of serious and innovative thinking. We would like to thank each one of them for their contribution to the book and in their fulfillment of the goals that we had set for the project. It was also great for us, as editors, to primarily hear researchers present and defend their views to Arctic Council actors – to the Senior Arctic Officials, Arctic indigenous leaders (representing the six permanent participants of the Arctic Council), and observers – at the final conference entitled *The Arctic Council: its place in the future of Arctic governance* held at the Munk School of Global Affairs, University of Toronto, on January 17 and 18, 2012. The conference’s element of direct interaction between research and policymakers served to inform and enhance the articles in this book.

We would also like to take this opportunity to thank the Munk-Gordon Arctic Security Program and the Arctic Centre, University of Lapland, for supporting the project. In particular, we would like to thank Sara French, the Program Manager of the Arctic Security Program, for her extremely effective assistance in all stages of producing this ebook.

Sincerely,



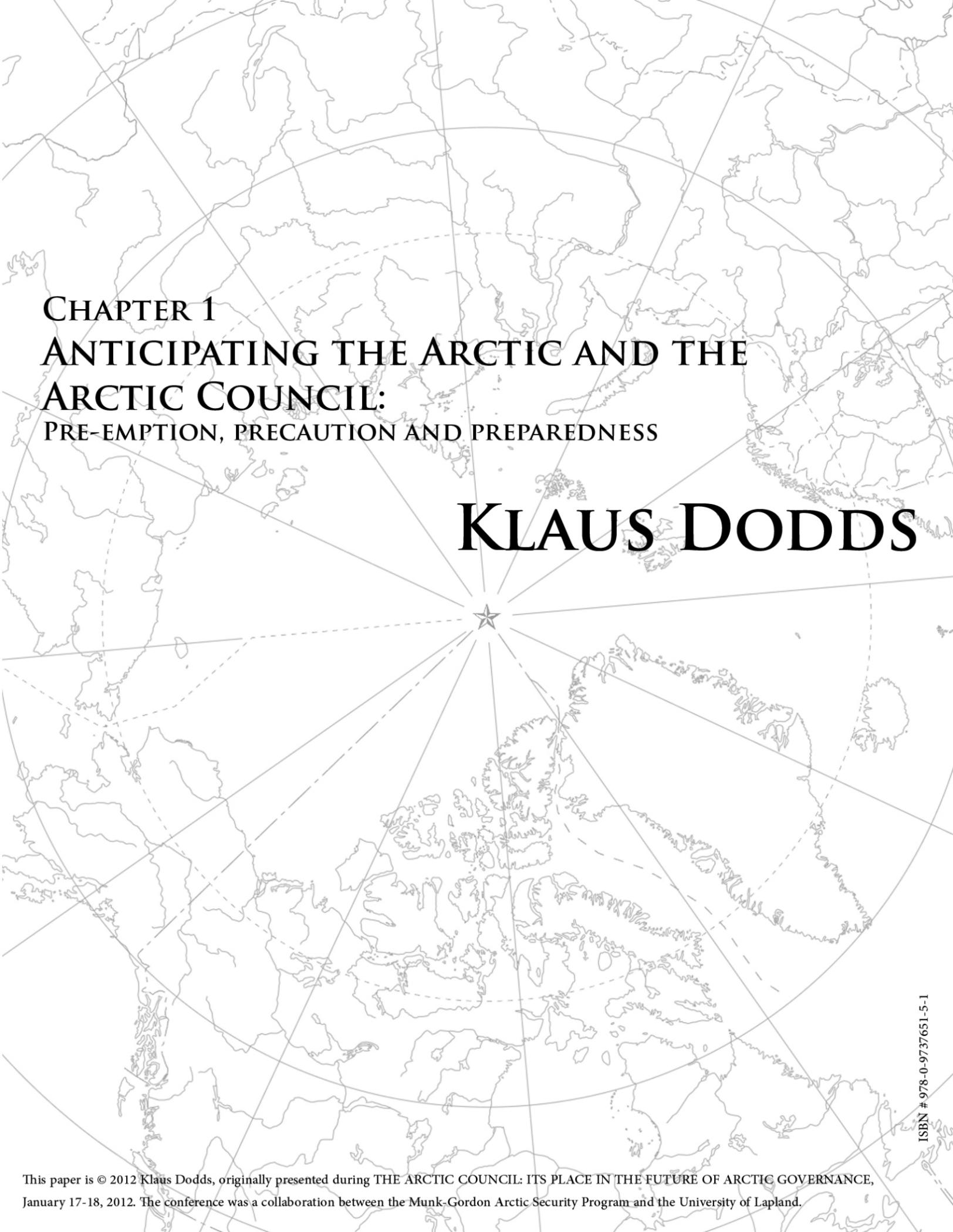
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**CHAPTER 1**  
**ANTICIPATING THE ARCTIC AND THE**  
**ARCTIC COUNCIL:**  
**PRE-EMPTION, PRECAUTION AND PREPAREDNESS**

**KLAUS DODDS**

ISBN # 978-0-9737651-5-1

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# ANTICIPATING THE ARCTIC AND THE ARCTIC COUNCIL: PRE-EMPTION, PRECAUTION AND PREPAREDNESS

Klaus Dodds, *Royal Holloway, University of London*

## INTRODUCTION

THE ARCTIC IS UNDERGOING SIGNIFICANT CHANGE. IN THE years to come, these changes will present Arctic stakeholders with a line of new challenges, as well as opportunities, as the region gradually begins to open up as a result of climate change. How will this trend affect the peoples living in the Arctic? How will it affect the fragile biodiversity of the region? And how will the Arctic States and its peoples address the challenges and opportunities of tomorrow in the Arctic? (Nuuk Declaration, 2011)

As the ice melts, technological advances are creating opportunities to open transport routes across the Arctic Ocean and exploit the natural resources of the Arctic. These developments must be managed in a responsible and sustainable manner so that they benefit the region and do not lead to undesired side effects. The Arctic Council should display the shared future vision of the Arctic states so as to consolidate the good co-operation in the region. Its work should be guided by openness and flexibility to enable it to address topical issues (Sweden, 2011).

Debates over Arctic governance, and specifically the Arctic Council, are underpinned by an *explicit* sense that the geographical transformation of the Arctic region is a driving force. Thinning and disappearing sea ice, melting permafrost, and circumpolar climate change, however locally and regionally varied, are commonly identified as playing their part in unsettling the geographies of Arctic governance. Economic globalization, for most commentators, is also implicated in

**Klaus Dodds** is Professor of Geopolitics at Royal Holloway, University of London and Visiting Fellow at St Cross College, University of Oxford. He is editor of *The Geographical Journal* and specializes in the geopolitics of the Polar Regions, popular culture and international politics and the history of geopolitics/geography. His polar work, initially in and on the Antarctic and more recently the Arctic, is concerned with the inter-relationship between territory, sovereignty, resources and governance. He is the author and editor of a number of books including

the global entanglement of the Arctic region. As Oran Young recently asserted, “It is beyond doubt that the Arctic is in the midst of a transformation, driven by the combined forces of climate change and globalization and *expected* to lead to increased human activities in the region in such forms as oil and gas development, commercial shipping, industrial fishing and ship based tourism” (Young, 2011: 327, emphasis added). The word “expected” here is key because it leads to a discussion about how various actors and institutions might prepare for a changed and changing Arctic.

While it is beyond the scope of this chapter, historians may worry that this characterization of a previously isolated Arctic region embedded within contemporary globalization is historically suspect. The activities of the Hudson Bay Company would provide one example of a transnational agent operating in and out of a series of territories that include modern-day Canada, and helping to circulate and connect indigenous and imperial peoples alike. While the presence of sea ice, especially in the Arctic Ocean, has clearly acted as a barrier to movement/exchange it has not stopped a series of encounters between indigenous/Northern communities and national governments and extra-regional powers including empires from contributing to the governance of the high latitudes. So, if globalization and biophysical change are said to matter then it has more to do with a sense of acceleration and intensification, rather than novelty per se (for a review, Dodds, 2011). As the Report on the Arctic Governance Project (2010) notes, the issue here is one of pace and trajectory, and the heightened interest more generally from the global community, and associated speculation about the future geography and history of the Arctic region, including the future of sea ice itself (Emmerson, 2009).

The planting of the Russian flag on the central Arctic Ocean in August 2007 offered a highly visual catalyst for future-orientated rumination. An audacious and technically impressive achievement, it brought to the forefront debates about the Arctic region being a space ripe for resource and territorial scrambles. With echoes of 19<sup>th</sup> century imperial adventurism in Africa and Asia, the Arctic was (once again) represented as a “last frontier” awaiting new investment and exploitation with all the accompanying intrigue. While international lawyers were eager to downplay the legal significance of the actual planting itself, media reporting was swift to frame the event as indicative of a new uncertain future, in which states and

## Klaus Dodds con’t

*Observant States: Geopolitics and Visual Culture, Geopolitics: A Very Short Introduction* (2007), and *Pink Ice: Britain and the South Atlantic Empire* (2002).

Dodds’ interest in the Arctic Council is twofold. He is interested in what is meant when we identify the ‘Arctic’ in the context of governance debates. How that space is defined, understood and indeed challenged is clearly critical in shaping both the present discourses and practices associated with the Arctic Council and critically in anticipating the future.

Second, he is eager to investigate further how, why and, critically, where debates over the merits (or otherwise) of an Arctic treaty (with reference to the Antarctic Treaty) were mobilized and even now marginalized.

their agents would seek to maximize individual advantage at the expense of collective governance and environmental management. Worse still, diminishing sea ice (evidenced in the main by satellite data) combined with ongoing climate change appeared to make this particular scenario more likely.

For the Arctic Ocean coastal states of Canada, Denmark/Greenland, Norway, Russia, and the United States, anticipating further physical, geopolitical, and economic change, provoked two different kinds of responses; the first being an injection of investment in material infrastructure including both civilian (e.g. deep water ports, pipelines, and or search and rescue facilities) and military resources (additional ships/planes/overland vehicles and/or pledges to enhance at least), and public debate about national policies and strategies designed to enhance their national sovereignty and national interests. The Canadian government led by Prime Minister Stephen Harper (2006-present) is one such example with the development of a new Northern Strategy and commitment to build new icebreakers, commission oceanographic research, strengthen port infrastructure, and promote economic development, including mining projects. Technological investment not only provides the potential to establish new scientific facts so essential for making territory (both terrestrial and marine) legible/calculable, but also foregrounds the Arctic as a space for further political and economic opportunities.

But Canada is not alone as other Arctic states prepare for a more uncertain future animated by concerns over search and rescue, constabulary, and more remotely, possible disputes over access to resources/strategic advantage. Others, including Denmark, Norway, Russia, and the U.S. released their own national strategies and pledged new investment in ice-capable shipping and improved airborne surveillance. Building infrastructure matters not only for facilitating particular strategic objectives, but also as an investment in itself of a particular vision of the future, more likely to be realized with the presence of infrastructure.

The second response-type is more collective in nature but varying in institutional and geographical scope. It ranges from intranational negotiations (e.g. ongoing land claims), bi-lateral agreements, and regional co-operation. The Arctic Council, with its origins in the Arctic Environment Protection Strategy (1991) and Russian calls to create an "Arctic zone of peace" in the late 1980s, is a good example of an intergovernmental forum (with a key role for indigenous peoples as permanent

participants) dedicated to improving collaboration between Arctic parties. In recent years, spurred on by growing speculation about the Arctic as an aforementioned new resource frontier, attention has focused on whether it can be further reformed (even strengthened) in the light of the changes and pressures confronting the region.

Between the two positions, one unilateral and one more multilateral, lies the Arctic Ocean coastal states and their interest in developing collaborative measures over matters of common concern such as search and rescue and oil spill management in the Arctic Ocean. For all the media reports alluding to land-grabbing antics, there has been no repeat of a national flag being planted on the bottom of the central Arctic Ocean. The parties concerned have thus far followed international legal rules regarding outer continental shelf delimitation (Koviurova, 2011). As if to reinforce this collective *esprit de corps*, the May 2008 Ilulissat Declaration, guided by the Law of the Sea<sup>1</sup>, outlined a shared vision, “The Arctic Ocean stands at the threshold of significant changes. Climate change and the melting of ice have a potential impact on vulnerable ecosystems, the livelihoods of local inhabitants and indigenous communities, and the potential exploitation of natural resources. By virtue of their sovereignty, sovereign rights and jurisdiction in large areas of the Arctic Ocean the five coastal states are in a unique position to address these possibilities and challenges.” (Ilulissat Declaration, 2008).

The Declaration as a concrete object serves as a courier for the rhetoric that it contains. The claim, for example, that “the Arctic stands at a threshold” performs a great deal of rhetorical work. In just three sentences, for example, we have the Arctic 5 littoral states set up a predicament, enroll scientific facts, and then invoke the legal framework as an opportunity for redress in the present, and the future. Their unique position is taken for granted and privileged as a *de facto* model of governance. Broader questions relating to climate change and fossil fuel exploitation in and beyond the Arctic region are put to one side in order to invoke a future that highlights the need to develop procedures for orderly conduct and development. With further rhetorical flourishes directed towards geographical proximity and capacities (whether legal and or infrastructural) to intervene where appropriate in the Arctic Ocean, a “shared future vision” is expected to emerge

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<sup>1</sup> There was no reference to the United Nations Law of the Sea Convention because of the non-accession of the United States to this agreement.

(Sweden, 2011).

This chapter is concerned with opening questions about the future geographies of the Arctic region, and how states and institutions such as the Arctic 5 and the Arctic Council may play a role in preparing for uncertain futures. For the Arctic Governance Project and their 2010 report, this concern about an uncertain future expressed itself through an interest in how certain principles for Arctic governance could be cultivated. Specifically, the report addressed *inter alia* the role of the Arctic Council and how it might be optimized including institutional reform and funding streams. While sympathetic to this reformist agenda, my sense is that we need to step backwards and think more fully about how the future is conceptualized and mobilized in these discussions, especially with reference to the Arctic Council. It is not simply a matter of disentangling co-operative and conflict-based trends within the Arctic itself, and hoping for a more co-operative vision to prevail.

Taking Arctic futures seriously means addressing *inter alia* the role of anticipation and the way in which liberal-democratic states (and other actors including indigenous organizations) prepare and pre-empt uncertainties and even threats to life in general. Acting in advance of the future is an integral part of liberal-democratic life whether it is in the fields of climate change, terrorism, and/or transnational epidemics. So in the spirit of this conference, which addresses its place of the future of Arctic governance, I am more interested, perhaps counterintuitively, with the idea of the ‘future’ itself. Note the word “the” as opposed to “a” or “futures” pluralized. How is the future in the context of the Arctic region known and rendered actionable? What consequences follow from acting in the present on the basis of the future and who is included in that future?

This last point is important because my concern is that the kind of ‘shared future vision’ that the Swedish Chairmanship Programme for the Arctic Council 2011-2013 articulates is one that is fundamentally rooted in a belief that the Arctic region itself is a bounded territory (Sweden, 2011). Some actors and organizations are more welcomed than others, and it is not clear how the Arctic Council will assemble a shared future vision, given that emphasis is placed on the interests of Arctic states, while some pages later it is suggested the view of indigenous peoples will be listened to. Building a shared future vision will also, as the Swedish statement implies, depend on whether the parties concerned can agree on “a

shared perception of the situation in the Arctic region.” This may prove troublesome given that the Arctic Climate Impact Assessment (ACIA) suggested that the Arctic Ocean could be seasonally ice-free by the end of the 21<sup>st</sup> century and the Arctic Monitoring and Assessment Programme concluded that somewhere between 2030 to 2040 was more likely. A gap of some 60 years in these two assessments poses its own particular challenges in terms of building a shared future vision.

Before turning to how we might conceptualize the future, however, I address my understanding of the Arctic Council because, the first part of the conference’s working title, is explicitly concerned with this organization. Rather than conceive of the Arctic Council as a black-box institution per se, I conceive of it as an actor-network<sup>2</sup> seeking to be a spokesperson for the Arctic, and specifically the Arctic region. While it strives to represent the Arctic, the Arctic also shapes it as well. The 2011 Nuuk Declaration asserted under the title of “Strengthening the Arctic Council” that, “Decide that the Arctic Council should continue to work towards solutions to address emerging challenges in the Arctic utilizing a wide range of challenges” (Nuuk Declaration, 2011). The reference to “emerging” alongside challenges in the Arctic in this context is a crucial one suggesting as it does uncertain futures, but also a need to anticipate and act in the here and now to confront a variety of challenges residing in the Arctic region, as the future itself is imagined, deterred, regularized and/or hoped for. As the Nuuk Declaration outlines at the start of the document, both human and non-human elements of the Arctic face rapidly changing circumstances, which will necessitate (so it is believed and indeed hoped for) an institutionally strengthened Arctic Council in the future (Nukk Declaration, 2011). But what if the Arctic Council does not want to face particular kinds of futures and what if the Arctic region cannot be managed in the way that the Arctic Council might wish for? I conclude with a brief consideration of the knotty issue of observers to the Arctic Council, and use the European Union as an example to illustrate that there may be some futures that are simply dismissed, because they are considered undesirable.

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<sup>2</sup> Actor-network theory used here includes the work of well-known writers such as Bruno Latour and associates such as John Law (1986) and Michael Callon (1986).

## THE ARCTIC COUNCIL AS AN ORGANIZATION AND ACTOR-NETWORK

The Arctic Council's creation and evolution as an actor in Arctic affairs has been widely debated with a series of commentators reflecting on its potential to be transformed from a soft law consultative body to something akin to an organization with distinct legal competencies. This burgeoning interest in the Arctic Council is understandable, not least because organizations are fundamental in shaping Arctic geopolitics. The Arctic Council and other organizations with regional Arctic interests include NATO, Inuit Circumpolar Council, the Nordic Council, and/or Barents Euro-Arctic Council. They are sites of, and for, geopolitical strategies, regional co-operation, environmental protection, military activity, and they help to shape public opinion over current assessments and future trajectories. Organizations, including the Arctic Council, should, quite appropriately, be central to our accounts and interests in the current and future governance of the Arctic negotiating, as they do relations between sovereign states, permanent participants/indigenous peoples organizations and observers including Britain, China and the European Union.

My interest in the above is driven by actor-network theory as an approach that promotes the tracing of embroiled actants' relations, which drive the historical emergence and transformation of recognizably socio-material and institutional forms such as the Arctic Council. Behind the façade of the organization itself, with its assemblage of the recently established secretariat in Norway, and associated working groups and networks, there is a plethora of humans and *elements* (making up socio-material networks) that need to be brought together in order for the organization to be capable of acting in a manner judged to be either co-ordinated and/or effective. Understanding the *how* of an organization not only enables evaluations of why particular future visions emerge from the institutions as praxis, but also how human resources are deployed and arranged in certain ways in order to stabilize such visions that are then used to lend credence to particular courses of action.

The most manifest way that the Arctic Council brings itself together is through ministerial meetings and the Senior Arctic Official (SAO) meetings, with the latter in particular helping to co-ordinate the organization's business and sense of

purpose. The adopted rules of procedure (1998) stipulate requirements and expectation on all parties. The co-ordination, production and circulation of reports, including the SAO reports, as well as others such as the Arctic Climate Impact Assessment (2004), while they contribute to policy and academic-related impact, also help to assemble and reinforce the Arctic Council as network-actor. This does involve 'drilled' or 'trained' people (SAO), documents (SAO Reports), and a sense of durability regarding the future (Law 1986). Institutional reform is thus linked to "the challenges and opportunities facing the Arctic" in the future. As the most recent SAO Report to Ministers noted:

Since that time the rapidly changing circumstances in the Arctic have increased the challenges and opportunities facing the Arctic in both volume and complexity. The establishment of a Secretariat will strengthen the capacity of the Arctic Council to respond to these challenges and opportunities. The Secretariat will enhance the objectives of the Arctic Council through the establishment of administrative capacity and by providing continuity, institutional memory, operational efficiency, enhanced communication and outreach, exchange of information with other relevant international organizations and to support activities of the Arctic Council (SAO Report, May 2011).

Declarations are another public element in the working of the Arctic Council and are declarative and deliberative in nature. The 2009 Tromsø Declaration is a case in point as it helps to publicize the working goals of the Arctic Council in the here and now as well as the future. As Norwegian Foreign Minister Jonas Gahr Støre told reporters at the time, "As human activity in the Arctic increases, we need new policies. I am therefore delighted that the Arctic Council today has agreed to focus on search and rescue in the Arctic, to recommend safety standards for maritime transport and oil and gas production in the Arctic, and to establish a task force to limit emissions of non-CO<sub>2</sub> drivers of climate change, such as black carbon and methane, recognizing their importance in Arctic climate change" (Store, 2009).<sup>3</sup>

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<sup>3</sup> Arctic Council (2009) 'The Tromsø Declaration signed' 10<sup>th</sup> April 2009.

Such a potent declaration from the Norwegian Foreign Minister represents a powerful discursive intervention. What follows from the apparently taken for granted claim, “as human activity in the Arctic increases”, is to justify and legitimize further interventions by the Arctic Council in areas that are at once localized, such as maritime transport and hydrocarbon exploitation, but also globalized in the sense of being tasks that have attracted global and intergovernmental interaction. Liquids and gases, as evoked by the Norwegian Foreign Minister, help to constitute new forms of governance for the Arctic region.

Following the lead of Bruno Latour and colleagues such as John Law, organizations are precarious entities that require a great deal of labor to maintain what is described by such theorists as their “actorness” (sic). Organizational agency, therefore, is regarded as something that is assembled and potentially reassembled in order to become a coherent macro-actor. We should not assume, therefore, that the Arctic Council simply exists. It is brought together by a variety of big and little things, including the words “Arctic Council” (not sure what you mean here.) and material investment and organization such as SAO meetings, Ministerial and Deputy Ministerial annual gatherings, summits, working groups, drafting reports, declarations, website/virtual presence, and the like. It is, like all organizations, precarious and capable of being weakened as well as strengthened – as reflected in ongoing debates about its status as a soft law intergovernmental forum. There is nothing inevitable about the trajectory of the Arctic Council as an organization both in the present and in the future. It could be weakened and indeed one might consider more explicitly what it would take for the organization as such to fail or simply be considered inert – restructuring gone wrong for example.

The activities of the working groups attached to the Arctic Council have taken on considerable importance in debates over Arctic governance because of their acknowledged capacity to project ideas and influence as spokespersons for the Arctic (Callon, 1986). If the Arctic Council needs to display flexibility and adaptability (as suggested by the Arctic Governance Project report) then what kinds of big and little things does it need to bring together in order to demonstrate those kinds of qualities? This might be as much about institutional re-organization as say simply using language that emphasizes innovation, experimentation and relevance in the present and future. Finally, it also depends on securing sufficient consensus and interest from parties that the Arctic Council is incorporated into discussions and actions pertaining to the making of the future of the Arctic.

## UNDERSTANDING THE ARCTIC COUNCIL AS AN ORGANIZATION

The Arctic Council as an organization is to acknowledge its role as a major producer of discourse and materials, and its capacity to act as a geopolitical agent. On the first point, the Arctic Council plays a major role in producing discourse about itself and its role in the making of Arctic governance through press releases, official website, declarations, reports, and public statements. These are quite literally organizational texts in the sense of both representing the organization and organizing representation of the Arctic region. The 1996 Ottawa Declaration would be *primus inter pares* when it comes to acknowledging such organizational texts and its role in establishing a high-level forum designed for “promoting, co-operation, co-ordination and interaction among the Arctic states, with the involvement of the Arctic indigenous communities and other Arctic inhabitants on common Arctic issues, in particular issues of sustainable development and environmental protection in the Arctic” (Ottawa Declaration 1996).

Developing this high-level intergovernmental forum in the aftermath of the 1996 Ottawa Declaration depended on a series of elements that enabled the Arctic Council to appear as a coherent entity. The most notable of these elements are the working groups such as the Arctic Monitoring and Assessment Programme (AMAP) and the Protection of the Arctic Marine Environment (PAME). A plethora of smaller elements, including the agreed rules of procedure play a vital role in creating the Arctic Council as organization. As an organization in a constant state of “becoming”, the goal or reference point for the Arctic Council remains multi-faceted, including sustainable development, peace and security co-operation, and the promotion of polar science. Over the last 15 years, there have been a variety of goals/end points referred to in declarations and statements by the Arctic Council membership.

If the Arctic Council is considered to be a socio-material network, in actor-network terms, we have a better sense of how and why it might have a “place in the future of Arctic governance.” The Arctic Council, and its membership in particular, seek to assemble and appeal to both human and non-human elements of the Arctic for the purpose of working together towards a shared future. A rapidly changing Arctic region, with due reference given to climate change in

particular, is as significant as appeals to indigenous knowledge and/or the co-operation between various members of the Arctic Council, including permanent participants, states and observers. The staff who comprise the secretariat, the scientists who serve on working groups, and the officials and ministers who populate Arctic Council meetings and summits, help to assemble something that can be termed “the Arctic Council.” Objectives, practices and processes including a medley of things, such as climate change, thinning sea ice, pollutants, and the presence of aircraft and ships. They play a role in helping to animate the agency of the Arctic Council. The latter acts, or is seen to act, in response to and even in anticipation of further sea ice thinning, more ship-based movement and possible environmental emergencies in the future. Those kinds of actions are themselves dependent on a huge amount of work conducted in the Arctic region and elsewhere in the world, including peer-reviewed work, future mathematical modeling and the like. Thus, we need to be attentive to how and why such things get enrolled to make claims on how particular future visions of Arctic governance become framed and legitimized – but also how things can resist such endeavours – as far as we know the Russian flag placed at the bottom of the central Arctic Ocean remains in place.

As an organization, the Arctic Council contributes to the spatial ordering and temporal arrangement of the Arctic region. The establishment of summits, the release of reports and the updating of websites (including the official Arctic Council website) help to circulate, order and enroll elements into a socio-material network. The interaction of objects, texts and people are critical in creating solidarities, claims and articulations of authority, especially through the release of declarations and statements. As a producer and circulator of ideas and representations, the Arctic Council helps to spatially order the Arctic region. Public declarations frame the Arctic as a vulnerable and lively space, as a space of co-operation and as a space needing further intervention both in the present and in the future, especially in the face of search and rescue and oil spills prevention.<sup>4</sup> Human inhabitants and physical environments, especially the Arctic Ocean itself, are weaved and connected together to enable the Arctic Council to act and intervene, and its reports and declarations help to spread ideas and practices.

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<sup>4</sup> As noted in the terms of remit of the Arctic Council Emergency Prevention, Preparedness and Response Working Group (EPPR) – see their strategic plan – available at: <http://eppr.arctic-council.org/>. There is also a strong possibility that legally binding agreements might follow.

Circulation and connection is a critical element in the work of the Arctic Council. ‘Good circulation’ is when those ideas and practices associated with the Arctic Council move freely and influence networks of governance. The Arctic Council as an agent, with a capacity to act and intervene, also reminds of the importance of inscription devices such as maps, figures, and tables that help to produce the Arctic region in the first place. If the Arctic Council has organizational power it is perhaps most evident through its capacity to act as a centre of calculation/evaluation that can dispatch reports/declarations (immutable mobiles) within and beyond the Arctic region that help to invoke the current and future state of the Arctic. The Arctic Marine Shipping Assessment, released in 2009 under the auspices of the Protection of the Arctic Marine Environment working group, is one of the most striking examples to date of this capacity of the Arctic Council to act as a geopolitical agent. The report does so in a number of different ways – by issuing statements by which ‘the future’ as abstract category is disclosed and related to and then facilitate the generation of a series of scenarios relating to future maritime use of the Arctic Ocean; by deploying a series of practices including acts of imaging, mapping and performing so that futures are made present; and finally, through deploying a series of logics that involve promoting action that aims to prevent, mitigate and/or deter specific futures such as emergencies, disasters and environmental catastrophe.

AMSA is not alone in this matter. As another working group of the Arctic Council notes, “In all work done in the Arctic area, it is vital that the people living there are taken into account [rather than relying on peer-reviewed scientific research]. In the identification of emergency response assets, risk assessments and response actions, the involvement of local and indigenous people should be increased. The increase of public awareness and of public participation is invaluable for emergency prevention, preparedness and response actions.”<sup>5</sup> This has wider implications for how we understand the Arctic Council, and its place in debates on the future governance of the Arctic.

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<sup>5</sup> EPPR Working Group of the Arctic Council at <http://eppr.arctic-council.org/>

## MOBILIZING THE FUTURE

The Arctic Council, as an organization composed of socio-material networks, remains at the heart of ongoing discussions of Arctic futures. Its presence provides the motivation and rationale for the Arctic Council and its selected chairs to look to the future. As the Swedish Foreign Minister Carl Bildt stated, “Arctic countries need enhanced co-operation on many future challenges in the Arctic, not least prevention, preparedness, and response to oil spills. As incoming chair we will press forward with this agenda” (Sweden, 2011). This agenda, pertaining to oil spills, is what interests me in part about both the future of the Arctic Council and the Arctic region itself. What might be involved in acting to prevent, prepare and respond to future challenges including oil spills? In the midst of the 2010 Deep Horizon oil spill disaster in the Gulf of Mexico, we had a glimpse of a possible Arctic future, which was arguably more disturbing than the 1989 Exxon Valdez shipping accident because of the real-time imagery of oil seeping in a seemingly unstoppable manner into the marine environment. Transposed to a high Arctic environment, with the presence of both sea ice and pack ice, the oil spill accident as disaster is all the more poignant – oil trapped in and under the ice-filled waters of the Arctic Ocean threatening microscopic and large-scale life.

The challenge facing the Arctic Council, in the context of responding to future accidents, is in part one about how the future is made discernible. At the same time the search and rescue agreement was announced in May of 2011, a report was released detailing the role that so-called black carbon, ground level ozone and methane contributes to warming in the Arctic region. In both cases, the possibility of the oil disaster and the prospect of further warming contribute to an uncertainty about how to respond to the future. The future is unknown, and some things may not happen, such as the Arctic-equivalent of Deep Horizon. This brings forth a sense of contingency, shock and uncertainty that leads some commentators to speculate about the need to institutionally strengthen actors such as the Arctic Council to better cajole and mobilize others, either to prevent undesirable futures and/or mitigate (rather than prevent) against likely future disasters including oil spills and airplane crashes. In any event, anticipating, let alone deterring unwelcome futures, may also mean that some lives/regions of the Arctic may have to be abandoned, damaged, destroyed or degraded in the future in order to enable other areas/lives to be protected and saved. Climate change is already implicated in

claims that some coastal communities in Alaska, such as Shishmaref, are increasingly imperiled by severe winter storms worsened by a diminished presence of sea ice that used to protect the coastline from direct degradation. Still, other communities in the Arctic may welcome a warmer future if it leads to enhanced possibilities for food production, resource exploitation and perhaps easier living conditions in general.

The relative openness of the future underpins appeals to preemption, preparedness and other forms of anticipatory action. Making the future potentially actionable depends *inter alia* on a series of objects, practices and effects such as the generation of insights, trends, scenarios, and modeling; the production and circulation of images and reports; and the mobilization and distribution of anxieties, fears and hopes. Arctic futures, as articulated through Arctic Council working group reports, highlight how models, images and affective reactions contribute to theoretically making the future present. The uncertainty of the future, and the manner in which it is made present, so to speak, is brought to the fore by a series of practices including calculation, imagination and performance. Once these are appreciated it is arguably easier to tease out the underlying logics of preemption, preparedness and the like.

The practice of calculation is critical to the estimation of an uncertain future. Arctic Council working groups have been at the forefront of producing reports that use impact assessment, trend analysis and modeling to take measure of the Arctic region. Tables, charts, maps and graphs help to not only articulate and calculate the present, but also trace possible futures, whether in the form of warming, shipping and/or resource exploitative trends. Combined with risk assessment and cost-benefit analysis, the net effect of these calculative devices is to offer a series of possible scenarios depending on particular variables such as likely temperature rises, shipping frequency and/or levels of resource extraction, which can then be mapped and ranked in terms of likelihood and possible severity. Numbers, whether expressed in centigrade, voyage numbers or billions of barrels of oil, have a visceral impact and contribute to particular neo-liberal and rationalist strategies of rendering spaces such as the Arctic governable.

The role of the imagination is also critical in making the future present. Creative practices such as scenario planning help to articulate and represent future events and states of affairs by deploying images, symbols, and stories that in turn may

move and mobilize those who read, listen and learn about them and their contents. The Arctic Marine Shipping Assessment was organized around four possible scenarios for the future of marine activity and use up to 2050. With 120 driving forces and factors identified, the report then selected two primary factors influencing the so-called axis of uncertainty – resources and trade on the one hand and governance on the other. Armed with these parameters, four scenarios were articulated: the Polar Lows (low demand and unstable governance) scenario; the Arctic Race (high demand and unstable governance) scenario; the Polar Preserve (low demand and stable governance) scenario and the Arctic Saga (high demand and stable governance) scenario. The fourth scenario, for example, is characterized by a future of high resource demand for Arctic natural resources, significant increases in Arctic marine traffic and a stable and developed Arctic governance regime for multiple marine actors and activities. According to one of the authors of the report, “This Arctic world leads to a healthy rate of Arctic development that includes broad concerns for the preservation of Arctic cultures and ecosystems, as well as shared economic and political interests of the Arctic states... [and significantly] The AMSA scenarios proved a powerful way to communicate to a wide audience the complexities influencing the future of Arctic marine navigation” (Brigham 2011:313). It does so, precisely, by offering not only a narrative about possible futures, but also a sense of how each future might look and feel. An ‘Arctic Saga’ scenario is, at the very least, explicit in recognizing the importance of storytelling (richly illustrated throughout, including multiple images of voyaging ships), which seeks to harness the imagination.

While the openness of the future is acknowledged throughout the AMSA, there is through the scenarios themselves an attempt to order and categorize the Arctic not least for the purpose of proposing a “roadmap forward” (Brigham 2011: 318). Indeed, such scenarios matter in the sense of underpinning a call to arms within the AMSA report with regard to developing a mandatory polar code of navigation, an Arctic search and rescue agreement, a circumpolar response capacity agreement among the Arctic 5 states in particular, and the implementation of an Arctic Observing Network designed to share knowledge about Arctic marine infrastructure and scientific knowledge. The 17 recommendations of the assessment under themes such as safety, protection and infrastructure make sense only in the context of the invocation of uncertain futures.

The final element that underpins preemption and preparedness is the area of performance. Activities such as exercising, gaming and/or acting play an important role in making the future present, so to speak. Arctic Council members such as Canada engage on an annual basis in sovereignty and patrolling exercises. The idea of the exercises - whether real-life or tabletop - is to participate and learn from a future event, such as an oil spill disaster or resource-related conflict. Participants are assigned roles and the sovereignty exercise in the case of the Canadian North is as much about testing equipment and personnel as it is evaluating decision-making procedures when confronted with a disaster or emergency. The future is played out, therefore, in an embodied sense, as well. Bodies are mobilized for the duration of the performance, and effectively, the future might be felt to be some combination of stress, excitement, nerves, and even boredom. Either way, bodies and objects are tested in order to evaluate capacities and responses (Anderson, 2010). Roleplay and exercises generate experiential knowledge (e.g. surprise and concern over a lack of preparedness) and secondly help to galvanize action to improve and enhance preparedness. The exercise itself then becomes a site for experiencing how a future event, such as oil spill or aircraft crash, might look and feel. The 2011 search and rescue agreement amongst the eight Arctic states notes that it should be “Emphasizing the usefulness of exchanging information and experience in the field of search and rescue and of conducting joint training and exercises.” Training and exercises will thus play their part in contributing to the performance of “the future.”

Each of these elements – calculation, imagination and performance – plays an important role in understanding Arctic futures. The role of the graph, the scenario and the experience in the form of the exercise all contribute to bringing forward the future. The articulation and experience of particular futures (e.g. dominated by rising marine traffic, resource exploitation and/or disaster) contributes to demands, justifications and implementation of particular actions in order to secure the ecosystems and peoples of the Arctic. This does not guarantee action per se, but it does create a context in which actors such as the Arctic Council can feature strongly in the calls to prepare or prevent particular futures.

If the Arctic Council looms large in debates about Arctic futures it does so in part through a series of logics, in which interventions in the here and now in the name of the future are guided, legitimized and enacted. Arctic ministers, such as the Swedish Foreign Minister Carl Bildt, have drawn attention for the need of Arctic

countries to prevent, prepare and respond to uncertainties in the Arctic. As such logics such as prevention, precaution, preemption and preparedness invoke certain interventions and strategies designed to adapt, avert, mitigate or even stop particular futures. Of most relevance to the Arctic Council and debates about futures is arguably the logic of prevention and preparedness. If prevention seeks to prevent the occurrence of an undesirable future (e.g. oil spill disaster) then preparedness addresses the aftermath of events. It does, in short, not aim to stop the future from happening. The emphasis here is on stopping the impact of an event such as a disaster from disrupting the circulations and interdependencies of the Arctic region.

The discussion surrounding the capacity and remit of the Arctic Council is underwritten by precautionary and preparedness logics. Central to this ensuing discussion has been a willingness of the Arctic Council to speak of the Arctic in a particular way with emphasis on vulnerability and state change. The dependence on infrastructures (often modest and dispersed) and interconnections between human and non-human communities and processes (e.g. the role of sea ice and permafrost in shaping animal distribution) needs thus to be recognized explicitly. But the Arctic is not just vulnerable, it might also as a consequence of processes such as thinning sea ice actively resist and undermine attempts to action-specific future visions. While we may be used to reading and reflecting on the need to build adaptability and resilience among indigenous and northern communities, the preparedness of the Arctic Council for an uncertain future is also an important element. Preparedness techniques, such as issuing agreements and calling for further action, is in part about building an infrastructure capable of responding to potentially disruptive futures.

We might in any discussion of the future of the Arctic Council consider how different logics such as precaution, prevention and preparedness co-exist with one another. How might those logics be resisted or renegotiated? The reaction of states such as Iceland and Finland to the 2008 Ilulissat Declaration might be one indicator of how a preparedness logic provoked opposition and dissent, as the five Arctic Ocean coastal states argued that they were best placed to manage and indeed respond to future emergencies and stewardship. As the Declaration noted:

The Arctic Ocean is a unique ecosystem, which the five coastal states have a stewardship role in protecting. Experience has shown how shipping disasters and

subsequent pollution of the marine environment may cause irreversible disturbance of the ecological balance and major harm to the livelihoods of local inhabitants and indigenous communities. We will take steps in accordance with international law both nationally and in co-operation among the five states and other interested parties to ensure the protection and preservation of the fragile marine environment of the Arctic Ocean. In this regard, we intend to work together through the International Maritime Organization to strengthen existing measures and develop new measures to improve the safety of maritime navigation and prevent or reduce the risk of ship-based pollution in the Arctic Ocean.

The recent search and rescue agreement (2011) might be seen as a mechanism for re-integrating all eight Arctic states into an arrangement which gives them all a stake in shaping future challenges, and in this case, potential disasters and emergencies. Finland, Iceland and Sweden and their respective specialist agencies all appear to have their own areas of responsibility. So, the invocation of future challenges in the context of Arctic Council development plays its part in this specific example of institutional development – and the strengthening of co-operation.

Anticipatory activity deserves further reflection in relation to the Arctic Council and its place within the future governance of the Arctic. More generally, it is a key means in which liberal democratic states in particular conduct, secure, discipline and regulate national life. The invocation of the future assumes considerable significance when directed towards the Arctic region, especially when the pace and scale of physical and economic change is emphasized. In any debate about the future of the Arctic Council, we might attend to the following aspects: the statements that disclose the future; the acts that make the future present; and the logics that justify intervention in the here and now in the name of the future. We might then in the process how certain futures appear or disappear. Which futures are mobilized, and which are concealed, marginalized and or repressed? How might experiences of the future be modulated by the medium through which it is made present, whether that be through narration or an affective atmosphere (e.g. fear, hope)?

## FACING UP TO THE FUTURE? THE ROLE OF OBSERVERS

So when we consider the future of the Arctic Council we might consider more explicitly what, and by what means, we conjure up “the future.” We might even seek to recover overlooked or forgotten pasts to possibly reflect on future trajectories of Arctic governance. Were there moments even in the short history of the Arctic Council and Arctic Environment Protection Strategy when possible reformist trajectories addressing possible futures were rejected or placed to one side? How have different visions of the future shaped the manner in which Arctic governance (and the role of the Arctic Council) has been envisaged, longed for, and/or actively avoided? We have touched upon things that the Arctic Council understandably wants to avoid, such as air and sea disasters and oil spills. But what about other kinds of futures that are going to be harder to avoid, such as ones involving other parties like the European Union and the migratory movements of fish stocks and accompanying regional fisheries policies that will have to address EU fishing fleets and operators?

One example we might end with is the ongoing problem regarding the status of observers to the Arctic Council, and the avoidance of a particular kind of Arctic future in which observers might occupy a more powerful role to the detriment of permanent participants. It is worth recalling that the rules of procedure for the Arctic Council established the category of ‘observers’ and noted their potential membership, role and function:

Observer status in the Arctic Council is open to:

- o non-Arctic States;
- o intergovernmental and interparliamentary organizations, global and regional;
- o non-governmental organizations
- o Observers shall be invited to the Ministerial meetings and/or to other meetings and activities of the Arctic Council. Observer status shall continue for such time as consensus exists at the Ministerial meeting. Any Observer that engages in activities at odds with the Council’s Declaration shall have its status as an Observer suspended.
- o Observers may make statements at the discretion of the Chair and submit

relevant documents to the meetings (Arctic Council Rules of Procedure).

In the last few years, the role (current and future) of observers has attracted more interest and reflection driven in large part by anxieties over the economic development of the Arctic Ocean. When the Arctic 5 met in Greenland in May of 2008 to review and publicize their collective approach to the management of the Arctic Ocean, they stressed their stewardship role on the basis of geographical proximity. The meeting and subsequent declaration was divisive and provocative. Some parties, such as other Arctic states and indigenous groups/permanent participants<sup>6</sup>, were not invited, while others would be actors such as the European Parliament calling for a new Arctic Treaty. In their radically different ways, indigenous organizations and the European Parliament<sup>7</sup> were drawing attention to the fact the fate of the Arctic Ocean in particular was not merely a region to be environmentally stewarded by five coastal states.<sup>8</sup>

The rules of procedure did establish a separate ad hoc category and have been used as a kind of 'holding position' to enable the membership to assess whether they should encourage transition to full observer status – a position held by the EU and China. In 2009, the European Commission formally submitted an application to become a permanent, rather than ad hoc observer to the Arctic Council. This follows on from a European Commission document entitled *The European Union and the Arctic Region* released in November of 2008, which noted that:

The European Union is inextricably linked to the Arctic region (hereafter referred to as the Arctic) by a unique combination of history, geography, economy and scientific achievements. Three Member States — Denmark (Greenland), Finland and Sweden — have territories in the Arctic. Two other Arctic states — Iceland and Norway — are members of the European Economic Area. Canada, Russia and the United States are strategic partners of the EU.

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<sup>6</sup> The Inuit Circumpolar Council issued in November 2008 'Inuit Leaders' Statement on Arctic Sovereignty' and later in April 2009 the 'Circumpolar Inuit Declaration on Arctic Sovereignty'.

<sup>7</sup> There is an interesting debate to be had about how the European Parliament, European Commission and Council of Ministers and their specific roles are often misunderstood and even exaggerated. The European Parliament's resolutions on the Arctic were not binding on the EU and the EU itself does have competencies that complement and challenge member states and their sovereign powers.

<sup>8</sup> WWF Arctic International called for a new Arctic Convention.

European Arctic areas are a priority in the Northern Dimension policy. Beyond areas of national jurisdiction, the Arctic Ocean contains parts pertaining to the high seas and the seabed managed by the International Seabed Authority (European Commission 2008).

The claim that the European Union is “inextricably linked to the Arctic region” is the most important one – as the Arctic is quite literally enrolled into claims that the EU is an organization that cannot be excluded from Arctic matters. In other words, geographically proximate states and indigenous peoples/Northern communities alone cannot be allowed to speak for current and future configurations of the Arctic. While the Arctic Circle served as a geographical criterion for membership of the Arctic Council (A8) and the Arctic Ocean with regard to coastal states (A5), the EU’s involvement is both territorial and relational. The EU as actor-network is deeply tied to the Arctic region, as the seal product ban within EU markets demonstrated in 2009. As Koivurova et al (2011) note, “The case shows the influence of the EU in Arctic affairs as well as why it is important to include the EU in the Arctic Council” even if “the EU’s land presence is fairly limited in the Arctic, contributing to the image that it is not a major player in the region.” EU competencies and involvement is substantial, addressing as it does a plethora of issues and concerns such as climate change, biological diversity, resource exploitation and conservation, shipping, fisheries and the like.

The absence of an Arctic shoreline (Greenland left the EU in 1985) is irrelevant, and will in no way ensure that the EU’s role in the Arctic region will diminish. One of the appeals for the Arctic Council of tackling issues such as search and rescue and oil spill response is that it helps to consolidate a territorially bounded future vision of the Arctic. Possessing an Arctic shoreline and/or territorial presence is prioritized not least because it contributes to an Arctic future fundamentally shaped by the presence of Arctic states and permanent participants, rather than observers and states with extra-territorial actors, as well as non-state organizations.. The decision to reject the permanent observer status application of the EU in 2009 by the Arctic Council was a gesture towards making a particular Arctic future less likely. A future in which a widening range of actors will play their part in shaping the Arctic region – the EU in all its complexity “will exercise its competences in the Arctic; if not in the Arctic Council then via other multilateral forums...it is time for the established Arctic policy actors to think seriously about how the EU could be included in the discussion of the region’s

future” (Koivurova et al 2011). If that challenge was taken more seriously, then the ‘Arctic region’ itself would have to be viewed in more relational terms, rather than strictly defined by territorial boundaries, such as the Arctic Circle. All regions, including the Arctic, are leaky and in a state of being made, remade and unmade.

A more fixed view of the Arctic region, of course, may make for a more attractive “shared future vision.” Arctic states and permanent participants involved with the Arctic Council conceptualize the Arctic region as a fixed container, albeit one that is literally being cracked, melted, and transformed. While indigenous groups mobilize territorial-based strategies and representations of the Arctic to press for an autonomous and self-determined future, others invoke an Arctic region in which space is defined actively in relation to objects and processes, which emphasize connectivity and openness. This is not to claim that the EU as a complex organization does not conceive of the Arctic region in territorially rooted terms or that indigenous peoples and Arctic states are incapable of imagining the Arctic as anything but a spatial container. As the anthropologist Claudio Aporta noted with reference to Inuit in Canada, Arctic spaces are conceived of as a network of trails linked to memories of previous trips and environmental assessments of snow and ice, as well as prevailing wind and sea conditions. Arctic space is thus both territorially rooted and networked. It is to highlight the preponderance given that some visions of the Arctic (and its futures) are more attractive precisely because of what they include/exclude and open/foreclose upon. Imaging futures is thus always a political, as well as geographical act that configures, locates and projects actions, behaviours and strategies that highlight some and marginalize others.

## SUMMARY

My chapter is actually an appeal for those interested and involved in the reform of the Arctic Council to consider how the future is invoked and disclosed. A great deal of the debate about reformation is driven, either explicitly or implicitly, by appeals to the future. To wit, therefore, the role of anticipation and alertness is critical, even if interested parties might disagree over what is actually involved in being anticipatory and/or alert let alone prepared. While acting to secure a better future might be better than simply hoping for a less disruptive future, indigenous peoples disagree over, for example, the disruptive consequences of future climate

change. For some, such as the Inuit Circumpolar Council (ICC), climate change might be something to be feared, while others might welcome the opportunities that a warmer Arctic might offer. One implication that might follow is that disclosing the future (and of course there are likely to be more than one) also helps to steer debate, and indeed action, on the future role, structure and purpose of the Arctic Council.

Second, it matters in which manner the Arctic region itself is conceptualized. Conceived of as a spatial container defined by latitude and understandings of proximity to land mass and ocean, the fixed qualities of the Arctic sit uneasily with other understandings of the region as networked and vulnerable (as well as a driver of threats) to events and processes unfolding elsewhere. Thus, any discussion about the future of the Arctic Council as an organization and as an actor-network is in part dependent on an explicit discussion on how to understand the Arctic region – both territorially and relationally. We need to be mindful of the fact that for indigenous groups/permanent participants, any enhanced role for observers in the Arctic Council, such as the EU, is destabilizing precisely because it offers a stark reminder of extra-territorial and relational involvement and understanding of the Arctic region itself.

Finally, this chapter stresses that the manner in which the future is assembled and anticipated depends on the manner in which the Arctic (as a coherent region) is taken as a given or self-evident. As recent events suggest (such as the 2008 Illulissat Declaration and the subsequent Arctic 5 meeting in Canada in March 2010), there are tensions between the coastal and non-coastal parties to the Arctic Council, and that includes future visions for the Arctic region. But there are other tensions as well. While indigenous peoples (as represented by the permanent participants of the Arctic Council) reacted negatively to these A5 meetings, there are also tensions between indigenous peoples and non-indigenous Northerners who constitute the majority population, with the exception of Greenland and Nunavut. Therefore, disclosing, let alone acting on the future depends on the constituency involved and accompanying knowledge base, which in the Arctic context remains uneven in access, distribution and extent.

When the future is invoked, therefore, we need to investigate carefully how people and institutions use stores of circumpolar knowledge (whether exemplified in reports, declarations and the like) to inform, test and reveal the future possibilities

of the Arctic Council. Moreover, these debates and interventions are part of the here and now. As anthropologists and geographers recognize, action is taken in the present in the hope of realizing a future course of events – and that interest is in how the future is made to figure in the lives of people and the mission statements/directions of institutions, including (but not exclusively) the Arctic Council. In so doing, a focus on anticipation brings to the fore the role that action, agency, imagination, possibility, doubt, uncertainty, fear and apprehension all play in making sense of rapid change, whether it involves thinning sea ice and/or environmental degradation. What actor-network approaches help remind us is that the futures that emerge from particular institutions such as the Arctic Council are not necessarily reducible to the internal workings and logics of the institution itself. If certain futures gain traction then the interaction of agencies beyond the Arctic Council also matters.

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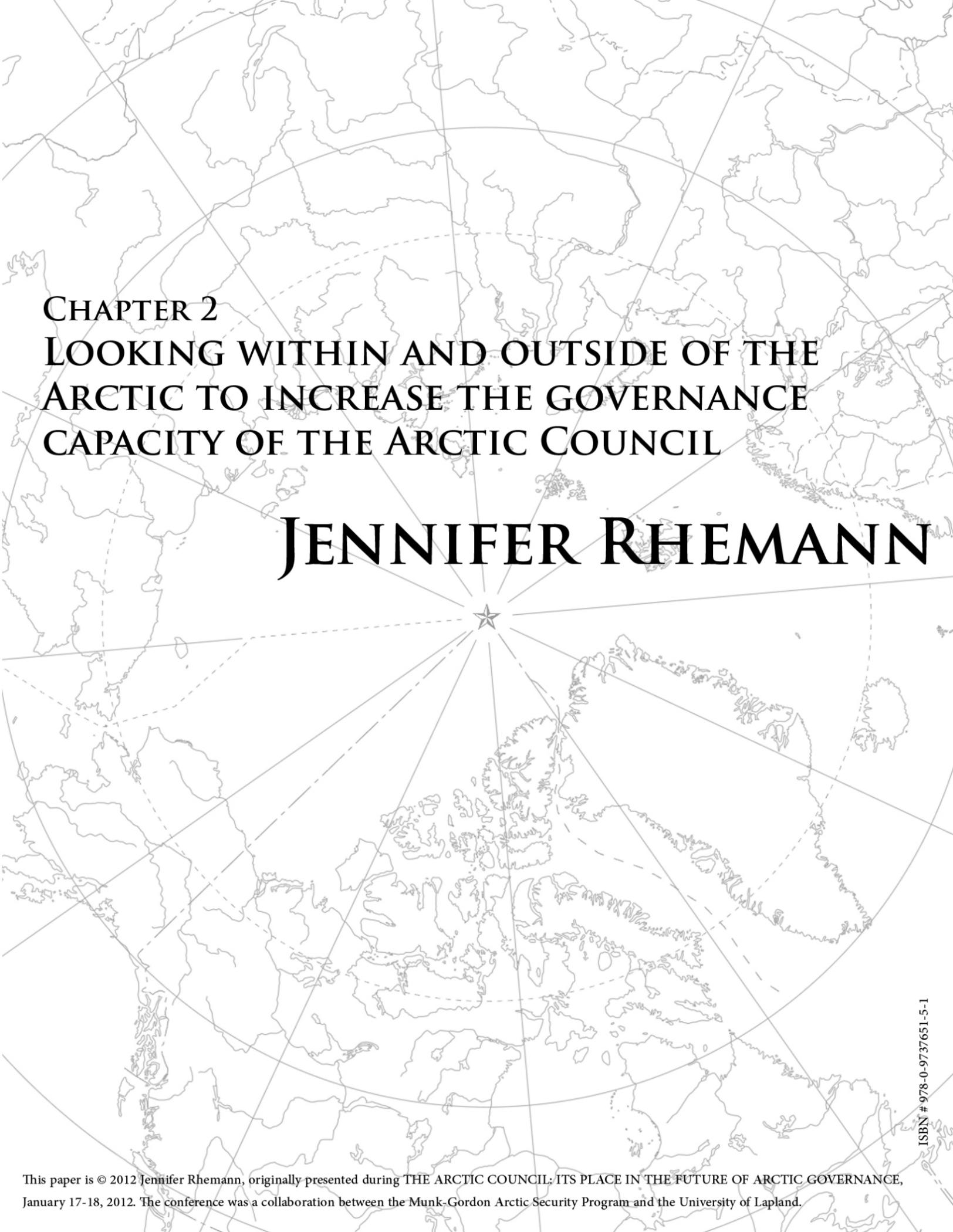
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**CHAPTER 2**  
**LOOKING WITHIN AND OUTSIDE OF THE**  
**ARCTIC TO INCREASE THE GOVERNANCE**  
**CAPACITY OF THE ARCTIC COUNCIL**

**JENNIFER RHEMANN**

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# LOOKING WITHIN AND OUTSIDE THE ARCTIC TO INCREASE THE GOVERNANCE CAPACITY OF THE ARCTIC COUNCIL

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## INTRODUCTION

THE ARCTIC COUNCIL PLAYS A VITAL ROLE IN ARCTIC governance efforts and has accomplished a great deal in the Arctic regarding Arctic peoples and environment. This role has evolved over time, and it can be enhanced and expanded to further promote and facilitate good governance in the Arctic.

Two methods of identifying ways in which the resilience and legitimacy of the Arctic Council can be increased are proposed here:

- o *Looking within the Arctic* to identify underutilized resources and potential partnerships, namely students and researchers associated with education and research institutions; and
- o *Looking outside the Arctic* to identify successful methods of including limited participation by external stakeholders, as in the institutional infrastructure of the Antarctic Treaty System.

The above are proposed with the aim of promoting greater communication, co-operation, and collaboration on multiple levels. These elements are integral to strengthening the Arctic Council both by raising awareness of the council's role as the "premier international forum for issues affecting the Arctic" (SAO Report, May 2011, p 3) and, as recognized in the 1996 *Declaration on the Establishment of the Arctic Council*, by "promoting co-operative activities to address Arctic issues requiring circumpolar co-operation."

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## LOOKING WITHIN THE ARCTIC

International collaboration is a characteristic of the Arctic Council's role as the Arctic's high level intergovernmental forum, and it is equally characteristic of research and education in the Arctic. In the last two decades, there has been a substantial increase in international co-operation in polar research endeavours, as evidenced by the increasing visibility of international networks of researchers and by the increase in co-authored papers by researchers from different countries (Erb, 2011; Aksnes and Hessen, 2009). The complexity and costs (in terms of infrastructure, logistics, analytical tools and human resources) of research and education activities have promoted international co-operative efforts (Aksnes and Hessen, 2009), as is the case with numerous Arctic Council and Arctic Council Working Group projects. The international co-operation visible in both areas (project and research) has been highly successful in addressing some of the challenges inherent to undertaking research, promoting sustainable development (Kullrud, 2009a), and fostering political harmony in the Arctic. By increasing its involvement in education and research activities in the region, the Arctic Council could utilize the existing co-operation present in those areas to expand its reach and visibility while strengthening international co-operation at multiple levels.

Research has figured prominently in the development of a number of the Arctic's political institutions and initiatives that have been created to address emerging and extant environmental issues (Stokke and Hønneland, 2007), and has acted as a catalyst for co-operation amongst governments, institutions and citizens. Today's co-operation in this area is part of a longstanding tradition of collaborative research efforts, as seen in the Arctic Environmental Protection Strategy (AEPS) and the International Polar Years (IPY). The IPY of 1882-1883 and 1932-1933 served as the models for the International Geophysical Year (IGY) of 1957-1958 ([www.nationalacademies.org](http://www.nationalacademies.org)), which in turn led to the IPY of 2007-2008 ([www.ipy.org](http://www.ipy.org)). The 2007-2008 IPY was organized through the World Meteorological Organization (WMO) and the International Council for Science (ICSU). Thousands of scientists from more than 60 nations, including all Arctic states, worked on over 200 projects in the physical, biological and social sciences (IPY, 2009), with the strong involvement of, and collaboration with, students, early career researchers, and teachers. The emphasis on education and outreach, along with the attention to the urgent need for knowledge regarding the rapid changes of the Polar Regions, the global ramifications of those changes, and the related

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impacts to Arctic peoples were marked differences between the recent IPY and its predecessors. It is notable that the current changes in the Arctic are recognized as “changes of rapidity and magnitude beyond recent experience or traditional knowledge” (IPY, 2009). The complexity and scale of these issues are also reflected in the rapid increase in scientific output related to the Polar Regions (Aksnes and Hessen, 2009).

The implications of climate change impacts have not yet been comprehensively addressed by means of collecting scientific data, monitoring, data analysis and communication of findings ([www.unesco.org](http://www.unesco.org)). These include:

- o rising temperatures
- o increased albedo
- o declining seasonal and multi-year sea ice
- o accelerated glacial melt
- o global sea level rise
- o increased river output
- o coastal erosion
- o thawing permafrost
- o habitat degradation for flora and fauna
- o impacted hunting for Arctic peoples
- o shifts in species ranges and vegetation zones
- o increased forest fire potential
- o increased insect outbreaks
- o opening of navigation routes
- o infrastructure and land-based transportation impacts
- o increased severe weather events
- o disease outbreaks
- o rapid release of methane clathrates, and
- o unanticipated impacts, as presented in the 2004 *Arctic Climate Impact Assessment* This fact is all the more alarming when viewed in light of dire observations from experts in numerous fields. One of the major findings from the 2009 Major Economies Forum on Energy and Climate was that “[c]limate change is one of the greatest challenges of our time [; it] poses a clear danger requiring an extraordinary global response [...]” (L’Aquila Declaration, 2009). Few empirical studies have been conducted in the high latitudes, and climate change’s impact on many market and non-market sectors has not yet been quantified. The results of existing research also

contain an amount of uncertainty (Mendelsohn and Williams, 2007). Our lack of experience (scientific, legal, economic, traditional, etc.) in addressing an issue as profound in scope as climate change, combined with the myriad of impacts of globalization and regional issues, suggests that we have neither adequate governance structures in place, nor sufficient understanding or ability, to create and implement the needed structures in keeping with the urgency that is demanded by the situation. Thus, it is evident that research and education are critical to address the challenges facing the North.

In light of the growing complexity of the challenges faced by the Arctic region, research organizations have been formed in order to conduct multidisciplinary research and dispense knowledge and expertise on Arctic issues. Their audiences and participants include policy makers, Arctic residents, students, and social and natural scientists. These networks actively promote co-operative research efforts, education and communication. The International Arctic Science Committee (IASC), which was established in 1990, is one such body, and the national science organizations of IASC's 19 member countries (including all Arctic states) participate in its operations, undertaking research in every Arctic-related field of science ([iasc.arcticportal.org](http://iasc.arcticportal.org)). The IASC collaborates with many Arctic organizations, and is an observer to the Arctic Council. IASC's mission is to "encourage, facilitate and promote leading-edge multidisciplinary research to foster a greater scientific understanding of the Arctic region and its role in the Earth system" (IASC, 2011). IASC has been involved in the International Polar Year of 2007-2008, the International Conference on Arctic Research Planning (ICARP) (I & II), the International Study of Arctic Change (ISAC), the Arctic Climate Impact Assessment (ACIA), the Sustaining Arctic Observing Network (SAON), and the Arctic in Rapid Transition (ART) Initiative (IASC, 2011). In addition to the IASC, there are many other research organizations, a sampling of which includes:

- o The Arctic Centre at the University of Lapland, which "conducts and conveys internationally recognized, multidisciplinary research concerning Arctic issues, and [...] trains experts on the Arctic" ([www.arcticcentre.org](http://www.arcticcentre.org));
- o The Northern Research Forum, the purpose of which "is to promote intensive dialogue among members of the research community and a wide range of other northern stakeholders to address the critical issues, problems and opportunities facing circumpolar peoples in the context of social and environmental changes and economic globalization" ([www.nrf.is](http://www.nrf.is)); and

- o The Stefansson Arctic Institute, the role of which “is to be a forum for co-operation with regards to multidisciplinary research, promote sustainable development in northern areas, strengthen [...] participation in international endeavours in this field, facilitate and co-ordinate Arctic research [...], gather and disseminate information regarding northern issues, advise the [g]overnment and co-operate with others internationally and provide facilities for scholars [...]” (AHDR, 2004).

The work of these and other organizations not only addresses the threats associated with climate change, pollutants, etc., but also helps to identify opportunities for Arctic residents to determine the risks and risk-mitigation techniques associated with these opportunities. By undertaking this work, these and other organizations are increasing the capacity of Arctic residents, researchers and policy makers to viably address the challenges and opportunities arising from the ongoing changes in the region.

A great deal of the work of Arctic-focused research organizations has been undertaken in conjunction with institutions of higher education and related networks. The Arctic has numerous co-operative networks of institutions dedicated to education and research, and they play a vital role in the research projects, workshops and symposia that aim to address Arctic issues. Two networks that will be discussed in this paper are the University of the Arctic (UArctic) and the Association of Polar Early Career Scientists (APECS).

### *The University of the Arctic*

The UArctic, an observer to the Arctic Council, is a “co-operative network of universities, colleges, and other organizations committed to higher education and research in the North” (UArctic.org a), and its primary goal is to “create a strong, sustainable circumpolar region by empowering northerners and northern communities through education and shared knowledge” (UArctic, 2011). In their promotion of circumpolar, interdisciplinary education, the UArctic members share resources such as facilities and expertise through mutual co-operation (UArctic.org a; Kullurud, 2009<sub>b</sub>).

The origins of UArctic lie in the Arctic Council, and it is an example of the success of the collaborative efforts of Senior Arctic Officials (SAO) with Arctic

organizations (Olsen, 2009). Following a 1997 SAO-directed study, an Interim Council of Universities began planning activities for an Arctic “university without walls” in order to deliver to Arctic communities education opportunities that no single Arctic institution could deliver (Olsen, 2009). It also aimed to create a sustainable legacy of Arctic-based education and research (Kullurud, 2009 a). By 2001, the UArctic was formed through a partnership between 33 member institutions that include the higher education institutions of the north, indigenous peoples’ organizations, and other organizations (Olsen, 2009) in order to address northern challenges via co-operation in education (Kullurud, 2009a). The UArctic has grown in subsequent years, and there are now 137 member members. The organizational co-operation is comprised of joint and parallel degree programs and thematic networks that have been established to focus research and education efforts on areas requiring special attention (UArctic.org a).

The Thematic Networks of the UArctic increase the capacity for knowledge generation in the North by providing relevant training and developing expertise in “issue-based co-operation” amongst institutions (UArctic.org b). The thematic networks include:

- o Arctic Coastal and Marine Issues
- o Arctic Engineering and Science
- o Arctic Law
- o Arctic Medicine
- o Arctic Sustainable Arts and Design
- o Business Management in the North
- o Digital Media and Media Arts
- o Distance Education and e-Learning
- o Energy in New Time
- o Environmental Impact Assessment of Industry Contaminated Areas
- o Environmental Training and Education for Sustainable Development of the Arctic (NETESDA)
- o Geopolitics and Security
- o Global Change
- o Indigenous Arts and Crafts
- o Local and Regional Development in the North
- o Northern Agriculture
- o Northern Governance
- o Northern Tourism

- o Social Work
- o The Verdde Programme (Indigenous Teacher Education Thematic Network)
- o World Images of Indigenous Peoples of the North

The thematic networks have been developed to be focused on specific issues, yet flexible enough to respond to the North's dynamic circumstances. They are recognized as being "key instrument[s] for promoting [...] members' capacity for issue-based co-operation with other organizations, like the working groups of the Arctic Council, International Arctic Science Committee (IASC), and the International Arctic Social Sciences Association (IASSA)" (UArctic 2009-2013, p 4). As such, the thematic networks could serve as excellent facilitators of direct collaboration between the UArctic member institutions and the SAOs, permanent participants, the working groups, and observers to the Arctic Council. UArctic could also be a valuable resource for the newly formed Arctic Council Communications and Outreach Contact Group.

#### *Association of Polar Early Career Scientists*

APECS is an interdisciplinary organization with a global membership of early career researchers (postdoctoral researchers and early faculty members), students (undergraduate and graduate), and mentors (senior scientists and professionals) who are engaged in work relating to the Polar Regions and the cryosphere. The members' areas of expertise and interest include all of the natural sciences, as well as the social sciences, policy, and law. In addition to having working groups to address specific themes and projects, APECS has two Standing Committees: i) the Education and Outreach Committee and ii) the Research Activities Committee. The aims of APECS are "to stimulate interdisciplinary and international research collaborations, and develop effective future leaders in polar research, education and outreach" ([www.APECS.is](http://www.APECS.is)). Capacity-building, education and outreach are core tenets of APECS (Fugmann et al. 2010).

APECS is recognized as a legacy of the 2007-2008 IPY, and its formation was influenced both by the IPY Youth Steering Committees and the IPY International Programme Office. From its start in 2006 when the preparations were beginning for IPY, APECS has grown from a small number of early career researchers to an organization with over 2,000 members from 45 countries (including all Arctic states). APECS now has branches in numerous Arctic locations. APECS has been

part of the Steering Committees for the IPY Conferences in Oslo (2010) and Montreal (2012), with APECS members participating in the planning for every session at these conferences. APECS is also participating in the discussions with the WMO, IASC, IASSA, UArctic, and other relevant organizations for an International Polar Decade. APECS has developed strong working relationships with a number of Arctic and polar institutions and has signed Memorandums of Understanding (MoU) with a number of preeminent organizations in their fields. For instance, APECS signed a MoU with IASC, as well as the Scientific Committee on Antarctic Research (SCAR). APECS receives invitations to attend the IASC Council meeting and the SCAR delegates meeting. Additionally, APECS members are now delegates on all SCAR Standing Scientific Groups, research projects, and conference planning committees. Other organizations with which APECS has working relationships, many with MoUs, include:

- o Antarctic Geologic Drilling Program (ANDRILL)
- o Arctic Portal
- o Arctic Research Consortium of the United States (ARCUS)
- o Canadian Federal IPY Office
- o Canadian Polar Commission
- o European Polar Board
- o International Antarctic Institute
- o International Arctic Research Center (IARC), University of Alaska, Fairbanks
- o International Arctic Social Sciences Association (IASSA)
- o International Association of Cryospheric Sciences (IACS)
- o International Council for Science (ICSU)
- o International Polar Year (IPY) International Programme Office (IPO)
- o International Permafrost Association and the Permafrost Young Researchers Network (PYRN)
- o Otto Schmidt Laboratory for Polar and Marine Research (OSL)
- o Social Sciences and Humanities Antarctic Research Exchange
- o Students on Ice
- o UK Polar Network (UPN)
- o University of the Arctic (UArctic)
- o University of Tromsø
- o Norwegian Polar Institute
- o Research Council of Norway
- o Tromsø Kommune

- o U.S. Arctic Research Commission (USARC)
- o U.S. National Science Foundation (NSF)
- o World Academy of Young Scientists
- o World Climate Research Programme's Climate and the Cryosphere (CliC) Project
- o World Meteorological Organization (WMO)
- o World Wildlife Fund (WWF)

In addition to these organizations, APECS has developed mutually beneficial working arrangements with the Arctic Council working groups, mainly the Arctic Monitoring and Assessment Programme (AMAP) and Conservation of Arctic Flora and Fauna (CAFF). In the May 2011 *SAO Report to Ministers* (Nuuk, Greenland), AMAP recommended that APECS “should be more involved in Working Group activities” (SAO Report, May 2011, p 13), and CAFF noted the signing of the MoU with APECS would “provide a vehicle for APECS members to increase their knowledge by becoming actively involved in international science and policy projects. At the same time, CAFF benefits from the participation and input of new ideas by young scientists” (SAO Report, May 2011, p 18).

APECS' overarching goals are well suited to further the aims of the Arctic Council. In its work, APECS aims to “facilitate international and interdisciplinary networking; to share ideas and experiences, and to develop new research directions and collaborations; provide opportunities for professional career development; and to promote education and outreach as integral components of polar research and to stimulate future generations of polar researchers” (Fugmann et al. 2010, p 2). APECS' work in education and outreach has increased polar literacy on many levels. Its career development activities and resources (workshops, panels, “webinars”, field schools, virtual poster sessions, newsletters, job postings, polar event calendar, and website, amongst others) have been important capacity and knowledge building tools for the participants. Thus, the membership of APECS is comprised of a skilled and dedicated group of researchers who are familiar with interdisciplinary collaboration and co-operation in the pursuit of complimentary goals between organizations. Additionally, there is a strong sense of generosity regarding the sharing of skills and knowledge.

APECS is well suited for an observer position at the Arctic Council. It could contribute its information network to promoting Arctic Council, permanent

participant, and working group activities, especially towards the goals stated in the May 2011 SAO Report regarding the development and implementation of communication and outreach activities (SAO Report, May 2011, s 2.2). Additionally, the human resources within APECS are a pool from which to draw capable and energetic candidates for positions such as the Arctic Council Secretariat Internship, potential internships with the Indigenous Peoples Secretariat, and other positions in permanent participant and working group projects.

Increased interaction and direct collaboration with the UArctic and APECS by the Arctic Council members, the permanent participants, and the working groups would be mutually beneficial. Not only would direct, reciprocal involvement with these institutions increase awareness of the Arctic Council, but the learning process would extend in both directions: from the Arctic Council participants to the students and researchers, as well as from the students and researchers to the staff members of foreign ministries and other Arctic Council participants. The cross-education of each side would allow for a deeper and broader understanding of issues, and the next generation would be trained to address the challenges ahead for Arctic governance as they move through their education process.

The perennial lack of resources to address complex challenges is another reason for closer collaboration. There are tremendous human resources within research institutions and the network of higher education institutions, and graduate students and early career researchers would be well suited to address research required by the Arctic Council, its working groups, and permanent participants.

## LOOKING OUTSIDE THE ARCTIC

One of the main themes running through all of the partnerships discussed in this paper is the “utilization of research.” Research is used as a means both to interpret the phenomena associated with environmental and social changes, as well as to promote multi-level and multi-lateral collaboration (Berkman and Young, 2009). Perhaps the most notable and relevant example of this outside the Arctic is the Antarctic Treaty (Antarctic Treaty, 1959). The three principal values of the Antarctic Treaty System (ATS) are peace, science, and co-operation (Stokke and

Vidas, 1996). When thinking about the Antarctic Treaty, it is remarkable that Cold War antagonists came together to draft and sign such an instrument of international law with both binding and non-binding components (Rothwell, 1996). Scientific and operational co-operation (Gan, 2009<sub>a</sub>, Gan, 2009<sub>b</sub>) in large part facilitated the diplomatic negotiations undertaken by politically opposed countries that led to the ATS. Although there had been some international co-operation driven by science since the late 19<sup>th</sup> century (amidst the development of sovereignty claims), it was the International Geophysical Year that “provided the first possibility for all participating countries as equal partners to establish a permanent presence” in Antarctica (Lüdecke, 2011, p 260).

### *Antarctic Governance*

The creation of the Antarctic regime was influenced by “the need to solve sovereignty disputes, national security, the military and nuclear threat, and a desire to continue scientific co-operation” (Rothwell, 1996, p 409). These matters were broadly addressed within the Antarctic Treaty, and Article IX was especially important to the long-term viability of the regime and its legitimacy, as it provided a venue for the parties to the Treaty to meet “for the purpose of exchanging information, consulting together on matters of common interest pertaining to Antarctica, and formulating and considering, and recommending to their Governments, measures in furtherance of the principles and objectives of the Treaty” (Antarctic Treaty, 1959). This forum provided the party states the opportunity to “commence a process of continuous formulation of Antarctic law and politics [...]” (Vidas, 1996, p 37). The ATS came into existence because of this forum.

In 1979, the Consultative Parties codified the term “ATS”, and from that time on, a review of the operations of the ATS became a regular agenda item at its meetings. S. The United Nations (UN) General Assembly acknowledged the term in the 1983 Resolution of the General Assembly on the ‘Question of Antarctica’ (UN General Assembly Resolution 38/77 of 15 December 1983, para 3 of the Preamble and para 1 of the text) (Vidas, 1996). The outside recognition by the UN and the confidence reflected in the conclusion to the “question of Antarctica” demonstrated the acceptance and legitimacy of the ATS as an international governance regime. Within the ATS, the first usage of the term in a legally binding instrument was in the Preamble of the 1991 Protocol on the Protection of the Environment to the

Antarctic Treaty (Madrid Protocol, 1991). The addition of environmental protection as a key principle of the ATS in addition to the two original key principles of the Antarctic Treaty (peaceful use and scientific endeavor) was of significant importance to the legitimacy of the ATS.

Under the umbrella of the Antarctic Treaty, a suite of instruments has developed over the years to create the Antarctic Treaty System, which is comprised of:

- o 1959 Antarctic Treaty
- o 1972 Convention for the Conservation of Antarctic Seals (CCAS)
- o 1980 Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR)
- o 1988 Convention on the Regulation of Antarctic Mineral Resource Activities (CRAMRA – not in force, but still extant through its legacy of environmental protection standards)
- o 1991 Protocol on Environmental Protection to the Antarctic Treaty
- o 2004 Agreement on the Conservation of Albatrosses and Petrels.

The regime that was created with the ATS provides stability regarding sovereignty claims and established a situation for the peaceful and scientific use of the Treaty area while allaying military threats (Rothwell, 1996). The glue that holds the regime together has been flexible enough in the years since entering into force in 1961 to encompass shifting priorities allowing for a transformation from “a limited-purpose, albeit unique and precedent setting, agreement into an overall system of governance” (Scully, 2011, p 38).

The adaptability of the ATS is evident in areas of environmental conservation, as can be seen in the evolution of legal instruments relating to conservation measures in the Antarctic. For example, the 1964 Agreed Measures on Antarctic Fauna and Flora can be contrasted with the more comprehensive 1991 Protocol. Joyner asserted in 1998 that not only did the ATS regime survive, but that the legacy of the Convention on the Regulation of Antarctic Mineral Resource Activities – that is, the adoption into the 1991 Protocol of CRAMRA’s stringent protocols on protection of the Antarctic environment, requirements for information-gathering prior to actions that could impact the environment, and liability for environmental damage – was evidence of the adaptability of the regime (Joyner, 1998). The subsequent adoption in 2005 of Annex VI to the Protocol on Environmental Protection to the Antarctic Treaty, entitled “Liability Arising From Environmental

Emergencies” demonstrates the resilience of the ATS, as well as its ability to meet the challenges inherent in creating a liability regime related to the environment (Bederman and Keskar, 2005). Another example of the adaptability and resilience of the ATS also involves CRAMRA in that the ATS survived after the collapse of CRAMRA (Rothwell, 1996). According to Jacobsson, the “legal constructions” (Jacobsson, 2011, p 10) of CRAMA could potentially serve as a model for crafting a legal regime to address issues related to other resources.”

The adaptability of the ATS has increased its legitimacy, both within and externally (Jacobsson, 2011; Stokke and Vidas, 1996<sub>a</sub>), thereby fostering its resilience. The legitimacy of the regime has improved as the ATS has become more transparent by providing detailed descriptions of the processes of the ATS and access to ATS documents on its website ([www.ats.aq](http://www.ats.aq)), the CCAMLR website ([www.ccamlr.org](http://www.ccamlr.org)) and the SCAR website ([www.scar.org](http://www.scar.org)). It has also engaged in dialogue with external critics, such as developing nations and non-governmental organizations (Scully, 2011; Herr, 1996; Vidas and Østring, 1996). Evidence of this dynamic evolution can be seen in the increased number of participants in the ATS (Scully, 2011). Indeed, the number of Parties to the Antarctic Treaty has grown from 12 (in 1959) to 49. As Triggs suggests, “the 50-year historical evolution of the ATS and its demonstrated capacity for dynamic growth suggest that the regime and its members have the flexibility and political will to maintain its success in the future” (Triggs, 2011, p 40).

Science has been described as a “currency of influence” within the ATS (Jabour and Haward, 2009). The salience of this description is evidenced in Article IX, Paragraph 2 of the Antarctic Treaty by the requirement for State Parties to conduct “substantial scientific research activity” in order to achieve participatory rights within the decision-making process of the ATS. The Parties to the Antarctic Treaty are divided into the 28 Consultative Parties (those with full participatory rights) and the 21 Non-Consultative Parties (those that may participate in the ATS activities and meetings, but not in the decision-making process). The Consultative Parties include the original 12 Parties to the Antarctic Treaty and other State Parties that have demonstrated and continue to demonstrate the “substantial scientific research activity” required by the Treaty.

Within the ATS, the annual Antarctic Treaty Consultative Meetings (ATCM) serves as the platform for policy-makers to address legal, operational, and

environmental matters. They are the method by which the members of the ATS communicate and co-operate, and they allow for flexibility within the ATS to adjust to varying circumstances. Consultative and Non-Consultative Parties meet with representatives from the Scientific Committee on Antarctic Research (SCAR), the Committee on Environmental Protection (CEP), the Council of Managers of National Antarctic Programs (COMNAP), the Commission on the Conservation of Antarctic Marine Living Resources (CCAMLR) and experts and observers from international and non-governmental organizations (ATCM, 2009).

Additional attendees of the Antarctic Treaty Consultative Meetings in recent years have included:

- o Secretariat of the Agreement on the Conservation of Albatrosses and Petrels
- o International Maritime Organization (IMO)
- o Intergovernmental Oceanographic Commission (IOC)
- o United Nations Environment Programme (UNEP)
- o World Meteorological Organization (WMO)
- o International Union for the Conservation of Nature (IUCN)
- o International Programme Office for the International Polar Year (IPY-IPO)
- o World Hydrographic Organization (IHO)
- o World Tourism Organization (WTO); and the two permanent observers to the ATCMS: the International Association of Antarctica Tour Operators (IAATO) and the Antarctic and Southern Ocean Coalition (ASOC) (ATCM, 2009; ATCM , 2010; and ATCM , 2011).

Items addressed by the ATS can be seen in the items on the Agendas of recent ATCMs:

- o 2009 ATCM
  - Liability: Implementation of Decision 1 (2005) (The ratification and implementation of the Annex on Liability to the Environmental Protocol to the Antarctic Treaty)
  - Safety and Operations in Antarctica
  - The International Polar Year 2007 - 2008
  - Tourism and other non-governmental activities in the Antarctic Treaty Area
  - Inspections under the Antarctic Treaty and the Environmental Protocol

- Science Issues, Including Climate-related Research, Scientific Co-operation and Facilitation
- Operational Issues
- Educational Issues
- Exchange of Information
- Bioprospecting in Antarctica (ATCM , 2009)

o 2010 ATCM

- Management Plans for Antarctic Specially Protected Areas (ASPA), Antarctic Specially Managed Areas (ASMA) and Historic Sites and Monuments (HSM)
- Compilation of key documents of the ATS
- Liability arising from Environmental Emergencies
- Site guidelines for visitors
- The contribution of the IPY to hydrographic knowledge of waters of the Antarctic Treaty area
- Revision of Antarctic Inspection checklist
- SCAR Antarctic Climate Change and the Environment Report
- Co-ordination among Antarctic Treaty Parties on Antarctic proposals under consideration in the IMO
- Improving the co-ordination of maritime search and rescue in the Antarctic Treaty area
- Enhancement of port State control for passenger vessels bound for the Antarctic Treaty area
- Signing of the Headquarters Agreement (regarding the establishment of the Antarctic Treaty Secretariat in Argentina)
- Administrative matters such as Secretariat Reports and Revised Rules of Procedure for the CEP (ATCM XXXIII, 2010)

o 2011 ATCM

- Management Plans for ASMAs, ASPAs and HSMs

- Strengthening the support for the Protocol on Environmental Protection to the Antarctic Treaty
- Revised Rules of Procedure and guidelines for the submission, translation and distribution of documents for the ATCM and the CEP
- Review of procedures determined to be no longer current
- Development of guidelines for visitors to the Antarctic
- Non-native species
- Administrative duties including Secretariat Reports (ATCM , 2011).

While there are many items on these agendas that are unique to the Antarctic, there are many agenda items that are similar to or bear resemblance to the Arctic. For example, the contributions of invited experts and permanent observers to the ATCMs reflect the nature of the contributions from the working groups and observers to the Arctic Council meetings.

These and other similarities suggest a possibility that the development of governance mechanisms in each of the Polar Regions have been mutually influential. The ATS has been called “a model for regional environmental management founded upon agreed common values of co-operative scientific research and peaceful purposes” (Triggs, 2011, p 40). However, the Antarctic Treaty was not the first such instrument at high latitudes. Prior to the Antarctic Treaty, there was a precedent for co-operation amongst competing states in an uninhabited area of the Polar Regions: the 1920 Treaty between Norway, the United States of America, Denmark, France, Italy, Japan, the Netherlands, Great Britain and Ireland and the British overseas Dominions and Sweden concerning Spitsbergen. Signed in Paris on the 9<sup>th</sup> of February, 1920, the Spitsbergen Treaty addresses unresolved claims to sovereignty, notes the need for environmental protection, and promotes peaceful co-operation including scientific research (Lüdecke, 2011). All of these elements are reflected in the Antarctic Treaty, making it possible that the Svalbard Treaty served as an example for the crafters of the Antarctic Treaty for addressing complicated claims in an area of scientific and commercial interest.

The international co-operative forum of the ATS was in existence for a few decades prior to the development of an Arctic co-operative forum, and it is

conceivable that the ATS paved the way for the development of international co-operation initiatives in the Arctic. One such initiative in the Arctic can directly trace its origins to the ATS: the International Arctic Science Committee was established three years after a meeting of Arctic representatives that had been initiated by Scientific Committee on Antarctic Research (Lüdecke, 2011). SCAR and IASC co-operated during the recent IPY, forming the BiPolar Action Group in order to continue and expand the IPY legacy of Arctic and Antarctic co-operation (SCAR, 2008). Co-operative links between the Polar regions were expanded even further with the first joint session of the ATCM and the Arctic Council on 6 April 2009. Additionally, the potential lessons the Antarctic can lend to Arctic governance was the theme of a workshop at the 2009 Antarctic Treaty Summit (Cava et al. 2011). Participants included diplomats, legislators, scientists, and others (Berkman et al. 2011).

The development of the Arctic governance regime provides both contrasting and similar elements to the Antarctic regime. Challenges common to both the Antarctic and the Arctic include sovereignty issues, environmental protection, and renewable and non-renewable resource matters. Additional issues pertinent to the Arctic include governance participation, dispute resolution, the development of sustainable autonomy and self-determination for indigenous peoples, and the foreseen expansion of various industries, such as shipping and oil and gas extraction. The Arctic regime has been continuously developing in response to these issues, and there have been joint efforts between policy-makers, Arctic residents, and researchers in addressing these challenges.

#### *Arctic Governance*

The development of formal Arctic governance has largely taken place since the 1990s. It can be traced through the establishment of its central components: the eight Arctic states came together in 1991 to create the (non-binding) Arctic Environmental Protection Strategy (AEPS). The AEPS was a major collaborative work addressing environmental issues in the Arctic. It was the first stage of pan-Arctic, institutionalized co-operation between the Arctic states (Keskitalo, 2009) as it brought together the ministers of the eight Arctic States in conjunction with the Inuit Circumpolar Council, the Nordic Saami Council, the USSR Association of Small Peoples of the North, the Federal Republic of Germany, Poland, the United Kingdom, the UN Economic Commission for Europe, the UN Environment

Program and the International Arctic Science Committee ([www.arctic-council.org](http://www.arctic-council.org)). The AEPS carried an obligation for the Arctic States to create working groups to address pollution in the Arctic. The Arctic Monitoring and Assessment Programme (AMAP), and the working groups on Protection of the Arctic Marine Environment (PAME), Emergency Prevention, Preparedness and Response (EPPR), and Conservation of Arctic Flora and Fauna (CAFF) were established the same year in response to this obligation (Koivurova and VanderZwaag, 2007). The Arctic Council, with its member states and Permanent Participants, was founded in 1996. Over the next two years, the co-operation process of the AEPS was merged into the Arctic Council, while the mandate of the Arctic Council was broadened from the pollution orientation of the AEPS to also include matters of sustainable development (Koivurova and VanderZwaag, 2007). The Sustainable Development Working Group (SDWG) followed in 1998 and, in 2006, the Arctic Contaminants Action Program was accepted as a working group at the Salekhard Ministerial Meeting (Keskitalo, 2009).

Additionally, a broader perspective of the evolution of Arctic governance can be gained by viewing the development of related including, the Standing Committee of the Parliamentarians of the Arctic Region, Nordic Council, Nordic Council of Ministers, Barents Euro-Arctic Council, and Northern Forum. According to Keskitalo (2009), some authors cite the Arctic Council as the sole mechanism of Arctic governance; however the Arctic Council's co-operative and collaborative interactions with these institutions suggests that they make substantial contributions, whether directly or indirectly, to good governance in the Arctic (Keskitalo, 2009).

The core involvement of the permanent participants in the Arctic Council enhanced the regime's legitimacy, as did the granting of observer status to non-Arctic States, non-governmental organizations, and international organizations. Illustratively, the 1998 Iqaluit Declaration granted observer status to: the Nordic Council, the Northern Forum, the United Nations Economic Commission for Europe, the United Nations Environment Programme, IASC, the Standing Committee of Parliamentarians of the Arctic Region, the World Wide Fund for Nature, the International Union for Circumpolar Health, the Federal Republic of Germany, the Kingdom of the Netherlands, Poland, and the United Kingdom of Great Britain and Northern Ireland (Iqaluit Declaration, 1998). The activities of the Arctic Council – namely, active reporting and data compilation from

monitoring and other programs – through its Working Groups and projects, have also contributed to good governance efforts in the Arctic by affecting the behavior of parties via the cognitional mechanism of regime governance, that is, by increasing awareness of problems, their ramifications and mitigation techniques (Stokke, 2009).

The unprecedented and rapid impacts of climate change are affecting the Arctic (www.epa.gov) and posing new challenges on a regional and a global scale. These challenges, which impact the effectiveness of the Arctic Council and other governance mechanisms in the Arctic, are detailed in the Arctic Climate Impact Assessment (ACIA, 2004) and the Intergovernmental Panel on Climate Change report, Climate Change: 2007: Impacts, Adaptation, and Vulnerability (IPCC, 2007). The Arctic Human Development Report (AHDR) likewise addresses the issues associated with adaptation and resilience in the face of rapid environmental changes and stresses related to globalization (AHDR, 2004).

The social transition in the Arctic has occurred in parallel with the “political, legal, and institutional changes” in the Arctic during the last few decades (Heininen, 2005, p 129). These changes characterized by the introduction of outside elements to the Arctic (i.e. demographic changes, infrastructures, military activities, etc.) and the outflow of Arctic elements (i.e. renewable and non-renewable resources, technologies, and human rights advocacy initiatives, etc.) have highlighted the importance of the Arctic in a global context. They can thus be considered factors in the development of an Arctic regionalism (Heininen, 2005). This regionalism is comprised of both internal elements, such as growing co-operation and organization between Arctic indigenous peoples, and external elements, which are visible in the “Northern Dimension” policies of states and intergovernmental organizations (Heininen, 2005; Heininen, 2004). The region has been the subject of growing interest as geopolitical strategies have been asserted and economic opportunities are contemplated (Laruelle, 2009), thus adding a pressing international relations element to the complex and interlinked issues pertaining to the region.

The Stefansson Arctic Institute provides the following view:

According to the AHDR, ‘Arctic societies have a well-deserved reputation for resilience in the face of change. But today they are facing an unprecedented combination of rapid and stressful changes

involving environmental forces like climate change and socioeconomic pressures associated with globalization. Under the circumstances, it is particularly noteworthy that the '[...] Arctic has become a leader in the development of innovative political and legal arrangements,' including co-management regimes governing the use of natural resources, collaborative arrangements designed to facilitate co-operation between public governments and indigenous peoples organizations, and transnational arrangements like the Northern Forum and the Arctic Council itself ([www.svs.is](http://www.svs.is)).

From its inception in the AEPS, the Arctic Council's work through its working groups and programs has continuously increased in scope and intensity. The loose co-operation established in the AEPS has progressively become more defined and institutionalized (Koivurova and VanderZwaag, 2007), while at the same time expanding to encompass additional participants. This can be seen when comparing Working Group 2009-2011 Work Plans to work plans of previous years.

The work of the Arctic Council through its working groups addresses many Arctic challenges in a more comprehensive fashion than individual states have done independently and the Arctic Council has long-standing experience with these matters. Consequently, the Arctic Council is in an excellent position to serve as the forum for identifying shared goals and addressing common challenges through partnerships. The co-operation fostered by the Arctic Council has brought about the development of additional transnational and multidisciplinary collaborative networks. However, the continued proactive engagement by the Arctic Council through expanded collaboration and co-operation are required for its further development, implementation, and acceptance of governance policies that sufficiently address the many challenges facing the Arctic.

Arctic co-operation initiatives such as the Arctic Council and the permanent participants' organizations have had increasing influence on domestic policies, as have global treaties and environmental movements (Nowlan, 2001). This influence can be seen within the context of the national Arctic strategy documents and regional policy directives. It is also evidenced in the number of bilateral environmental agreements between Arctic states, and the number of international treaties and multiple non-binding agreements that have been created (Birnie et al. 2009; Rothwell, 1996). The Agreement on Co-operation in Aeronautical and

Maritime Search and Rescue in the Arctic that was signed in Nuuk on May 12, 2011 is one of the most promising of these, as all Arctic states participated in the development of this instrument and the intent to implement the instrument was demonstrated by the table top exercise in October 2011.

### *Recommendation*

The administration infrastructure of the ATS with Consultative Parties, non-Consultative Parties, and observers could provide a template for incorporating a greater degree of participation by non-Arctic states and other external stakeholders, while at the same time limiting their involvement. If the Arctic Council adopted the Consultative status for Arctic states and non-Consultative status for non-Arctic states and intergovernmental organizations, observer status could be reserved for non-governmental organizations. The Arctic Council could use this structure as a way to welcome the participation of interested non-Arctic states and intergovernmental organizations, while restricting the degree to which they could participate. This would allow for a better recognition of the resources that non-Arctic states put into Arctic scientific research and economic ventures, as evidenced by their participation in UArctic and the Association of Early Career Polar Scientists. It could foster a spirit of co-operation, rather than conflict. Additionally, it could be used as a way to obtain support in areas where resources are insufficient (such as search and rescue efforts, disaster response, and scientific research). Furthermore, this method of incorporating limited participation by external stakeholders would recognize their status as states or intergovernmental organizations, while maintaining the special status of the permanent participants, thereby providing a setting for greater dialogue between permanent participants and non-Arctic stakeholders.

## CONCLUSION: PROMOTING GREATER COMMUNICATION, CO-OPERATION, AND COLLABORATION AT MULTIPLE LEVELS

Arctic stakeholders have maximized their strengths through collaborative partnerships. Regional co-operation, multi- and inter-level partnerships, and international participation characterize the governance institutions and protocols

that have been developing in the Arctic during the last few decades. Partnerships are of vital importance to filling participation gaps where governance efforts are inhibited by competing or opposing state interests, institutional deficits, ineffective institutions, or a paucity of expertise. In addition to these challenging elements, insufficient information, lack of financial resources, lack of manpower, weighty organizational maintenance, and inconsistent incorporation of good governance principles into state domestic policies are also related to the adaptive capacity of regimes and their abilities to implement good governance. One of the main themes of the 2002 World Summit on Sustainable Development in Johannesburg was the recognition of “the need to develop multi-stakeholder transnational partnerships – i.e. project-oriented networks of actors as diverse as multinational corporations, environmental or social advocacy organizations, epistemic communities, and government agencies [–] [...] as a new and promising form of governance with greater potential to generate significant results at ground level than that of traditional intergovernmental diplomacy” (Stokke and Thommessen, 2003, p 14). These multi-level, multi-stakeholder partnerships are recognized as being important “agents of interdependence and globalization” and are coming to be viewed as new mechanisms for economic governance (Andonova and Levy, 2003, p 19).

Various Arctic stakeholders – including state governments, indigenous peoples, intergovernmental organizations, non-governmental organizations, and others – have different priorities regarding challenges to Arctic governance. However, there are common motifs found in the declarations and actions of these stakeholders. The prevalent themes include:

- o Mitigation of and adaptation to climate change
- o Sovereignty and territorial integrity
- o Governance authority
- o Responsibility and control of resources (renewable and non-renewable)
- o Sustainable development
- o Environmental protection
- o Health of human communities and cultures
- o Health of ecosystems

Viewing the prioritization of governance challenges by internal and external stakeholders could potentially serve as a way to broaden the understanding of the

interlinked complexities of the governance challenges to potentially bridge the apparent incompatibilities of some perspectives, identify common ground for partnerships, and prioritize focus areas for collaborative efforts amongst multi-level stakeholders. These pan-Arctic priorities could be addressed by the UArctic Thematic Networks in conjunction with the SAOs, permanent participants, and working groups. Graduate students and researchers could contribute a great deal by working to fill gaps in research areas and increasing public literacy on these issues. Additional participation by students and researchers in Arctic Council activities as directed by the Arctic Council would reap further benefits, as looking at the regimes themselves can “open new research agendas” (Krasner, 1983, pp viii), thereby furthering the contribution of the academic community to the advancement of good governance practices in the Arctic and the viability and sustainability of the Arctic Council.

## SUMMARY OF RECOMMENDATIONS

- o Engage the UArctic Thematic Networks to facilitate direct collaboration between the UArctic member institutions and the permanent participants, working groups and SAOs of the Arctic Council in order to heighten the visibility of the Arctic Council and garner more participation in Arctic Council projects
- o Invite APECS to fill an observer position and thereby utilize the APECS global network of researchers and the momentum and experience of the APECS Standing Committees on Education & Outreach and Research Activities to increase the Arctic Council’s “limited international profile” (SAO Report, May 2011)
- o Promote the continued and expanded involvement of APECS members in the working group and permanent participant projects in order to direct early career researchers and students to Arctic Council projects. This will help to increase the long-term sustainability of these projects
- o Create a special role similar to non-Consultative status for non-Arctic states and intergovernmental organizations within the Arctic Council in order to both engage and limit their involvement in Arctic governance efforts, while simultaneously recognizing their status and contributions

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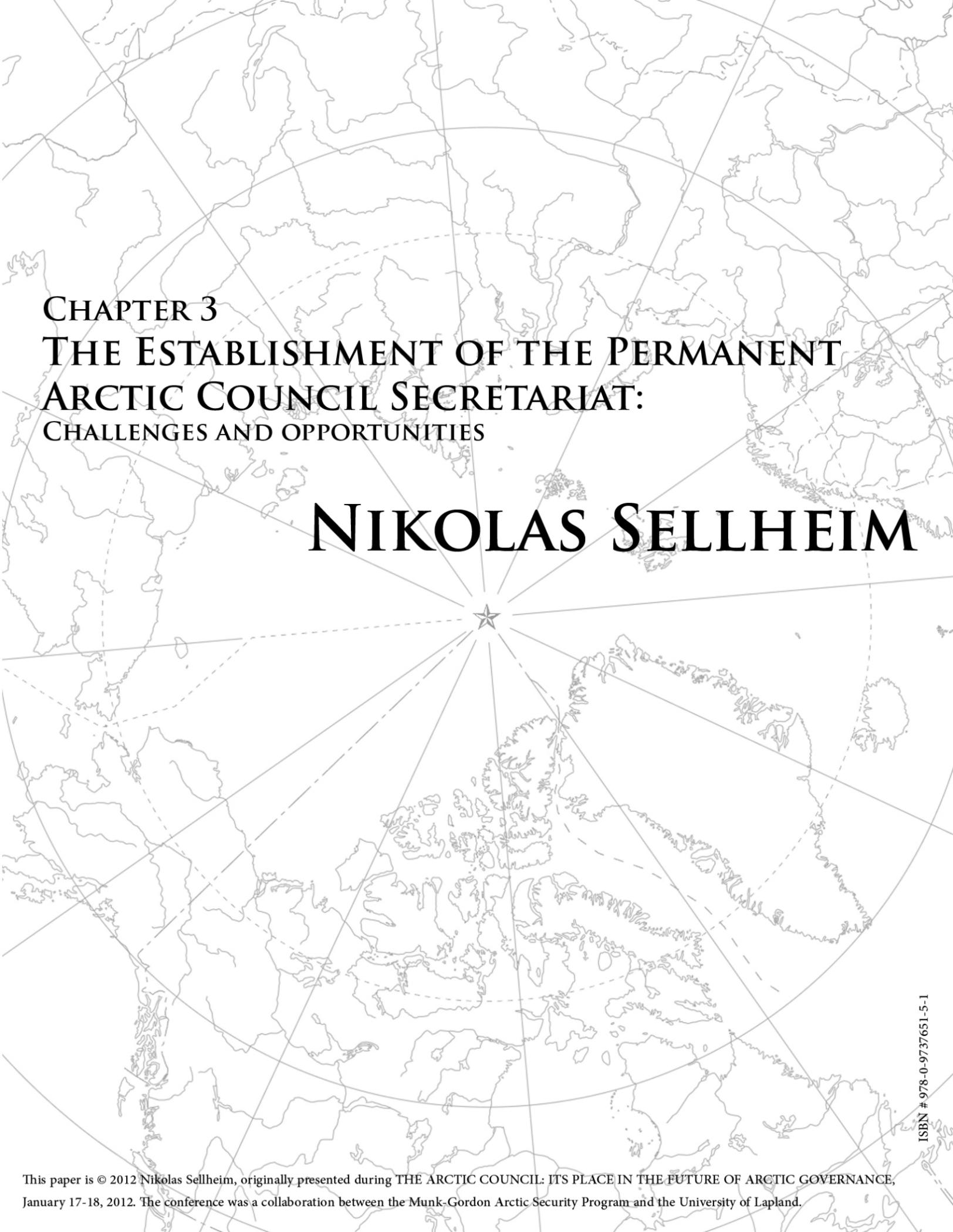
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**CHAPTER 3**  
**THE ESTABLISHMENT OF THE PERMANENT**  
**ARCTIC COUNCIL SECRETARIAT:**  
**CHALLENGES AND OPPORTUNITIES**

**NIKOLAS SELLHEIM**

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# THE ESTABLISHMENT OF THE PERMANENT ARCTIC COUNCIL SECRETARIAT: CHALLENGES AND OPPORTUNITIES

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## INTRODUCTION

ON MAY 12, 2012, MINISTERS OF THE ARCTIC EIGHT SIGNED THE Nuuk Declaration, following the Seventh Ministerial Meeting of the Arctic Council. Separating it from earlier Declarations, the Nuuk Declaration holds two important features which may have important impacts on the future of Arctic governance. First, the Declaration approves the Agreement on Cooperation in Aeronautical and Maritime Search and Rescue in the Arctic (SAR Agreement), which represents the first legally-binding instrument crafted under the auspices of the soft-law body Arctic Council. It is also the first treaty on Arctic affairs to be concluded between the eight Arctic states. Second, the Nuuk Declaration emphasizes the “volume and complexity” of the changes the Arctic is undergoing and which the Arctic Council needs to be able to respond to. To this end, the ministers have 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 [...]” This corresponds to the overall trend in international politics to establish new and more diverse international secretariats (Bauer, 2006), such as the Antarctic Treaty Secretariat in 2004 or the International Barents Secretariat in 2008.

The working structure of the Arctic Council is characterized by different categories: member states, permanent participants and observers; the Indigenous Peoples’ Secretariat already exists in Copenhagen. The newly created legally-binding Search and Rescue Agreement and the previous working procedure of a rotating secretariat based on the respective chairmanship raises several questions in

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regards to the role of the standing secretariat in Tromsø. How will the new secretariat respond to the different member types in terms of its staff composition? And how will the Indigenous Peoples' Secretariat be affected? Will the working groups' secretariats be altered?

This article examines these questions and draws conclusions on the future role the secretariat could play. Although the Arctic Council is unique in its working structure and cannot be fully compared to other international bodies or forums, analogies are being drawn to other secretariats dealing with the polar regions: the Secretariat of the Antarctic Treaty (Buenos Aires) and the International Barents Secretariat (Kirkenes), which serves the Barents Euro-Arctic Region (BEAR). Moreover, elements of legitimacy – which can be defined as the combination of procedural, good governance and efficiency standards – of the Arctic Council Secretariat will be examined in order to emphasize the benefits the standing secretariat model compared to the rotating secretariat system.

## THE ROLE OF TREATY SECRETARIATS IN INTERNATIONAL GOVERNANCE

In international governance, the role of secretariats cannot clearly be assessed. Yet, generally the importance of secretariats dealing with treaty-based issues is prominent, especially in those treaties dealing with environmental matters, as the following will exemplify.

Treaty secretariats can be regarded as bureaucratic organizations that are at the same time public, as well as non-state actors, by representing the collective interests of the state parties. Secretariats are actors representing the interests of the states. Yet, since they are not states themselves, they are at the same time non-state actors (Bauer, 2006). Notwithstanding, they are tools to assist the parties to a treaty to fulfil the treaty obligations and to ease compliance with the treaty provisions. While this may be understood as secretariats being the mere henchmen of the state parties, it must be emphasized that the secretariats are established as organizations and have developed a dynamic of active interference with their environment, thus contributing to the further development and shaping of the respective treaty (Bauer et al. 2007). Sandford notes: "They [the secretariats] have been significant

### Nikolas Sellheim cont'd

Having a background in Scandinavian/Northern European Studies, Circumpolar Studies and Polar Law, his research has focused on land right issues of the Sámi in northern Finland, especially in regards to reindeer husbandry and forestry as well as the legitimacy of the cooperation in the Barents Region. Furthermore, Nikolas Sellheim participated in the "Arctic Footprint and Policy Assessment Project" as well as the "EU competences affecting the Arctic" project, both of which NIEM played a key role in. Nikolas Sellheim also worked for the Arctic Council's Conservation of Arctic Flora and Fauna (CAFF) Working Group as well as the University of the Arctic's (UArctic) International Secretariat and he is the co-Chair of the Membership and Involvement Committee of the Association of Polar Early Career Scientists (APECS).

forces in international affairs, they are stable elements in a changing international system, and they have been formally assigned tasks to improve global [...] interests” (Sandford, 1994: 17). Yet, for a secretariat to show a high degree of efficiency, its internal structure must be stable, provided with sufficient financial resources, clearly set goals, and have personnel that are committed to these goals (Bauer et al. 2007). Budget support can serve as an indicator for the parties’ will to support the effective work of a secretariat.

Non-permanent secretariats to this end are likely to experience a higher degree of inefficiency than permanent secretariats, due to a non-permanent staff, lack of an institutional status, and the need for a higher budget to carry out its functions. Permanent secretariats are seen to be better able to generate procedures for the parties to implement a treaty (Sandford, 1994). In soft-law agreements, such the Arctic Council, the permanent secretariat enables the forum to deepen and solidify its co-operation, primarily at an intergovernmental level.

Despite the benefits of a permanent secretariat, the Antarctic Treaty System only established its permanent secretariat in 2004. “A careful preservation of balance on sovereignty positions coupled with a low level of activities in the Antarctic has, for many years, prevented institutionalization of Antarctic affairs” (Vidas, 2003: 58). Although in 1992 Argentina issued its candidacy to host a permanent ATS Secretariat, the United Kingdom expressed its reservations, leading to a decade-long stall in the establishment of the secretariat. It was only due to an improvement in the relationship between these two countries and a reorganization of its Antarctic program that the UK withdrew its reservations towards Argentina as the host country of the Antarctic Treaty Secretariat (Vidas, 2003).

The International Barents Secretariat (IBS), located in Kirkenes, Norway, was established in 2008. The IBS serves as the secretariat for the Barents Euro-Arctic Regions (BEAR), consisting of the intergovernmental Barents Euro-Arctic Council, and the Barents Regional Council, with technical support. It also serves as an “instrument helping the rotating governmental and regional chairs in their tasks and will guarantee continuity in Barents cooperation” (BEAC website). Accordingly, the secretariat: organizes events; stores documentation serving as the institutional memory; co-ordinates and oversees financial and other matters relevant for the functioning of the Barents co-operation; and acts as a physical representation and home facility for the BEAR.

Similarly, the Secretariat of the Antarctic Treaty, which was established in 2004 supports the annual Antarctic Treaty Consultative Meeting (ATCM) and the meeting of the Committee for Environmental Protection (CEP); facilitates the exchange of information between the Parties required in the Treaty and the Environment Protocol; collects, stores, archives and makes available the documents of the ATCM; and provides and disseminates information about the Antarctic Treaty system and Antarctic activities (ATS website).

While the BEAR is a forum for co-operation based on the non-legally binding 1993 Kirkenes Declaration, signed by Norway, Russia, Finland, Sweden, Denmark, Iceland, and the European Commission, the Antarctic Treaty is legally-binding for 49 parties<sup>1</sup>.

It can generally be said that the higher the complexity between domestic politics and international relations, and the more parties participating in the treaty negotiations, the more important the role of a secretariat becomes, while its functioning becomes more difficult (Downie, 2008). To this end, irrespective of the complexity of their respective environment, in order to function efficiently and to ensure a harmonized treaty line, a treaty or agreement secretariat like the ATS or the IBS's role is: to facilitate and maintain efficient and stable information exchange; the providing of means, measures and tools for the sustainable sharing of information; the processing of only that kind of information which is of relevant for the overall purpose of the secretariat; and the utilization of any information of necessity to which it has access (Harrison and Collins, 1999).

Although the instruments both reference secretariats, they differ greatly in their scope and complexity. At the same time, the technical aspects resemble each other strongly. Therefore, it can be expected that the Arctic Council Secretariat, which “supports the Chair of the Arctic Council” (Arctic Council website) after takings

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<sup>1</sup> The parties to the Antarctic Treaty are divided into Consultative and non-Consultative parties. Originally, only those 12 states that participated in the International Geophysical Year 1957/58 and then participated in the diplomatic meeting which negotiated the Antarctic Treaty in 1959 were considered Consultative Parties and participated in the decision-making. However, since 1959, 37 other states have acceded to the treaty. According to article IX.2., states that have acceded to the treaty need to demonstrate “its interest in Antarctica by conducting substantial scientific research activity there” in order to participate in the consultative meetings. As of 2011, 28 states are Consultative Parties and 21 are non-Consultative parties with the right to attend the Consultative Meetings.

its new permanent form is expected to be of a similar character as other secretariats. This will allow the Arctic Council to pursue its purpose on a solid administrative basis that will allow it to develop in a stable and efficient manner.

Due to the given bureaucratic authority allocated to secretariats by the parties to a treaty or agreement, they can become strong political actors (Bauer et al. 2007). For instance, Sandberg claims that through mere data gathering and analysis, secretariats are able to influence norm-creation and outcomes (Sandberg, 1994). This is particularly relevant as it can be assumed that negotiations are not conducted by “highly sophisticated individuals who are completely rational and are able to make calculations based on infinite information no matter the complexity” (Downie, 2008: 2).

In international politics state actors are – in principle – hesitant to accept the authority of an intergovernmental treaty secretariat, making it inevitably weak in exerting and implementing its authority (Bauer, 2006). It is therefore, crucially important for secretariats to have a clear-cut mandate, especially in their ascribed tasks, in order for them to be able to effectively deal with the complexities and uncertainties they encounter in their working environment.

However, in spite of a clear mandate, it is the secretariat’s personnel that determine whether the secretariat acts within or beyond the scope of the mandate.<sup>2</sup> However, in case of activities outside the scope of the secretariat’s mandate, reaction of the parties to the agreement comes swiftly. In particular, if the actions are not in line with the party’s political will and interests, or if a political problem is approached in a way that puts particular emphasis on a certain approach (Bauer et al. 2007; Sandford, 1994).<sup>3</sup>

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<sup>2</sup> The political weight of a secretariat has become prominent in the IBS, which in 2010 released a report “Development of an Action Plan on Climate Change in the Barents Region – Current Status and Recommendations” (Lindgren 2010). Although the task to draft such a report was given to the IBS by the Committee of Senior Officials, it is the IBS itself that in this case conducts a political assessment with policy recommendations. It therefore technically exceeds its mandate, which, however, is a legitimate step when appointed a certain task by the steering level of the co-operation.

<sup>3</sup> In case of the Antarctic Treaty Secretariat, its scope for independent action is limited. Yet, its mandate has leeway for independent action in terms of annual tasks, such as website design, information exchange or the organization of meetings. Beyond this, the Antarctic Treaty Secretariat does not go into political matters and due to the lack of inter-secretariat communications, such as with CBD or Ramsar, does not have the potential for influencing political processes (Personal communication, Antarctic Treaty Secretariat, September 9, 2011).

Notwithstanding, a secretariat embodies the culmination of issue- or region-specific expertise. Depending on the nature of the treaty or agreement, the secretariat holds different kinds of knowledge, i.e. “expert knowledge of various categories: technical and scientific knowledge on the policy problem at stake, administrative and procedural knowledge (which they will often generate themselves), and normative and diplomatic knowledge which is paramount to deal with the complex interlinkages that are characteristic of international regimes” (Bauer et al. 2007: 5). To this end, the composition of the staff of a secretariat plays a crucial role, while the administrative role of regulating the flow of information between the parties becomes passively authoritative in steering the course of negotiations – also supported through a charismatic and energetic leadership. However, if the boundaries for action are set very tightly, the secretariat’s influence and political role may remain weak. This is particularly seen in the climate change regime, in which the political influence of the secretariat is low, due to the complex structure of the regime itself and the complexity of the geophysical phenomenon of climate change.

Whether the treaty is of a global character or merely of a regional scope, it has the potential to make the region or problem more prominent in international politics. This can have the effect of making a supposed regional issue be regarded in a global or at least wider context. In the case of the Secretariat for the UN Convention to Combat Desertification (UNCCD), the secretariat has managed to frame the regional problem of desertification more globally by emphasizing the political implications of “desertification” vis-à-vis “land degradation”. It has also supported countries affected by desertification in framing the problem as a “loss of a global common”, thus making it appeal to global funding mechanisms, such as the Global Environment Facility (Bauer et al. 2007).

In a similar vein, the Arctic Council, despite its soft-law character, has managed to bring the Arctic into global climate change debates, even getting it onto the agenda of the UNFCCC by producing groundbreaking scientific assessments, in particular the 2004/05 Arctic Climate Impact Assessment (Koivurova and Hasanat, 2009). It can be assumed that a permanent secretariat will be better able to establish and maintain contacts to similar to other secretariats. Ideally, the Arctic Council permanent secretariat will manage to harmonize its data with that of the other

conventions that apply in the Arctic, so that a harmonized data management, as suggested by Harrison and Collins, is possible (Harrison and Collins, 1999).<sup>4</sup>

## CHALLENGES SURROUNDING THE ESTABLISHMENT OF A PERMANENT ARCTIC COUNCIL SECRETARIAT

The establishment of a permanent Arctic Council Secretariat is surrounded by several difficulties. The resolutions of these issues show the overall maturity of Arctic co-operation, in general, and will have impacts on the working structure and efficiency of the secretariat.

The first issue that needed to be solved was the location of the secretariat. Reykjavik and Tromsø were both candidate cities for the secretariat's location. The Norwegian government had advertised Tromsø as an option since at least 2005 (Ministry of Foreign Affairs, Norway, 2005) and at the 2011 Nuuk Ministerial it was concluded that it indeed would be the location. Norway's Foreign Minister Jonas Gahr Støre commented on the decision: "The choice of Tromsø is also a recognition of the work done by the temporary secretariat. The new secretariat will be responsible for a very important field. It will be able to draw on the centres of expertise in Tromsø and help to consolidate the city's position as an Arctic powerhouse" (cited in Ministry of Foreign Affairs, Norway, 2011).

Can the Secretariat be considered a governing Arctic organization then? And if so, since Arctic governance is not treaty-based, what does it govern? Or is it merely a tool for deepening the soft dialogue between the Arctic Eight?

The latter can be put strongly into question, as the conclusion of the legally-binding Search and Rescue Agreement has shown that Arctic co-operation has

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<sup>4</sup> In this context it must be noted, however, that inter-secretariat relations are not based on the Arctic Council secretariat alone, but need to be of mutual interest and benefit. In the case of the Antarctic Treaty Secretariat, the secretariat does not have a mandate for co-operation with the Arctic Council, as political matters and political representation are handled by the Antarctic Treaty Consultative Meeting itself. But since the permanent Arctic Council Secretariat enhances the Arctic Council's transparency, other organizations and treaties more easily find ways to co-operate with the Arctic Council (Personal communication, 9 September 2011).

gone beyond the notion of dialogue. It has developed a brittle, yet existing front of hard co-operation. Also, the will of several non-Arctic states to become observers to the Arctic Council has shown that the forum has become an authority in Arctic governance and that it is considered crucial for the future of the Arctic. The desire of additional states to become observers to the Arctic Council demonstrates that the body is being perceived as increasingly legitimate. Hence, the creation of the permanent secretariat can be considered a legitimate step to further the co-operation in the Arctic, while at the same time Arctic co-operation may very well go beyond co-operation between the Arctic Eight, to increasingly include non-Arctic actors. But if the Arctic Council were to be further opened to non-Arctic actors, such as the EU, China, or India, what repercussions would this have on the structure and mandate of the Arctic Council Secretariat?

It can be assumed that the secretariat's structure and working procedure will not be affected by new observers, as the agreement to establish the secretariat is between the Arctic Eight. This, however, could raise legitimacy concerns in terms of the exclusiveness. This has occurred in regards to the Antarctic Treaty Parties, which have often been criticized as being "a kind of exclusive club, from which the United Nations Organisation has to a large extent been excluded" (Baker, 2009: 2). This criticism can equally be applied to the newer category of Arctic actors – the Arctic Five – those countries that have an Arctic Ocean coastline. Thus, Finland, Sweden, and Iceland were excluded. The Arctic Five has the potential to significantly weaken the Arctic Council and indirectly its permanent secretariat through competition for scarce resources. It remains questionable, however, if the Arctic Five will continue, as the overall purpose and legitimacy of this group is debatable and is experiencing resistance from other stakeholders in Arctic and international affairs.

The question of whether the secretariat is a governing Arctic body can only be answered by looking at the normative and discursive environment. Based on hard law, the secretariat cannot be regarded as a governing body. However, the Arctic Council is exclusive in international relations, as the will of non-Arctic actors to join the Council shows. Thus, merely by providing technical support and supporting the work of the Arctic Council, the secretariat shapes the efficacy of Arctic co-operation itself. Consequently, the will of non-Arctic states to participate in the Council's deliberative processes will be even further strengthened when the work of the secretariat is carried out efficiently. Or to play with the counterfactual:

in the absence of a permanent secretariat, the Arctic Council would not have the same degree of efficiency, which would compromise its stability, especially in light of the emergence of the Arctic Five, thus making the Council less attractive for non-Arctic actors. However, it must be remembered that the mandate of the secretariat is limited. Therefore, while strengthening Arctic co-operation on a functional basis, the secretariat may contribute to an indirect governing of Arctic affairs as it shapes and influences the political strategies and manoeuvres of all those parties dealing with the Arctic. Still, it would go too far to consider the secretariat a governing body of the Arctic.

The interest of non-Arctic actors to become stakeholders in Arctic affairs under the auspices of the Arctic Council shows that the Council has managed to establish itself as a legitimate co-operative forum by raising the Arctic's momentum globally. The permanent secretariat can, therefore, take this development to a higher level by advocating for and framing the regional problems in the Arctic as global problem. For instance, although the imminent effects of Arctic climate change at first glance seem to occur merely on a regional scale in the Arctic, thus affecting *only* the Arctic Eight, with the increased interest of non-Arctic states in the Arctic, the secretariat may deliberately bring these issues to a broader audience to develop funding opportunities for research projects dealing with regional Arctic issues. This, however, must be in line with the overall policies of the Arctic Council, which needs to endorse a secretariat which invites specific non-Arctic actors to be involved in Arctic Council based research activities. This would grant the secretariat fairly high bargaining power, as well as a knowledge-broker role in Arctic governance. This is of particular relevance for the work conducted by the working groups who work under the auspices and report to the SAOs, while projects are mandated by the Arctic Council ministers. With sophisticated knowledge-brokerage skills, the secretariat may, at least in theory, have an indirect influence on the activities carried out by the working groups. Thus, although the ACS does not dictate the work of the working groups, it can nevertheless have “an important coordinating and guiding function” while in general it offers “continuity and organization between working groups” (Personal Communication, Tom Barry, December 20, 2011). However, due to the reporting procedures of the working groups, where they report to the chairpersons, the management board, and the SAOs, the governing role within the co-operative structure of the Arctic Council in this case is limited.

## THE POSSIBLE CHARACTER AND ROLE OF THE PERMANENT ARCTIC COUNCIL SECRETARIAT

### *Characteristics of the permanent Arctic Council secretariat*

The permanent Arctic Council secretariat contributes to the institutionalization of the Arctic Council, making it less a forum and more an international organization, despite article 1 Ottawa Declaration stating that “(t)he Arctic Council is established as a high level forum”. Although the secretariat and its employees represent and support an international high-level forum and may thus be referred to as staff of a diplomatic mission, this perception is rather blurry. The secretariat cannot be considered a diplomatic mission *per se*, according to the guidelines of the 1961 Vienna Convention on Diplomatic Relations as Art. 3.1(a) defines the functions of a diplomatic mission as *inter alia* “[r]epresenting the sending State in the receiving State”. This is not the case in reference to the Arctic Council Secretariat. Notwithstanding, when looking at the International Barents Secretariat, which also institutionalizes an intergovernmental forum, clear analogies can be drawn to the Vienna Convention. This is because many provisions of the Host Country Agreement directly reflect provisions in the Vienna Convention when Norway is taken to be the host country. It can be assumed that the Arctic Council Secretariat will follow similar provisions, making it a diplomatic mission without the Vienna Convention directly being applicable in this context.

The question emerges which instrument, body, or master does the Arctic Council secretariat serve when there is no Arctic treaty or other directly applicable instrument? In the case of the IBS, the Terms of Reference in Section 3 state that the Head of the Secretariat shall “report to the CSO [Committee of Senior Officials] and the RC [Regional Council].” Since there is no legally-binding treaty for the Barents Region, the hierarchical structure and reporting procedure refers to the different levels within the co-operation with no direct reference to any international treaty. Contrarily, the Arctic Council Secretariat does not report to the Senior Arctic Officials (SAO), but carries out its operations “[u]nder the direction of the Arctic Council, with the Arctic Council Chair responsible for the day-to-day operations [...]”, as the Senior Arctic Officials (SAO) Report to Ministers, Nuuk, Greenland, May 2011(henceforth called the SAO Report) shows

in Annex 1 (SAO Report, May 2011: 48).<sup>5</sup> Clearly, as the secretariat does not serve a treaty, but rather a soft-law forum for co-operation, it cannot be responsible for reminding parties of their treaty obligations. Yet, as the SAO Report states, the secretariat's purpose is to "enhance the objectives of the Arctic Council" (May 2011: 48) and therefore it is the secretariat's responsibility to ensure the smooth continuation of Arctic co-operation.

Since the secretariat is based in Tromsø, it will get legal representation in Norway. This will make it eligible to make contracts, own property, or institute or participate in legal proceedings. Moreover, by giving the secretariat legal representation, the Arctic Council via its secretariat can be held accountable for the action it takes. This raises the legitimacy of the Arctic Council as an organization, rather than a forum and gives the Council a face, where previously there has only been a sketch.

According to Sweden's Senior Arctic Official Andreas von Uexküll, who is also the leader of the Task Force for Institutional Issues (TFII), several documents which are to be concluded no later than the beginning of the Canadian Chairmanship are in preparation. These include the Terms of Reference, Staff Rules, Host Country Agreement, Financial Rules and the Director's Terms. The Permanent Participants are equally included in drafting these documents (Personal Communication, 9 February 2012).

#### *Tasks of the permanent secretariat and recommendations*

According to the SAO Report, the tasks of the permanent secretariat are fairly clear and defined. Since the Ministers in the Nuuk Declaration "*decide* to establish a task force to implement the decisions to strengthen the Arctic Council, including any necessary arrangements to establish the secretariat, and *approve* the composition and mandate of the task force as set out in the Senior Arctic Officials' Report to the Ministers 2011 (SAO Report, May 2011) [original emphasis]", the tasks of the secretariat as described in the SAO Report can be considered a preliminary mandate.

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<sup>5</sup> Looking at the Antarctic Treaty Secretariat, the situation there is a little different, as it serves the ATCM only. While the SAO Report allows for the conclusion that the Arctic Council Secretariat is strongly steered by the Arctic Council Chair, the ATS serves the ATCM and "shall constitute an organ of the ATCM. As such it shall be subordinated to the ATCM." (Art. I, Measure 1 (2003).

The SAO Report ascribes the secretariat “administrative and other related duties” (SAO Report, May 2011: 48), *inter alia* laying great emphasis on the transmission of reports to and from all parties involved in the Arctic Council. The SAO Report, however, does not assign the task of producing reports on its own, merely “assisting the chair in drafting meeting documents including final reports” (SAO Report, May 2011: 48). While it is obvious that the secretariat cannot take over the roles of the different working groups and other actors and produce scientific reports, it remains unclear whether the secretariat is not to produce and transmit summary reports on the Arctic Council parties’ activities. These could serve as a tool for self-assessment and would enable the Arctic Council to identify gaps in its working procedure in order to improve its efficiency. Yet, an alignment of the efficiency of all working groups and Permanent Participants seems more likely even in light of the absence of secretariats in some cases, as the Arctic Council secretariat is to provide “services to Permanent Participants and Working Groups without a secretariat” (SAO Report, May 2011: 48).<sup>6</sup> At the time of writing it is, however, unclear what nature these services will take (Personal communication, 9 February 2012). “Administrative services concerning general correspondence and archiving of records; and such other services and functions as may be required and directed by the Arctic Council and its Chair” (SAO Report, May 2011: 48) mandate the secretariat to be the institutional memory and guarantor for a higher degree of co-operative continuity of the Arctic Council.

Communications constitute a major task of the permanent secretariat, including “operating the Arctic Council website, including webpages of those Working Groups without a secretariat, facilitating and improving the quality and availability of information on the Arctic Council; recording, maintaining and posting, as appropriate, the records of the Arctic Council” (SAO Report, May 2011: 48). Since the permanent secretariat does not have the mandate to produce reports, a database could be created to document and make freely accessible all information produced under the auspices of the Arctic Council. The Antarctic Treaty Secretariat has created a database which contains all official documentation, including documentation around meetings and final reports. An Arctic Council database could be created in a similar vein, yet it could also include the

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<sup>6</sup> Both the Permanent Participants and all Working Groups have a secretariat at the time of writing. The inclusion of this sentence may serve as an insurance that in case of the abandonment of a secretariat, the ACS may fill the gap.

compilation of all projects carried out in the different working groups as well as under the auspices of the Permanent Participants.<sup>7</sup> In absence of a database, the permanent secretariat could facilitate means to harmonize the websites of the working group, as well as streamline key words and search engines in order to ease navigation through the plethora of documents.

The SAO Report sets out that the secretariat is to “facilitat[e] the exchange of information among the Arctic States, Permanent Participants and Observers; and, at the request of SAOs and PPs, developing strategic communication and outreach plans and other documents under the direct supervision of the Chair in support of the Arctic Council” (SAO Report, May 2011: 48). In line with this task, the secretariat could develop strategies to synergize the knowledge created by the different working groups and other sources, in order to create media packages to be sent to the news stations. Especially in the debate surrounding climate change, one aspect is the lack of understanding in the wider public. The Arctic Council with its secretariat could take over a leading role in producing information easily understandable for non-scientists and laypersons. Furthermore, the secretariat could produce a newsletter, similar to the newsletter of the IBS “Barents Saga” in order to provide a comprehensive overview of relevant topics surrounding the co-operation under the Arctic Council. Produced information could be made available not only online, but be also sent to other secretariats dealing with Arctic issues in the widest sense, e.g. biodiversity conventions, climate change, etc. to ensure that the Arctic is – or at least may become – a visible agenda item in their reports and negotiations.

The Arctic Council Secretariat will be responsible for “managing budgets; recruiting staff; contracting for services and related activities; and liaising with the host country” (SAO Report, May 2011: 48). Special attention is given to the role of translations. While the working language of the Council is English, the secretariat can provide for translations in and from the Russian language, only outside its administrative budget. Making documents available in Russian could contribute greatly to the visibility of the Arctic Council and its activities amongst those unable

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<sup>7</sup> During the time of writing, the design of the Arctic Council website has changed drastically and the notion of an institutional memory is becoming reality. While documents were hard to find and incomplete in August 2011, as of November 8, 2011, accessible documents are: founding documents; declarations; ministerial meetings; SAO Meetings; Working Groups’ Reports/Assessments; Arctic Strategies; video clips; events; deputy ministers’ meetings;

to speak English<sup>8</sup>. Ideally, key documents would be made available in the native languages of the Permanent Participants, but since they are only spoken by relatively few people, it can be expected that the lack of financial and human resources would make this impossible.

As a supportive tool for research carried out under the different working groups as well as under the auspices of the Permanent Secretariats, the Secretariat could assist researchers and delegates in their visa granting processes. Ideally, the Arctic Eight would conclude an agreement that would ease the visa processes for researchers and delegates of the Arctic Council. The secretariat managing human resources could develop a draft plan for implementing such an agreement.

According to the SAO Report, the secretariat will consist of 10 permanent staff, but it is open to individual secondments and interns. The overall functioning of the secretariat will be reviewed after six years of operation (SAO Report, May 2011). Due to the inchoate phase of establishing the ACS at the time of writing, no reference can be made to the nature of the staff composition (Personal Communication, 9 February 2012).

## THE ACS AND THE INDIGENOUS PEOPLES' SECRETARIAT

The Indigenous Peoples' Secretariat (IPS) was established in 1993 to assist the Arctic indigenous peoples' organizations involved in the Arctic Environmental Protection Strategy (AEPS). It continued its work as a supporting body for the Permanent Participants under the Arctic Council since its establishment 1996. While it cannot be seen as a representative body for the Permanent Participants, its task is to convey all information, documents and reports directly related the work of the Arctic Council to the Permanent Participants, provide technical support, communicate Arctic Council information and results to the indigenous peoples of the Arctic, to facilitate and co-ordinate meetings for the indigenous organizations, and to ensure direct participation of the Permanent Participant in the Arctic Council Working Groups.

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<sup>8</sup> This is also particularly relevant since Russia geographically constitutes a large portion of the Arctic.

In light of the establishment of a permanent Arctic Council Secretariat, the future of the IPS in its current form is uncertain. The SAO Report (2011: 48) reads: “The Indigenous Peoples Secretariat under the framework of the Arctic Council will be reviewed by Permanent Participants during the first year of the Swedish chairmanship to determine the feasibility of its integration with ACS.” To this end, a committee is being set up which plans to hire an independent institution or person to conduct the review process via e.g. a questionnaire, in order to collect data and to produce a report containing recommendations on the future of the IPS (Personal communication, Erik Grant, August 4, 2011). According to SAO von Uexküll, “no action will be taken until this review is in place” (Personal communication, 9 February 2012).

However, the possible change of structure or integration of the IPS into the ACS must be considered as a feature under the overall “Framework for Strengthening the Arctic Council” (SAO Report, May 2011: 48), as the SAO Report’s Annex is entitled, and as a means to ensure the “strengthening of the services provided to PP organizations” (SAO Report, May 2011: 48). Therefore, if the review of the IPS shows a higher degree of efficiency as a separate body and can thus be considered more likely to strengthen the services to the Permanent Participants, it will remain independent from the ACS.

Information provided by the Executive Secretary of the IPS, Erik Grant, have shown that one method to determine the feasibility for the future can be to co-ordinate a separate Permanent Participant forum to ensure collective contributions to the functioning of the Arctic Council. Until 2008, the IPS Board meetings and the so-called Permanent Participant Consultations were considered such forums for streamlining the Permanent Participant contributions. However, due to funding cuts, organizing such meetings has become a challenging exercise. To this end, securing funding for these meetings can be regarded as a means to measure the feasibility of integrating the IPS into the ACS.

While integrating the IPS into the ACS could mean a higher likelihood of ensuring funding for Permanent Participant caucuses, it would also mean a decrease in the prominence of the Permanent Participants. This is because their administration would become one unit within the overall Arctic Council Secretariat and its functions would be in line with the overall functioning of the Secretariat – possibly

detracting from their special position within the Arctic Council (Personal communication, 4 August 2011).

In the case of merging the IPS with the ACS, the question of how to represent the Permanent Participants in the Secretariat emerges. In the case of the IBS, the secretariat hosts an Indigenous Peoples' Advisor, who is responsible for representing and communicating the needs of the region's indigenous peoples. While at the time of writing, the operational structure of the ACS was not yet known, Erik Grant emphasizes that a similar position in the ACS might be a possibility. In the case of the IPS remaining a separate body, all six Permanent Participants could be represented on the Board of the IPS. Currently, the Arctic Council Secretariat does not host an indigenous peoples' advisor or any official Permanent Participant representation. While the issue of representation is an issue of constant recurrence, Erik Grant stresses that it is also a matter of national administrations within the secretariats of the Permanent Participants and their resource allocation. Yet, it is possible that resources are better used within the structure of the ACS, as being a bigger organization with larger means and ways of operation (Personal communication, 4 August 2011).

In conclusion, the establishment of the ACS will benefit the Permanent Participants on a large scale, one way or another. If this means the abandonment of the IPS, it will benefit the operational structure of the Arctic Council in general, and result in more efficiency in the work for the Permanent Participants. As Grant writes: "The new secretariat should enhance our capacity to meet new challenges as these latter are set out in the Nuuk Declaration" (Personal communication, Erik Grant, 4 August 2011). The challenges the Arctic Council faces and the secretariat needs to delegate become increasingly complex, stemming from environmental and climatic changes, the institutional responses and the impacts on the traditional livelihoods, health, rights, and means of development of the Arctic indigenous peoples. Therefore, Grant concludes that "it was absolutely necessary to now make the decision on the standing secretariat in order to stay on top, or, in some cases, to be able to crawl out from under the pile of challenges" (Personal communication, 4 August 2011)

## FOOD FOR THOUGHT

The impacts of the secretariat on the normative environment of Arctic Council related governance are likely to be low, as the normative foundation has already been in existence for more than 15 years. Yet, with the emergence of legally-binding decisions under the Arctic Council, such as the SAR Agreement, have shown that the secretariat could take a defining role by drafting texts and encouraging the negotiations for future legally-binding Arctic Council instruments, such as a visa agreement. To ensure the sustainable and efficient work of the secretariat, stable and sufficient funding is necessary. Shifting focus to the co-operation in the Barents Region, the BEAR itself does not have a stable funding mechanism. It is only through its secretariat, which enjoys a clear funding structure, that the Barents Euro-Arctic Region is financially secured. Moreover, stable funding for the secretariat is necessary, so that engaged and motivated staff can be recruited and kept (Sandford, 1994: 23). To this end, contracts for the staff of the ACS should not be on a short-term basis, but rather of a long-term nature, so that the staff is capable of efficiency and motivated to engage the tasks at hand, while the secretariat's work environment can become more attractive for highly-skilled personnel.

Although not to be considered an Arctic treaty, the agreement on the establishment of the secretariat, the staff and financial rules must be of a binding nature in order to ensure compliance with those provisions making the secretariat function. Like the IBS, the ACS can be regarded as a specific type of diplomatic mission – state and non-state – between the eight Arctic nations, lessening the degree of dispute potential and becoming a trans-Arctic platform for co-operative Arctic governance.

Although the SAR Agreement is of a legally-binding nature to its parties, article 19.3 states that “(a)ny Party may at any time withdraw from this Agreement by sending written notification thereof to the depositary through diplomatic channels at least six months in advance, specifying the effective date of its withdrawal. Withdrawal from this Agreement shall not affect its application among the remaining Parties.” This means that despite its binding nature, the Agreement itself in terms of stability can be considered rather weak, which constitutes a general trait in international agreements, as states would hardly accede to an

agreement which they would be unable to leave. The relevance of the ACS Agreement, therefore, lies in making it stable and sustainable, contributing to a stable and sustainable institutional environment for Arctic governance. The wording in IBS Agreement article 11 shows that if a party withdraws it may compromise the overall integrity of a secretariat. The article states: “Any party may withdraw from this Agreement by a written notice. The withdrawal shall take effect one year after receipt of the notice by the Ministry of Foreign Affairs of Norway. In this case the remaining parties shall consult on the future existence and structure of the Secretariat.”

There are still numerous questions that need to be answered when looking closely at the role the secretariat will play in the future. Can the secretariat deal with the complexity of Arctic affairs and the work of the Arctic Council? Will the Arctic Council become a governing body of the Arctic in the future and the ACS its secretariat? Will there be a clear-cut policy for making documentation of the work by the Arctic Council freely available? This is particularly interesting when looking at the availability of documents on the Arctic Council website. Taking the May Ministerial meetings and the March SAO-PP meetings as examples, as of 2 June 2011, all documents are freely accessible, although accessing them is only possible by clicking on the “password area” link on the Arctic Council website. While the 2011 meeting documentation is accessible, all other meeting documents are password protected. There is no clear indication how the password-protected area is justified, especially since it states that “Following approval and meeting completion, the documents are usually released [sic] for public view” (Arctic Council, Password Area). As of 12 August 2011, all meeting documents are freely accessible, while meeting minutes are not downloadable at all, as they are not linked anywhere. It must be noted, however, that in the second half of 2011, the design of the Arctic Council website has changed drastically and the document database has improved significantly. As of 29 November 2011, meeting minutes are not yet downloadable.

In terms of transparency, it would be valuable if the new secretariat raised the issue of the Arctic Council transparency policy – especially since the ATS and IBS are not consistent in their policies – to provide better access to meeting documentation. The lack of insight into meeting minutes does not allow for assessment of power-relations within Arctic Council meetings, especially in regards to indigenous peoples. Furthermore, gaining an understanding of the decision-

making process is aggravated due to a lack of insight into deliberation and deliberative balance in the discussions. Also the de facto inclusion of statements by the observers or Permanent Participants into the decision-making process of the council cannot be assessed. It therefore remains unclear what role the observers actually play.

## CONCLUSION

In this article, the author has tried to explore the role and character of the permanent Arctic Council Secretariat. Based on findings from research on the role of the treaty secretariat and with analogies to the International Barents Secretariat, as well as the Antarctic Treaty Secretariat, certain roles of the ACS were analyzed. Since the role of secretariats in general is not as clear-cut as it seems, numerous questions have arisen throughout the course of this article – and the paper has attempted to answer them – yet these answers often occur in a fairly speculative context, since we have merely the decision and planned tasks to establish an ACS with no structural design information accessible at this time. Information regarding the mandate and structure of the secretariat would be particularly relevant in order to determine the future role of the Indigenous Peoples' Secretariat in Copenhagen. But one way or another, the secretariat's purpose is to strengthen the Arctic Council and the Permanent Participants, therefore, it cannot be concluded that a closing of the IPS and possible merging with the ACS would mean a weakening of the Permanent Participants' position within the Arctic Council.

While there are still many questions left to be answered in terms of the overall role and importance of the Arctic Council Secretariat, it must be concluded that the mere establishment of the secretariat is a great leap forward to make Arctic co-operation more stable and sustainable. It is therefore an investment in the future of Arctic co-operation in order to efficiently deal with emerging complexities and handle the challenges ahead.

## ACKNOWLEDGEMENTS

The author would like to thank the International Barents Secretariat, the Antarctic Treaty Secretariat, Erik Grant at the Indigenous Peoples' Secretariat, Tom Barry at CAFF, and SAO Andreas von Uexküll.

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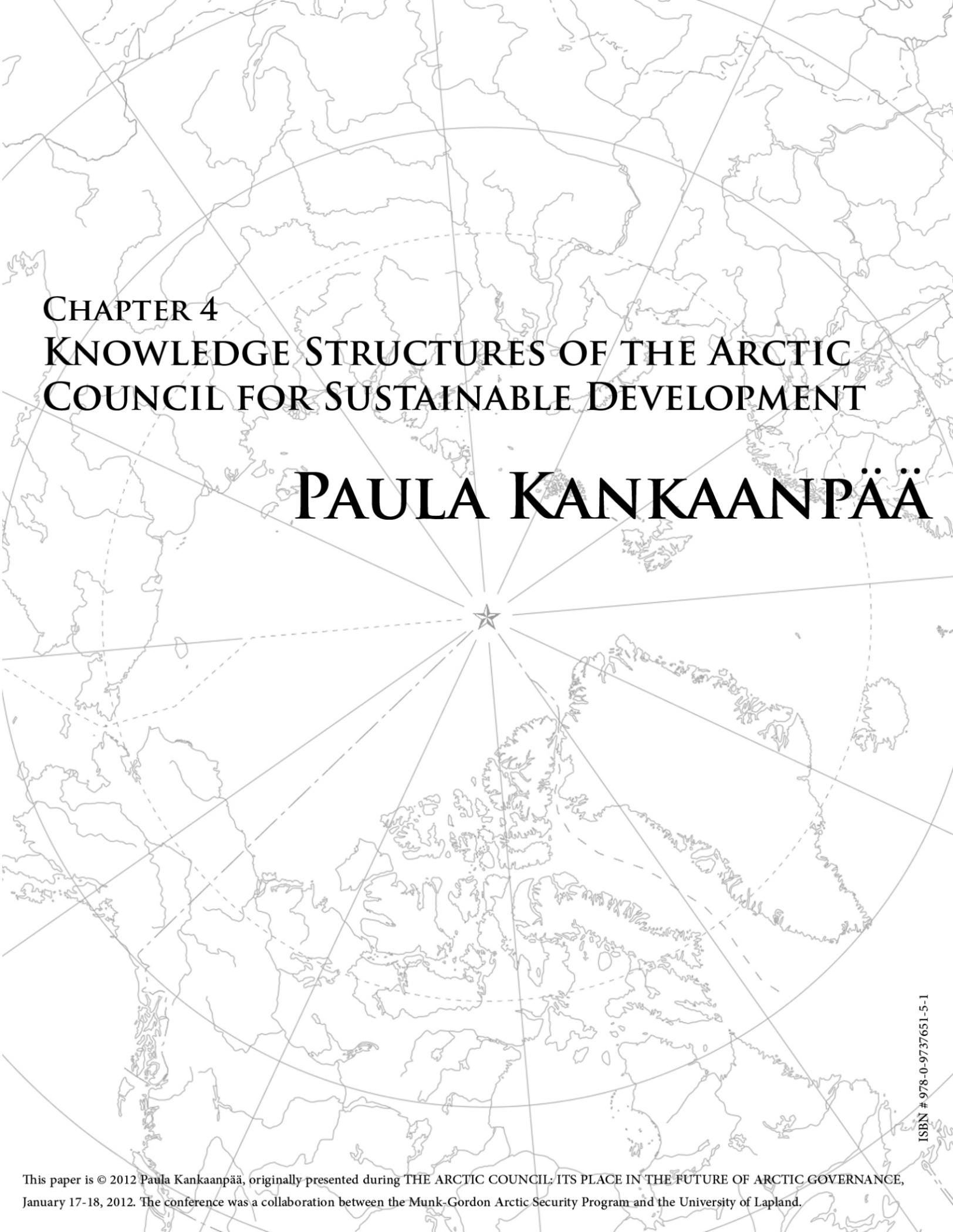
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**CHAPTER 4**  
**KNOWLEDGE STRUCTURES OF THE ARCTIC**  
**COUNCIL FOR SUSTAINABLE DEVELOPMENT**

**PAULA KANKAANPÄÄ**

ISBN # 978-0-9737651-5-1

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# KNOWLEDGE STRUCTURES OF THE ARCTIC COUNCIL FOR SUSTAINABLE DEVELOPMENT

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## INTRODUCTION

THE ARCTIC REPRESENTS ONE OF THE MOST UNTOUCHED AND pristine regions of the world. Today, the Arctic is changing through rapid environmental and economic development. The challenge is to ensure that scientific information is available and utilized in the decision-making processes, while also adequately reflecting unique cultural and environmental values.

Sustainable development, the UN Rio Declaration on Environment and Development, its action plan, and the 1992 Agenda 21, are increasingly relevant in the Arctic today. The Rio Declaration calls for public participation and greater local level involvement in making decisions, as well as in management. It also highlights the role and use of the sciences in supporting the prudent management of the environment and development.

The Arctic Council is a high-level intergovernmental forum that provides a means for promoting co-operation, co-ordination and interaction, – specifically among Arctic states and indigenous peoples – on common issues of sustainable development and environmental protection in the Arctic.

This study discusses how science-oriented policy-making in the Arctic could be developed in a manner that is more responsive to a broad range of public, stakeholder, and external concerns in order to truly support regional sustainable development via the structures of the Arctic Council.

**Paula Kankaanpää** has been Director of the Arctic Centre of the University of Lapland, Finland since 2000, where she acted also as Vice-Rector in 2006-09. Professor Kankaanpää has long experience on science and policy interface as worked for the Arctic Environmental Protection Strategy, the Arctic Council, the Barents Council and the Antarctic co-operation in the Finnish Ministry of the Environment since the beginning of the 1990s. She was a research fellow at the Dickey Center of the Dartmouth College, USA, in 2010. She is the chair of the Advisory Board of the Finnish Meteorological Institute

## KNOWLEDGE FOR SUSTAINABILITY

Recent global research on the influence of knowledge in promoting sound decision-making in support of sustainable development offers a starting point to develop and improve the potential efficiency of the Arctic Council.

### *An integrated knowledge system*

It has been shown that science, technology and knowledge can make substantial, or indeed essential, contributions to sustainability across a wide range of places and problems (William, 2007; Cash et al. 2003).

Knowledge refers to practitioner or traditional knowledge of one's respective environment. However, major cultural differences contribute to problems in connecting science, knowledge, society and policy. Many studies have shown that cultural differences may create barriers to the formation of strong linkages between science and society (Cozzens and Woodhouse, 1995; Choi et al. 2005; Brugnach and Ingram, 2012). Scientists and policy-makers may lack an understanding of each other's knowledge systems. For example, even when scientists try to reach out for local knowledge, they may lack important skills required for success (McNie, 2007).

Interactions among groups of people and organizations concerned with a given policy issue enhance each other's understanding of the same problem. Interaction may produce shared understandings of a problem, how it should be defined, the action that should be taken, and what the best choice is for moving forward. Collective efforts to gather information reduce the risk of accusations that some interest groups or states manipulate and take advantage of the produced information – or at least try to. Policies, thus, develop out of ongoing interactions between different stakeholders (Mitchell et al. 2006, p 9; Sabatier, 1988; Jenkins and Smith, 1999).

It has been shown that, in order to be influential, the potential users of research must regard it as salient, legitimate and credible. These three attributes are interconnected. Procedures intending to foster one of these characteristics often undermine one another and the satisfaction of the critical thresholds of all three is

### **Paula Kankaanpää cont'd**

and a member of the Arctic Committee of Finland lead by Prime Minister's Office. She chaired the IASC Regional Board in 2000-02 and she acted as the Deputy Secretary of CAFF Working Group of the Arctic Council in 1999 in Akureyri, Iceland. She made her PhD about sea ice pressure ridges when working as a research scientist in the Finnish Institute of Marine Research in the end of 80's and in University Alaska Fairbanks in 1990.

a necessary but insufficient condition for influencing an assessment (Mitchell et al. 2006).

The success of individual efforts to promote sustainability in research, innovation, monitoring and assessment depends on developing an “integrated knowledge system”. An integrated knowledge system is a mechanism that facilitates and motivates research and common problem-solving for improved decision-making. It enhances dialogues between experts and decision-makers and it creates bridges across spatial scales so that location-specific needs and knowledge are linked with national and international levels. (Cash et al. 2003).

#### *Global environmental assessments*

Large-scale international environmental assessments pool scientific expertise and data. These global environmental assessments that seek scientific answers to the questions of national and regional policymakers have become an increasingly common arena in which science and policy interact. They have become an established element in international, national, as well as local policy and decision-making. (Mitchell, 2006). This is also the case within the Arctic Council.

Examples of global scientific assessments include: The Intergovernmental Panel on Climate Change Assessment Reports, Millennium Ecosystem Assessments by United Nations Environmental Program (2001-2005), Global Forest Resources Assessments Reports by Food and Agriculture Organisation (2010), Global Biodiversity Outlook by Convention on Biological Diversity (2006 -2010), World Water Development Report by United Nations Educational Scientific and Cultural Organisation (2009) and World Energy Outlook by International Energy Agency (2010).

Since 2000, the Arctic Council has followed this global trend and is producing an accelerating number of science-based assessments. The major Arctic Pollution Issues (1998), launched by Arctic Monitoring and Assessment Program (AMAP), has been followed by numerous AMAP Assessment reports, as well as reports like the Arctic Climate Impact Assessment (2005), the Arctic Marine Shipping Assessment (2009), the Arctic Human Development Report (2004), Arctic Biodiversity Trends (2010), Snow, Water, Ice and Permafrost in the Arctic (2011), among others.

According to extensive global research undertaken by Mitchell and others, it has been shown that the influence of global environmental assessments (GEA) vary considerably. Evaluating the efficiency of GEAs cannot easily be answered by simply reading a report. The influence of information does not depend on “getting the science right.” (Mitchell et al. 2006).

Projects are more likely to be successful in linking knowledge with action when they recognize that scientific research is only one piece of the puzzle. They also need to apply systems-oriented strategies and engage the partners best positioned to help transform knowledge co-created by all project members into concrete actions. These can take the form of strategies, policies, interventions, or new technologies (Kristjanson et al. 2009).

Policy and science have different norms and expectations as to what constitutes reliable evidence, a convincing argument, procedural fairness, or an appropriate characterization of uncertainty. As a result, they have a difficulty in effectively communicating with one another (Cash et al. 2003). However, rather than thinking about GEAs as a publication, they are better conceptualized as social processes in which scientists, policymakers and other stakeholders gather (or do not gather) data, conduct analyses, explain, debate, learn and interact with one another on the assessment’s focal issue (Mitchell et al. 2006).

### *Boundary work*

Cash and others have shown that the characteristics of institutions that produce information affect their influence (Cash et al. 2003). They suggest that efforts to mobilize science and technology for sustainability are more likely to be effective when they manage boundaries and act as intermediaries between knowledge and action in ways that simultaneously enhance the salience, credibility, and legitimacy of the information they produce. “Boundary work” is carried out at the interface between communities of experts and communities of decision-makers. These functions may be institutionalized in “boundary organizations” or implemented via “boundary-spanning actions” that help bridge gaps between research and research user communities (Guston, 2001).

Kristjanson writes that boundary-spanning work often involves the construction of informal new arenas that foster user-producer dialogues, define products jointly,

and adopt a systems approach that counters dominance by groups committed to the status quo. Furthermore, boundary-spanning individuals that work within institutional frameworks play a central role in determining its success. Defining joint “rules of engagement” in the new arena that encourages mutual respect, co-creation and innovation improves the prospects for success. (Kristjanson et al. 2009).

Based on an agent-based model of continuous opinion dynamics over two dimensions where heterogeneous experts, distinguished by credibility and uncertainty, interact, it was shown that boundary organizations significantly reduce the diversity of opinions expressed and that they possess a positive impact on the efficiency of decision-making (Boissin, 2009).

Nilsson points out that in order to safeguard against the dominance of one particular preference or knowledge tradition, it would be wise to promote diverse perspectives. Were there to be a loss in the amount of diversity in expertise, there is a chance that the resilience of a system may be reduced. Indeed, combining different knowledge systems may be a key component of creating systems of adaptive governance (Nilsson, 2007). Boundary work does not necessarily need to seek consensus on information. Rather, it facilitates improved understanding and in this way enhances the acceptance of different perspectives.

Civil society’s call for more participation in science policy processes is only likely to increase in the years ahead. The Internet and telecommunications have greatly enhanced the ability of people to gather and disseminate information relevant to their own neighbourhood and to advance their values both locally and transnationally (McNie, 2006).

Nationally, there exists a number of modern legal processes, such as regional planning processes, Environmental Impact Assessments and environmental permissions, which collect information and offer opportunities for the involvement of different views on a proposed development. However, the fact that there is a possibility of participating amounts to little if people do not utilize this opportunity, or if the integration of information does not involve all relevant parties. Simultaneously, decision-makers can choose to accept or ignore information when making decisions. They can also value the information differently (Hokkanen and Kojo, 2003). Boundary measures can reduce low or

asymmetric participation and pave the way to implementing dialogues by using a number of professional methods to increase awareness and understanding, enhance the flow of information and knowledge, and facilitate a discourse between different levels and directions.

According to Guston, boundary organizations attempt to solve problems (i) by providing opportunities and, at times, incentives for the creation and use of “boundary objects” (such as assessments) and “standardized packages” (such as practices and agreements that engage both sides of the boundary in a more frequent and productive co-operation); (ii) they involve the participation of actors from different sides of the boundary, as well as professionals who serve a mediating role; (iii) they exist at the frontier of the relatively different worlds of politics and science, but have distinct lines of accountability to each. Boundary organizations exist both for politics and science, but this does not constitute either “politicizing science” nor “scientizing politics” (Guston, 2001).

## STUDYING THE KNOWLEDGE STRUCTURE OF THE ARCTIC COUNCIL

The Arctic Council’s work is based on the co-operation of government officials, scientists and indigenous peoples. This structure was initially introduced by the Arctic Environmental Protection Strategy (Rovaniemi Declaration, 1991). The Arctic Council is open to observers that fall under the category of non-Arctic states, non-governmental organizations and international organizations. Indigenous peoples enjoy the status of Permanent Participants (PP) with equal participation rights to Arctic states. However, the permanent participants do not have the right to vote. Observer status in the Arctic Council is open to non-Arctic states, global and regional intergovernmental and interparliamentary organizations, as well as non-governmental organizations.

Science representatives participate in Arctic Council activities in three ways: at the organizational level as Arctic Council observers, within national delegations, and as individual experts to projects. The International Arctic Science Committee (IASC), the International Association of Arctic Social Sciences Association

(IASSA) and the University of the Arctic (UArctic) are observers at the Arctic Council (<http://arctic-council.org/section/observers>).

It is difficult to assess the immediate impact of the work of a large body like the Arctic Council. For example, GEAs often influence development issues without directly leading to behavioural change. Most issues dealt with in GEAs typically exhibit long periods of relative stability punctuated by shorter episodes of rapid change. New ideas must often “incubate” for a decade or more before they can exert their full influence on behaviour. (Mitchell et al. 2006).

However, it is possible to assess the potential efficacy of the Arctic Council indirectly by analysing its functions, knowledge structure, and comparing them to the recently described research results on the efficient use of information to promote sustainable development. This provides us with a background to assess what information may potentially be selected to be included in Arctic Council reports, as well as what impact it may have and where. Does the Arctic Council “knowledge structure” lead to efficient outcomes or does it potentially pose a barrier on particular issues?

### *Method*

The composition of participants within Arctic Council activities should indicate the involvement of different groups and their possible influence on decision-making processes. The knowledge structure of the Arctic Council will be investigated by undertaking a quantitative analysis below. The method entails the examination of participants in Arctic Council activities by counting the number of individuals representing different interest groups and by comparing their relative share of participation. The data is based on the participant lists of eight Ministerial and Senior Arctic Official meetings of the Arctic Council held from 2008 to 2010 (n=1201). In the data regarding the meetings, numbers (n) represent cases, not the number of individuals, (i.e. the same person could have been present at several meetings). The size of the meetings varied between 87 and 275 participants, with an average of 150. The characteristics taken into consideration are professional affiliation, geographic origin, nationality, and gender.

The ministerial and SAO meetings studied here were held in Svalbard, Kautokeino, Copenhagen, Tromsø, Copenhagen, Ilulissat, and Torshavn. The two main Arctic

Council reports are the Arctic Climate Impact Assessment Report, ACIA (n=336) and the Arctic Human Development Report, AHDR (n=72) (AHDR 2004, ACIA 2005).

Professional affiliation is further split into three subgroups: environmental science and the humanities. Environmental science refers to those disciplines related to the environment and nature that range from geology, geography, agricultural science, and marine science to biology. Humanities, alternatively, refers to those disciplines related to humanity that range from anthropology, and economics to the health and social sciences. Technology pertains to disciplines such as engineering and computer technology.

Government representatives belonged to ministries, departments, public agencies, committees, and research units. Representatives of the government sector were further divided into central and local administration. Local representatives had to present a specific connection to the local government, without being dependent on a part of the national administration to be considered in this category.

Indigenous peoples' representatives either belonged to the indigenous community and/or officially represented their interests. Private sector functionaries represented companies and businesses. The category "uncertain" included all individuals with an unidentified affiliation.

The participation of observer states (non-Arctic states) is also taken into consideration for the purpose of assessing their present and potential contribution to the work of the Arctic Council. The participation in question is whether they were involved in SAO and Ministerial Meetings, as well as 26 meetings of five of the Arctic Council's Working Groups (Sustainable Development Working Group meetings were not analysed) (n = 743).

## *Results*

### **Affiliation**

The majority of participants at the meetings were government representatives (61 per cent). Indigenous People (Permanent Participants) had 14 per cent, while the science sector held 10 per cent of the seats. Only five per cent of the participants

represented the private sector. The origin of the remaining 10 per cent is undefined. Fig.1.).

At the same time, 13 per cent of all the participants were affiliated to organizations. However, this is not reflected in the figures below, since the organizations overlapped different affiliations and nationalities.

Both the ACIA and the AHDR can be regarded as science-based reports, as the participation of academic science representatives is prevalent both in the ACIA and the AHDR at 57 per cent and 79 per cent, respectively. This has occurred even though the AHDR report appeared to be a more academic exercise than the ACIA.

The share of governments' research units and agencies had a higher share in the ACIA (29 per cent) than in the AHDR (seven per cent) (Fig. 1).

Indigenous Peoples representation in the ACIA (12 per cent) and in the AHDR (11 per cent) was approximately equal to that in the SAO and ministerial meetings (14 per cent). Interestingly, if the ACIA chapter on indigenous peoples were excluded from the data set, indigenous peoples' share would be reduced to only two per cent.

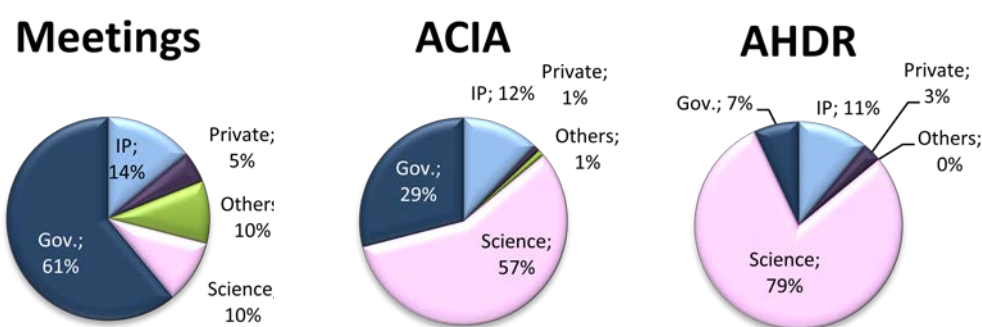


Figure 1. Ratio of the affiliation of representatives in ministerial and SAO meetings, in ACIA and in AHDR.

The contribution of the private sector was also strikingly low, at one per cent, three per cent and five per cent in ACIA, AHDR and other meetings, respectively.

A further study concentrating only on the science and government sectors from ministerial and SAO meetings (n=736) and the ACIA (n=98) data shows that the ratio of local administration to central representatives is uneven. The participation of local representatives is low in the studied Arctic Council activities at 12 per cent to 88 per cent in the meetings and eight per cent to 92 per cent in the ACIA, respectively (Fig. 2).



Figure 2. Local and central administration representatives.

The geographic origin of participants was approximately equal in the full data sets of the meetings and the ACIA: southern representatives had a share of 66 per cent and 65 per cent, respectively, while it was reversed in the AHDR with 60 per cent of the representatives from the North (Fig. 3).

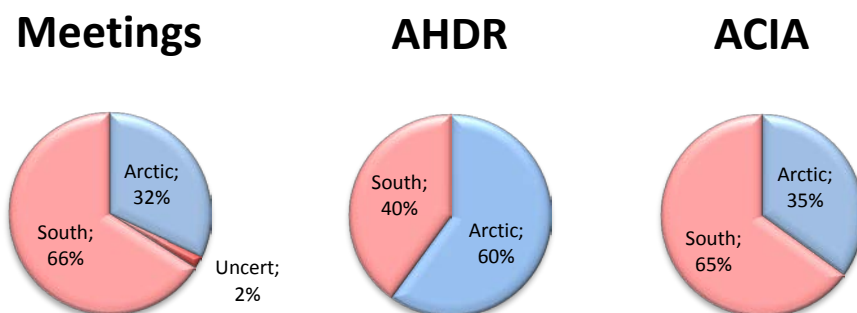
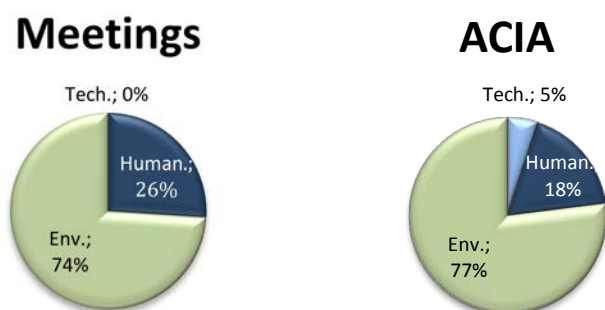


Figure 3. The geographic origin of the representatives.

### Science

In regard to the scientific domain, environmental science dominated in both meetings (74 per cent) and in the ACIA (77 per cent). Humanities represent only

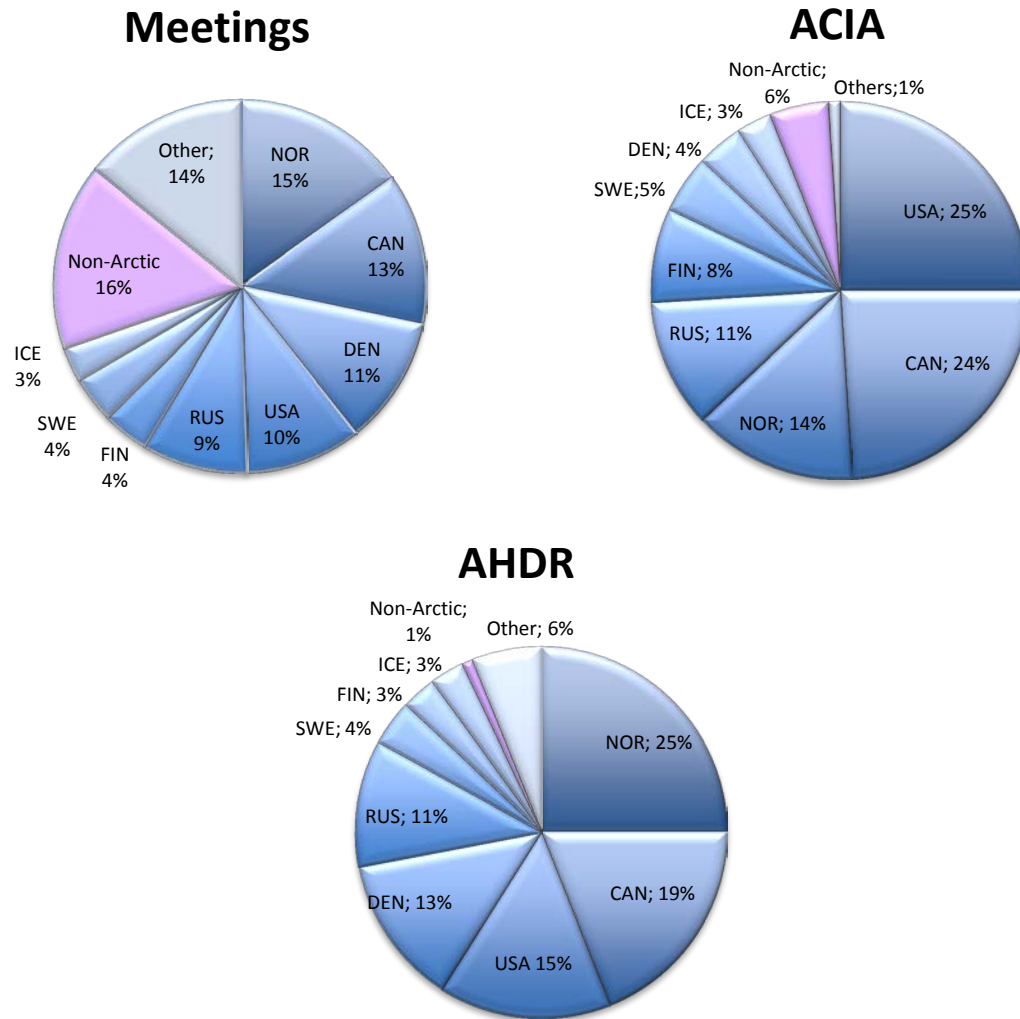
26 per cent of participants in the meetings and 18 per cent in the ACIA, the majority of which represent the disciplines of environmental and natural sciences. Over half of those with a humanities background in the ACIA represent the economic and health sciences. Social sciences are, in fact, a small minority (five per cent) in the overall composition of the ACIA. At the meetings, there were no representatives of the engineering sciences, even though they represent five per cent of the overall contributions to the ACIA (Fig. 4). Due to its theme, the AHDR was solely a human science exercise.



*Figure 4. Representation of scientific domains.*

### *Nationality*

For obvious reasons, the Arctic states represent a majority in meetings constituting 69 per cent of participants. Non-Arctic states account for 16 per cent. In regard to the representation of nationalities at the meetings, both Norway and Denmark had a high level of participation at 15 per cent and 11 per cent, respectively, as the study took place during their chairmanship period and meetings were organized within the respective countries. The representation of other countries was as follows: Canada (13 per cent), U.S. (10 per cent), Russia (nine per cent), Finland (four per cent), Sweden (four per cent) and Iceland (three per cent) (Fig. 5).



*Figure 5. Representation of nationalities.*

North American states represented half of the ACIA participants (U.S. at 25 per cent and Canada at 24 per cent) while Russia lagged at 11 per cent of the total contributors. This is strikingly low share in comparison to its size; Russia, by far, has the largest Arctic population. The European contribution was slightly over one-third, with Norway as the most active (Norway at 14 per cent, Finland at eight per cent, Sweden at five per cent, Denmark at four per cent, and Iceland at three per cent).

In the AHDR, Norway again showed major activity with 25 per cent of participants. Canada, the U.S. and Denmark had 19 per cent, 15 per cent and 13 per cent, respectively, while Russia only accounted for 11 per cent of the total, followed by Sweden (four per cent), Finland (three per cent), and Iceland (three per cent).

### *Indigenous People in ACIA*

It is interesting to note that Chapter three, “The Changing Arctic: Indigenous Perspectives”, displays a peculiar distribution based on countries’ contributions in reference to indigenous peoples issues. North America (Canada 59 per cent and U.S. 19 per cent), represent an overwhelming 80 per cent, and provided the highest share of indigenous peoples’ issues in the ACIA. Comparatively, both Russian and Danish shares were low at four per cent. These results do not reflect the actual distribution of the indigenous population in the Arctic and under-represent the overall population of Greenland and the Russian Arctic. The Finnish share was at 12 per cent, while Norway’s was at two per cent, and Sweden’s and Iceland’s was at zero per cent (Iceland, unique in the Arctic, does not have an indigenous population).

### *Non-Arctic states*

Participating non-Arctic states in the studied activities include China, France, Germany, Italy, Japan, the Netherlands, Poland, South-Korea, Spain and the UK; as well as the European Commission (EC). European countries’ delegates ranged between one and four. Chinese and Korean delegations were composed of up to six or seven members (the share being the above mentioned 16 per cent). Based on the number of delegates, the European Commission, China and Italy have been the most active observers, followed by France, Korea and Poland, Germany, the Netherlands, the UK, and lastly, Japan. (Fig. 5.)

In regard to the scientific assessments, the share of non-Arctic states is clearly lower than the indicated political interest in the meetings. In the ACIA, non-Arctic contributors represented five per cent of the total and were primarily from the UK (three per cent) and Germany (one per cent). Austria, France, Czech Republic, Netherlands, and Japan each had one contributor. In the AHDR, there was only one non-Arctic contributor who was from the UK. The dominance of Arctic

representatives may not be surprising when one examines the theme of the AHDR report.

Active participation of certain states in the Arctic Council's regular meetings did not reflect the contributions to the assessment, as countries that were active at the meetings, such as China, Italy, Korea, and Poland were not identified as scientific contributors. Less active countries in the meetings, such as Germany and the UK were, however, most active in the reports. Moreover, an analysis of the data set concerning the Working Group meetings provides that only 27 of the 743 participants (four per cent) are observers from non-Arctic states, including 13 from the Netherlands and four from the United Kingdom. China, France and Japan follow with two representatives, and Italy, Korea, Poland each sent one.

However, one should note that both ACIA and AHDR also rely on earlier scientific studies that have been published by researchers from non-Arctic states.

### *Gender*

The gender divide was well-balanced at the Arctic Council's meetings with a 52 per cent male and 48 per cent female representation. In the ACIA, the situation was different as the authors were primarily male (81 per cent). In the AHDR, the gender appeared to be relatively balanced with 45 per cent male and 55 per cent female authors. However, the ratio becomes slightly disproportionate when the chapter on gender is excluded from the analysis (70 per cent male and 30 per cent female).

## DISCUSSION

The Arctic Council offers a stable, long-term and increasingly productive platform for the interaction of science and policy. The representatives of Arctic state governments are the primary actors in its decision-making meetings, while the science sector is the most prevalent group in products such as the ACIA and the AHDR.

### *Private sector*

Although the current main driver of Arctic change is economic development, the representation of the private sector is alarmingly low in the Arctic Council's activities. The private sector is responsible for plans and decisions regarding oil and gas extraction, mining, fisheries, forestry, construction, tourism, transportation, as well as others. Business plays a key role in Arctic change, and sustainable development in the region is not possible without its thorough involvement in the production process of knowledge generation.

### *Regions*

The study also indicates that local and regional governmental groups are another important, yet, under-represented group. The Arctic Council is led by the capitals of the Arctic states, which are located outside of the Arctic region itself. Consequently, the participation of Arctic territories and provinces at Arctic Council activities must occur via national delegations. Unlike the Barents Euro-Arctic Council, which has permanent co-operative structures for both national and regional levels, the Arctic Council does not have an organizational arrangement for the representation of Arctic sub-national or regional governments. The Northern Forum and the Standing Committee of Parliamentarians for the Arctic Regions both give voices to local organizations as observers. However, as local and regional administrators make significant contributions and decisions related to socio-economic issues in the Arctic, they should also retain a relevant role within the structure of the Arctic Council.

The results of this study support Nilsson's conclusions on the dynamics of science-policy relations within the ACIA process (Nilsson, 2007). She suggests that the resistance to involving stakeholders at the sub-regional and local political level, industry, non-indigenous people and city dwellers, is passive, inertial, and inherited from the early stages of Arctic co-operation. She concludes that, albeit a platform for interdisciplinary discussions, the ACIA clearly presents barriers to knowledge production and outreach where local business or political experiences were not introduced as legitimate sources of knowledge in the assessment from the beginning.

According to Mitchell and others, many environmental assessments lack an influence on potential users because they fail to produce information that is salient,

relevant, and responsive to local conditions and concerns (Mitchell et al. 2006). Information must be linked to issues on which decision-makers focus and over which they have control. Global-scale data, knowledge and models are often not sufficient for today's decision-making processes. Instead, more local knowledge is also required.

There is a need to expand the range of knowledge sources in global environmental governance and endorse knowledgeable conversations between the local and the global. Science is a form of situated knowledge with constraints that can be overcome only by supplementing it with perspectives that were formerly regarded as "merely local" (Jasanoff and Martello, 2004).

Furthermore, institutions themselves influence the behaviour of those who are producers and consumers of knowledge by framing the research agendas, privileging certain types of knowledge claims, and guiding the application of knowledge to specific policy concerns (Young, 2003).

Based on the described results of earlier studies on efficient knowledge systems for sustainability, one may conclude that the lack of formal representation and the actual participation of regions unavoidably hinders the efficiency and influence of the Arctic Council.

#### *Science-policy relationship in the Arctic Council*

Science-policy dialogues in the Arctic Council aim to achieve an equilibrium that maintains the credibility of science while simultaneously guaranteeing the relevance and legitimacy of national policies and indigenous peoples' perspectives when the policy recommendations and conclusions of reports are prepared to be accepted by the ministers. These are not processes conventionally associated with either research or policy. They both want to retain their autonomy and independence. Many scientists may regard participating in knowledge systems as uncomfortable and inconsistent with scholarship, while many managers and decision-makers may regard it as, at best, an expensive time investment with uncertain returns and risks to their perceived autonomy and independence (Cash, 2003).

This study showed the imbalance of scientific disciplines in the meetings and ACIA where environmental sciences dominate. This study supports the studies of Nilsson that social sciences generally have a rather weak base in the Arctic Council. Diverse local approaches to social sciences could constitute the basis of improved bottom-up representation in the Arctic Council activities (Nilsson, 2007). However, the AHDR is an exception that has a strict approach rooted in the humanities.

Assessments, particularly those organized by scientists, often try to maximize credibility by involving the most respected scientists and attempting to isolate the process from political influence. Such an approach will predictably have little influence, as it will ignore the questions held by policy-makers and stakeholders. The opposite may occur when efforts to answer salient questions requires that the scientific community provides tentative or premature results, thereby questioning the credibility of the assessment. (Mitchell, 2006).

Studies of local controversies have found that local knowledge is often more accurate or complete, even by conventional scientific standards, than the knowledge imported by experts. Professional science and citizen knowledge are complementary in different ways in various situations. At the same time, the most influential power relationship of both politics and science is the relationship between business and the government. However, business cannot be expected to take the broader public's interest into account. (Cozzens and Woodhouse, 1995).

### *Indigenous peoples' participation*

After the negotiations establishing the Arctic Council and complex issues regarding the participation of indigenous peoples were agreed upon, a stable platform for international Arctic co-operation emerged where issues that are important for Arctic indigenous peoples may be raised into the international. According to Koivurova and Heinämäki, the Arctic Council acts as a soft-law mechanism and offers indigenous peoples a chance to participate with a status that is different from that given in a treaty-making process. It appears to offer indigenous peoples more opportunities to influence policy and law than in treaty frameworks and intergovernmental organizations where indigenous peoples may only participate as non-governmental organizations (Koivurova and Heinämäki, 2006).

The participation of indigenous peoples appears to be stable more than 10 per cent, however, the true involvement of indigenous peoples in the process of producing knowledge may be questionable as indigenous involvement in all ACIA chapters was low apart from the chapter on indigenous issues. Furthermore, these results do not reflect the actual distribution of the indigenous population around the Arctic, as it clearly under-represents the overall populations of Greenland and Russia. This is enhanced by the fact that according to the Ottawa Declaration, the number of Permanent Participants in the Arctic Council should be less than the number of member states (Ottawa Declaration, 1996). As a result of this limitation, there are several indigenous organizations that are not represented in the Arctic Council. For example, in the Russian High North there are 26 indigenous peoples groups, which are all represented by a single organization, the Association of Arctic Indigenous Peoples of the Russian High North (RAIPON).

Ongoing changes in the Arctic particularly threaten its renewable living resources, which consequently challenge the livelihoods of indigenous peoples. Thus, the work of CAFF has traditionally been of special interest to indigenous peoples. CAFF is developing approaches for community-based biodiversity monitoring within its Circumpolar Biodiversity Monitoring Program (CBMP) in which the participation of local communities in biodiversity monitoring plays an important role (CAFF, 2004).

Traditional Ecological Knowledge (TEK) can support, complement, and be integrated into more Westernized research. TEK is regarded as vital in forming a more comprehensive picture of the status and trends of Arctic biodiversity (CAFF, 2004; CAFF, undated). TEK has been acquired through experience, observation from the land, or spiritual teachings, and has been handed down from one generation to the next (North West Territories, 2005; CAFF, 2001). TEK is now actively being sought out and incorporated into the Arctic Biodiversity Assessment (ABA) report, scheduled for 2013, which will further develop and elaborate on the findings of the *Arctic Biodiversity Trends 2010* report, including different approaches to natural resource management (CAFF, 2010).

The SDWG is also increasingly running projects that are of particular concern to indigenous peoples. In the Sustainable Development Framework Document, the subject areas in focus are: health issues and the well-being of peoples living in the Arctic; sustainable economic activities and increasing community prosperity,

education and cultural heritage, children and youth, the management of natural and living resources, and infrastructure development (SDWG, 2000).

Indigenous peoples' contributions have allowed for the Arctic Council to become globally recognized as a unique and innovative international forum. This would not have been possible without indigenous peoples' commitment and government support to ensure their participation. It has also been acknowledged that the activity of Arctic indigenous peoples' organizations, particularly the Inuit Circumpolar Conference (now Inuit Circumpolar Council) together with AMAP, contributed significantly to the final adoption of the Stockholm Convention on Persistent Organic Pollutants in May 2001 (Fenge, 2003).

### *Geographical balance*

The AHDR provides an authorship structure that is for the most part linked to the Arctic region. The majority of representatives were from the North. The southern contribution to the ACIA may be explained by considering the scientific division of the work from the two reports. The prevalence of southern authors in the ACIA may be due to the need for scientific expertise from regions with larger cities where higher education is more diverse.

The dominance of southern and central governance representation in the meetings could be a sign of the prevalence of a top-down logic in Arctic policies where they are decided upon in the capitals of Arctic states. Again, this study supports the arguments by Nilsson, that this may ignore the relevance of the local governance dimension in the Arctic policies (Nilsson, 2007).

### *Nationalities*

The Arctic Council includes all Arctic states with North America serving as its largest contributor. Norway is very active, thus mirroring its self-perception as a "Polar Power". Denmark's share is relatively lower than expected considering the Council's importance for Greenland. Finnish, Icelandic and Swedish contributions reflect their Arctic populations and sizes. However, Russian participation is, indeed, low. Through the history of the Arctic Council, there have been several efforts to strengthen the coverage of Russian participation in the Council's processes. These efforts include funding participants' travel costs, as well as organizing workshops in Russia in order to allow for the participation of a larger

number of Russian representatives. In recent years, Russian internal policy has increasingly acknowledged the importance of the Arctic, which could lead one to predict a more active role of Russian central and regional representatives (Russian Arctic Strategy, 2008).

While in Svolvær (23-24 April 2008), observer states stressed that tackling some Arctic problems must involve more than just the Arctic states, and that the Council recognized the need to specify what is to be expected from observer states (SAO Report, April 2008). During the Kautokeino meeting on 19-20 November 2008, discussions focused on options to improve information exchange with observers, how to engage observers more actively in the work of the Council and its Working Groups, and the need to clarify admission criteria for observers (SAO Report, November 2008). However, in Tromsø (29<sup>th</sup> April 2009) only a decision to continue discussing the role of observers in the Arctic Council was taken (Tromsø Declaration, 2009). The Arctic Council recently adopted rules and criteria for observers and the Council, which will decide the observer status of non-Arctic states, accordingly, in future ministerial meetings. In the SAO-report accepted in Nuuk (SAO Report, May 2011) it was stated that “Observers are requested to submit to the Arctic Council, not later than 120 days before a Ministerial meeting...” and “[e]very four years, from the date of being granted observer status, observers should state affirmatively their continued interest in observer status.” Thus, a major review and accreditation process will take place at the next ministerial meeting, taking place in the spring of 2013 under the Swedish Chairmanship, as all existing and new observers will submit their applications at that time.

New observers’ limited participation – due to their unclear role and assertiveness in the Arctic Council, as well as the Council’s reluctance – poses challenges to a Council that seems, so far, unprepared to integrate new observers. It takes this stand despite the fact that additional observers bring added value and resources to respond to Arctic challenges, as well as to prevent marginalization of the Arctic Council from global fora.

# DOES THE KNOWLEDGE SYSTEM OF THE ARCTIC COUNCIL PREDICT EFFICIENCY AND INFLUENCE?

## *The Arctic Council as “a boundary-spanning forum”*

The Arctic Council has obvious features that transcend boundaries. It is a high-level forum, and the only international body that offers a platform for multi-level and cross-sectoral co-operation. The Arctic Council offers a platform for integrating multiple ways of producing knowledge for governmental and scientific assessments, as well as different interest groups. The Arctic Council has increasingly concentrated its work on “boundary objects”, which take the form of circumpolar assessments on environmental and human development. It has adopted a number of “standardized packages” that engage both sides of the boundary in a frequent and productive co-operation through its rules of procedures (Guston, 2009).

While the interplay of science, government, and indigenous policy are routine within the Arctic Council, the Council has omitted four other knowledge groups from its activities. This exclusion has the potential to seriously hamper the influence and efficiency of the Arctic Council. Neglected groups include: local and regional administrations, the private sector, humanities, and technological and engineering sciences.

So far, global environmental assessments have been unbalanced in terms of their geographic scope (Mitchell, 2006). This phenomenon has also been identified in the Arctic Council, which seems to be run by southern capitals and under-represent Northerners. This highlights a risk to the true impact of the Arctic Council.

Concerning the potential global influence of the Arctic Council, the active participation of non-Arctic states in political meetings of the Arctic Council exemplifies an interest toward the issues it addresses. However, the weak involvement of non-Arctic states in the working groups may lead them to remain outsiders to the Council’s knowledge structures. This may, in turn, reduce the understanding of Arctic problems and how they link to outside the region. This may reduce the influence of the Council’s work in the global arena. Alternatively, it

may limit the perspectives of Arctic states on the interests and possibilities offered as a result of the participation of non-Arctic states.

*Restructuring the Sustainable Development Working Group of the Arctic Council*

The Arctic Council is planning to implement an Arctic Change Assessment as a large project or rather a process. The idea behind it is to prepare “...an integrated assessment of multiple drivers of Arctic change as a tool for Indigenous Peoples, Arctic residents, governments and industry to prepare for the future ...”. (Nuuk Declaration, 2011). The key words for the ACA are intended to be integration and regionalization (SAO Report, November 2011). In the ACA Draft Proposals (Arctic Change Assessment ACA) Proposal, 2011; Actions for a Changing Arctic (ACA) Prospectus, 2012) the idea was to collect information about the state of science and knowledge about the ongoing change in the Arctic, then analyse it and communicate its findings to enable informed, timely and responsive policy and decision-making through a co-ordinated, regionalized and integrated assessment process, and to fulfil the following criteria: inclusiveness and ownership of the process and information, stakeholder engagement, transparency, reliability, relevance and flexibility. The plan aimed to continuously engage the user and stakeholder community with feedback.

During the winter 2012, the ACA proposal has been evolved as a plan on “Adaptation Actions for a Changing Arctic” (AACA), which is presented in the meeting of Deputy Ministers in May 15, 2012. The work is intended to be started from compiling information from existing Arctic Council assessments and other relevant national and international reports as well as from national, regional and local adaptation efforts in the Arctic (Adaptation of Actions for a Changing Arctic, 2012), which will require close connections with regional and local actors.

The philosophy behind the goals and visions especially of the ACA and but also the AACA -initiatives mirror a new movement toward an increasingly transparent and inclusive Arctic Council when it comes to the regions but also to private sector. Still, attention should be paid to the practices used in the implementation of the process. The ACA/AACA effort may develop into a permanent structure of the work of the Arctic Council. However, the visions for inclusiveness indicate that the Arctic Council needs to thoroughly reconsider its structures in order to be able to implement the ambitious and important goals of these new initiatives. In fact, the

ACA/AACA may be regarded as a proposal that could serve as the overall strategy, organizational structure and task of the Sustainable Development Working Group.

Indeed, instead of having scattered projects, the SDWG could start to truly promote the ideology of the Rio Conference and Agenda 21, which in practice could be done through the inclusive and interactive ACA/AACA process. This would improve the overall knowledge structure of the Arctic Council, resulting in more influential work and overall efficiency.

### *Future*

Indeed, the new goals of the Arctic Council lead one to believe that it will have increased influence, as they are well in line with Mitchell et al's (2006) results. Mitchell et al. identify the three functions that contribute most to the efficient impact of information as: (i) two-way "communication", (ii) "translation" that facilitates mutual comprehension and (iii) "mediation" that enhances legitimacy through increased transparency.

Furthermore, these goals also support the findings of Cash et al (2003) who present three institutional features that stand out as characteristics of systems which effectively harness science and technology for sustainability: "(i) systems that make a serious commitment to managing boundaries by investing in communication, translation and mediation between expertise and decision-making may more effectively link knowledge to action; (ii) institutionalizing the accountability of boundary managers to key actors on both sides of the knowledge/action boundary is crucial to building effective information flows; (iii) a joint production by experts and decision-makers of "models, scenarios, and assessment reports as 'boundary objects' are collaborative efforts/outputs that create a process more likely to produce salient information because it engages end-users early in defining information and data needs."

The Arctic Council is in the process of becoming a true boundary-spanning forum that has the capacity to include science in policy discussions across sectors likely to become its primary asset in the future. The Arctic Council is evolving as an institution that supports capacity-building and true sustainable development, as well as the environmental protection of the Arctic by increasing awareness, trust and understanding. Its influence and efficiency nationally, regionally and globally

depends on how well it can integrate both local actors and the world outside of the Arctic region into its discussions.

*Knowledge Structures of  
the Arctic Council for  
Sustainable  
Development*  
Paula Kankaanpää

## ACKNOWLEDGEMENTS

I would like to express my sincere gratitude to the Dickey Center of the Dartmouth College for providing me with an opportunity to work on this project as a Dickey Center Fellow during 2010. I also warmly thank Stefano De Luca for his work on data management and processing, as well as Andrea Scassola for helping with final editing of the graphs and manuscript.

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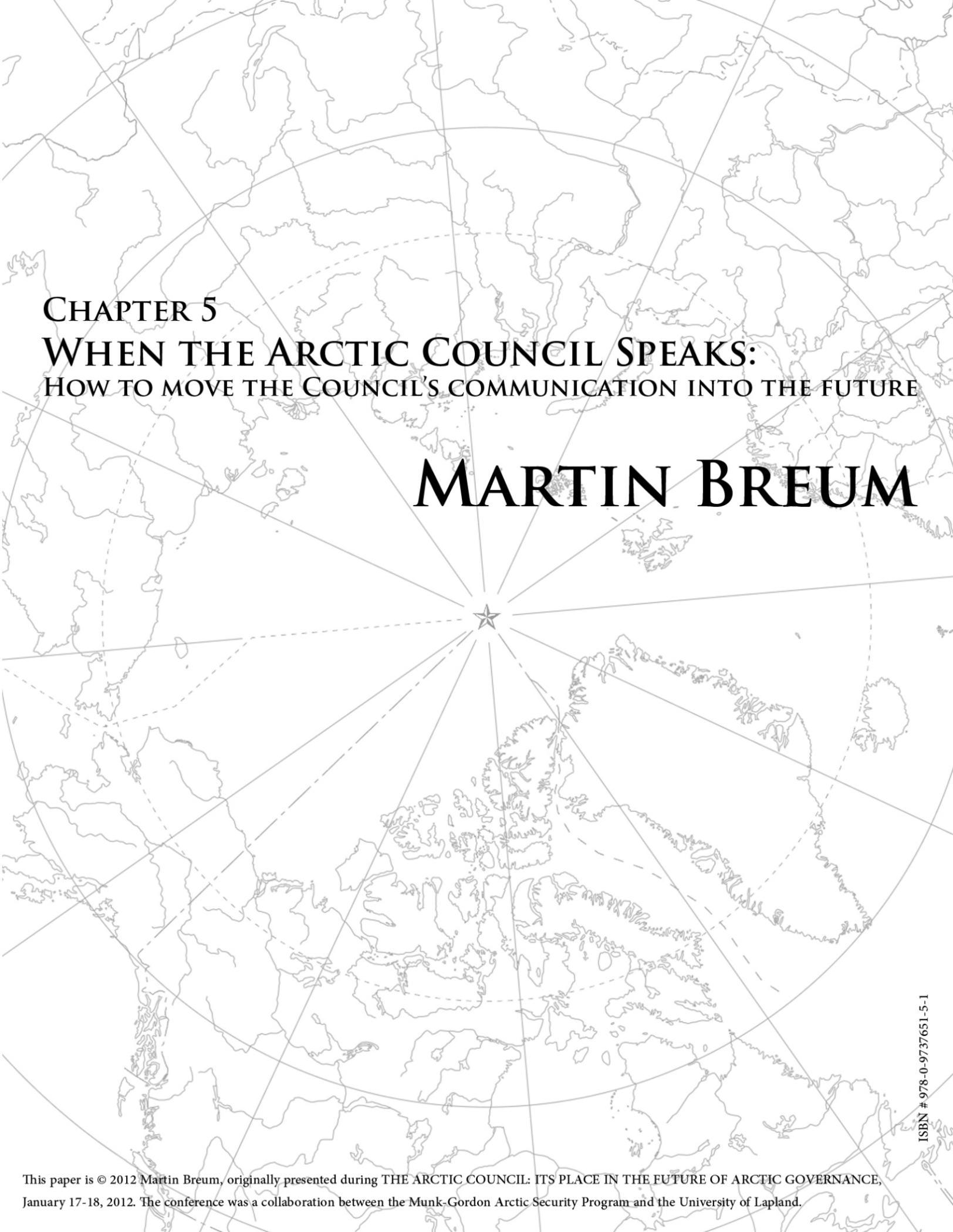
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**CHAPTER 5**

**WHEN THE ARCTIC COUNCIL SPEAKS:  
HOW TO MOVE THE COUNCIL'S COMMUNICATION INTO THE FUTURE**

**MARTIN BREUM**

ISBN # 978-0-9737651-5-1

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# WHEN THE ARCTIC COUNCIL SPEAKS

## HOW TO MOVE THE COUNCIL'S COMMUNICATION INTO THE FUTURE

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### INTRODUCTION

THE ARCTIC COUNCIL IS CURRENTLY EXPERIENCING A SHARP increase in its need for strategic communication as it strives to transform itself into a more politically astute decision-making institution. All member states and permanent participants (observers) of the Council – although to varying degrees and for various reasons – agree that communication should be enhanced.

The current growth in public interest in Arctic affairs will assist communication efforts by the Arctic Council, but if communication is to support the Arctic Council's political ambitions in any stringent way it must be dealt with according to updated communication methodologies. The Arctic Council needs to combine clearly defined political goals with strategic communication with vis-à-vis its stakeholders in the Arctic states. At the beginning of 2012, coherent plans to do so are only emerging and there are real risks that the Council will not embrace strategic communication as a necessity.

Politicians of the Arctic Council have a legitimate desire to communicate with their constituents. They need to reconfirm the democratic contract that allows them to exercise their powers. The Arctic Council's explicit desire to expand its interaction with the public should be understood as such – as a necessary and legitimate objective of a political body striving to construct increased recognition and influence. However, if this desire is not guided by the appropriate interpretation of the communications tools at the Arctic Council's disposal, the Council risks wasting precious time and resources.

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This paper will describe the Arctic Council's approach to communication so far; it will suggest possible new avenues and touch on a few of the dangers and temptations which lie ahead, in particular if the Council hopes to pursue a mass audience. Finally, a few thoughts about which models for strategic communication are more likely to provide the Council with the desired outcome will be offered, partly based on experiences from the Nordic Council of Ministers and the Council of Baltic Sea States.

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## THE ARCTIC COUNCIL'S CURRENT APPROACH TO COMMUNICATION

The governments of the Arctic Council member states have all accepted – albeit to varying degrees and for varying reasons – that the Arctic Council should adopt a more effective approach to communication and outreach if the Council is to acquire a reasonable degree of influence in the region and beyond. This follows a general pan-Arctic desire to transform the Arctic Council into a stronger and more astute political body capable of meeting a multitude of pressing Arctic challenges. This desire was recently reflected, for instance, in the Arctic Strategy of Sweden by the current chair of the Council, who stated, “The Council could (...) be further energized if its mandate was broadened to include other important strategic issues such as joint security, infrastructure and social and economic development. More concrete projects and clear political initiatives should supplement the Council's existing work. Sweden therefore wishes to strengthen the Council both institutionally and politically” (Sweden's Strategy, 2011: 19). This may be reaching for more than all Council members would want, but it was still reflective of a shared wish for a more politically astute Arctic Council.

The common desire to use communication was apparent in the 2009 Tromsø ministerial declaration, which stipulated the need to “develop guidelines for engagement in outreach activities and an Arctic Council communication and outreach plan based on common priorities” (Tromsø Declaration, 2009: 9).

At the November 2009 Senior Arctic Officials meeting in Copenhagen, the Danish chairperson asked Canada to lead a contact group involving all Arctic Council

parties, including all working groups and task forces. Based on responses to two questionnaires and participants' suggestions, an analysis of the current state of Arctic Council outreach and communications efforts was presented by the contact group to the Senior Arctic Officials in Ilulissat in April of 2010. In October of 2010, the Contact Group presented its final report to the Senior Arctic Officials in Torshavn, including a set of draft *Arctic Council Communications and Outreach Guidelines* and a report on *Elements of an Arctic Council Strategic Communications Plan and Recommendations concerning Websites*. At the March 2011 Senior Arctic Officials meeting in Copenhagen, an updated version of the *Arctic Council Communications and Outreach Guidelines* was confirmed and as a result Working Group communication plans have been developed.

The *Arctic Council Communications and Outreach Guidelines* were adopted at the 7<sup>th</sup> Arctic Council ministerial meeting in Nuuk in May of 2011 (Nuuk Declaration, 2011). Senior Arctic Officials explained the reasoning behind the decision in the accompanying report:

“Global interest in the Arctic has increased dramatically. The Arctic Council (AC) is the premier international forum for issues affecting the Arctic, and yet the organization has a limited international profile. There is a sense that information concerning the AC's initiatives and successes is not reaching a wider audience. i.e. the Arctic Council has a good story to tell but word is not getting out”

(SAO Report, May 2011: 3).

Sweden, which took over the a council chair from Denmark in Nuuk in May 2011, indicated its intention to continue efforts in the area of communications and outreach by completing the development of a strategic communications plan for the Arctic Council. In Nuuk, Mr. Carl Bildt, the foreign minister of Sweden, also presented prototypes of a revamped Arctic Council website. The active maintenance of this website was already identified in the Arctic Council Communications and Outreach Guidelines as one of the main tasks of the future permanent secretariat in Tromsø (AC Communications and Outreach Guidelines, 2010).

The political desire to increase strategic communication efforts has thus been repeated and confirmed several times over a number of years. At the Nuuk

ministerial the desire of all eight member states was once more confirmed and translated into practical efforts aimed not only at primarily strengthening the Arctic Council website, but also to finally develop – after three years of longwinded preparations (false starts) – a strategic communications plan.

The Swedish chairmanship of the Arctic Council has since prioritized this effort and has illustrated a desire to beef up communications in practice. In an interview posted on the Arctic Council's website, the Swedish SAO in May of 2011 articulated a direct link between political action and the necessity of good communications: "As it is now, the Council does not act particularly fast if something of immediate concern happens. It works relatively slowly. We would like the Arctic Council to be able to react – for instance through Carl Bildt who will chair the group of foreign ministers – if something urgent crops up. This could send an important signal that the Arctic countries are active and have a shared commitment". The Swedish chief SAO has since initiated a personal Twitter account and a new Arctic Council mechanism for more rapid approval of documents which allows parties to the Council to suggest new material for the Council's website. In December of 2011 an in-house workshop to garner further ideas for the Council's communications strategy was held within the Foreign Ministry in Stockholm.

## THE ARCTIC COUNCIL'S CURRENT COMMUNICATION OBJECTIVES

The Senior Arctic Officials' report to the 7<sup>th</sup> Ministerial meeting in Nuuk expressed a desire to "better inform Northern communities about the work of the Arctic Council. One of the ways that Northerners are informing themselves on the Arctic and the actions that their governments are taking on Arctic issues is via the AC website" (SAO Report, May 2011: 52).

The question of why the Council needs to better inform its constituents, however, was not dealt with in any detail. It is unclear if any common understanding of the answer to this question has been sought. The desire to better inform Northern communities was not directly linked to any defined political objectives, but

remained anchored to the vague notion that “the Arctic Council has a good story to tell but word is not getting out” (SAO Report, May 2011: 3).

Judging from the formal declarations and public statements by the ministers gathered in Nuuk in 2011, it seems that members of the Council currently share an implicit desire to communicate their own perception of the Council’s stewardship of the Arctic Ocean and the Arctic environment in general. This has also been indicated through inconclusive internal working documents. This desire naturally grows with accomplishments like the SAR-agreement reached at the Arctic Council 7<sup>th</sup> ministerial meeting in Nuuk 2011, which marked the first ever legally binding instrument adopted by the Council (Arctic SAR Agreement, 2011), and the ministers’ decision to adopt a second binding instrument on marine oil spill preparedness and response by 2013.

Like the SAR agreement and the planned agreement on oil spill preparedness, the frequent scientific outputs from the Arctic Council’s scientific working groups are tempting instruments for increasing the Arctic Council’s recognition and influence. The scientific working groups are often successful in reaching their audiences with authoritative, newsworthy scientific data and Ministers and Senior Arctic Officials have expressed their desire that more of this attention should benefit the Arctic Council as such.

The implicit and explicit desires to improve the Arctic Council’s relationship with its most obvious audiences, however, still remain to be translated into a stringent approach to strategic communication.

Prior to the 7<sup>th</sup> ministerial meeting in Nuuk, the Senior Arctic Officials discussed how the application of the Arctic Council’s logo on all of the outputs from the scientific working groups in future might help provide the Arctic Council with a stronger, public profile. No consensus was reached, however, and the discussion of how to co-ordinate communication by the working groups and the Council continues. Thus, the Nuuk Ministerial meeting illustrated how the desire to streamline, expand and professionalize the Arctic Council’s communication is still really not (only limited to a degree. It is still) inspired by strategic approaches and how important formalities remain unsettled.

Still, it seems safe to assume that a common, if only vaguely defined wish to increase the Arctic Council's legitimacy, recognition and influence through communication does exist. Political motives for this desire are complex, however. The ambition to communicate the Council's stewardship role in the Arctic Ocean, for instance, most likely rests not only on a concern for the fragile Arctic environment, but also on the Arctic Council's desire to douse the fervor of those advocating for increased international involvement in protection of the Arctic environment and even new legal regimes for the region. This was most vividly illustrated by the Ilulissat Declaration of The Arctic Ocean Conference in May of 2008 issued by five of the eight Arctic states (Ilulissat Declaration, 2008). In other words, strategic communication is an implicit part of the Council's political thinking, but has yet to be instrumentalized. Communications – when talked about concretely within the Council – is still mainly constructed as a public relations exercise (press releases, brochures, websites etc.) with no explicit linkage to the Council's political objectives. At the same time, in its more sophisticated political deliberations, the Council already acts as if finely tuned strategic communication was part of its operations.

## THE ARCTIC COUNCIL'S CURRENT COMMUNICATION PRACTICES

Until 2012, the published achievements of the Council's scientific working groups have been the natural centerpieces of the Arctic Councils' communication efforts. The promotion of the working groups' outputs has primarily been driven by the working groups themselves according to their individual ability to raise funds and prioritize communication. The long list of scientific achievements by the working groups has contributed somewhat to the recognition of the Arctic Council, but this was not as a result of a comprehensive, strategic approach to the Council's overall need for increased political clout.

Beyond communicating results from its working groups, the Arctic Council has tended to engage in communication as a one-way delivery process: The Council hands-down prepared messages to a perceived body of recipients through mass media. At the biannual ministerial meetings the Arctic Council communicated its consensus findings to attending journalists. Press conferences with participating

ministers have been called and formal declarations were posted on the Arctic Council's website. Between ministerial meetings there has been little communication from the Arctic Council's political core. Incoming chairs have issued statements on their political intentions, and with the council Chair shifting every two years, it has had no official spokesperson. This has meant that it has generally refrained from responding publicly to unfolding events in the region or even elsewhere. In August of 2007, when two Russian mini-submarines planted the now famous titanium flag at the bottom of the Arctic Ocean, precisely at the North Pole, thereby raising an international roar of apprehension, the Arctic Council remained silent: The Council had no mandate, no procedures, and no agreed position to communicate.<sup>1</sup>

Minutes of these regular (and closed) meetings of the Senior Arctic Officials are posted on the Arctic Council's website. Otherwise, the Senior Arctic Officials have avoided the media, as such. The Arctic Council's website also carries news of upcoming meetings of Senior Arctic Officials and minister, its scientific working groups and task forces, but its appeal to the public has been minimal.

Deviating from this generally low-profile approach to communications, the Norwegian chairmanship in 2009 took the opportunity of the 6<sup>th</sup> Ministerial Meeting in Tromsø to invite former U.S. vice-president and climate campaigner, Al Gore, to a high profile and public climate change event. Similarly, in December of 2009, Norway and Denmark (then Chairman of the Arctic Council), used the opportunity of the 15<sup>th</sup> Conference of the Parties (COP15) under the United Nations Framework Convention on Climate Change in Copenhagen to launch two reports, one of which was derived from the Arctic Council: "The Greenland Ice Sheet in a Changing Climate". The second was conceptualized by Gore and the Norwegian minister of Foreign Affairs Jonas Gahr Støre outside the remit of the Arctic Council; It was entitled "Greenland Ice Sheet – Melting Snow and Ice: Call for action" (Koc et al. 2009).

In May of 2011, U.S. Secretary of State Hillary Clinton famously decided to participate in the Arctic Council's 7<sup>th</sup> Ministerial Meeting, becoming the first U.S.

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<sup>1</sup> The dive was not an official act of the Russian state, but this emerged only after the initial media storm. The dive was financed partly by a Scandinavian businessman and the flag of the Adventurer's Club of New York was also on board; passengers included the two men who originally hatched the idea: An Australian and an American citizen.

secretary of state to ever do so. This inspired unprecedented media coverage of the Arctic Council. A relatively large international media contingent in Nuuk was orchestrated by professional media handlers from the Danish Ministry of Foreign Affairs, as well as by Clinton's media staff. Boat trips and photo opportunities were arranged for the benefit of the media.<sup>2</sup>

Again, the complexity of the Arctic Council's approach to communications was illustrated: While Denmark/Greenland (the hosts) and the U.S. expertly used the media potential of such a high-powered ministerial gathering, the Arctic Council as such busied itself with discussions about logos, the website layout and guidelines.

While the individual member states and their ministers are acutely aware of the potential gains from media exposure and the increasing news value of Arctic affairs, the Arctic Council as an institution seems to be struggling under its own inner constraints. It is still not grappling with the more complex issues of strategic communication. Officials are bound by the need for consensus and the thought process on communications suffers from a lack of directives reflective of the Council's clearly defined political positions and priorities.

## COMMUNICATIONS FROM THE SCIENTIFIC WORKING GROUPS

Within the six working groups the approach to communications has varied considerably, and communications priorities have been decided upon according to each of the groups' individual desires and aspirations, rather than as part of a larger Arctic Council-wide strategy.

This approach to communication, where the working groups did not systematically emphasize their affiliation with the political core of the Arctic Council, reflected quite accurately the political nature of the Arctic Council for many years. In the Ottawa Declaration of 1996, which established the Arctic Council, emphasis is on

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<sup>2</sup> The New York Times, Washington Post, AP, Reuters and other media with international outreach travelled with Mrs. Clinton to Nuuk. BBC World produced a 50-minute televised 'World Debate' in Nuuk on Arctic affairs with participation Greenland Premier Mr. Kuupik Kleist, the Norwegian minister of foreign affairs, Mr. Jonas G. Støre and incoming Chairman of the Arctic Council, Mr. Carl Bildt, the Swedish Foreign Minister.

scientific co-operation, sustainable development, and protection of the environment. The working groups (some of which have been brought into the Arctic Council from their hitherto separate lives) became the centerpieces of Arctic Council's activity (Ottawa Declaration, 1996). Communication, outreach and education were mentioned as an afterthought and were thus pursued according to classic public relations methods. In the ensuing years, the scientific working groups were the predominant outputs of the Arctic Council, driven and co-ordinated from their respective secretariats. The Council's member states and the permanent participants avoided politically volatile debates, instead favouring the promotion of scientific co-operation. Strategic communication as a pursuit of common political ambitions, as well as increased Arctic Council influence on the political, economic, and social affairs of the region, was not explicitly recognized as a priority.

The working groups' scientific reports have formed the basis of numerous bi-products aimed at non-scientific audiences, including: illustrated brochures, books, web-products, posters, exhibitions, public meetings, conferences and films. The findings of the now famous Arctic Climate Impact Assessment from 2004 – a product of the Arctic Council's Arctic Monitoring and Assessment Programme in partnership with the International Arctic Science Committee – was strategically promoted through a variety of means, including published policy recommendations, conference appearances by key scientists, booklets, a designated website, etc. The report is widely recognized as a key factor in accelerating international debates on climate change, but in hindsight did little to promote the Arctic Council as an institution. The launch in 2009 of the SWIPA report about the Greenlandic ice sheet at COP15 more deliberately signaled the Arctic Council as a political institution. It illustrated how Arctic politicians associate themselves closer to the output from the Arctic Councils' scientific working groups. It should be recognized that this is controversial and linked to the complex discussion on how to merge the websites and other communications by the scientific working groups with those of the Arctic Council.

The working groups already routinely inform and consult the Senior Arctic Officials about their progress and plans for communication work with the public. Films, booklets, and other materials are routinely approved by the Senior Officials before they are launched by the individual working groups. At the meeting of the Senior Arctic Officials in Nuuk in May of 2011, a discussion about the possible merger or co-ordination of the Arctic Council's central website with those of the

working groups ended without any real conclusion. In private, some scientists will explain how they are anxious that the Arctic Council's logo on their products and alignment with the Council's political core might blemish their scientific integrity and subject their scientific findings to political approval. In Thorshavn in 2010, the Senior Arctic Officials discussed how future scientific reports from the working groups could include the Arctic Council logo and a disclaimer clarifying that the logo does not indicate prior political approval. This discussion still needs to find a conclusion.

## UPCOMING CHANGES

Some changes are expected in the immediate future. The Swedish chairmanship (2011-2013) plans to complete a strategic communications strategy for the Arctic Council and launch a more effective version of the Arctic Council's website. Communications by the Arctic Council's scientific working groups are likely to reflect more precisely their affiliation with the Council, thereby boosting the Council's general exposure in the scientific community and beyond.

The Swedish chairmanship will prepare for the establishment of an expanded and permanent Arctic Council secretariat in Troms that will include a staff of up to 10 as agreed in the Nuuk declaration. The plan is to have at least one full-time staff member deal exclusively with communication and outreach. Meanwhile, the Arctic Council Communications and Outreach Guidelines adopted at the 7<sup>th</sup> Ministerial in Nuuk foresees the country holding the Chair of the Arctic Council takes responsibility for "media relations; outreach and oversight of communications and outreach undertaken by the Secretariat" (AC Communications and Outreach Guidelines, 2010: 1). The guidelines further stipulate that "the Chair shall speak on behalf of the Arctic Council on factual matters and agreed positions. Q&As and talking points shall be prepared and regularly updated by the Secretariat and approved intersessionally by the SAOs" (AC Communications and Outreach Guidelines, 2010: 1). This indicates that the Arctic Council will eventually have a mandated spokesperson; until 2013 this will be the Swedish Minister of Foreign Affairs. At the time of writing it is not known how Sweden intends to exercise this task.

## A NEW APPROACH TO STRATEGIC COMMUNICATION

If the Arctic Council wants to pursue the ambitions of its members to project the Council as the preeminent Arctic intergovernmental forum and to claim recognition as such from the global community, a more current approach to communications as a strategic element of the Council's day-to-day operation is clearly needed. In Weber's terms, the Arctic Council is not in a position to claim influence through domination, but will have to rely on coercive powers in order to effectively pursue its agreed policies. The Council will need to "construct a myth" that cultivates a belief in its legitimacy that is much firmer than what exists today (Wæraas, 2007: 284). As Wæraas extols from Weber's notion of legitimacy, the Arctic Council's present state must be understood as

"a strategic process whereby the organization justifies its existence to external audiences and attempts to 'cultivate' the belief in its organizations could acquire legitimacy would be to justify their existence on the basis of actions and rules that serve a rational purpose" (Wæraas, 2007: 283).

An effective approach to Arctic Council communication will have to be firmly reflective of *actions* – achieved results and firm, political positions of the Arctic Council. It will also have to be constructed as a process of distinct phases and goals. The Arctic Council needs to internally construct its future strategic communication as a series of processes between the Council and its different stakeholders, which involves the interaction of a diverse group of participants.

## STRATEGIC COMMUNICATION TO AVOID INFORMATION OVERLOAD

An updated approach would also take into account that the Arctic Council is aiming to increase its communication at a time when it's most important immediate stakeholders already battle with acute information overload. There is serious risk that a traditional public relations approach to communication by the Arctic Council will disregard how most people in the Arctic States are more occupied with avoiding unwanted information than they are welcoming new offers

– even if these are presented on flashy websites. When the Senior Arctic Officials state (d) that “there is a sense that information concerning the AC’s initiatives and successes is not reaching a wider audience. i.e. the Arctic Council has a good story to tell but word is not getting out” (SAO Report, May 2011: 3) it is (. It) is tempting to interpret this as a broad wish for increased production of fixed messages, press releases, brochures, video clips and web-based packages that will only add to information overload and therefore be discarded. But professionalizing the old top-down dissemination of pre-packed information to increasingly information-weary and ill-defined target groups is not likely to move the Arctic Council closer to its political objectives. This is a dilemma which the European Union, as an example, seems to have realized. In its more recent communications strategy, the EU stresses the need for dialogue and a strategy that talks *with* and not *to* Europeans, reflective of more recent communications theory on the need for careful management of stakeholder relations. As Valentini points out, “past EU campaigns, such as the introduction of the euro, EU enlargement and the constitutional treaty campaigns were developed and organized according to marketing concepts and practices generally reminiscent of the marketing campaigns used by multinational companies to promote their products, services and themselves. So far this approach has not achieved the expected increase in reputation and trust with respect to EU institutions and policies” (Valentini, 2007: 126f.).

Focused as it is on the problem that “word is not getting out”, the Arctic Council may well be deceived by the growth of public interest in Arctic affairs. The Arctic Council may be led to interpret the boost in general public interest in Arctic matters as an indication that the Arctic Council’s influence and impact will increase more or less on its own or with a little public relations help from the Arctic Council’s new secretariat. But while public interest in Arctic matters is growing, public interest in Arctic matters will not necessarily translate into growing legitimacy or impact for the Arctic Council. On the contrary, the Arctic Council may find that the quest for legitimacy and impact may well grow even more challenging as more of its stakeholders become aware of the complexities of Arctic politics. The growth of public interest in Arctic affairs does not automatically lead to greater understanding of the need for Arctic policies or regulations. As the European Union experience indicates, “regulations affect organizational structures, norms and behaviours; they do not affect public perceptions and cultures (...) public perceptions and public legitimation depend

on personal experiences with the organization and on the values that the organization holds. When the organizations values clash or are perceived to be different from those of the community, there is either imperfect perception or insufficient legitimization” (Valentini, 2007: 125).

The demands on the Arctic Council for precise answers, political direction and decision making power will grow rapidly in the years to come and its communications will have to meet these challenges with increasing sophistication if the Council is to claim the role it desires. To exploit the public interest’s upward trend in Arctic affairs the Arctic Council needs to embrace strategic communication as a necessity or risk missing an obvious window of opportunity.

## PERIPHERALITY: FOR MANY, THE ARCTIC IS STILL FAR AWAY

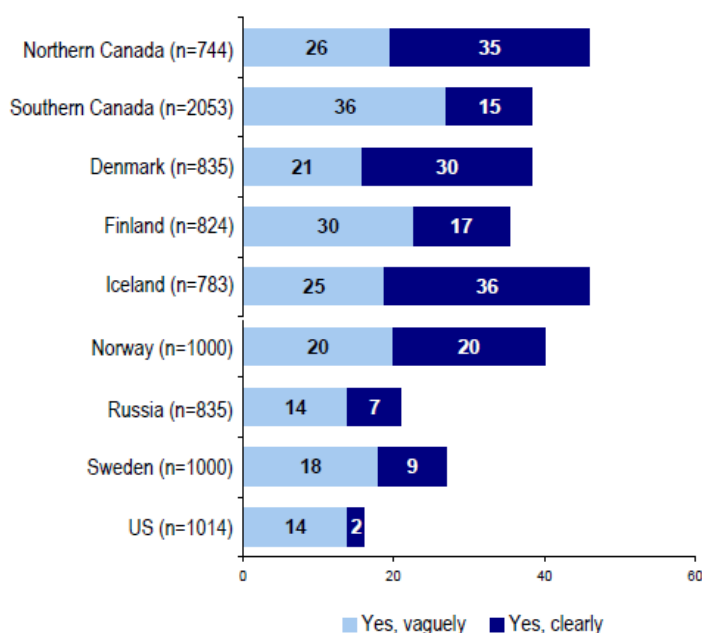
Communication efforts by the Arctic Council will first and foremost have to confront the fact that for many of the Council’s core target groups the Arctic is simply far away from where they live. Despite the recent growth in interest in Arctic matters, most Arctic issues are still often poorly understood and contextualized even when dealt with by decision makers, journalists or others of influence in Arctic states. Many stakeholders will not immediately recognize the Council as the deliberate and competent political body it strives to be. The Arctic Council for most of its existence has been at best peripheral to many of its more immediate stakeholders, and its political nature, mandate, status and objectives will still for some time only be partly understood even by its more immediate stakeholders. This poses severe challenges for Arctic Council communication – as do the rapid reshaping of the Council’s political objectives and strategies. Transcending from its past existence as a mainly consultative, environmental forum to a more politically astute decision-making body, passing binding decisions onto national parliaments and governments for implementation, the Arctic Council is asking its stakeholders and the public in the Arctic States to quickly change their perception of a body which was hitherto barely known to them.

In 2010, a major survey on public perception of Arctic issues and co-operation was conducted in the Arctic Region (ERAI Report, January 2011). Results were

compiled through data from nine different surveys in the eight Arctic Council member states (Canada was divided into north and south). Respondents from the eight countries were given a brief description of the Arctic Council and were asked if they had heard of it. Awareness appears to be highest in Northern Canada (61 per cent say they are either clearly or vaguely aware of the Arctic Council) and Iceland (61 per cent). Roughly half of respondents from Denmark (57 per cent), Southern Canada (51 per cent), and Finland (47 per cent) say they have heard of the Arctic Council. Awareness of the Arctic Council is relatively lower in Norway (40 per cent) and Sweden (27 per cent). It is lowest in Russia (21 per cent) and the U.S. (16 per cent). The findings were expressed in the following graph (ERAI Report, January 2011: 48):

### Awareness of Arctic Council

“Have you ever heard of an intergovernmental forum or group called the Arctic Council that is made up of eight countries with Arctic regions?”



It follows that future communications efforts of the Arctic Council will have to be designed in light of the fact that in most of the Arctic states more than half of the population has never heard of the Arctic Council. Furthermore, respondents who

answered “yes” say they have heard of the council, but only “vaguely”. In a far smaller but still useful survey in 2011, just over half of a group of 85 environmentally-aware adults from Denmark, said that they were aware of the existence of the Arctic Council, but expressed confusion about its nature – confirming the results of the larger survey from 2010 (Adler-Nissen, 2011).

This could easily be interpreted as a global need for simple, basic information about the Arctic Council’s existence and nature. As mentioned, the Arctic Council is concerned that “word is not getting out” , yet it has no clear answer to this challenge. It will be tempting for Arctic officials and politicians alike to view the Arctic Council’s nearly invisible presence as a call for increased exposure across the Arctic states – preferably large scale exposure of the in mass media such as television, radio, newspapers, Twitter, Facebook, etc. It is understandable that political actors within the Arctic Council – ministers and diplomats – will call for increased efforts to engage the mass media in wide-ranging public relations efforts by the secretariat now being established.

A professional approach to strategic communication, however, would caution against a too simplistic interpretation. While increased recognition of the Arctic Council within the general public in the Arctic States is obviously desirable, such recognition will be immensely difficult to achieve with the present state of Arctic Council transformation. Only few people know what the Arctic Council is and the Council has generated few concrete results suitable for substantive communication – and, as already touched upon, that even if increased recognition is achieved it may not necessarily translate into greater Arctic Council influence and impact.

In the future, when the Arctic Council asks Danish environmental agencies, Canadian industrial organizations, or regional authorities in Russia for recognition of its explicit strategies priorities, and now also binding political decisions (in the pursuit of influence and impact), it will also be addressing a complex set of communication challenges, ranging from the severe dearth of knowledge about the precise political nature of the Arctic Council in its current, evolving form to an outright resistance from established institutions whose powers are suddenly challenged by an Arctic Council wanting more political muscle.

In this situation increased public knowledge of the existence of the Arctic Council will count for little. The Council’s ability to implement agreed policies and generate important feedback for future policy-making will firstly hinge on its

ability to project a more clearly defined set of core political priorities or messages, and then on its ability to engage more immediate stakeholders within this set of priorities. As Wæraas extols from Weber: “the most important way in which favorable beliefs are created and preserved is by proving oneself in practice (...) Beliefs are cultivated, and the organization’s domination is justified by performing organizational actions as well as communicating and making decisions that the environments find acceptable. Only in this way can ‘voluntary compliance’ occur.” (Wæraas, 2007: 283).

## LEARNING FROM THE NORDIC COUNCIL OF MINISTERS AND THE COUNCIL OF THE BALTIC SEA STATES

The Arctic Council will be able to draw inspiration from existing international organizations, including the Council of the Baltic Sea States (CBSS) and the Nordic Council of Ministers (NCM), established in 1971 as an intergovernmental co-operative body which encompasses the five Nordic states (Finland, Denmark, Iceland, Norway and Sweden). The NCM, like the Arctic Council, has a limited mandate and is not supposed to occupy itself with matters of foreign policy or security. In 2007, the NCM started a process of political transformation aimed at establishing the NCM as a stronger and more relevant regional political actor in an increasingly globalized world.

The NCM realized that it was losing influence in the Nordic region and (that) not sufficiently answering the challenge of globalization. Also, it had established that while the large majority of the population in the Nordic countries regarded Nordic co-operation as a positive factor in society, most people had only vague ideas as to what precise projects and larger scale developments the Nordic Council of Ministers (and its large secretariat) was actually engaged in. To some dismay, the NCM concluded that this communications conundrum was becoming a permanent feature. From a communications perspective, the Nordic Council of Ministers had invested for almost four decades in small, medium and large scale classic public relations exercises, but won only limited influence, impact and recognition in return.

Spearheaded by the five heads of state, the NCM then established four clearly defined political focal points for its future efforts (NCM press release, June 2007). It adopted a strategic communications plan explicitly linked to these political objectives (NCM Communications Strategy, 2008). From 2009 to 2011 it implemented this plan. Classic dissemination of news and pre-packed messages on the ongoing activities of the NCM to the general public was cut back (at least for some time) to give way for more strategic and political communication efforts – or “lobbying” in more popular terms – aimed at clearly defined groups of NCM’s stakeholders. This deep shift in approach was based on a detailed analysis produced by external consultants of the NCM’s primary, secondary and tertiary stakeholders. The change in approach meant that most communication could be deliberately aimed at a specific category of stakeholders through carefully chosen communications channels and tools. It also meant that progress could be measured.

In early 2011, an external evaluation found that the strategy was providing results. The NCM’s recognition and impact among its stakeholders increased. The evaluators found that the reduction of classic public relations aimed at the general public should probably have been even deeper and that the efforts to politicize the NCM’s communications should have been even more profound than what had been achieved by the NCM in the two years of implementation. The reduction of public relations efforts was achieved only after extensive internal discussions, as were the efforts to politicize communications, which spelled out even controversial aspects of NCM policies and actions in order to clarify their relevance to stakeholders. In total, however, the changes had produced results in the desired direction: NCM impact was increased and the agreed key political positions were advanced.

## TARGETED COMMUNICATION IN PHASES

Extending from the NCM experience and taking into account the many differences between the two institutions, the Arctic Council should be advised to frame its future communications efforts as a development process broken into separate phases, each with its specific requirements and target groups.

In an initial phase the Arctic Council must address in particular its more immediate stakeholders: governments, parliaments, ministries and state bureaucracies within member states. The Council deals with Arctic issues that have only recently moved back up on the agenda of many politicians and bureaucrats. The limitations of its mandate and history will still for some time influence how it is perceived by many stakeholders, many of which are likely to view with skepticism the Arctic Council's claims to influence institutional recognition and legitimacy. As experience from the NCM indicates, input from the Arctic Council may in some instances be welcomed for its quality and clarifying political direction, but in others it will be viewed as intrusive and based on a less obvious record of achievements by the Council.

In a first phase, a more stringent strategic communications effort by the Arctic Council should, therefore, address this particular set of challenges in all member states. The Council's immediate, secondary and tertiary groups of stakeholders/target groups must be clearly defined for each member state and for each of the Arctic Council's main political objectives. Only when the Arctic Council's relations with national governments, parliaments, state bureaucracies, business communities and special interest organizations within civil society allow the Arctic Council to move towards its desired position of influence and impact can the Council produce the results that will make large-scale communication campaigns aimed at the wider public more likely to produce sustainable recognition and public support for the Council's political positions.

Strategic approaches to clearly defined target groups are pivotal to the communications plan adopted by both the Nordic Council of Ministers and the Council of Baltic Sea States. The CBSS, for instance, differentiates between "intermediaries (credible and knowledgeable individuals and groups that can transmit information and act as duplicators and multipliers)" and "end users (the ultimate audience the organization would like to reach)" (CBSS Communication Strategy, 2010: 2), whereas the NCM pursues a more three-pronged target group analysis (NCM Communications Strategy, 2008: 20).

NCM experience indicates that the politicians in the Arctic Council will find it difficult not to prioritize broader and more general communication with the public through the mass media even if the results will be limited from an institutional point of view. Therefore, some mass media coverage of Arctic Council affairs may

have to be generated (some will come easy and more or less for free), but from the Arctic Council's collective and strategic point of view, the broader public should be regarded in a first phase of a strategic communication process only as one target group among others and only addressed when this is likely to promote a specific communications objective.

Communications will have to be liberated from its current status within the Arctic Council as a purely technical and isolated add-on to other functions within a small secretariat. Judging from the Nuuk declaration of May 2011 and the underlying report from the Senior Arctic Officials, the Arctic Council still sees communications as a technical matter for one or possibly more secretarial staff members to dispose of as best they can from the future Tromsø secretariat. This approach is not reflective of current communications theory. Strategic communications are only effective if regarded as part of the core, day-to-day policy and decision-making. Strategic communications in essence would not only be assigned to a small staff of media professionals, but integrated into the lobbying and negotiating of the Arctic Council's professional staff, its Permanent Members, diplomats and ministers of the member states – or “national chapters”. Communication tasks would be delegated among these actors according to a strategic communications plan, managed and overseen by the Chair and the secretariat. All communication processes would promote clearly defined political goals of the Council or be reflective of results already achieved. These communications efforts, carried out in strict accordance with the communications plan, would be crafted as phased interventions targeted at specific groups of primary, secondary and tertiary stakeholders and executed by designated actors from within the Council's staff, diplomats and ministers through clearly defined communication mandates and tasks (see Højberg Christensen, 2002). An approach along these lines would mirror approaches already adopted by other organizations such as the Nordic Council of Ministers and the Council of the Baltic Sea States (CBSS). The CBSS, for example, in its Information and Communication Strategy adopted in March 2010 agreed that “the committee of Senior Officials and the staff of the Secretariat will ensure that communication aspects are included right from the beginning of all policy formulation” (CBSS Communication Strategy, 2010: 1), and that “the responsibility to integrate communication and make it a vivid and natural part of the everyday work of the CBSS is a joint responsibility of everybody involved to be active and the understand the opportunities of well-functioning communication” (CBSS Communication Strategy, 2010: 1).

An approach along these lines would allow for relatively precise evaluations and reporting of results. The Council's strategic communications efforts could potentially be held against benchmarks and impact indicators, showing at any given time why and to which degree desired political goals of the Council were advancing towards success. Strategic communications would take a central place in the political thinking of the Arctic Council, as these impact indicators might potentially be of significant economic benefit, as resources for communications will most likely remain scarce. By allowing for frequent checks on progress, a strategic communications plan may help ensure that the desired objectives are indeed moving closer. This will help the Arctic Council avoid less effective lines of action such as aimless press releases or expensive mass media offensives.

## "GLOCALISATION" AND RESOURCES

The need for specific communication towards distinct target groups within each of the Arctic Council member state raises the question whether communication by the Arctic Council can be constructed as "global" (one key message for similar target groups in eight states) or whether a "cultural" approach (each key message tailored to specific cultural demands of each nation) should be adopted. As globalization has taken speed and the Internet and satellite TV have taken over communication, the choice between global or cultural has been subject to discussion among communication specialists within international corporations and institutions like the EU (Valentini, 2007). The Arctic Council will have to address this issue if scarce resources are to be spent wisely.

One approach has been popularly described as "glocalisation", which is global messages tailored to local audiences (Valentini, 2007: 118). This approach when translated into a communications strategy entails how the Arctic Council would establish firm, commonly agreed political positions that are global, but then allow for much local maneuvering that adheres to cultural traits when it comes to the practical communication and shaping of alliances with stakeholder groups in each national context. As Valentini puts it: "The cultural approach, which is based on close proximity and understanding of local needs and interests is more effective in transforming passive or low-involved publics into active and high-involved

publics.” (Valentini, 2007: 122). For the Arctic Council’s communication, a glocalized approach would mean that each local chapter of the Council – the eight governments and the Permanent Participants – would be tasked with the responsibility to communicate each of the Council’s agreed political positions according to the strategic communications plan, addressing clearly defined groups of stakeholders within each community through tools suitable in the specific cultural context, but bound by agreed timeframes that will secure global progress. In an ideal situation the day-to-day management role of the Tromsø secretariat would be limited to overseeing and maintaining global momentum through consultation with the local chapters. General press releases and other global media efforts by the secretariat would have significance only in very limited cases, such as ministerial meetings, the passing of formal declarations by the Council and other high-level events. All resources between these events would be targeted at meeting the global demands of the agreed strategic communications plan through the efforts of the local chapters.

Finally, the need for specific communications efforts towards specific stakeholder groups within each of the Arctic Council’s eight member states and within the communities of the Permanent Participants raises the question of how the Arctic Council would find sufficient resources to do all this. As mentioned above, the present plan as agreed to at the 7<sup>th</sup> Ministerial Meeting in May of 2011 in Nuuk is to establish a secretariat with only one person dedicated to communications and outreach.

Part of the answer is hidden in the suggested shift in communications approach. If strategic communication is addressed as an integral component in the day-to-day efforts to promote agreed Arctic Council positions by politicians, diplomats and employees alike, and if primary stakeholder groups are engaged as potential allies in the push for these positions, focus is then shifted away from the scarce resources within the Tromsø secretariat. Any strategic communications campaign will need stringent professional management, but instead of trying to solve all communications tasks on their own, the managers of a communications plan will be overseeing efforts by a much larger number of actors: Arctic diplomats, politicians, administrative staff, and others engaged in the promotion of Arctic Council positions.

## CONCLUSION

Communications will have to be liberated from its current status within the Arctic Council as a purely technical and isolated add-on to other functions within a small secretariat.

The Arctic Council will be aided in its communications efforts by growing public and political interest in Arctic affairs, but the Council will miss this window of opportunity if it fails to adopt proper communication strategies and tools.

An all-out quest to reach mass audiences through mass media and/or social media are unlikely to yield the desired results at the present state of Arctic Council transformation.

Strategic communication will do more for the Arctic Council than simply increase public recognition or positively brand the Council in public perception. Strategic communication will enable the Arctic Council to project its visions, its precise goals, strategies and concrete initiatives. Communications may increase the Arctic Council's legitimacy, influence, impact, and promote acceptance of and adherence to Arctic Council policies and create input for new policies. However, the Council will need to approach its communications in measured steps according to defined priorities and in recognition of its relatively short history, its comparatively weak standing in the eight member states, and its limited resources. The varying communicative strengths of the Arctic Council's scientific working groups will be important communicative assets, but they will only indirectly add to the communicative powers of the Council when it comes to more political matters.

The establishment of a permanent Arctic Council secretariat in Tromsø will coincide with a growing desire by Arctic politicians to increase the Council's recognition and impact. The decision by the Arctic Council's 7<sup>th</sup> Ministerial Meeting in Nuuk in May of 2011 to strengthen the Arctic Council has provided an opportunity, but also illustrated the need for a more strategic approach to communications. Practical implementation should ideally involve all parties to the Council, including diplomats, politicians and staff. Strategic communications must be based on clear political objectives and should be regarded as an integral part of policymaking and implementation and not as a technical add-on to the

secretariat's other duties, if it is to promote the Arctic Council's core political aspirations.

Some actors – politicians in particular – within the Council may be tempted to aim for quick increases in public recognition through large-scale mass media efforts, but this is unlikely to yield the desired increase in political impact. A more constructive approach would focus initially on the Council's immediate stakeholders. Meanwhile, the Council's strategic communications have to embrace the fact that many stakeholders within key institutions in member states still have only scant knowledge of the Council's nature and objectives and that many may only reluctantly accept the Council's claim to increased legitimacy, impact and influence.

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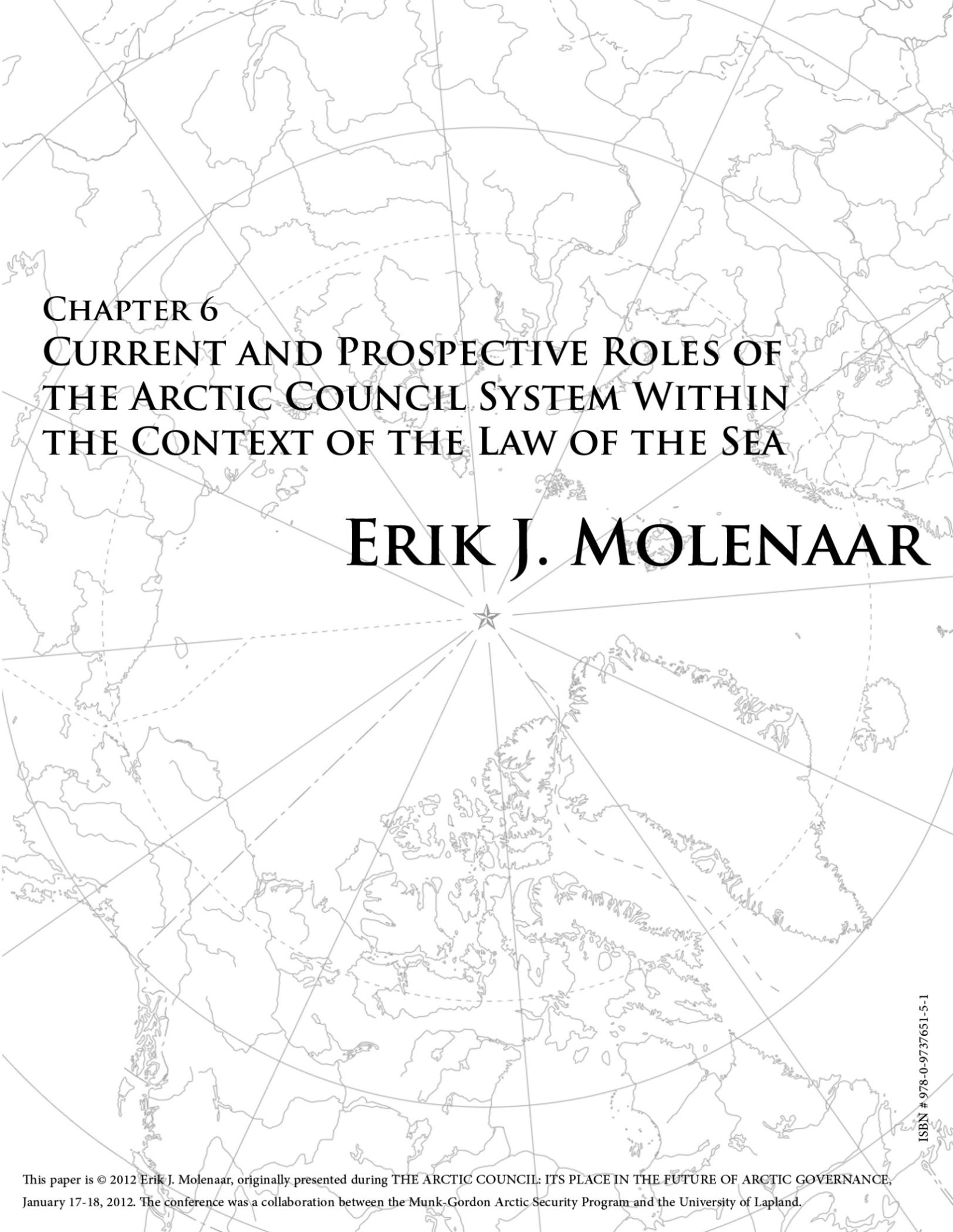
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**CHAPTER 6**  
**CURRENT AND PROSPECTIVE ROLES OF**  
**THE ARCTIC COUNCIL SYSTEM WITHIN**  
**THE CONTEXT OF THE LAW OF THE SEA**

**ERIK J. MOLENAAR**

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# CURRENT AND PROSPECTIVE ROLES OF THE ARCTIC COUNCIL SYSTEM WITHIN THE CONTEXT OF THE LAW OF THE SEA

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## INTRODUCTION

THE IMPACTS OF CLIMATE CHANGE IN THE ARCTIC IN THE PAST decade have been so apparent and dramatic that it has generated wide support for strengthening the international regime for the governance and regulation of the marine Arctic. The 2011 Arctic Council's Ministerial Meeting forms one of the most recent steps in that process. Agreement was, among other things, reached on a standing Arctic Council secretariat in Tromsø – to be formally established at the 2013 Ministerial Meeting in Kiruna – and the establishment of a Task Force for Institutional Issues (TFII) to “implement the decisions to strengthen the Arctic Council” and a Task Force on Marine Oil Pollution Preparedness and Response (MOPPR Task Force) (Nuuk Declaration, 2011). In addition, the Arctic Council adopted the Framework for Strengthening the Arctic Council, which includes the criteria for admitting observers and their role for participation in the Arctic Council (further: Nuuk Observer Rules). Also included was its Communication and Outreach Guidelines as well as instruction for Senior Arctic Officials (SAOs) to develop a Strategic Communications Plan for the Arctic Council (Nuuk Declaration, 2011; SAO Report, May 2011).<sup>1</sup>

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<sup>1</sup> While the 2011 Nuuk Declaration only mentions the adoption of the Nuuk Observer Rules, it is assumed that the intention was to adopt the ‘framework’ as contained in Annex 1 to the SAO May 2011 Report in its entirety. Furthermore, while the Communication and Outreach Guidelines, adopted at the March 2011 SAOs Meeting (SAO Report, March 2011, p. 3; doc. 2.2) should have been appended to the 2011 Nuuk Declaration (cf. SAO Report, May 2011, p. 4), this has not occurred.

The convening of the Nuuk Ministerial Meeting was also used as the occasion for the signature of the Agreement on Cooperation in Aeronautical and Maritime Search and Rescue in the Arctic (Arctic SAR Agreement, 2011). Even though the Arctic SAR Agreement was merely negotiated under the auspices of the Arctic Council – and therefore not adopted by it – it is nevertheless the first legally binding international instrument negotiated by the eight members of the Arctic Council. The successful conclusion of this negotiation process reflects a clear determination to strengthen the international regime for the Arctic. A further step in that regard is the newly established MOPPR Task Force, which has commenced a negotiation process similar to that for the Arctic SAR Agreement, even though it is not yet clear that it will also lead to a legally-binding instrument (SAO Report, November 2011, pp. 7-8).

This article examines the current and prospective roles of the Arctic Council System (ACS) (a notion that is introduced by this author and explained in subsection 2.3) within the context of the international law of the sea. With receding and thinning sea ice in the marine Arctic, maritime activities – in particular offshore hydrocarbon activities, shipping and fishing – will expand and intensify. The Arctic SAR Agreement was mainly negotiated in response to these prospects and the same is true for the envisaged Arctic MOPPR Instrument. This article focuses in particular on the role of regional co-operation under the law of sea. It examines which obligations on regional co-operation the law of the sea imposes, which types of regional marine regimes have been established so far, and how the fundamental international law principle of *pacta tertiis* has shaped some of these regimes. This principle stipulates that states cannot be bound by rules of international law unless they have in one way or another consented to them (Vienna Convention on the Law of Treaties, 1969, Article 34). After an in-depth analysis of the current features of the Arctic Council, the article concludes with a synthesis on the current and prospective roles of the ACS under the law of the sea.

For the purpose of this article, the term “role” is used broadly and comprises the notion of “mandate.” The term “regime” is used to denote both an instrument and its institutional component. As there is no generally accepted geographical definition of the term “Arctic,” for the purpose of this article it has an identical meaning as the term “AMAP area,” as adopted by the Arctic Monitoring and Assessment Programme (AMAP) of the Arctic Council. The waters within the AMAP area are in this article referred to as the “marine Arctic.” Finally, “Arctic

fisheries law and the international law relating to the Antarctic and Arctic. In addition to fundamental research, he has also provided juridical advice to inter alia various Netherlands and Norwegian Ministries, shipping companies, UNEP, the European Parliament and the European Commission. His research has led to his participation in various diplomatic conferences and other intergovernmental meetings, including the annual meetings of several regional fisheries management organizations. Since 2010, his research has a specific focus on adapting governance and regulation in the marine Arctic to climate change.

Ocean” is here defined as the marine waters north of the Bering Strait and north of Greenland and Svalbard, excluding the Barents Sea. There are five coastal states to the Arctic Ocean, namely Canada, Denmark/Greenland, Norway, the Russian Federation and the U.S. (or ‘Arctic five’).<sup>2</sup>

The article is structured as follows: section two is entitled Regional Regimes and the Law of the Sea. This is followed by section three entitled Features of the Arctic Council. The article ends with section four entitled Conclusions.

## 1. REGIONAL REGIMES AND THE LAW OF THE SEA

### 1.1 INTRODUCTION

The international law of the sea is made up of a multitude of global, regional and bilateral instruments, decisions by international (intergovernmental) organizations and international rules from other sources, including customary international law. The United Nations Convention on the Law of the Sea (LOS Convention, 1982) functions as the cornerstone instrument at the global level. After its entry into force in 1994, two implementation agreements entered into force, namely the 1994 Part XI Deep-Sea Mining Agreement (1996) and the 1995 Fish Stocks Agreement (2001). The LOS Convention currently has 162 parties, the Part XI Deep-Sea Mining Agreement has 141 parties and the Fish Stocks Agreement has 78 parties. All Arctic states are party to these three treaties, except for the U.S., which is not party to either the LOS Convention or the Part XI Deep-Sea Mining Agreement.<sup>3</sup>

All the global instruments that are part of the law of the sea apply to the marine environment of the entire globe, including therefore the entire marine Arctic, however defined. The mandate of the global bodies associated with these instruments has the same geographical scope. This situation is in fact true for global international law in general. The perception that there is an international law vacuum in the Arctic, which only became apparent due to the melting of ice and the planting of a Russian flag on the seabed of the North Pole in August 2007, is therefore incorrect. The real problems are the gaps and shortcomings in

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<sup>2</sup> It is also worth pointing out that Norway is an Arctic Ocean coastal state exclusively on account of Svalbard and not also on account of mainland Norway.

<sup>3</sup> Information obtained from [www.un.org/Depts/los](http://www.un.org/Depts/los) on 15 March 2012.

adherence to global instruments and their implementation at the national and regional levels.

The LOS Convention and the Fish Stocks Agreement are in many ways framework conventions and do not contain the substantive standards that are necessary for actual regulation, such as safety standards to deal with cases like the sinking of the Titanic or restrictions to prevent overfishing of target species or bycatch of non-target species like dolphins, turtles or birds. Regulation by states individually cannot provide effective solutions for human activities with an inherent or potential transboundary dimension, and multilateral co-operation at the appropriate level is therefore essential. This actually applies to most human activities, both at sea and on land; for instance, international shipping, fisheries and offshore hydrocarbon activities, as well as cities, industrial activities and agriculture that produce pollutants that end up in the sea through rivers or the atmosphere.

Which level of regulation – bilateral, sub-regional or global – is appropriate depends mainly on the activity itself. Activities that are not confined to the regional level, such as international merchant shipping and activities that produce greenhouse gasses, are often best regulated at the global level. Regional regulation can for instance be necessary due to the spatial distribution of particular species or habitats, or the spatial reach of land-based and/or marine pollution. Enclosed or semi-enclosed seas like the Black and Mediterranean Seas are obvious candidates for regional approaches, and this is also reflected in Article 123 of the LOS Convention (see subsection 1.2.5 below). Regional regulation may also be able to create a level playing field and regional uniformity, which could, among other things be attractive to companies that operate in multiple jurisdictions or consider doing so.

It should nevertheless be acknowledged that regional regulation has disadvantages as well. Often, regulation can only be applied on an *inter se* basis as between the regional states due to the *pacta tertiis* principle. States that have not consented therefore enjoy “free-rider” benefits. The *pacta tertiis* problem can manifest itself in various ways. For instance, by vessels of third states that operates in the region itself or by transboundary impacts from outside the region. More stringent regional regulation can also create competitive disadvantages in comparison with other regions.

The next subsection 1.2 focuses on Obligations on Regional Co-operation, followed by subsection 1.3 on Regional Marine Regimes and the *Pacta Tertiis* Principle.

## 1.2 OBLIGATIONS ON REGIONAL CO-OPERATION

### *1.2.1 Introduction*

The ensuing subsections devote attention to obligations on regional cooperation under the international law of the sea with respect to Merchant shipping, Marine environmental protection, Conservation and management of marine living resources, Enclosed or semi-enclosed seas, Marine scientific research and Search and rescue.

The subsections will contain examples of existing regional marine regimes but do not attempt to provide an overview of all existing regional marine regimes that apply fully or partly to the marine Arctic.<sup>4</sup> The Antarctic Treaty System (ATS) is a *sui generis* regional regime and will therefore not be examined separately or in detail here, but it can be pointed out that it contains regional sub-regimes on, *inter alia*, merchant shipping, (marine) environmental protection, conservation and management of marine living resources and marine scientific research.

### *1.2.2 Merchant shipping*

The LOS Convention does not require or encourage regional standard-setting in the domain of merchant shipping, as this would undermine the LOS Convention's objective of globally uniform minimum<sup>5</sup> standards and the related primacy of the International Maritime Organization (IMO). At the same time, however, customary international law and Articles 25.2 and 211.3 of the LOS Convention implicitly acknowledge the right of port states to prescribe unilaterally or collectively more stringent standards than generally accepted international rules and standards. This residual jurisdiction is also recognized in several IMO instruments and has on some crucial occasions been exercised by the U.S. and the EU (Molenaar, 2007a, p. 231).

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<sup>4</sup> For such an overview see the AOR project, Phase I Final Report. On fisheries see also Molenaar, 2009.

<sup>5</sup> For coastal states these are in many instances maximum standards.

While the LOS Convention does not encourage regional co-operation on enforcement either, the 1991 IMO Assembly Resolution A. 682.17 *Regional Co-operation in the Control of Ships and Discharges* triggered the creation of a global network of regional arrangements on port state control modelled on the then almost decade-old 1982 Memorandum of Understanding on Port State Control (Paris MOU, 1982).

Other examples of regional merchant shipping standards are those applied on an *inter se* basis for ships flying the flag of parties (e.g. Protocol on Environmental Protection to the Antarctic Treaty, 1991, Annex IV on Prevention of Marine Pollution) and regional standards for ships engaged in regular scheduled services between the region's ports (e.g. Stockholm Agreement, 1996).

### *1.2.3 Marine environmental protection*

As regards marine environmental protection, Part XII of the LOS Convention, entitled Protection and Preservation of the Marine Environment, contains frequent references to regional co-operation. Except for vessel-source pollution (see subsection 1.2.2) and pollution from activities in the Area (Article 209), which is subject to the mandate of the International Seabed Authority, such references are included in all four sources of marine pollution, namely:

- pollution from land-based sources (Article 207.3, and 4);
- pollution from seabed activities subject to national jurisdiction (Article 208.4 and 5);
- pollution by dumping (Article 210.4); and
- pollution from or through the atmosphere (Article 212.3).

Obligations to co-operate also feature prominently in Part XII's Section 2, entitled Global and Regional Cooperation. While Article 198 contains a general obligation to co-operate "as appropriate, on a regional basis," Articles 199 and 200 contain specific obligations with respect to notification, contingency plans, and scientific research and information exchange.

It is important to note, however, that these obligations are commonly subject to qualifiers (e.g. "shall endeavour" or "appropriate"), offer alternatives to regional co-operation (e.g. "global" or "directly"), and do not provide guidance on the form

of such regional co-operation (e.g. an international organization or a legally binding or non-legally binding instrument).

As regards contingency plans, reference can also be made to the 1990 International Convention on Oil Pollution Preparedness, Response and Cooperation (OPRC, 1990) developed within the IMO. The OPRC acknowledges the importance of regional co-operation in its Preamble and Article 6. As regards dumping, reference can be made to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (London Convention, 1972) and its 1996 Protocol. While the 1972 London Convention merely encourages the establishment of regional regimes (Article VIII), the Preamble to the 1996 Protocol also recognizes the desirability of more stringent regional measures.

Examples of regional marine environmental protection regimes include the United Nations Environment Programme (UNEP) Regional Seas Agreements, bodies and co-ordinating units. These commonly consist of a framework instrument complemented by protocols on specific issues, for instance, contingency planning for oil spills, dumping, land-based pollution, pollution from seabed activities and protected areas (Dopplick, 2011, Annexes A and B). Particular reference should be made to two regional regimes established outside the framework of UNEP, namely the OSPAR Commission established by the Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR Convention, 1992) and the Helsinki Commission (HELCOM) established by the Convention on the Protection of the Marine Environment of the Baltic Sea Area (Helsinki Convention, 1992). Annexes to both Conventions deal, *inter alia*, with land-based pollution, pollution by dumping and incineration, pollution by offshore activities and protected areas. It is noteworthy that the OSPAR Commission can exercise a residual authority in the absence of a competent international body. One last example are regional agreements on monitoring, surveillance and contingency planning such as the 1983 Bonn Agreement and the 1993 Copenhagen Agreement (see also Dopplick, 2011).

#### *1.2.4 Conservation and management of marine living resources*

The LOS Convention obliges relevant states to cooperate with respect to transboundary fish stocks and discrete high seas fish stocks but does not prescribe the form co-operation should have (e.g. Article 63.1). The Fish Stocks Agreement,

however, stipulates that straddling and highly migratory fish stocks are to be managed at the regional level through regional fisheries management organizations (RFMOs)<sup>6</sup>. The duty to co-operate in relation to such transboundary fish stocks means a duty to co-operate with the relevant RFMO (Article 8.3).

Many RFMOs have already been established both within and outside the framework of FAO.<sup>7</sup> In relation to straddling and highly migratory fish stocks, RFMOs are to be established where they do not exist (Fish Stocks Agreement, Article 8.5). More in general, there is broad support in the international community to ensure that all areas beyond national jurisdiction where any type of fish stocks occur in commercially significant abundance or where that may be imminent, are covered by RFMOs. RFMOs are to be established where these do not exist. These developments have among other things led to the filling of gaps in such coverage in the Indian Ocean, the South Pacific and most recently the North Pacific.<sup>8</sup>

Regarding marine mammals, Article 65 of the LOS Convention stipulates the following:

[...] States shall cooperate with a view to the conservation of marine mammals and in the case of cetaceans shall in particular work through the appropriate international organizations for their conservation, management and study.

Article 65 contains a number of intricacies, but the main point in our case is that while it does not require co-operation to be at the regional level, it also does not prohibit it; not even in the case of cetaceans. Even though the global International Whaling Commission (IWC) was established several decades prior to the adoption of the LOS Convention, Article 65 does not stipulate that “appropriate international organizations” have to be global organizations, and the use of the plural indicates that other organizations than the IWC may have competence as

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<sup>6</sup> For the purpose of this article, RFMOs also comprise arrangements as defined in Article 1.1d of the Fish Stocks Agreement.

<sup>7</sup> See the information at [www.fao.org/fishery](http://www.fao.org/fishery), accessed 15 March 2012.

<sup>8</sup> While the English version of the text of the Convention on the Conservation and Management of High Seas Fisheries Resources in the North Pacific Ocean (on file with author) was adopted in March 2011, the Convention will only be opened for signature once the French version has been adopted (information up-to-date as of end November 2011).

well. Consequently, not only the North Atlantic Marine Mammal Commission (NAMMCO) but also the Conferences of the Parties (CoPs), even though they are not international organizations, pursuant to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES, 1973) and the Convention on the Conservation of Migratory Species of Wild Animals (CMS, 1979) are relevant under Article 65. As regards the CMS, it can be noted here that its Article IV requires “Range States” to conclude regional agreements for “migratory species which have an unfavourable conservation status” and are listed in Appendix II.

Many regional agreements on marine mammals and other marine species have already been adopted within the framework of the CMS ([www.cms.int](http://www.cms.int)). An example of a standalone regional agreement is the Agreement on the Conservation of Polar Bears and Their Habitat (Polar Bear Agreement, 1973).

#### *1.2.5 Enclosed or semi-enclosed seas*

The LOS Convention contains a separate Part IX, entitled Enclosed or Semi-Enclosed Seas. It consists of Article 122, containing a definition of the term “enclosed or semi-enclosed sea,” and Article 123, entitled Cooperation of States bordering enclosed or semi-enclosed seas. Article 123 reads:

States bordering an enclosed or semi-enclosed sea should cooperate with each other in the exercise of their rights and in the performance of their duties under this Convention. To this end they shall endeavour, directly or through an appropriate regional organization:

- (a) to coordinate the management, conservation, exploration and exploitation of the living resources of the sea;
- (b) to coordinate the implementation of their rights and duties with respect to the protection and preservation of the marine environment;
- (c) to coordinate their scientific research policies and undertake where appropriate joint programmes of scientific research in the area;

- (d) to invite, as appropriate, other interested States or international organizations to cooperate with them in furtherance of the provisions of this article.

Several observations can be made here. First, it is not evident that the Arctic Ocean falls within the definition of an “enclosed or semi-enclosed sea” laid down in Article 122. Second, even if the Arctic Ocean would qualify, the obligation to co-operate pursuant to Article 123 is considerably softened by the words “should” and “endeavour.” Third, even if the Arctic Ocean would qualify, this would not give co-operating coastal states – whether as a collective or by means of an established regional organization – additional rights to impose restrictions on the rights and freedoms of third (flag) states than they would be allowed to do unilaterally outside enclosed or semi-enclosed seas.

Several of UNEP’s Regional Seas Agreements, bodies and co-ordinating units relate to enclosed or semi-enclosed seas. In the case of the Mediterranean Sea, this regional marine environmental protection regime exists in parallel with an RFMO (General Fisheries Commission for the Mediterranean) and a regional science body (Mediterranean Science Commission (CIESM)).

#### *1.2.6 Marine scientific research*

The LOS Convention’s Part XIII on Marine Scientific Research contains a separate Section two entitled International Cooperation, but does not specifically require or encourage regional co-operation. As noted above, however, such obligations nevertheless exist in relation to marine environmental protection (Article 200) and enclosed or semi-enclosed seas (Article 123c). Moreover, Part XIV on Development and Transfer of Marine Technology not only promotes the development of marine technology, but also of marine science. Its Section two on International Cooperation requires international co-operation to be carried out through existing and new programmes and explicitly mentions the regional level in this regard.

Reference here may also be made to the Convention on the International Hydrographic Organization (IHO Convention, 1967), which has the encouragement of regional co-operation included in its objectives in Article II. A number of Regional Hydrographic Commissions (RHCs), including the Arctic

Region Hydrographic Commission (ARHC) established in 2010 (ARHC Statutes, 2010), and the Hydrographic Commission on Antarctica, have been established for that purpose.

A large number of other international intergovernmental bodies exist, some of the most relevant of which are the International Council for the Exploration of the Sea (ICES) and the North Pacific Marine Science Organization (PICES). Reference can also be made to the OSPAR Commission, which adopted the 2008 Code of Conduct for Responsible Marine Research in the Deep Seas and High Seas of the OSPAR Maritime Area (Summary Record OSPAR 2008, OSPAR 08/24/1-E, at Annex 6) based on its residual mandate.

#### *1.2.7 Search and rescue*

As regards search and rescue, Article 98.2 of the LOS Convention stipulates:

Every coastal State shall promote the establishment, operation and maintenance of an adequate and effective search and rescue service regarding safety on and over the sea and, where circumstances so require, by way of mutual regional arrangements cooperate with neighbouring States for this purpose.

Reference must in this context also be made to the 1979 International Convention on Maritime Search and Rescue (SAR Convention, 1979) developed under the IMO during a time when the LOS Convention was still under negotiation. While paragraphs 2.1.4 and 2.1.5 of the Annex to the SAR Convention mainly assume that search and rescue regions shall be established, IMO's Maritime Safety Committee (MSC) divided the world into 13 maritime SAR areas in the early 1980s with the Arctic Ocean designated as area 13. It also invited all coastal states to develop SAR arrangements or agreements (IMO, 2000, pp. 6-7). Some, such as the Arctic SAR Agreement, were established by treaties.

### 1.3 REGIONAL MARINE REGIMES AND THE PACTA TERTIIS PRINCIPLE

The constraints inherent in the *pacta tertiis* principle have shaped some regional marine regimes, but played hardly any role (or none at all) in other regional marine regimes. As a general rule, the *pacta tertiis* principle does not play a role if

measures do not interfere with the rights of third states under the general international law of the sea. In order to determine if this is the case, it is first of all necessary to know what these rights are. The following list contains the main rights in the LOS Convention:

1. Navigation: the rights of (non-suspendable) innocent passage, transit passage and archipelagic sea lanes passage in marine areas under coastal state sovereignty<sup>9</sup> and the freedom of navigation within exclusive economic zones (EEZs) and on the high seas. Apart from the high seas, these rights and freedoms are all subject to coastal state jurisdiction (Articles 8.2, 17, 38.1, 45, 52, 53, 58.2 and 87.1a);
2. Overflight: the freedom of overflight within EEZs and on the high seas (Articles 58.2 and 87.1b);
3. Submarine cables and pipelines: the freedom to lay submarine cables and pipelines on continental shelves – in that case subject to coastal state jurisdiction – and on the high seas (Articles 58.2 and 87.1c);
4. “Other internationally lawful uses of the sea related to” the freedoms listed under Nos. 1-3, such as “those associated with the operation of ships, aircraft and submarine cables and pipelines” (Articles 58.1 and 87.1), to be exercised within EEZs and on the high seas;
5. Artificial islands: the freedom to construct artificial islands and other installations on the high seas and, in very limited scenarios, on continental shelves (Articles 60, 80 and 87.1d);
6. Fishing: the freedom of fishing on the high seas (Articles 87.1e and 116); and
7. Marine scientific research: the freedom of marine scientific research on the high seas (Article 87.1f).

This list indicates, for example, that regional fisheries conservation and management measures adopted by coastal states that apply to all states but exclusively within their own maritime zones, are not inconsistent with the *pacta tertiis* principle for the simple reason that third states have no fishing rights in the maritime zones of coastal states under the general international law of the sea.

An important conclusion that can be deduced from this list is that third states do not just have rights and freedoms on the high seas, but also within the maritime zones of coastal states. Regional measures that are spatially confined to the

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<sup>9</sup> As regards transit passage, this can occasionally apply beyond 12 nautical miles.

maritime zones of coastal states may therefore still be inconsistent with the *pacta tertiis* principle. The opposite is also true: regional measures that apply to the high seas do not necessarily have to be inconsistent with the *pacta tertiis* principle. Inconsistency can for instance be avoided by pursuing an *inter se* approach. As noted above, this approach is pursued by Annex IV to the 1991 Protocol on Environmental Protection to the Antarctic Treaty for measures that apply to the high seas or marine waters that are *de facto* high seas due to the agreement to disagree on the issue of sovereignty over the Antarctic continent.

Port state jurisdiction adds another layer of complexity. In light of the absence of a right of access to foreign ports under the international law of the sea, but not necessarily under international trade law, a port state can require that, as a condition for obtaining access to its ports, foreign vessels must comply with measures unable to be imposed in its capacity as a coastal state, such as restrictions on high seas fisheries. Such an exercise of residual port state jurisdiction is consistent with the *pacta tertiis* principle as long as non-compliance is only penalized with denial of access to port and in principle not, for instance, by monetary penalties. This view is in line with the 2009 FAO Port State Measures Agreement (see Articles 4.1b and 18.3 and Molenaar, 2010, p. 382).

Participation in existing regional marine regimes with regulatory mandates is mostly limited to coastal and port states. The main example of regional marine regimes that also allow for participation by non-coastal states, apart from the *sui generis* ATS, are RFMOs with regulatory areas made up partly or entirely of high seas. Non-coastal states mainly participate in such RFMOs in a flag state capacity. In some exceptional cases, however, they participate even though they are either not interested or unable to engage in high seas fishing.

Participation in a flag state capacity is based on the freedom of high seas fishing. While the LOS Convention recognizes that freedom and requires high seas fishing states to co-operate and establish RFMOs where appropriate, it does not explicitly grant a right to participate in RFMOs. The practices within most RFMOs on participation, allocation of fishing opportunities and combating illegal, unreported and unregulated (IUU) fishing make it in fact extremely difficult for new entrants to exercise their right to engage in high seas fishing. Whereas Article 8.3 of the Fish Stocks Agreement contains an explicit right to become a member of RFMOs, this is only granted to states with a “real interest.” The purpose and meaning of

this notion is not clear, however, and it does not seem to have led to significant changes in the practices of RFMOs referred to above.

Examples of states that are not interested to engage in high seas fishing are several Members of the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR). For instance, Belgium, Germany, India, Italy and Sweden have so far never engaged in fishing in CCAMLR's regulatory area and do not seem to have an intention to do so in the foreseeable future. It must be acknowledged, however, that CCAMLR is a special case because it is part of the ATS and therefore something more than an RFMO. Another possible example was identified by the U.S. in the context of the Northwest Atlantic Fisheries Organization (NAFO), where it argued that:

[a] state could in principle have a real interest in a managed fishery that did not include a direct fishing interest, such as concern for a bycatch species or for the environmental effects of using a particular fishing gear (NAFO/GC Doc. 99/4, Annex 6).

A somewhat different example is that of Canada's participation as a co-operating non-contracting party (NCP) in the North-East Atlantic Fisheries Commission (NEAFC). As co-operating NCPs cannot participate in decision-making, they depend on the full members to make fishing opportunities available to them. This situation is similar to other RFMOs that use a status that is similar or identical to cooperating NCPs. As regards NEAFC, however, Canada is not really interested in fishing opportunities, at least not at the moment (NEAFC Report, 2011, Annex D).

Two other minor exceptions to the abovementioned general rule are provided by the OSPAR and Helsinki Conventions. Finland, Luxembourg and Switzerland are not coastal states to the OSPAR Maritime Area but are parties to the OSPAR Convention due to the fact that they are located upstream on watercourses that reach the OSPAR Maritime Area. Also, Article 27.2 of the OSPAR Convention and Article 35.2 of the Helsinki Convention allow other states to be invited to accede, provided all existing parties agree. While no such accession has yet occurred, there have been some discussions in the OSPAR Commission on accession by the Russian Federation (information provided by the Executive Secretary of the OSPAR Commission Secretariat by e-mail communication on 14 December, 2011). As regards the Helsinki Commission, Belarus and the Ukraine have been observers

since around 1997 and the Czech Republic and the U.S. have occasionally attended meetings (based on a review of the minutes of the annual HELCOM meetings). In particular, Belarus has been interested in becoming a party. Its accession and that of Ukraine and other states with territory in the catchment area of the Baltic Sea was discussed during the 2009 Annual Meeting of the Helsinki Commission (HELCOM, 2009, paras. 6.13-6.17).

## 2. FEATURES OF THE ARCTIC COUNCIL

### 2.1 INTRODUCTION

The examination of the features of the Arctic Council will be done by means of subsection 2.2 on Founding Instrument and Other Key Instruments, subsection 2.3 entitled Mandate and Main Approaches, subsection 2.4 on Geographical Scope, subsection 2.5 on Participation, subsection 2.6 entitled Institutional Structure, subsection 2.7 on Decision-making, and subsection 2.8 on Funding.

### 2.2 FOUNDING INSTRUMENT AND OTHER KEY INSTRUMENTS

The Arctic Council was established in 1996 as a high-level forum by means of the Ottawa Declaration (Ottawa Declaration, 1996). The choice for a non-legally binding instrument is a clear indication that the Council was not intended to be an international organization. In particular, Canada advocated in the mid-1990s that the Council should be an international organization (Rothwell, 1996, p. 243), but could in the end not convince the U.S.

At its First Ministerial Meeting in Iqaluit, Canada, 1998, the Council adopted its Rules of Procedure (Iqaluit Declaration, 1998; SAO Report, September 1998, Annex 1). The Rules of Procedure apply to all bodies of the Council and are considerably detailed, especially in view of the fact that the Council is not an international organization. This detail can at least in part be attributed to the U.S., which submitted draft Rules of Procedure modelled on those for Antarctic Treaty Consultative Meetings (ATCM Final Report; ATCM Recommendation, 1979; Bloom, 1999, p. 717, n. 23). One of the tasks of the TFII established by the Nuuk Ministerial is to amend the Rules of Procedure, among other things to incorporate

the new rules on the admission of observers and their rights and obligations (see subsection 2.5 below).

## 2.3 MANDATE AND MAIN APPROACHES

The Council's mandate (or objective) broadened pre-existing co-operation under the 1991 Arctic Environmental Protection Strategy (AEPS) to:

promoting cooperation, coordination and interaction among the Arctic States, with the involvement of the Arctic indigenous peoples and other Arctic inhabitants on common Arctic issues, in particular issues of sustainable development and environmental protection in the Arctic (Ottawa Declaration, 1996, Article 1).

While the substantive mandate of the Council thus relates in particular to sustainable development and environmental protection, it is otherwise only subject to the restriction of common Arctic issues. A footnote to Article 1 specifies, however, that the Council "should not deal with matters related to military security." The use of the voluntary term "should," which is appropriate for a non-legally binding instrument, nevertheless indicates that the Council could deal with such matters anyway, provided there is consensus to do so. In fact, as the Ottawa Declaration is not legally binding, it does not pose much of an obstacle to the Members if they would wish to go even beyond the already very broad mandate of the Council.

The reverse is also true: the Ottawa Declaration does not create an obligation to undertake efforts on issues that clearly fall within the Council's mandate. The Council has for instance decided, until now, not to become involved in certain marine mammal issues (Bloom, 1999, p. 720) and fisheries management (SAO Report, November 2007, p. 12). As the Council's decision-making occurs by consensus of all eight Arctic States (Rules of Procedure, Rule 7; see subsection 2.7), one or more Members may have felt that these issues were too contentious and would thereby have jeopardized the functioning of the Council, or that they would be better dealt with outside the Council, whether or not by existing international bodies.

The terms of reference of the six working groups of the Arctic Council and their bi-annual work plans, as well as the incidentally established Task Forces, Expert Groups and other subsidiary bodies (see subsection 2.6), shed more light on the substantive areas in which the Council undertakes efforts. These efforts are made through specific projects rather than as part of a permanent governance or regulatory task and agenda. That is not to say, however, that the Council does not respond to current and future challenges. The negotiation processes on the Arctic SAR Agreement and the Arctic MOPPR Instrument and the steps towards the strengthening of the Arctic Council bear witness to that.

As regards the Council's main approaches, the Ottawa Declaration refers to "cooperation, coordination and interaction." In addition, the Framework for the Strengthening of the Arctic Council clarifies the following:

The Arctic Council will continue to work towards solutions to address emerging challenges in the Arctic utilizing a wide range of approaches, including: scientific assessments; policy statements; guidelines; recommendations; best practices; and new legally-binding instruments (SAO Report, May 2011, p. 49).

The Council thus regards these approaches as its output. As regards new legally-binding instruments, this must be read in conjunction with the phrase "to work towards solutions." As the Arctic Council is an intergovernmental forum established by means of a non-legally binding instrument, it does not have the competence to adopt legally-binding instruments. The Arctic SAR Agreement was for this reason also not formally adopted by the Arctic Council, but by a collective decision by its Members at the last session of the SAR Task Force and opened for signature in conjunction with the Nuuk Ministerial. However, as this collective decision culminated from the negotiation process in the SAR Task Force, which was established by the Council and thereby operated under its auspices, it is indeed justifiable to regard the Arctic SAR Agreement as part of the Council's output. Arguably, this is also reflected in the Preamble of the Arctic SAR Agreement, which refers to both the Ottawa Declaration and the establishment of the SAR Task Force by the Tromsø Ministerial. Finally, those interested in promoting the Arctic Council are also likely to present it like this to media and the general public, which are either not aware of these subtleties or are not interested in them. This

will strengthen the perception and the opinion that the Arctic SAR Agreement is the Council's output.

It is also worth noting in this regard that the November 2011 SAOs Meeting had a separate agenda item on Search and Rescue Agreement - Follow up. The annotated agenda for this meeting notes the following under that item:

The Search and Rescue agreement was an important and historic Nuuk outcome, and it is important that the Arctic Council now ensures that the agreement is implemented and followed up. [...] (SAO Agenda, November 2011, p. 5).

The word "ensures" plays a key role here. It most likely reflects the decision-shaping function of the Council, but it cannot be ruled out that the Council's efforts to ensure implementation and follow-up of the Arctic SAR Agreement go beyond that function (see also subsection 2.6 below). A good example of the Council's decision-shaping function relates to the development of a mandatory Polar Shipping Code within IMO. The decision to develop the Code was to a considerable extent shaped by the Council's Arctic Marine Shipping Assessment (AMSA). As the Code will ultimately be adopted by the IMO, however, it will be regarded as that body's output and not as the Council's.

The connection between the Polar Shipping Code and the Council is clearly very different from the connection between the Council and the Arctic SAR Agreement. It is submitted that this requires a notion that rationalizes the Arctic SAR Agreement and thereby the institutional component established by it can be part of the Council's output, even though it was not – and in fact could not be – formally adopted by it. The need for such a notion is even more apparent in light of the ongoing negotiation process on the Arctic MOPPR Instrument, which may have an institutional component as well, and other such instruments that may follow. The notion of the Arctic Council System (ACS) offered here could serve that purpose.

The notion of the ACS consists of two basic components. The first component is made up of the Council's constitutive instrument in the Ottawa Declaration, other Ministerial Declarations and other instruments adopted by the Arctic Council, such as its 2009 Arctic Offshore Oil and Gas Guidelines, as well as the Council's

institutional structure. The second component consists of instruments negotiated under the Council's auspices, but not adopted by it, and their institutional dimension.

The ACS notion can be accepted or rejected for its own merits or lack thereof. While the idea of the ACS notion was inspired by the ATS notion, it is clear that there are fundamental differences between the international regimes for the Arctic and the Antarctic. These differences, however, are not a valid nor sufficient argument for rejecting the validity and usefulness of the ACS notion. No attempt is therefore made to even identify the main differences between the international regimes for the Arctic and the Antarctic. A few observations are nevertheless offered here. First, while the ATS notion developed from a treaty, the ACS notion is linked to a non-legally binding declaration. Second, not all of the legally-binding instruments that are part of the ATS were adopted by regular or special ATCMs. Both the 1972 Convention for the Conservation of Antarctic Seals (CCAS Convention, 1972) and the 1980 Convention on the Conservation of Antarctic Marine Living Resources (CAMLR Convention, 1980) were for various reasons adopted by standalone diplomatic conferences (see Auburn, 1982, pp. 131-134 at 115 and 147-153). The fact that the Arctic SAR Agreement was not adopted by the Council is therefore not unique. Third, the ATS notion first obtained intergovernmental endorsement in 1979 by means of its incorporation in the 1979 ATCM Recommendation X-1. Later, it also found its way into Article 1e of the 1991 Protocol on Environmental Protection to the Antarctic Treaty. The Argentine scholar and diplomat Roberto Guyer is credited with using the ATS notion first, in 1973 (Guyer, 1973, p. 156; see also Vidas, 1996, pp. 37-39). When the Antarctic Treaty was adopted in 1959, few would have imagined that it would lead to the enormously expanded ATS that exists today.

The ACS notion can also be put in a broader context. The two-tiered approach of negotiating non-legally binding international instruments under the auspices of the Council, thereby giving rise to the ACS, as well as strengthening the Arctic Council through *inter alia* a standing Arctic Council secretariat, shapes the evolving international regime for the governance and regulation of the marine Arctic. This two-tiered approach is preferred by the Arctic eight and in particular the Arctic five (Ilulissat Declaration, 2008) above a new regional framework instrument (see Koivurova and Molenaar, 2010; Stokke, 2009; and Young, 2011) at least for now and the immediate future.

## 2.4 GEOGRAPHICAL SCOPE

The Ottawa Declaration does not specify the geographical mandate of the Arctic Council and there is otherwise no generally accepted geographical definition of the term “Arctic” either. Accordingly, different components and output of the Arctic Council may be subject to different geographical scopes. For instance, the geographical scope of the Arctic SAR Agreement is laid down in its Article 3.1 in conjunction with paragraph one of its Annex and uses in part 60-degrees North latitude and the Arctic Circle, but also includes substantial marine areas south thereof. However, the choice for this spatial scope does not mean that future legally-binding instruments of the ACS, for instance the envisaged Arctic MOPPR Instrument, must have an identical spatial scope. A similar approach has been pursued in the ATS, where the spatial scope defined in Article I of the 1980 CAMLR Convention comprises a large more northerly marine area compared to the spatial scope defined in Article VI of the 1959 Antarctic Treaty.

## 2.5 PARTICIPATION

### *2.5.1 Members*

Current participation in the Council consists of three categories: Members, Permanent Participants and observers. The Members are the eight states that adopted the AEPS and established the Council in 1996, namely Canada, Denmark, Finland, Iceland, Norway, the Russian Federation, Sweden and the U.S. According to Rule 1 of the Council’s Rules of Procedure, these eight are the Arctic States. All of these are coastal states but only five, namely Canada, Denmark/Greenland, Norway, the Russian Federation and the U.S., are coastal states to the Arctic Ocean. Whereas the Rules of Procedure address the possibility of new Permanent Participants or observers, the admission of new Members, whether states or entities like the European Union (EU), is not envisaged. To a large extent, therefore, the Council is currently a “closed” body. In case there would be consensus among the Members to change this (which seems extremely unlikely both presently and in the near future) the Rules of Procedure would allow for relatively speedy amendment compared to treaty-based rules on adherence.

It needs to be emphasized that the current closed nature of the Council is not inconsistent with current international law. Assumptions of inconsistency are sometimes caused by incorrect assumptions on the similarity between the Arctic Council and the ATS. Article XIII of the Antarctic Treaty allows in principle any

state to accede and the status of Antarctic Treaty Consultative Party can, pursuant to Article IX.2 of the Antarctic Treaty, in principle be granted to any state as well. However, in view of the Council's current mandate and main approaches, current international law does not provide a clearly applicable and unqualified entitlement to non-Arctic states and entities to become a Member. Even if the Arctic Ocean would qualify as an enclosed or semi-enclosed sea, which is certainly not obvious, Article 123d of the LOS Convention only requires participation by "other interested States" as "appropriate" (see subsection 1.2.5 above). Which states would qualify is of course not a matter that can be exclusively determined by the coastal states.

The situation would be different, however, if the Council would engage in regulation in a manner that would be inconsistent with the *pacta tertiis* principle. An alternative basis for participation by non-Arctic states and entities might arise if it would become a generally accepted view that inadequate regional implementation of global obligations affects the non-user rights and interests of other states and the international community, and that non-regional states are entitled to participate to safeguard these non-user rights and interests. An example of a regional body that allows participation in a non-user capacity is the CAMLR Convention (see Molenaar, 2007b, pp. 107-118).

It should also be noted that the Arctic SAR Agreement does not contain a provision that would allow adherence by other states or entities than those that participated in its negotiation process (i.e. non-Arctic states or entities). This possibility was among other suggestions in the AMSA 2009 Report (p. 6) and may have been discussed during its negotiation process. The expressions of interest by several non-Arctic states with observer status within the Arctic Council, including the United Kingdom, to participate in the negotiation process (SAO Report, November 2009, pp. 6-7; EP Resolution, January 2011, para. 11), were in any event not followed up.

It is not evident that non-Arctic states or entities had/have an entitlement under international law to participate in the negotiation of the Arctic SAR Agreement or to become a party thereto. Reference can here be made to Article 98.2 of the LOS Convention, cited in subsection 1.2.7 above. Whereas the United Kingdom is certainly a neighbouring state vis-à-vis the Arctic SAR Agreement, the Agreement's outer limits obviously have to be located somewhere. If the United

Kingdom had been included, this would have created several more neighbouring states. It is also significant that Article 98.2 of the LOS Convention does not refer to states in other capacities than neighbouring states, for instance flag states. This is presumably in line with other regional SAR Agreements negotiated in the context of the SAR Convention and the 1944 Convention on International Civil Aviation (ICAO Convention, 1944), very few or none of which allow non-coastal states to become parties.

A different matter is whether or not the exclusion of observers from the negotiation process on the Arctic SAR Agreement is consistent with the Council's own Rules of Procedure. The first sentence of Rule 37 stipulates that "Observers shall be invited to the Ministerial meetings and/or to other meetings and activities of the Arctic Council." It seems reasonable to argue that the phrase "other meetings and activities" is intended to be all-encompassing and that a negotiation process established by the Council and held under its auspices should be regarded as an activity of the Council.

It is nevertheless important to emphasize that the debate in 2009-2010 on participation by non-Arctic states in the Arctic SAR Agreement and its negotiation, had to be placed in the broader context of the debate among Members and Permanent Participants on the strengthening or reform of the Council in general as well as on the role therein for non-Arctic states and entities in particular. That debate was already in full swing at the start of the negotiation process on the Arctic SAR Agreement and will probably continue for some time to come. The negotiation of the first legally-binding instrument under the auspices of the Arctic Council was in essence a litmus test and confidence-building exercise for the ACS. Participation by non-Arctic states or entities might well have endangered this.

The question nevertheless arises as to whether the Arctic SAR Agreement and its negotiation process have set a precedent. Will future legally-binding instruments of the ACS and related negotiation processes involve participation by non-Arctic states and entities or not? This issue would be especially important if the substance of these instruments would affect the rights of non-Arctic states and entities under international law of the sea. Reference can here be made to the section Role of Observers in the Nuuk Observer Rules, which stipulates in its first bullet point that "Observers shall be invited to the meetings of the Arctic Council once observer

status has been granted.” This wording is more restrictive than the wording in current Rule 37 cited above and could thus be intended to bar observers from negotiation processes such as those on the Arctic SAR Agreement and the Arctic MOPPR Instrument. This would suggest that Members do not view such negotiation processes as Arctic Council meetings but as meetings outside the scope of the Council and thereby not subject to the Council’s Rules of Procedure. It should be emphasized, however, that current Rule 37 continues to apply until the Nuuk Observer Rules have been incorporated through amendments in the Council’s Rules of Procedure. The 2013 Kiruna Ministerial Meeting would be the first opportunity to adopt the amended Rules of Procedure.

Similar to the negotiation process for the Arctic SAR Agreement, the negotiation process for the Arctic MOPPR Instrument lacks transparency. There is hardly any publicly available information on the process, such as summary reports of separate sessions or draft versions of the envisaged instrument. So far, nothing seems to suggest that non-Arctic states or entities will be allowed to participate in the negotiation process on the Arctic MOPPR Instrument or that any have actually expressed an interest to participate. However, at least one non-governmental organization (NGO) requested to participate in this negotiation process as well as in the Arctic Ecosystem-based Management (EBM) Expert Group established by the Nuuk Ministerial. When this request was denied, a legal opinion on the consistency of this denial with the Council’s Rules of Procedure was commissioned. The legal opinion, which concluded that this denial had been inconsistent, was submitted to the appropriate persons within Arctic States. While this did not lead to a reversal of the denial of the request, several Arctic states have included staff from one or more NGOs within their national delegations to meetings of the negotiation process (information provided by a representative from an NGO by phone, 25 January 2012.). It is also worth observing that Permanent Participants have so far not participated in the process either. As this seems first of all due to a lack of expertise and resources, the issue of their entitlement to participate has not been dealt with. It is submitted that the practice of the Arctic states with regard to the NGO’s request supports the view that the Arctic states do not regard the negotiation process for the Arctic MOPPR Instrument as a meeting of the Arctic Council and that the Rules of Procedure are therefore not applicable.

### *2.5.1 Permanent Participants*

The involvement of representatives from the Arctic's indigenous peoples in a forum like the Arctic Council is quite unique (another example is the participation of indigenous peoples in the Barents Regional Council (BRC), established in 1993; see Stokke and Tunander, 1994). They are normally accorded the status of NGOs in different intergovernmental organizations and forums, but the Council has created the status of Permanent Participants for them. There are currently six Permanent Participants, namely the Arctic Athabaskan Council (AAC), the Aleut International Association (AIA), the Gwich'in Council International (GCI), the Inuit Circumpolar Council (ICC), the Russian Arctic Indigenous Peoples of the North (RAIPON) and the Saami Council. The ICC, the Saami Council and RAIPON were approved as Permanent Participants at the Council's inception in 1996 (Ottawa Declaration, 1996), the AIA in 1998 (Iqaluit Declaration, 1998) and the AAC and GCI in 2000 (Barrow Declaration, 2000). Article 2 of the Ottawa Declaration opens the door to new Permanent Participants provided that two criteria are met and that the number of Permanent Participants remains less than the number of Members. This means that there is presently room for one more Permanent Participant.

### *2.5.2 Observers*

#### **Admission of Observers**

The current Rules of Procedure devote considerable attention to the admission of observers and their roles, rights and obligations. These Rules build on the practice with respect to observers that developed during the operation of the AEPS (Graczyk, 2011). As noted above, however, the Rules are currently under review by the TFII, which is among other things charged with incorporating the Nuuk Observer Rules adopted by means of the Nuuk Declaration.

Current Rule 36 reads as follows:

Observer status in the Arctic Council is open to:

- (a) non-Arctic States;
- (b) inter-governmental and inter-parliamentary organizations, global and regional;
- (c) non-governmental organizations that the Council determines can contribute to its work.

Accreditation of Observers shall be in accordance with the provisions of Annex 2.

The sentence “that the Council determines can contribute to its work” clarifies that the ability to contribute to the Council’s work is the only criterion for admission as observer. While this criterion does not constitute a high threshold, it would benefit from implementation guidance. The only guidance that the Rules of Procedure currently offers is in fact the ground for the suspension contained in Rule 37, namely engaging “in activities which are at odds with the Council’s Declaration.” As discussed below, further guidance is envisaged to be included in the amended Rules of Procedure.

The decision on accreditation lies with the Council. As Rule 36 does not contain special arrangements for formal decision-making, the general rule laid down in Rule 7 applies. As discussed in more detail in subsection 2.7, formal decisions are made by consensus among the Members without any formal involvement of Permanent Participants. But because Permanent Participants are to be consulted in the decision-formation stage, their strong opposition to applications for the status of ad hoc or permanent observer could well transform a consensus that had more or less already crystallized among Members into a lack of consensus.

The last sentence of Rule 36 ensures the applicability of the rules on accreditation that are contained in Annex 2 to the Rules of Procedure. Paragraph 1 of Annex 2 contains a list of Accredited Observers more commonly referred to as “permanent observers” in contrast with “ad hoc observers” mentioned in Rule 37. The difference between them is that the status of an ad hoc observer only allows attendance at specific meetings, while the status of permanent observer, once accorded, allows “in principle” participation in all Arctic Council meetings. The qualification “in principle” is clearly warranted here because observers are barred from participating in certain SAOs Meetings or parts thereof (cf. Graczyk, 2011, p. 603) and Task Forces, including the SAR Task Force, the MOPPR Task Force and the TFII, as well as the Arctic EBM Expert Group (see subsection 2.5.1 above).

There are currently nine observers in the second category and 11 in the third ([www.arctic-council.org](http://www.arctic-council.org), accessed 19 March, 2012). Regarding non-Arctic states, the list in Annex 2 includes Germany, the Netherlands, Poland and the United

Kingdom. France was accepted as a permanent observer in 2000 (Barrow Declaration, 2000) and Spain in 2006 (Salekhard Declaration, 2006). Prior to the 2009 Tromsø Ministerial Meeting, applications for the status of permanent observer were submitted by China, Italy, South Korea and the EU. The EU application was submitted by the European Commission on behalf of the EU. If the EU obtained the status of permanent observer it would be under category B and not under A as the EU is not a state. As the Council was unable to reach consensus on how the new requests had to be handled, consideration of all these applications was deferred to the Danish Chairmanship and all participated as ad hoc observers in the 2009 Tromsø Ministerial Meeting (SAO Report, April 2009, p. 3).

The inability to reach consensus was caused by a number of reasons. Prominent among them was the already ongoing debate on the strengthening or reform of the Council in general, as well as the role therein for non-Arctic states and entities in particular. Concerns existed that premature steps might prejudice progress. Moreover, for China and the EU there were concerns that participation by these large global players might lead to the subordination of Permanent Participants to observers within the Council Members and Permanent Participants are also likely to have had concerns on the geopolitical implications of the involvement of these two large global players, others that might follow in their footsteps, and a scenario where Members would be outnumbered by non-Arctic states and entities. The latter scenario may also play a crucial role in years to come, due to the strong sentiments and anxieties it triggers about changes affecting the status quo and who does and does not “belong” in the Arctic. Furthermore, as became clear during the Danish chairmanship, larger numbers of delegations posed considerable challenges for the convening of meetings.

Finally, the EU’s request was handled during the same period when it considered imposing further restrictions on the import of seal products into the EU. This initiative obviously did not receive a warm welcome – to put it mildly – as harvesting of marine mammals occurs throughout the Arctic region and export of seal products is often important for sustaining the livelihoods of Arctic indigenous peoples. The anti-whaling stance of many EU Member States as, *inter alia*, reflected in their participation in the IWC undoubtedly also formed part of the context in which the EU’s request was assessed. In 2009, the EU did in fact adopt

import restrictions on seal products<sup>10</sup>, triggering requests by both Canada and Norway for consultations under the Understanding on Rules and Procedures Governing the Settlement of Disputes of the World Trade Organization in November 2009<sup>11</sup>.

On 21 April 2011, the Dispute Settlement Body established a single panel that will deal with both the Canadian and the Norwegian complaints. By April 2012, however, the composition of the panel still had not been completed. A considerable number of other states, including Iceland and the U.S., have reserved their third party rights with respect to one or both complaints.

In addition to these circumstances and considerations, the course of action pursued at the 2009 Tromsø Ministerial Meeting must certainly also have been motivated by that fact that deferring an application is preferable to rejecting it. Also, to reject one or more, but approve others, would have been regarded as unjustifiable discrimination unless the Council would have been able to provide a reasoned explanation for distinguishing between the applications. The current Rules of Procedure would not have facilitated the formulation of such a reasoned explanation.

Some months after the Tromsø Ministerial, Japan applied for the status of permanent observer and was accorded ad hoc observer status at the November 2009 SAOs Meeting (SAO Report, November 2009, p. 2). All pending applicants were accorded ad hoc observer status for the 2011 Nuuk Ministerial Meeting, where it was also decided that their applications would be evaluated on the basis of the Nuuk Observer Rules. In December 2011, Singapore applied for the status of permanent observer. The intention would seem to be for all evaluations to be finalized at the upcoming 2013 Kiruna Ministerial Meeting<sup>12</sup>.

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<sup>10</sup> See the report entitled *Interests and Roles of Non-Arctic States in the Arctic*, on a seminar presented by the National Capital Branch of the Canadian International Council and the Munk-Gordon Arctic Security Program, Ottawa, October 5, 2011; [www.opencanada.org](http://www.opencanada.org).

<sup>11</sup> See Regulation (EC) No 1007/2009 of the European Parliament and of the Council, of 16 September 2009, on trade in seal products *OJ* 2009, L 286/36; and Commission Regulation (EU) No 737/2010, of 10 August 2010, laying down detailed rules for the implementation of Regulation (EC) No 1007/2009 of the European Parliament and of the Council on trade in seal products *OJ* 2010, L 216/1.

<sup>12</sup> In *The Guardian*, 25 January, 2012, it was suggested that Norway may not support the Chinese application due to China's actions against Norway following the award of the 2010 Nobel peace prize to Chinese democracy activist Liu Xiaobo.

### **Continuation, Re-accreditation and Suspension of Observer Status**

Whereas Rule 36 and Annex 2 to the Rules of Procedure deal with the admission of permanent observers, Rule 37 deals among other things with the continuation and suspension of that status. The relevant sentences read as follows:

[...] Observer status shall continue for such time as consensus exists at the Ministerial meeting. Any Observer that engages in activities which are at odds with the Council's Declaration shall have its status as an Observer suspended. [...]

It is appropriate to begin with pointing out that (as far as the author is aware) no observer has ever had its status suspended by the Council. Moreover, the Rules of Procedure do not contain arrangements for the suspension of the status of Members or Permanent Participants. As regards Members, such arrangements would of course not be able to rely on consensus decision-making because the Member in question could block consensus on its own. It also seems that arrangements to suspend or expel Members, rather than suspend voting rights or other privileges due to issues such as non-payment of annual contributions, are very rare within international organizations or bodies and are applied even more rarely. The option of expulsion from the United Nations pursuant to Article 6 of the UN Charter is a case in point.

The suspension of the status of observer with the Council is not inconsistent with international law. This follows from the conclusion drawn in subsection 2.5.1 that the Council's current mandate and main approaches imply that current international law does not provide a clearly applicable and unqualified entitlement to non-Arctic states and entities to become a member of the Council.

Rule 37 contains only one ground for suspension, namely engaging "in activities which are at odds with the Council's Declaration." While this is more likely to be invoked in relation to environmental NGOs, the wording does preclude activities carried out by states or entities that can be attributed to them. It may well be that this ground for suspension was invoked as the reason for the rejection of Greenpeace International's request for the status of ad hoc observer for both the

Tromsø and Nuuk Ministerial Meetings<sup>13</sup> and for an earlier request by the International Fund for Animal Welfare (Graczyk, 2011, p. 605, n. 137).

While the duration of the status of ad hoc observer is commonly specified in either the initial request or the decision on that request, Rule 37 is ambiguous about the continuation of the status of permanent observer. Does continuation require an actual decision (re-accreditation) or can the status continue tacitly if no decision is made to withdraw it? The choice for one or the other has important implications due to consensus decision-making. If continuation would require an actual decision, this could be blocked by just one member. Pursuant to the alternative approach, however, suspension could be blocked by just one Member.

This issue will here be examined in detail with respect to non-Arctic states. The 1998 Iqaluit Declaration welcomed and approved the status of permanent observer for Germany, the Netherlands, Poland and the United Kingdom and these non-Arctic states were also listed in Annex 2 to the Rules of Procedure. It seems that discontinuation or suspension of their status would have required the Rules of Procedure to be amended. Paragraph 24 of the 2000 Barrow Declaration uses the phrase “welcome and approve the status of observer for the period until the next Ministerial Meeting for France.” No reference is made to Germany, the Netherlands, Poland and the United Kingdom and Annex 2 to the Rules of Procedure was also not amended to include France. Whereas the status of France is thus granted for a specified period and thereby subject to re-accreditation, the other four non-Arctic states are still subject to tacit continuation.

A different approach was pursued in the 2002 Inari Declaration, by which the Ministers “approve the status as observers of the Arctic Council for the period of time until the 4<sup>th</sup> Ministerial Meeting” and list all five non-Arctic states just mentioned (para. 13). The approach of re-accreditation was thereby applied equally to all, even though Annex 2 to the Rules of Procedure was not amended to either include France or delete all others. Yet another approach was pursued in the 2004 Reykjavík Declaration, which uses the phrase “approve as observers to the Arctic Council” followed by listing all five non-Arctic states. Strictly speaking, they were thus re-accredited for an indefinite period even though Annex 2 to the Rules

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<sup>13</sup> Information on these requests was provided by a representative of Greenpeace International by e-mail to the author on 9 November 2011.

of Procedure remained once again unchanged. An identical approach was pursued in the 2006 Salekhard Declaration, even though Spain's observer status was approved for the first time and the other five had already been accredited for an indefinite period. The 2009 Tromsø Declaration did not accredit or re-accredit observers because – as explained above – the Council had been unable to reach consensus on how to handle the new applications. Likewise, the 2011 Nuuk Declaration did not accredit, re-accredit or suspend observers but decided to apply the Nuuk Observer Rules (see below) to pending applications. As noted earlier, the Nuuk Observer Rules can only be formally applied once they have been incorporated in amended Rules of Procedure adopted by a Ministerial Meeting. This cannot occur sooner than 2013.

This overview of the Council's practice on according observer status reveals a considerable lack of uniformity and consistency, both on the need for re-accreditation and the duration of observer status. It is quite likely that this was caused by the fact that observers were not regarded as a significant issue by Members and Permanent Participants. This changed abruptly in the run-up to the Tromsø Ministerial, when several global players applied for observer status and global media zoomed in on the Arctic.

### **The Nuuk Observer Rules**

The Nuuk Observer Rules commence with a short introductory section, followed by three short, substantive sections with the following titles: Criteria for admitting observers, Role of observers and Accreditation and review of observers of the Arctic Council. The final section on the observer manual is only meant to announce that such a manual will be published. As regards the role of observers, reference is made to the discussion in subsection 2.5.1 above.

The section Criteria for admitting observers clarifies that the status of observer will continue to be available to the three categories mentioned in Rule 36 of the current Rules of Procedure. A change is nevertheless contained in the section Accreditation and review of observers of the Arctic Council, which announces the abolishment of the status of ad hoc observer. A temporary exception is made for the present applicants (then China, Italy, Japan, South Korea and the EU), which may be given this status for “specific meetings [...] until the Ministers have decided upon their applications.” Presumably, Singapore will be treated equally. As

the status of ad hoc observer will therefore no longer provide a solution for special situations, it will be interesting to see if the TFII will propose the creation of a new participatory status with a lower ranking than a regular observer. Reference can in this context be made to the practice in the ATS where Malaysia has been “invited to observe” several ATCMs (34<sup>th</sup> ATCM, Final Report, para. 459) and to the earlier practice of the Arctic Council to allow the European Commission to participate as an “Invited Guest” (Graczyk, 2011, p. 607, n. 150).

The section Criteria for admitting observers also clarifies that the core criterion for admission as observer continues to be “the ability to contribute to the work of the Council.” This is then complemented by implementation guidance through the following text:

In the determination by the Council of the general suitability of an applicant for observer status the Council will, inter alia, take into account the extent to which observers:

- Accept and support the objectives of the Arctic Council defined in the Ottawa declaration.
- Recognize Arctic States’ sovereignty, sovereign rights and jurisdiction in the Arctic.
- Recognize that an extensive legal framework applies to the Arctic Ocean including, notably, the Law of the Sea, and that this framework provides a solid foundation for responsible management of this ocean.
- Respect the values, interests, culture and traditions of Arctic indigenous peoples and other Arctic inhabitants.
- Have demonstrated a political willingness as well as financial ability to contribute to the work of the Permanent Participants and other Arctic indigenous peoples.
- Have demonstrated their Arctic interests and expertise relevant to the work of the Arctic Council.
- Have demonstrated a concrete interest and ability to support the work of the Arctic Council, including through partnerships with member states and Permanent Participants bringing Arctic concerns to global decision making bodies.

Instead of a separate discussion on each of these seven criteria, some general comments are offered here. First, the criteria apply to all three categories of observers. Second, admission is only possible when all seven criteria are met. A considerable margin of appreciation is nevertheless offered by the words “the extent to which” in the chapeau. While the first three criteria can probably be easily satisfied by all applicants, the last three criteria are quite specific and concrete, and constitute a considerably higher threshold in comparison with the current Rules of Procedure, which only contains the core criterion of “the ability to contribute to the work of the Council.” Third, the fact that the last three criteria use the word “demonstrated,” means that applicants actually have to prove compliance with these criteria by (recently) undertaken concrete action. The use of “demonstrated” in conjunction with “financial ability” in the fifth criterion thus constitutes a mandatory minimum level of funding. A maximum level of funding exists in principle since the section Role of observers stipulates that observers:

may propose projects through an Arctic State or a Permanent Participant but financial contributions from observers to any given project may not exceed the financing from Arctic States, unless otherwise decided by the SAOs.

The purpose of this maximum level of funding, which the SAOs can lift if desirable, seems to be to constrain the prominence of observer participation. It is submitted, however, that the mandatory minimum level of funding may prove to be much more significant. In conjunction with the introduction of other new obligations without their being balanced by new rights or benefits, this new obligation may give rise to a sentiment reminiscent of that underlying the famous 18<sup>th</sup> century slogan “No taxation without representation.” The joint statement made by the observer states at the November 2008 SAOs Meeting reflects such a sentiment as well. The Report summarizes part of this statement as follows:

“[...] Observers wish to cooperate not only on science but also [on] decision-making. The possibility of Observers to co-fund AC projects is more likely if Observers are involved early at the project development phase. Observers would like to participate in AC discussions on the role and level of engagement for Observers” (p. 12).

Fourth, while these criteria are in principle only meant for admission and re-accreditation, they might in one way or another also operate as grounds for suspension under the amended Rules of Procedure. Fifth and last, even though it cannot be denied that these more specific and concrete criteria are useful, the task of applying them for concrete applications will remain a challenge. Most importantly, except in cases at both ends of the spectrum of compliance, the criteria do not allow for a largely factual or technical and thereby objective assessment. The Council's credibility and legitimacy will be at stake if applications are not handled equally, particularly in terms of robustness and thoroughness, and if the criteria are not applied consistently and without discrimination. Provided that steps have been taken to avoid this, it should not be a problem for the Council to provide a reasoned explanation in case an application for observer status is rejected. Such a reasoned explanation would in fact constitute further evidence of the soundness and robustness of the procedure for admission of observers.

The section Accreditation and review of observers of the Arctic Council sheds more light on the procedures for accreditation, continuation and re-accreditation of observer status. The section consists of four bullet points, the first three of which read as follows:

- o Not later than 120 days before a ministerial meeting, the host country shall circulate, to all Arctic states and Permanent Participants, a list of entities that have applied for observer status.
- o Observers are requested to submit to the Arctic Council, not later than 120 days before a Ministerial meeting, up-to-date information about relevant activities and their contributions to the work of the Arctic Council should they wish to continue as an observer to the Council.
- o Every four years, from the date of being granted observer status, observers should state affirmatively their continued interest in observer status. Not later than 120 days before a Ministerial meeting where observers will be reviewed, the SAO Chair shall circulate to the Arctic States and Permanent Participants a list of all accredited observers and up to date information on their activities relevant to the work of the Arctic Council.

The first bullet point thus deals with accreditation of new applicants; the second point with continuation of observer status; and the third with re-accreditation of that status. For entities with observer status, the procedures for continuation and re-accreditation will in practice alternate every two years. As regards the procedure for continuation, they have to submit information “about relevant activities and their contributions to the work of the Arctic Council.” Even though the procedure for re-accreditation uses different wording on this and the procedure for accreditation none at all, it seems that they are intended to be essentially similar in this respect.

It is worth noting here that the Council already has some experience with reviewing observer status. Sometime during mid-2010, the Arctic Council requested all existing observers and applicants to submit information on their activities, and to state their interest in remaining/becoming an observer. In the end, this information only seems to have been used for the deliberations on the Nuuk Observer Rules (SAO Report, March 2011, p. 2).

The cited text above dispels any ambiguity on the period for which observer status is granted: once observer status is granted or approved by means of accreditation, continuation or re-accreditation, it lasts until the next Ministerial Meeting. As Ministerial Declarations will probably contain a list of entities with approved observer status, the current list of observers in Annex 2 to the Rules of Procedure will therefore no longer be necessary. As regards decision-making, approval of both accreditation and re-accreditation obviously requires an actual decision, which could thus be blocked by a single Member. Conversely, it seems logical to assume that approval of continuation does not require an actual decision but can be done tacitly, unless the Council adopts an actual decision to suspend it, which could then be blocked by a single Member. This may at first sight seem odd, but it should not be forgotten that the alternate procedure applies at the next Ministerial.

As noted earlier, the TFII is charged with preparing amendments to the Rules of Procedure based, *inter alia*, on the Nuuk Observer Rules. These amendments are scheduled to be adopted at the 2013 Kiruna Ministerial Meeting. But while the Nuuk Declaration specifies that the Nuuk Observer Rules will be applied to pending applicants, it does not explicitly say that this should be finalized at the 2013 Kiruna Ministerial Meeting. Similarly, it is not clear if entities that currently hold observer status will already be subject to the procedure for continuation at the

2013 Kiruna Ministerial Meeting or if this procedure will be applied for the first time at the 2015 Ministerial Meeting somewhere in Canada.

## 2.6 INSTITUTIONAL STRUCTURE

The operation of the Arctic Council revolves around the bi-annual Ministerial Meetings where, *inter alia*, the Council's output is formally approved or endorsed, new projects and future work plans are adopted and other important decisions, for instance on observers, are made. The rotating Chair to the Council and SAOs are responsible for preparing the next Ministerial (in particular to ensure that targets agreed at the previous Ministerial are met), as well as for the day-to-day operation of the Council. SAOs commonly meet twice each year. In May 2010, the first Deputy Minister's Meeting took place and the second meeting is scheduled to take place on 15 May 2012.<sup>14</sup> The exact role and mandate of such meetings still needs clarification (SAO Report, October 2010, p. 3).

Most of the substantive work of the Council takes place within its six Working Groups, namely

- Arctic Contaminants Action Programme (ACAP)
- Arctic Monitoring and Assessment Programme (AMAP)
- Conservation of Arctic Flora and Fauna (CAFF)
- Emergency Prevention, Preparedness and Response (EPPR);
- Protection of the Arctic Marine Environment (PAME)
- Sustainable Development Working Group (SDWG)

All Working Groups commonly meet once or twice a year, are supported by their own secretariats, have their own websites and logos and operate quite independently. This independence can to some extent be attributed to the large representation of scientists and the predominantly scientific nature of their work.

As is noted in the Framework for Strengthening the Arctic Council, in case the Council decides to undertake "specific initiatives that require unique expertise" it may establish Task Forces. The competence to do so is explicitly noted in Rule 28 of the Rules of Procedure. The Arctic SAR Task Force, the TFII and MOPPR Task Force established at the Nuuk Ministerial, are examples of this. It may well be that

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<sup>14</sup> Information obtained from [www.arctic-council.org](http://www.arctic-council.org), at 20 March, 2012.

the Council will resort to more frequent use of Task Forces once the Council develops into a more operational body. Rule 28 also empowers the Council to establish “other subsidiary bodies.” A recent example is the Arctic EBM Expert Group established by the Nuuk Ministerial. Finally, the Arctic Council will have its own secretariat based in Tromsø once it has been formally established at the 2013 Kiruna Ministerial Meeting.

The preceding discussion only relates to the institutional structure of the Council but not to the broader ACS notion. As subsection 2.3 above postulated that the Arctic SAR Agreement could be viewed as part of the ACS, the Meetings of Parties (MoPs) envisaged in Article 10 of the Arctic SAR Agreement are then part of the institutional structure of the ACS. Article 10, entitled Meetings of the Parties reads:

The Parties shall meet on a regular basis in order to consider and resolve issues regarding practical cooperation. At these meetings they should consider issues including but not limited to:

- (a) reciprocal visits by search and rescue experts
- (b) conducting joint search and rescue exercises and training
- (c) possible participation of search and rescue experts as observers at national search and rescue exercises of any other Party
- (d) preparation of proposals for the development of cooperation under this Agreement
- (e) planning, development, and use of communication systems
- (f) mechanisms to review and, where necessary, improve the application of international guidelines to issues concerning search and rescue in the Arctic
- (g) review of relevant guidance on Arctic meteorological services

Even though the chapeau indicates that the mandate of MoPs is “to consider and resolve issues regarding practical cooperation,” some of these issues, in particular paragraphs D and F, may move MoPs beyond implementation into the domain of progressive development. The circumstance that the list is non-exhaustive (“including but not limited to”) may contribute to this as well.

How MoPs will exercise its mandate remains to be seen, as no MoPs have taken place so far. At least as interesting will be the Council’s efforts to ensure implementation and follow-up of the Arctic SAR Agreement. As signalled in

subsection 2.3 above, these efforts may go beyond the Council's decision-shaping function. If that would indeed occur, it would, in light of EPPR's mandate and its past, current (see EPPR Report to SAOs, November 2011) and future work, probably take place in the context of EPPR. A more likely scenario relates to the role of EPPR vis-à-vis the future Arctic MOPPR Instrument, assuming the latter will also have an institutional component. EPPR is already deeply involved in assisting the MOPPR Task Force (EPPR Report to SAOs, November 2011).

## 2.7 DECISION-MAKING

The rules on formal decision-making in the Council are laid down in Rule 7 of the Rules of Procedure. It provides, where relevant for this article, that:

In accordance with the Declaration, all decisions of the Arctic Council and its subsidiary bodies, including with respect to decisions to be taken by SAOs, shall be by a consensus of all eight Arctic States. [...]

While it is standard practice within international organizations and bodies that Observers are not entitled to participate in formal decision-making, Rule 7 indicates that Permanent Participants do not have such an entitlement either. Permanent Participants nevertheless have considerable influence on formal decision-making as a consequence of the two purposes for which their status was created (Koivurova and VanderZwaag, 2007, p. 130). Rule 5 stipulates in this regard:

In accordance with the Declaration, the category of Permanent Participation<sup>15</sup> is created to provide for active participation [by]<sup>16</sup> and full consultation with the Arctic indigenous representatives within the Arctic Council. This principle applies to all meetings and activities of the Arctic Council.

The purpose of "active participation" concerns participation in a literal sense, for instance by means of attendance and full engagement by representatives of Permanent Participants in meetings. The words "active participation" are not intended to apply to formal decision-making, as such an interpretation would be

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<sup>15</sup> While the term "Participant" is more consistent with the Rules of Procedure, the term "Participation" may have been chosen because it had also been used in Article 2 of the Ottawa Declaration. See in this regard also Rule 1 of the Rules of Procedure.

<sup>16</sup> It is submitted that without the word "by" this sentence is confusing.

inconsistent with the clear meaning and purpose of Rule 7. The principle set out in Rule 5 is furthermore subject to Rule 6, which stipulates that the Heads of Delegation of the Arctic States “may meet privately at their discretion.”

In light of this interpretation of the meaning and purpose of “active participation,” it can be concluded that the purpose of “full consultation” is to give Permanent Participants a role in the decision-formation phase prior to formal decision-making, for instance through providing information or opinions. This conclusion is consistent with the Framework for Strengthening the Arctic Council adopted in Nuuk, which stipulates:

Decisions at all levels in the Arctic Council are the exclusive right and responsibility of the eight Arctic States with the involvement of the Permanent Participants (SAO Report, May 2011, p. 50).

It is worth noting here as well that Rule 5 is not formulated in a manner that makes full consultation an explicit entitlement for Permanent Participants or an explicit obligation that Members must comply with. Implicitly, however, the purpose of full consultation creates an entitlement for Permanent Participants that Members are not only expected to respect but presumably also to more proactively safeguard and facilitate. Finally, in addition to the general rule contained in Rule 5, there are several Rules of Procedure (Rules 13, 15, 19 and 25) which refer to the consultation of Permanent Participants in wording that is similar to that used in Rule 5.

It is finally important to realize that with consensus decision-making it is often very difficult to determine at what moment the decision-formation phase has ended and formal decision-making has commenced. Contrary to decision-making by unanimity, consensus decision-making does not involve actual voting. There is also no standard procedure that is followed by all international organizations and bodies for determining whether or not consensus exists. A chairperson may in some cases feel that it is so apparent that consensus either does or does not exist, that he/she will simply lead the meeting to the next issue for consideration. In other cases, however, a chairperson may feel that it is unclear if consensus exists and may request those entitled to participate in decision-making to provide clarity. Both the timing and the way in which this request is formulated by a chairperson can have a significant influence on the outcome of decision-making.

In the context of the Arctic Council, these considerations mean that there could be instances during the decision-formation stage where consensus seems to have more or less crystallized among the members, but one or more Permanent Participants express such strong objections that one or more members change their view and oppose consensus after all. A member may for instance decide to change its view if the objections are made by Permanent Participants that also represent Arctic indigenous peoples with the Member's nationality, which are thereby also its constituents.

## 2.8 FUNDING

So far, all Council activities have been funded through voluntary contributions, predominantly by the members and incidentally by others. The costs for the day-to-day operation of the Working Group secretariats and the temporary Arctic Council Secretariat have been largely born by their host countries and new activities could only be undertaken after sufficient ad hoc financial contributions had been secured. The 2013 Kiruna Ministerial Meeting is not expected to fundamentally change this, except that the Administrative Budget of the permanent Arctic Council Secretariat based in Tromsø is scheduled to be adopted. The TFII is charged with developing an indicative budget which, as stipulated in the Framework for Strengthening the Arctic Council, "should not exceed USD \$1 million" and "will be divided into eight equal parts financed by all eight Arctic States." Members are of course free to make additional contributions.

Observers will also be subject to mandatory financial contributions once the Nuuk Observer Rules are applied. As concluded in the subsection on The Nuuk Observer Rules, one of the new criteria for admitting observers constitutes a mandatory minimum level of funding. This could be implemented by means of a fund established for the benefit of Permanent Participants and other Arctic indigenous peoples, and administered by the Arctic Council Secretariat.

## 3. CONCLUSIONS

The law of the sea's global instruments often depend on adequate regional implementation and therefore include obligations on regional co-operation, for

instance for the regulation of human activities with an inherent or potential transboundary dimension or in relation to ecosystem components with a transboundary range of distribution. In certain scenarios regional states do not need such obligations as they regard such co-operation to be fully in line with their own interests. In addition to avoiding transboundary impacts, these interests could include the capacity of regional regulation to create a regional level playing field and regional uniformity.

Obligations on regional co-operation under the international law of the sea exist among other things in the following domains:

1. Merchant shipping
2. Marine environmental protection
3. Conservation and management of marine living resources
4. Enclosed or semi-enclosed seas
5. Marine scientific research
6. Search and rescue

Within some of these domains, a role is already carried out by the Arctic Council *per se* and in other domains within the broader ACS notion put forward in this article. The traditionally strongest role of the Arctic Council is in the domain of scientific research, in particular through monitoring and assessment. In performing this role, the Arctic Council has been active in the domains of merchant shipping (e.g. AMSA) as well as in marine environmental protection and conservation, as well as management of marine living resources (e.g. ACIA, SWIPA (Snow, Water, Ice and Permafrost in the Arctic) and the still ongoing ABA (Arctic Biodiversity Assessment).

In some cases the Arctic Council complemented its monitoring and assessment role with a decision-shaping role or a limited regulatory role. The AMSA is an example of the former and the Arctic Council's non-legally binding Arctic Offshore Oil and Gas Guidelines an example of the latter.

This article proposes the notion of the ACS to rationalize that the Arctic SAR Agreement and the Meetings of the Parties established by it can be part of the Council's output even though it was not, and in fact could not be, formally adopted by it. The notion of the ACS consists of two basic components. The first component is made up of the Council's constitutive instrument, the Ottawa

Declaration, other Ministerial Declarations, other instruments adopted by the Arctic Council, such as its Arctic Offshore Oil and Gas Guidelines, and the Council's institutional structure. The second component consists of instruments negotiated under the Council's auspices, but not adopted by it, and their institutional dimension. The envisaged Arctic MOPPR Instrument and its institutional dimension, if relevant, will belong to this second component as well. Pursuant to this notion postulated here, the Arctic Council is part of the broader ACS, which performs roles in addition to the roles of the Arctic Council per se. Since the adoption of the Arctic SAR Agreement, the ACS also performs a regulatory role on search and rescue, and a regulatory role is envisaged for contingency planning for oil pollution incidents.

The ACS notion can also be put in a broader context. The two-tiered approach of negotiating non-legally binding international instruments under the auspices of the Council, thereby giving rise to the ACS as well as strengthening the Arctic Council through, *inter alia*, a standing Arctic Council secretariat, shapes the evolving international regime for the governance and regulation of the marine Arctic. This two-tiered approach is preferred by the Arctic eight and in particular the Arctic five over a new regional framework instrument, at least for now and the immediate future.

There are several domains which require or would benefit from enhanced regional co-operation in the marine Arctic, and the ACS may expand to fill these gaps and shortcomings. In considering some roles, the Arctic Council will be confronted with the constraints inherent in the *pacta tertiis* principle, such as the domain of marine capture fisheries (see Molenaar, 2012). There are basically two ways in which these constraints can be resolved: by broadening participation or by keeping participation as it is but tailoring the scope and extent of regulation to ensure consistency with the *pacta tertiis* principle.

The Nuuk Observer Rules certainly do not reflect a desire to pursue the former strategy. Their core purpose is to provide more clarity as to which entities are entitled to the status of observer, which rights and obligations that status brings along and how accreditation and re-accreditation should occur procedurally. Further clarity on this will require several two-year cycles during which the Nuuk Observer Rules are actually applied. Even at this stage, however, it will be interesting to see how eager current Observers - those that have been actively

involved in the Council in recent years as well as those that have not - and new applicants are to remain or become Observer. Particularly in light of the current financial and economic crisis in many parts of the world, several observers will undoubtedly conduct a cost-benefit analysis on this decision and this will surely reveal that observer status provides few tangible benefits yet considerable costs. The mandatory minimum level of funding introduced by the Nuuk Observer Rules may play a critical role in that respect. In conjunction with the introduction of other new obligations without being balanced by new rights or benefits, this new obligation may give rise to a sentiment reminiscent of that underlying the famous 18<sup>th</sup> century slogan “No taxation without representation.”

Decisions on applying or re-applying for observer status are also likely to be influenced by the way in which the Nuuk Observer Rules and the treatment of observers and applicants during recent years are perceived. It seems that the prevailing perception is not welcoming or inclusive but rather unwelcoming and exclusive. But perceptions change. Such change can be brought about by the Arctic Council’s practices on the implementation and application of the Nuuk Observer Rules or the treatment of observers in general. The TFII could for instance address some of the concerns of existing observers and applicants in its proposals for amendments to the Council’s Rules of Procedure scheduled for adoption by the Kiruna Ministerial in 2013.

A change in perception may also be brought about by a more widespread recognition that the current closed nature of the Council is not inconsistent with current international law. The opposite is also possible, for instance, if it became a generally accepted view that inadequate regional implementation of global obligations affects the non-user rights and interests of non-regional states and the international community, and that non-regional states are entitled to participate to safeguard non-user interests. The latter view may also gain ground within the Arctic Council if it develops in tandem with a better appreciation of the benefits that broader participation can bring in terms of, *inter alia*, legitimacy, global adherence to regional regulations, and broader support in other regional or global bodies to regulate human activities that have an impact on the Arctic region from outside of it.

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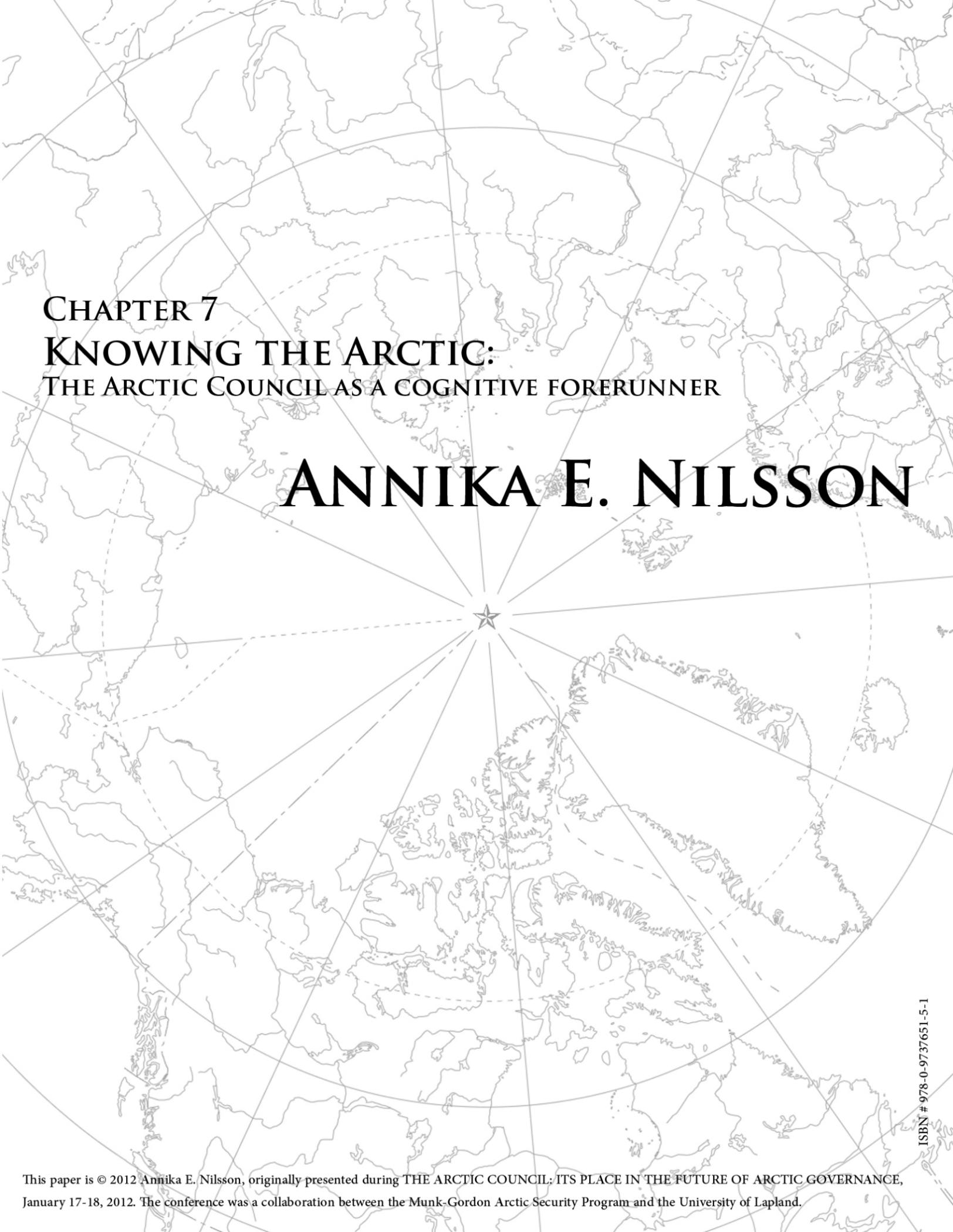
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**CHAPTER 7**  
**KNOWING THE ARCTIC:**  
**THE ARCTIC COUNCIL AS A COGNITIVE FORERUNNER**

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ISBN # 978-0-9737651-5-1

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# KNOWING THE ARCTIC: THE ARCTIC COUNCIL AS A COGNITIVE FORERUNNER

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## ABSTRACT

*A CORE TASK OF THE ARCTIC COUNCIL HAS BEEN TO CONDUCT scientific assessments of the state of the Arctic. Several reports, including the Arctic Climate Impact Assessment, have brought attention to the Arctic from far beyond the region. Some assessments have also had substantial impact on policy development. The focus on persistent organic pollutants (POPs) is one case. These examples reveal that the Arctic Council is a cognitive forerunner and assessments a tool for “soft” power.*

*Given the political challenges in reaching legally binding political agreements, it is likely that assessments and other activities related to cognitive power will continue to be important for the Arctic Council. This chapter analyzes circumstances that have facilitated or hindered successes in the past. It focuses on two issues that pose significant challenges for Arctic people: POPs and climate change. Based on the analysis, it discusses the organization of the Arctic Council working groups, concluding that the current organizational structure is not adequate for the challenges that are facing the Arctic today.*

*To continue to be a cognitive forerunner, the Arctic Council has to increase its ability to assess the interactions of different drivers of change, including social changes connected with pressures from globalization. It will also need to address politically contentious issues, which creates new challenges regarding the delicate boundary between science and policy.*

**Annika E. Nilsson** has a PhD in environmental science and over 20 years of professional experience as a science writer. She currently holds a position as Senior Research Fellow at Stockholm Environment Institute, Stockholm Sweden. Her current research focuses on Arctic environmental change and its implications for society, including international politics. It includes specifically looking at how rapid environmental changes affect the political landscape and how developments in the Arctic challenge many mainstream theories in international relations. She has also studied how international cooperation influences knowledge production,

*Keywords: Arctic Climate Impact Assessment, persistent organic pollutants (POPs), Arctic Council, AMAP, soft power, assessment, policy impact, shadow space, adaptive governance*

## INTRODUCTION

In the past five years, attention to the Arctic region has grown dramatically. This is apparent in media reports, political statements, investments to exploit the region's natural resources, as well as in efforts to increase capacity to carry out research. As the Arctic moves closer to the center of global commercial and political interests, anticipation over increased pressures on its fragile environment has led to demands for new governance structures or reforms in the current regime. This includes pressure on the Arctic Council to move from being a soft-law body to one that includes legal muscle. Some signs of such a move are already underway, including the collaboration in the search and rescue operations agreement that was signed in Nuuk, Greenland, in May 2011 (Search and Rescue Agreement, 2011). However, based on the Arctic Council's record to date, equally important will be to continue to develop its role as a cognitive forerunner in environmental policy.

Since its inception, one of the core tasks of the Arctic Council has been to produce reports that describe the state of the Arctic environment. These have addressed a broad range of environmental issues, including toxic pollutants and their impact on people and wildlife; threats from nuclear materials stored in the Arctic; and the impact of climate change in the Arctic. More recently, the range of issues has broadened to include assessments of human development in the Arctic, as well as attention to shipping and economic issues.

A recent survey indicates that scientific assessments are seen as the most effective "products" of the Arctic Council (Kankaanpää and Young, 2012). Several of the assessment reports have become standard references and have brought attention to environmental impacts in the Arctic far beyond the region. A prominent example is the Arctic Climate Impact Assessment (ACIA), which made the Arctic a bellwether for global climate change through providing powerful images of the impacts of climate change in the here and now (Nilsson, 2007). Some assessment activities have also had a substantial impact on policy development, including the Stockholm Convention on Persistent Organic Pollutants (POPs), where the

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**cont'd**

including a PhD dissertation about the Arctic Climate Impact Assessment. In addition to the Arctic focus, Nilsson also carries out research on social learning and communication at the science-policy interface, where current work includes studies on climate and biodiversity policy development in the context of multilevel governance. As a science writer she has participated in several assessments about the Arctic, focusing on pollution and on human development.

resulting political action has contributed to a decline in contaminant pressures on the Arctic environment (Downie and Fenge, 2003; AMAP, 2009).

### *Soft power*

In their study of regime effectiveness, Schram-Stokke and Hønneland have labeled the focus on scientific assessments within the Arctic Council as a “cognitive niche,” where the main role has been to provide new knowledge through fact-finding activities based on environmental monitoring and scientific assessment (Stokke and Hønneland, 2006). Such a cognitive niche is related to “soft” power and indeed to soft law, as opposed to using coercion (military or economic) or formalized legal measures (hard law) (Abbott and Snidal, 2000).

Soft power has been defined as “the ability to get what you want through attraction rather than through coercion” (Nye, 2004). It is about setting or shifting the discourse and making sure that the issues at hand are framed in such a way that it serves one’s goals. It is about shaping the norms that will guide the behavior of different actors even in the absence of hard power or the threat of legal repercussions.

Given a combination of previous successes in using cognitive power and the political challenges in reaching legally binding political agreements, it is likely that scientific assessments and other activities related to cognitive power will continue to play an important role for the Arctic Council. It therefore becomes relevant to look at what has made earlier successes possible and address some of the challenges to achieve continued success.

The chapter aims to contribute to a discussion about the future role of the Arctic Council as a cognitive forerunner by analyzing its performance in relation to two issues that pose significant challenges for people living in the region: POPs and climate change. It will also address some organizational issues for the Arctic Council if it is to continue to be a cognitive forerunner at a time when drivers of change increasingly interact with each other, including the social changes connected to pressures from globalization. A final question discussed is how to achieve balance between providing a scientific, independent knowledge base for political decisions and being effective in formulating policy advice. The increasing pressure on the Arctic Council to act politically is likely to raise the political stakes

related to scientific outcomes, which may affect the assessments' ability to provide impartial knowledge.

## METHODOLOGY

### *Assessments as social processes at the interface of science and policy*

The analysis takes its point of departure in insights from studies of scientific assessments and their influence on policy, which reveal that scientific assessments emerge from interplay between science and policy (Mitchell et al. 2006). The phenomena that they address are thus constructed by a myriad of social interactions within the scientific community and with actors outside science who play a role in defining the problems science is supposed to address and by endorsing the solutions recommended by the scientific community (Long and Iles, 1997). In this co-production of knowledge, science and policy derive legitimacy from each other (Jasanoff and Wynne, 1998). In analyzing cognitive power, knowledge should therefore not be seen as something static – that is as a tool that actors take from a shelf to use for wielding power in a particular situation – but as the outcome of continuous social processes whereby issues are framed and sometimes reframed to promote certain interests (see e.g. Mitchell et al. 2006; Selin and Eckley, 2003).

Scientific assessments sometimes have the ability to frame or even reframe an issue in ways that can change the political playing field and make new agreements or commitments possible. However, science's ability to influence policy cannot be taken for granted, as many efforts at using scientific knowledge to influence environmental negotiation have not had much effect.

Mitchell and others highlight three criteria that increase the probability that a scientific assessment will influence policy: salience, credibility, and legitimacy (Mitchell et al. 2006). Salience refers to whether the assessment is seen as relevant to the policy context; credibility deals with whether it is judged to be scientifically reliable; and legitimacy refers to whether the assessment is politically acceptable, and the process seen as fair to the users.

Scientific credibility and political legitimacy do not always go hand in hand, especially in controversial areas such as climate change, where the policy stakes are high and science is often called into question. In fact, there may be tensions and tradeoffs between salience, credibility, and legitimacy. Consequently, it may become necessary to ask, “for whom is the assessment salient, credible and legitimate?” Moreover, it should not be taken for granted that being able to communicate successfully with one group will ensure success with actors from other arenas.

### *A wealth of assessments*

By now, a large number of scientific assessments have been conducted under the auspices of the Arctic Council and its predecessor the Arctic Environmental Protection Strategy (AEPS). They range from broad assessments such as the Arctic Monitoring and Assessment Programme’s 1997 and 2002 studies of several major pollution issues in the Arctic (AMAP, 1997; AMAP, 1998; AMAP, 2002), the Arctic Climate Impact Assessment (ACIA, 2004; ACIA, 2005), and the Arctic Human Development Report (AHDR, 2004); to more focused reports dealing with specific issues.

The majority of the assessments have had their organizational home within the Arctic Monitoring and Assessment Programme (AMAP), which also has the longest track record of doing such assessments. More recently, other working groups have become more active, including the working group on Conservation of Arctic Flora and Fauna (CAFF), which is undertaking an Arctic Biodiversity Assessment, and the Working Group on Protection of the Arctic Marine Environment (PAME) which produced the Arctic Marine Shipping Assessment (AMSA, 2009) and has an ongoing Arctic Ocean Review. The Arctic Human Development Report and its follow-up AHDR-II, which is currently in advanced progress, are closely linked to the Sustainable Development Working Group (SDWG). Of all Arctic Council products, the ACIA, the AMAP reports, and the Arctic Marine Shipping Assessment report are considered to be the Arctic Council’s top “products” according to a survey-based study of the effectiveness of the Arctic Council (Kankaanpää and Young, 2012).

Although it would be valuable to analyze all the assessment processes in terms of their cognitive power for the Arctic Council in more detail, the analysis presented

in this chapter is more modest and focuses on two major issues: POPs and climate change. The POPs issue has had its organizational home within AMAP, while the situation is more complex for the ACIA and climate change, which will be described in more detail later.

### *Methods*

The empirical basis for the climate change case is a previously published major study of the ACIA process (Nilsson, 2007) and an ongoing analysis of how the Arctic Council has followed up on the ACIA study. This study relies mainly on process tracing based on formal documentation of activities within the Arctic Council and its working groups (e.g. meeting protocols, published reports). A few interviews have also been conducted with participants in the SWIPA process (SWIPA: Climate Change and the Cryosphere – Snow, Water, Ice and Permafrost in the Arctic). For the POPs case, the analysis relies on some process documentation, but mainly on published literature combined with personal observations from participating in several assessments as a science writer. The results from both case studies are presented as condensed narratives and are followed by a discussion of some major factors that appear to have affected the outcomes of these processes.

## AMAP AND POPS

When circumpolar political co-operation gained momentum in the early 1990s with the AEPS, a major focus was the preparation of reports on different pollution issues. Partly inspired by East-West collaboration on long-range transboundary air pollution in Europe, one of the early activities was to set up AMAP (Rovaniemi Declaration, 1991; Young, 1998). AMAP's first major report is a five-kilogram brick that presents the state of the Arctic environment. The focus is on POPs, heavy metals, radioactivity, acidification, and petroleum hydrocarbons, with some discussion also of climate change and ultraviolet radiation. The report also provides substantial background texts on polar ecology, peoples of the North, and physical pathways for contaminant transport, as well as a chapter that gives an integrated picture of contaminants and human health in the Arctic (AMAP, 1998).

The issue of POPs and human health in the Arctic had been a growing concern since the mid-1980s, especially in Canada, where it was emphasized by information from its Northern Contaminants Programme (DeWailly and Furgal, 2003; Shearer and Han, 2003; Selin and Eckley, 2003). Contaminants were on the circumpolar political agenda as early as the Rovaniemi meeting in 1991, where ministers agreed to support the United Nations Economic Commission for Europe (UNECE) in its work on POPs. The UNECE work included a task force that was examining the potential for a POPs protocol to the Convention on Long-range Transboundary Air Pollution (LRTAP) (Jensen, 1990; Reiersen et al. 2003).

According to Selin and Selin and Eckley, the UNECE LRTAP assessment on POPs served as the major venue for framing POPs as a policy concern (Selin, 2003; Selin and Eckley, 2003). This early stage of formulating international POPs policy has also been linked to the development of global regulation of pesticides in relation to food safety and human health concerns, where the international attention to environmental concerns has been explained by a “pressure group campaign supported by a UN-led epistemic community” (Hough, 2003).

One should be careful to not overstate the impact of Arctic assessments of POPs on the global chemicals regime (for review of the evolution of global chemical policy see e.g. Chasek et al. 2006; Selin, 2010). Nevertheless, data from the Arctic did play a major role in showing that POPs move over long distances and can have an impact on the health of people who live far away from areas of intensive use. This created a powerful image of linking the human health concern related chemical policy with the Arctic environment and its special features.

In addition to the direct input from the Canadian studies in the 1980s and early 1990s, during the issue definition phase of global POPs policy AMAP provided a circumpolar picture of the POPs problem by coordinated efforts of monitoring and assessment. According to Reiersen and others, AMAP was probably the first international body to monitor POPs across all ecological systems including humans and by 1993-94 had already established an expert group on POPs (Reiersen et al. 2003). This expert group also led the first circumpolar POPs assessment, with results presented in connection with the AEPS ministerial meeting in Alta, Norway in June 1997. The full assessment report was published a year later. However, before the assessment process was complete, results were being fed directly into negotiations of a POPs protocol to the UNECE LRTAP convention (Reiersen et al. 2003).

The ultimate objective of the UNECE LRTAP POPs Protocol is to eliminate any discharges, emissions and losses of POPs (Aarhus POPs Protocol, 1998, Article 2). Its signing in Aarhus in 1998 signaled the beginning of international regulations of several of the contaminants that were showing up in people and animals in the Arctic, including PCBs, dioxins, and long-lived pesticides such as DDT. It also created a good base for negotiations of a global POPs convention which started at about the same time. These negotiations were concluded in Stockholm in 2001.

The influence of the knowledge provided by AMAP's assessments is visible in the preamble, which acknowledges that "the Arctic ecosystems and indigenous communities are particularly at risk because of the biomagnification of persistent organic pollutants and that contamination of their traditional foods is a public health issue" (Stockholm Convention, 2001). The convention also highlights the Arctic as an "indicator region" for persistent contaminants that can transport over longer distances. This has led to long-term collaboration between AMAP and the Stockholm Convention, which has included AMAP providing background material in connection with negotiations on adding new chemicals to the initial list of regulated substances, such as the addition of some brominated flame retardants. Another example of collaboration is the joint AMAP-UNEP assessment of impact of climate change on POPs (UNEP/AMAP, 2011).

#### *Impacts on policy and the environment*

Measuring the effectiveness of different political regimes in addressing a problem is always difficult. There is often a substantial time lag between policy measures and their impacts and it is seldom possible to isolate a single causative factor. However, data on impacts of the policy on POPs are starting to appear. They indicate that the levels of several POPs are now declining in the Arctic, with the most likely cause being decreased use and emissions following bans and other measures in the Stockholm Convention, UNECE LRTAP and other political initiatives at national and the European Union levels (AMAP 2009; Muir and de Wit, 2010). Arctic assessments were one of several tools for moving this issue forward on the international scene as data presented in AMAP assessments played a critical role in showing the long-range transport capabilities of POPs. To the extent that this has influenced negotiations, the cognitive power of AEPS and the Arctic Council can be seen as substantial.

Influence on policy development cannot be taken for granted, and it is informative to look at some of the reasons for the successful connections made between AMAP assessments and international chemical policy development. Reiersen and others point to the close links between personnel involved in AMAP and the UNECE LRTAP Convention, which helped to ensure that new results were fed directly into the political negotiations. This even included information that had not yet been published in the scientific literature (Reiersen et al. 2003).

Chasek and others also highlight the leading role of northern indigenous peoples in creating support for a strong POPs regime (Chasek et al. 2006). This influence is evidenced in an account by the chair of the negotiations for the Stockholm Convention (Buccini, 2009) who explained how the impressions made by Inuit leader Sheila Watt-Cloutier and an Inuit carving of mother and child served as a reminder of the human face of the POPs issue and that the negotiations would have an impact on future generations.

In addition, the timing of AMAP's first POPs assessment could not have been better given that the need for action had recently been recognized in the international environmental policy community. Moreover, there were on-going negotiations into which the new knowledge from the Arctic could be fed while these processes were at a formative stage.

Other factors also contributed. The lead countries for AMAP's POPs assessment – Canada and Sweden – had in 1990 already started to pool their resources in order to convince UNECE LRTAP of the importance of addressing POPs as a transboundary pollution issue. Inuit and other indigenous peoples in Canada were building their own capacities in connection with Canada's Northern Contaminants Program. What AMAP and the AEPS/Arctic Council were able to do was to make POPs a circumpolar concern where the Arctic as a region also came into focus. The cognitive power of AMAP's first major assessment was, therefore, not only a question of placing POPs on the international environmental policy agenda, but also served to make the Arctic a recognizable political region in the international political consciousness. Consequently, in addition to the establishment of the AEPS, AMAP's assessment can be seen as a contribution to the region-building process that started in the early 1990s (Heininen 2004; Keskitalo 2004).

## AMAP AND CLIMATE CHANGE

Climate change was not a priority for inquiry in the early years of the Arctic co-operation. While an expert group identified it as a significant threat to the region, the main responsibility for furthering understanding of climate change was placed on other existing international processes (AMAP, 1990; State Pollution Control, 1991). Climate change thus appeared to be framed as a global rather than regional concern with AMAP's mandate mainly to identify gaps in how the Arctic was treated in global collaborations for monitoring and research, as well as ensuring that "specific issues related to the Arctic region were placed on the agenda of the appropriate international bodies" (AEPS, 1993; see also Nilsson, 2007; Koivurova and Hasanat, 2009).

Nevertheless, AMAP's first major assessment has a chapter on climate change, ozone depletion, and ultraviolet radiation (Weatherhead, 1998). While climate change was not a policy focus at the time, once the report was completed AMAP began to make plans for a more thorough assessment. These plans merged with initiatives from the International Arctic Science Committee (IASC), which served as a channel for priorities that had been identified within the Intergovernmental Panel for Climate Change (IPCC) and paved the way for the ACIA as an initiative to develop a better picture of climate change impact at the regional level (Nilsson, 2007). After initial scoping activities, the ACIA was approved as a project by the Arctic Council in 2000 (Arctic Council, 2000). In 2004, the assessment team delivered their results to the Arctic Council in the report *Impact of a Warming Arctic* (ACIA, 2004), which was followed one year later by the publication of a 1042-page scientific report (ACIA, 2005).

### *Impacts of the ACIA*

From a scientific point of view, the ACIA was highly successful and its reports provided a new way of framing climate change in the Arctic that highlighted its specific impacts in the region and the fact that climate change was already affecting people's lives (Nilsson, 2007). Many of the findings were subsequently incorporated in the chapter on polar regions in IPCC's fourth assessment, which also makes explicit reference to the ACIA as an important source of knowledge (Anisimov et al. 2007). The ACIA also provided indigenous peoples' organizations with a resource that linked traditional indigenous knowledge and scientific

observations. Based on previous experiences from chemicals politics, indigenous groups were active in trying to influence global climate policy, including the negotiations under the UN Framework Convention on Climate Change (UNFCCC) (Watt-Cloutier et al. 2006). This new focus on people in the Arctic – the human face of climate change – along with evolving partnerships between indigenous peoples and scientists – also served as a platform for active indigenous participation in research planning in the Arctic (ICARP-II, 2005) and in the International Polar Year 2007-2008 (Sörlin, 2009, Krupnik et al. 2011).

The relationship between the Arctic Council member states and the ACIA was more contentious, in particular the relationship with the U.S. In contrast to AMAP's POPs assessment, where the Arctic countries were in agreement on the need for political measures against POPs, the ACIA scientific findings and the political priorities of the U.S. in particular were not in line with each other. Even if there is no specific indication that this affected the scientific findings, it certainly influenced the assessment process, especially towards the end. One result of this contention was that the work of drawing policy-relevant conclusions became a high-level political negotiation with strong influences from the UNFCCC process (Nilsson, 2007), and created a political reluctance to follow up on the ACIA within the Arctic Council. This reluctance is apparent in minutes from meetings of Senior Arctic Officials (SAOs), as well as from the AMAP Working Group, which noted "if AMAP takes on climate change, this will be the top priority in AMAP. On the other hand, if the decision is for the ACIA format, that must be fixed to work better" (AMAP HoD, April 2006).

On top of the political sensitivities, there was also an organizational challenge. The climate issue cuts across all Arctic Council working groups and there were attempts at creating a new forum for collaboration across the groups, a so-called "Focal Point" comprised of the chairs of the working groups, the chair of SAOs and one representative nominated by the permanent participants. The "Focal Point" was supposed be responsible for planning follow-up activities (SAO Report, November 2004). This group apparently did not work very well, as judged by comments made in an AMAP Heads of Delegation meeting (AMAP HoD, April 2006), and it was dissolved in 2006.

However, in its report it recommended that AMAP take a lead on ACIA follow-up activities, including the preparation of an additional assessment. The Focal Point

also identified a need to change the mandate of Arctic Council working groups to ensure that issues of adaptation and vulnerability were addressed, issues that AMAP did not see as part of its mandate (AMAP WG, Stockholm 2006; Arctic Council Focal Point, 2006).

Meanwhile, AMAP had already started its follow-up by reviewing the scientific recommendations of the ACIA. At the ministerial meeting in 2006 at the end of the Russian Arctic Council chairmanship, the decision was to “continue to keep under review the need for an updated assessment of climate change in the Arctic, drawing inter alia on the IPCC fourth assessment report and the results of the International Polar Year 2007-2008” (Salekhard Declaration, 2006).

When Norway took over the Arctic Council chairmanship in 2006, a new joint program of priorities together with Denmark and Sweden was presented. It included the following statements regarding climate change:

“The next three chairmanships will continue to follow up on the findings of the ACIA report and pursue implementation of the recommendations set out in the ACIA Policy Document adopted at the 2004 Ministerial Meeting.

“The AC should continue its efforts to provide high quality information on climate change that includes input from all Arctic states and peoples. Updated information on the consequences of and challenges posed by climate change in the Arctic should be gathered and presented to AC Member States at regular intervals. The AC should maintain its special focus on the effects of climate change on Arctic residents and the traditional ways of life of indigenous peoples.” (Arctic Council, 2006)

#### *Focus on ice and snow*

Towards the end of the first year of the Norwegian chairmanship, the Norwegian Polar Institute presented a proposal for a new project with the objective of providing the Arctic Council with updated and synthesized scientific knowledge about present and future regional and global consequences of rapid changes in sea ice, melting of the Greenland ice sheet, changes in snow cover and permafrost conditions. It was initially not headed by a specific working group, but was envisioned to be conducted by AMAP, CAFF, PAME and SDWG in collaboration

by appointing a steering committee with representatives from the four working groups, augmented with scientists (SWIPA, 2007). The SAO discussion of the proposal did not lead to immediate support. The U.S. stated that it could not join the consensus to allow this project to go forward given that: 1) the proposal was insufficiently clear and appeared to be duplicative of existing and ongoing climate change work; and 2) the project could not in any way become an “assessment” nor a second ACIA. In the end, the proposal was sent to AMAP’s Climate Expert Group for further review (SAO Report, April 2007).

The following year, the proposal went through several revisions. In addition to the U.S. concern about scope and not treading into the policy sphere, the need to include human dimensions in the report was discussed, as illustrated by the following quote from SAO meeting minutes:

“There was some concern that the proposed scope of the project appears to have expanded and that if not streamlined the project could not go forward. AMAP confirmed that the project is not intended to be a large-scale ACIA-2, but rather a detailed look at three key issues of cryosphere dynamics. Most agreed that the value-added of the project was to synthesize and integrate new research, including that conducted during IPY. AMAP was reminded of the importance to focus on impacts, including on the human dimension. The importance of a sequential process to produce the policy recommendations following completion of the science report was agreed.” (SAO Report, November 2007)

The emphasis on “sequential process” can be seen as a vestige of the U.S. critique of the ACIA process that the cart was placed before the horse when policy recommendations were formulated before the scientific reports were finalised (U.S. Statement on Policy Document, distributed at the Policy Drafting Group Meeting in London October 2003, cited in Nilsson, 2007). At the SAO meeting in Svalbard, Norway in April 2008, the SAOs approved what became labeled the “SWIPA project”: Climate Change and the Cryosphere – Snow, Water, Ice and Permafrost in the Arctic (SAO Report, April 2008).

AMAP continued to work with its own ACIA-follow-up activities. They included: activities relating to non-CO<sub>2</sub> drivers of climate change (with focus on short-lived climate forcers or SLCF); the Arctic carbon cycle; the Arctic Climate Report Cards, which summarize developments in key Arctic climate parameters; and work on

improving predictive capability, including downscaling of climate models. AMAP was also working on an updated assessment of pollution issues in the Arctic, where the initial idea was to include some updates on climate change. However, this was not really a “state of knowledge” on climate change, and the results eventually became presented in a separate report (AMAP, 2009b).

In the SDWG, a project on adaptation took form, focusing on creating a clearinghouse for the sharing of information and best practices. It was, however, a comparably small project and it does not appear that it has been integrated with any of the other climate-related activities.

By early 2009, the SWIPA project was up and running. It was conducted in co-operation with IASC, the Climate and Cryosphere Project (CliC), and the International Polar Year (IPY) with the objective to provide the Arctic Council with updated and synthesized scientific knowledge on the present status, trends, and future regional and global consequences of climate change. There are three main components to SWIPA: 1) the Greenland Ice Sheet, led by Denmark; 2) sea ice, led by Norway and the U.S.; and 3) terrestrial (snow, permafrost, mountain glaciers, ice caps, and lake and river ice), co-ordinated by Sweden and Canada. The integration of socio-economic consequences of climate change continued to be a challenge, in spite of efforts to set up collaboration with projects within the SDWG.

By February of 2009, global attention to the rapidly melting ice became apparent in Arctic Council discussions with the announcement of plans for a “High Level Meeting on Melting Ice” to be hosted by the Norwegian Minister of Foreign Affairs and former U.S. vice president Al Gore the day before the Arctic Council Ministerial. The outcome of the meeting was a task force to produce a state-of-the-art report on melting ice for the UNFCCC COP15 (Arctic Council, 2009).

It is notable that this was not an Arctic Council activity, but was presented as *Melting Snow and Ice: A call for action*, a report commissioned by Nobel Peace Prize Laureate Al Gore and Norway’s Minister of Foreign Affairs Jonas Gahr Støre (Koç et al. 2009). Illustratively, AMAP was not in charge of this process. A request to include SWIPA material in this report was discussed at the SWIPA Integration Team meeting in May 2009, with some concerns about a rerun of problems from the ACIA when results were released before the scientific report was available (SWIPA, 2009).

The SWIPA results were publically presented in May of 2011 in connection with a large AMAP conference in Copenhagen, which also celebrated AMAP's 20th anniversary, including the publication of a printed executive summary (AMAP, 2011a). The printed scientific report became available in April of 2012 (AMAP, 2011b).

### *Mitigation and black carbon*

Parallel to the SWIPA project, two activities focusing on short-lived climate forcers have also been carried out within the Arctic Council. In 2008, AMAP started a process to “consider non-CO<sub>2</sub> drivers of climate change and develop a process to determine whether the Arctic countries can do anything on their own regarding them” (AMAP HoD, 2008). This led to a workshop on the topic later that same year, which forwarded recommendations for further work to the SAOs. Meanwhile, the U.S. had started to prepare a proposal for Arctic Council actions on short-lived climate forcers, but it was not initially clear where this initiative should be placed within the Arctic Council organization (SAO Report, November 2008). AMAP continued its work with an expert group on short-lived climate forcers, which presented a scientific assessment of the impact of black carbon on the Arctic climate in 2011 (AMAP, 2011c). In parallel, the Arctic Council established a task force on short-lived climate forcers that focused on recommendations for emission mitigation (SAO Report, Tromsø 2009). Its technical report was also presented in 2011, in connection with the Nuuk Ministerial meeting (Arctic Council, 2011).

The Nuuk Ministerial Declaration requests the work on short-lived climate forcers to continue and for member countries “to implement as appropriate to their national circumstances relevant recommendations for reducing emissions of black carbon” (Nuuk Declaration, 2011). The issue has also been taken up as a priority by the Swedish chairmanship of the Arctic Council (Swedish Government, 2011). Moreover, at the end of 2010 a decision was made within the Convention on Long-range Transboundary Air Pollution that “black carbon is to be included in the revision of the Gothenburg Protocol as a component of particulate matter.” This was the first international agreement to tackle a short lived climate forcer in the context of air pollution at a policy level (UNECE 2010, 2011).

### *Communication gaps*

Within AMAP, concerns have been raised about the increasing gap between the working groups and the SAOs. For example, the working groups have had no specific venue for presenting their priorities to the SAOs other than under areas of thematic issues. Furthermore, AMAP was very dissatisfied with the fact that the SAOs did not pay adequate attention to new findings regarding pollution issues in its 2009 Arctic Pollution Assessment. A comment from a Head of Delegation meeting in June of 2009 is illustrative of this concern:

“HoDs discussed the fact that AMAP and the other AC WGs had not been allocated time to present their work to the SAOs or to the ministers. The meetings had concentrated on climate change and did not consider the broad range of issues covered by the Working Groups. ... HoDs agreed that there is a need to find a way to present the WG work at SAO and ministerial meetings; a formal process should be established to communicate the WG work to SAOs. It was agreed that a strong message should be given to the Danish chairmanship of the Arctic Council regarding this need for communication from the WGs to the SAOs.” (AMAP HoD and ASG, June 2009)

The gap in communication between AMAP and SAOs was also apparent in relation to an initiative put forth by AMAP on an Arctic Change Assessment. This proposal was to discuss linkages between different issue areas (AMAP WG, February 2010), including, for example, the impacts of climate change on transport and the fate of pollutants, which have always been at the core of AMAP’s competence and activities), but the initial proposal was turned down by the SAOs. In spite of AMAP identifying a need for a scoping workshop for such an integrated assessment, the AMAP secretariat did not start planning in earnest until the idea received initial approval at the Nuuk ministerial meeting in May of 2011 (SAO Report, April 2011). The workshop was eventually planned by a group that included all AC working groups and was held at the end of September 2011, but the project proposal was not approved at the SAO meeting in Luleå November 2011 (SAO Report November 2011). A revised proposal is being prepared for consideration in the spring of 2012.

## UNDERSTANDING POLICY IMPACT

While the ACIA report contributed greatly to making climate change impacts in the Arctic visible to a wide audience, the ACIA and its follow-up activities have not had the impact on climate policy that would be required to start easing the current pressure on the Arctic environment in the same way that the POPs assessments have had clear political and environmental results. What are some of the reasons for this comparative lack of political impact? What do these say about the conditions in which a focus on cognitive power is a useful strategy for the Arctic Council in the future?

One can easily argue that there are enough differences between the POPs issue and climate change to provide sufficient explanation for the divergent outcomes of the two Arctic Council processes. The governance of climate change is fraught with particularly strong opposing interests. As a so-called “wicked problem”, it demands actions from a wide range of actors with different priorities and points of view. Chemicals governance, alternatively, is more straightforward as regulations are generally directed towards a limited set of industrial actors. Even if some issue differences exist, other explanations for the potential role of Arctic cognitive leadership are also worth discussing.

One major difference between climate politics at the time of the ACIA and its follow-up and international chemical politics in the 1990s, is that a global climate regime was already in place and positions in the political negotiations were well established when the Arctic Council started addressing climate change in earnest. In contrast to supporting an ongoing process of getting a new issue onto the political agenda, it was about the much tougher task of attempting to shift well-established political priorities.

The recent focus on short-lived climate forcers and the Arctic Council efforts to gather momentum around this issue in connection with re-negotiations surrounding the Gothenburg Protocol of the UNECE LRTAP Convention may be an opportunity that is closer to the situation for POPs in the late 1990s than climate change politics in the 2000s. The less contentious nature of air pollution politics may also be a policy context that is more prone to influence from science than the highly polarized political discussion in the global climate regime. It may be that the Arctic Council has the greatest potential to exhort cognitive power

exactly when such widows of opportunity appear in the evolution of global environmental politics.

Another difficulty with the ACIA in relation to policy influence was the lack of political agreement and priorities among the eight Arctic countries. For those countries that wanted to push the global negotiations forward, the results of the ACIA were welcome as they gave further support to their arguments about the need for action. However, for the U.S., the results were less than convenient. As a result, the conflicting priorities in the global negotiations carried over to the Arctic Council.

These conflicting priorities meant that even if there was formal agreement on a policy document at the end of the ACIA process, in practice the situation was one where it was difficult for the Arctic Council to speak with one strong voice backed by the soft power provided by a scientific assessment. In spite of the usefulness of the ACIA for some audiences, in terms of international policy processes its results were less salient for some key actors than the results from AMAP's POPs assessment in the 1990s.

It could be that the issue of short-lived climate forcers may present some opportunities for unified action for the Arctic Council that are more similar to the POPs case than the situation at the end of the ACIA process. In general, the U.S. position is today more positive towards the need for climate mitigation. A focus on the short-lived forcers that are not included under the UNFCCC may provide a venue for to show a willingness to act without having to take on any commitments regarding major greenhouse gases. The fact that Canada is withdrawing from the Kyoto Protocol may place this country in a similar position.

The difficulties for the ACIA process were also linked to previous controversies surrounding climate science and therefore the issue of scientific credibility became very important. This led the ACIA to adopt norms that originated from the IPCC, such as relying only on peer reviewed literature (with some exceptions) and not releasing results until the entire assessment was complete. Combined with the fact that links to AMAP were much weaker for the ACIA than for the POPs assessment, this may even have worked against the kind of ongoing dialogue between science and policy that was present during the negotiations for the LRTAP POPs Protocol. At the UNFCCC COP 15, a report on the Greenland Ice

sheet was presented as part of the SWIPA project. However, to provide an overall picture of the dramatic developments in the Arctic, actors who wanted to bring this new knowledge into the political sphere had to use other avenues than the AC working groups with the aforementioned report “A Call for Action” as a case in point. This shows the challenges of ensuring scientific credibility in a situation when changes are happening very fast and when the descriptions in the peer-reviewed literature are likely to lag behind actual developments.

### *Organizational challenges*

In addition to the political obstacles, there are some organizational challenges that are important to consider in looking towards the future of the Arctic Council. Organizationally, the ACIA was fairly independent of AMAP. In fact, it was so separate that AMAP working group representatives have said that it was too independent, leading to a lack of ownership and perhaps legitimacy of the assessment process that may have affected commitment to follow up. This might also explain the apprehension against a new ACIA process that is apparent in the Arctic Council. It also led to a period of organizational experimentations (the Focal Point), which failed to produce substantive results.

At one level, it has been recognized that climate change was an issue for all Arctic Council working groups, but in the end, responsibility for doing something was placed mainly on AMAP, which did not see itself as having a mandate to cover all climate change-related issues, including adaptation to climate change.

While AMAP protocols indicated poor communication between this working group and SAOs, the Arctic Council also started to create “task forces” as a new venue for more action-oriented work. The task force on short-lived climate forcers, which has carried out its work in parallel with AMAP’s expert group on short-lived climate forcers is a central example. One can thus raise the question of whether the SAOs, in order to meet their own wishes for more action (and general pressure for a more active Arctic Council), have started to patch and mend the old working group structure. It is not obvious that this is the long-term solution to the two major challenges facing the Arctic Council: the demand for political muscle and the increasing need to understand how different pressures on the Arctic environment and people are linked to each other in order to identify ways to respond to these pressures.

## WHAT'S NEXT: MORE OF THE SAME OR A NEW DIRECTION?

While some of the immediate needs to follow up on the ACIA have been addressed with SWIPA, the initiatives on short-lived climate forcers, and the start of a process for an Arctic Change Assessment, the more general question remains about the challenges facing the Arctic Council if it wants to maintain its role as cognitive forerunner. Regarding assessments, there is a question as to whether more of the same kinds of assessments that have been carried out previously are sufficient, or if completely new approaches are needed. The “some more of the same” approach is probably desirable as long as there is a need for in-depth assessments of policy-relevant issues, such as follow-ups in relation to international negotiations (POPs, mercury) and when new concerns emerge (e.g. ocean acidification). However, there is also a recognized need for better integration ever since AMAP’s first assessment process, which was reiterated at a workshop held in San Francisco in 2010 (AMAP WG, February 2010) and in the scoping workshop for the Arctic Change Assessment in the fall of 2011 (AMAP, 2011d). The need for integration also arose in the scoping of the Arctic Resilience Report, which was approved as an Arctic Council project in November 2011 (SAO Report November 2011; ARR, 2011).

Integrated knowledge will also be needed to support integrated ecosystem-based management and other holistic governance approaches that the Arctic Governance Project has highlighted as important for the future of the region (Arctic Governance Project, 2010). This need for integration creates a range of new challenges for the current working group structure.

One major issue is that the range of expertise that needs to be involved is broader than the networks of experts on which each of the working groups currently rely. A second issue is that the management of integrated assessments needs to address communication across working groups without creating cumbersome new structures with additional need for resources. A third issue is the increasing need to collaborate not only across working groups, but also with organizations outside the Arctic Council, which can create complex formal processes when many actors

have to be involved in decisions, even if it may also help enhance legitimacy in the eyes of a larger group of actors.

This challenge may be further complicated by the changing political context where there are stronger demands for political action within shorter time frames. This was evident with SLCF where the assessment and task force had to be carried out at the same time. If the Arctic Council senses a need to show that it has political initiative and muscle in order to deflate demands for new Arctic regimes, it may shift the boundaries of the science-policy interface with stronger policy involvement in determining the direction of inquiry and less room for the working groups to formulate science-based policy recommendations.

#### *Current organization and possible alternatives*

There are currently six working groups within the Arctic Council. There are some divisions of responsibility, but also obvious areas of potential overlap. The manner in which the mandates are defined vary a great deal. For PAME the distinction is spatial – a focus on the marine environment – which easily overlaps with working groups that are not geographically limited. Several of the working groups have management as an important part of their portfolio. Illustrative of this is CAFF's focus on "the conservation of biodiversity and helping to promote practices which ensure the sustainability of the Arctic's resources" (CAFF working group); PAME's mandate "to keep under review the adequacy of global and regional legal, policy and other measures, and where necessary to make recommendations for improvements that would support the Arctic Council's Arctic Marine Strategic Plan" (PAME, 2011); EPPR's mandate to "deal with the prevention, preparedness and response to environmental emergencies in the Arctic" (EPPR, 2011), ACAP's goal "to reduce emissions of pollutants into the environment in order to reduce the identified pollution risks" (ACAP, 2011); and the SDWG's more overarching role "to propose and adopt steps to be taken by the Arctic States to advance sustainable development in the Arctic, including opportunities to protect and enhance the environment, and the economies, cultures and health of indigenous communities and of other inhabitants of the Arctic, as well as to improve the environmental, economic and social conditions of Arctic communities as a whole" (SDWG, 2000).

AMAP's role, alternatively, focuses more on knowledge about the state of the environment per se, where AMAP's current objective is "providing reliable and sufficient information on the status of, and threats to, the Arctic environment, and

providing scientific advice on actions to be taken in order to support Arctic governments in their efforts to take remedial and preventive actions relating to contaminants” (AMAP, 2011e). In practice, AMAP’s focus has been on the physical environment, on ecosystems, and on impacts on human health. Concerning ecosystems there is substantial overlap between CAFF and concerning human health an overlap with the SDWG, which has its own human health group.

Compared to the time of the AEPS and the early years of the Arctic Council, the dominance of AMAP is not as prominent as several other working groups have or are in the process of producing major assessments. With the increasing push towards more robust action in the Arctic Council, AMAP may not continue to dominate the Arctic Council over other working groups. With increasing recognition that many issues are interlinked and that expertise from different fields is needed, there is also likely to be a continued need for collaboration with the other working groups. The continuous request for further attention to the human dimensions in the SWIPA process is illustrative of this point.

Some of these challenges could possibly be addressed by improving the communication between the different working groups, but it is also necessary to ask whether or not it is time for a more thorough reorganization. The following is a discussion of some possible arguments for and against such an approach.

#### *A new structure?*

A strong argument against reorganizing the working group structure would be the potential loss of competence, and that time and momentum could be lost before a new organization would find its form. Such transaction costs need to be weighed against the potential gains in the long run. The timing is also important, as a loss in momentum at this point in time could be detrimental to the Arctic Council given the increasing pressure it faces to develop into an efficient regime for governance of the Arctic.

A restructuring would also include a risk for political infighting within the Arctic Council, since current fields of influence could be challenged. Issues such as the location of secretariats, the influence of Arctic Council observers, and the strength of indigenous representation would suddenly be much more open for discussion than during business-as-usual. Given the current sensitivities regarding the role of

observers in the Arctic Council, now may not be the time to open up the proverbial “can of worms”.

However, there are also strong arguments for reorganization. One is that the new challenges facing the Arctic demand a working group structure with more integrated perspectives in order to provide adequate support to the SAOs and the political decision-making process. This integration is necessary across issue areas, but also between knowledge production and policy action. Another argument for reorganizing towards a more coherent structure would be possible efficiency gains (though not analyzed). It could also increase the potential for learning from experience if some of the current “cultural” differences and communication difficulties between working groups were to be deflated.

If the Arctic Council were to reorganize its working groups, what would be the organizational principles that are important in order to maintain, or strengthen, the cognitive power of the Arctic Council? Looking at the literature on governance at times of rapid change and adaptation to climate change, three issues appear as particularly relevant to highlight: The first is a need for an organization that is adaptive to change (Folke et al. 2005). This has also been highlighted by the Arctic Governance Project, which lists “flexibility and adaptability” as one of the key principles for successful Arctic governance (Arctic Governance Project, 2010).

Second is to ensure that knowledge production and new perspectives are not stymied by political sensitivities. The literature on organizational learning has, for example, highlighted the importance of shadow systems. “Shadow systems” refer to informal interactions existing outside of, but interacting with, formal institutions and inter-relationships (Stacey, 1996). Pelling (2008:868) uses a similar concept, “shadow spaces,” to describe the relational spaces that “allow individuals or subgroups within organizations to experiment, imitate, communicate, learn and reflect on their actions in ways that surpass the formal processes within policy and organizational settings.” It is thus about creating some room for experimentation in the organizational structure.

A third concern is to ensure salience, credibility, and legitimacy to a wider set of actors than those that have currently been engaged in Arctic Council activities. They could range from regional governing bodies (within national settings and in cross-border contexts) to countries outside the Arctic region and commercial

actors. Even if the direct influence of some of these actors in the Arctic Council may be controversial, they are nevertheless likely to play an important role in shaping the Arctic of the future and are therefore relevant to reach if the Arctic Council wants to be a cognitive forerunner.

What could a reorganized structure look like? One possibility is to have one central working group with Member State and Permanent Participant representation, along with representatives of major scientific organizations that are observers to the Arctic Council. The group would have responsibility for ongoing common activities such as monitoring, initiating smaller projects or scoping activities, proposing major assessments for decisions at ministerial meeting, and overseeing assessment processes once an assessment has been approved at high political level, e.g. a ministerial meeting or SAO meeting. In initiating these kinds of activities, it would be more independent in relation to the SAOs than the current working groups. Once an assessment has received approval, it would need its own steering committee based on a combination of representation and the specific expertise needed for the task, similar to the steering committees that have been used for many assessments to date. The major advantage over the current structure would be the lack of artificial lines of responsibility in the core organization and flexibility by which new constellations can be created at the level of project or assessments. The relative independence in starting scoping activities or smaller projects would also make it possible to move forward even in cases where it may be difficult to reach immediate political consensus, avoiding the kind of situation that occurred after the ACIA. Such scoping activities or smaller projects can be seen as shadow spaces that allow for experimentation within the established organizational framework.

Major assessments would have to be based on decisions at ministerial meetings as they often require substantial commitment of resources from the member countries. Such a decision would also ensure that the focus of an assessment is politically salient and that the process ensures credibility and legitimacy within the Arctic Council context. Scientific assessments of various issues would be an obvious part of this branch of activities, but it could also include assessments of current policies (similar to the ongoing Arctic Ocean Review) and analyses of policy options at the circumpolar level or to be considered by individual countries or managers at sub-regional or local levels. The line between analyzing policy

options and suggesting policies is of course a sensitive one that would need to be established in close dialogue with the SAOs.

The sketch provided above is by no means the only possible reorganization. Kankaanpää and Young suggest turning the SDWG into an overarching body for activities carried out by the working groups (Kankaanpää and Young 2012). It is, however, clear from both the analysis presented in this chapter and the survey of effectiveness of the Arctic Council that is necessary to start a serious discussion about how the Arctic Council could maintain and improve its capacity to be a cognitive forerunner. “Soft” power is likely to continue to be important in shaping the future of the Arctic.

## ACKNOWLEDGEMENTS

The work presented in this paper has been carried out as part of two different research projects: Models, Media, and Arctic Climate Change, funded by the Swedish Research Council Formas, and Assessing Arctic Futures. Voices, Resources and Governance, funded by Mistra.

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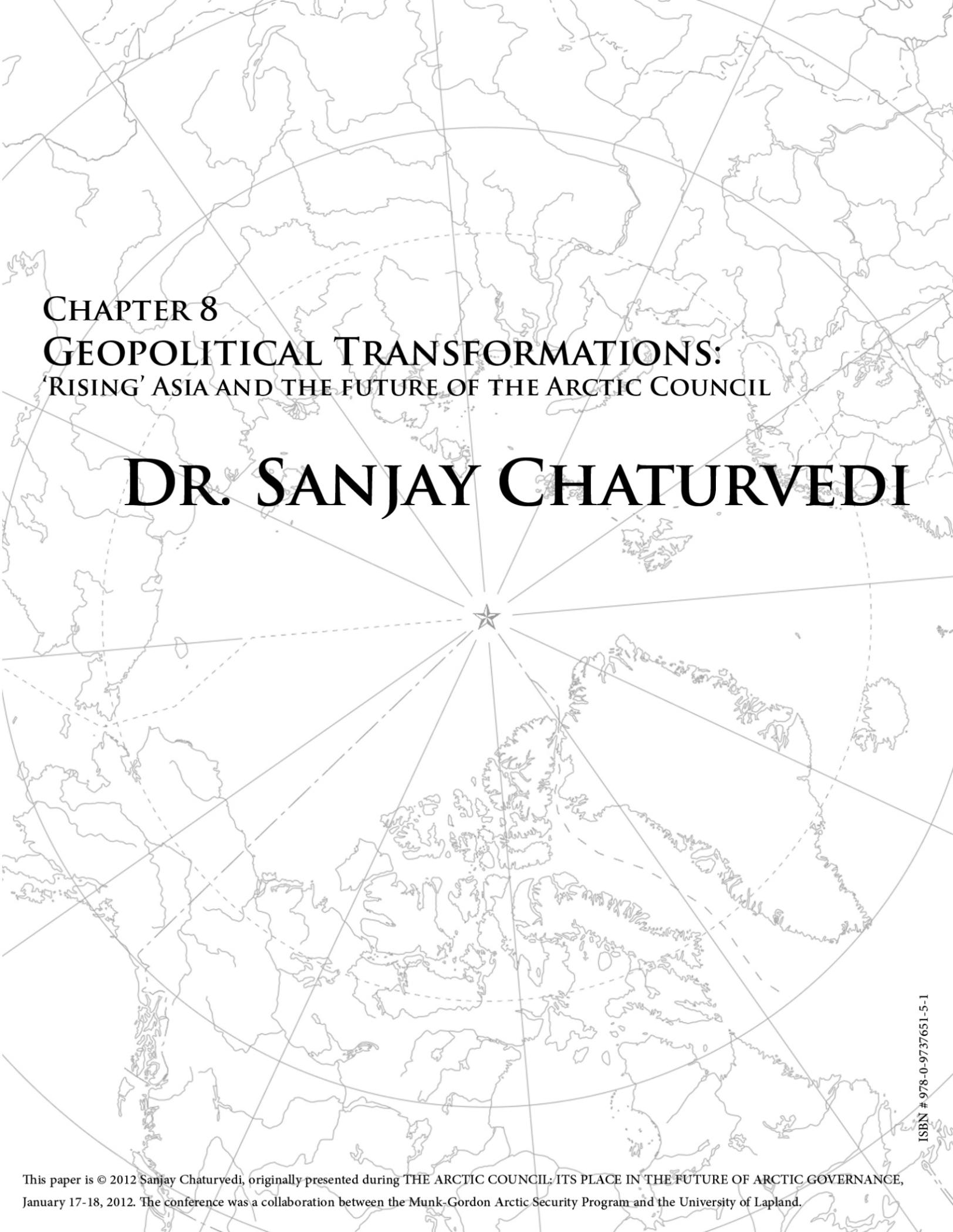
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**CHAPTER 8**  
**GEOPOLITICAL TRANSFORMATIONS:**  
**'RISING' ASIA AND THE FUTURE OF THE ARCTIC COUNCIL**

**DR. SANJAY CHATURVEDI**

ISBN # 978-0-9737651-5-1

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# GEOPOLITICAL TRANSFORMATIONS: 'RISING' ASIA AND THE FUTURE OF THE ARCTIC COUNCIL

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## INTRODUCTION

AS THE 21<sup>ST</sup> CENTURY UNFOLDS, MARKED BY MULTIPLE transformations and transitions in the era of global climate change and scarcities (Møller, 2010), the two polar regions (Antarctica and the Arctic), despite their pronounced and widely-acknowledged differences (Young 1989; Chaturvedi, 1996; Rothwell, 1996), are faced with a set of *common* questions related to the rise of Asia in the international geopolitical economy. It is neither feasible nor desirable to ignore the emerging contours of a new geopolitical landscape marked by Asia's geo-economic ascendance. Both China and India – appropriately called “planetary powers” by some (in view of the global ecological impact and fallout of their fast-growing economies) – look able and determined to act as map-makers and world-orderers in their own right (Mahbubani, 2008). The proverbial billion dollar question seems to revolve around the issue of not *whether* but *how* the rising Asian powers will redraw the global geo-economic map of growth and development over the remaining part of the present century and beyond. What would be the implications for environmental sustainability (ranging from local to planetary levels) if billions of people in Asia choose to develop the ways in which millions in the West have developed, in the era of climate change and scarcities, riding on “carboniferous capitalism” (Dalby, 2009) since the industrial revolution? There also appears to be a growing trend among the realists to frame complex and dynamic India-China interactions in highly reductionist and sensational terms of a “New Great Game” (Scott, 2008), especially in view of the expanding economies of the two Asian civilizations and their voracious appetite for energy resources. Imaginative geographies of the New Great Game (Killaby, 2005-2006) and “Climate Wars” (Korf, 2011) have also been applied in some recent studies of

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Arctic geopolitics (Borgerson 2009). According to Derek Gregory, “We might think of imaginative geographies as fabrications, a word that usefully combines ‘something fictionalized’ and ‘something made real,’ because they are imaginations given substance” (Gregory, 2004: 17). Imaginative geographies at the same time imply “Representations of other places – of peoples and landscapes, cultures and ‘natures’ – that articulate the desires, fantasies and fears of their authors and the grids of power between them and their ‘Others’”(Gregory, 2009: 369).

This paper is based on the assumption that as geopolitical tectonic plates continue to shift in the post-cold war international system, and new alliances/alignments come to the fore, Asia’s rise (especially with regard to China and India) is likely to impact the theory and practices of Arctic governance in hitherto unanticipated ways. The very fact that the material and the symbolic rise of Asia is tempered with the uncertainties associated with the era of climate change and scarcities (goods, resources and a clean environment) might further complicate the geopolitical discourse of Arctic “exceptionalism” and question at the same time increasingly untenable inside/outside geographies of cooperation centered on the Circumpolar Arctic.

For the purposes of this paper, I intend to begin with the seminal study by Timo Koivurova, where he concludes with insightful reflections on how various competing framings of the Arctic, especially “the new image of Arctic in change”, make it “easy to predict that this contest of arguments by various Arctic actors, loaded with perceived factual realities, legal arguments and moral justifications, will not provide an easy path to a new governance arrangement” (Koivurova, 2009: 8). My key argument in this paper is that various framings of the new image of the Arctic in change, and the corresponding visualizations of alternative models of governance for the Arctic Council (including structural/institutional reforms or adoption of a new treaty) are yet to take into full account the fact that Asia is moving from an inactive role to being an active global policy-maker. The standalone image of the Arctic in change can therefore be highly misleading in the age of profound, overlapping transformations of a geopolitical, economic and strategic nature. In a collective sense, these transformations have the potential to act as a catalyst for issue-based, inclusive and functional geographies of international co-operation, which question in turn the conventional distinction and demarcation between Arctic and non-Arctic actors, interests and alignments. What can and should be Asia’s role?

## **Dr. Sanjay Chaturvedi cont’d**

He serves on the international editorial board of leading peer-review journals Geopolitics, Political Geography and Co-operation and Conflict. He is the founding co-editor of the newly launched flagship journal of Indian Ocean Research Group (IORG), Journal of Indian Ocean Region and the Regional Editor of The Polar Journal. His publications in peer-reviewed journals include Polar Regions: A Political Geography (John Wiley & Sons, 1996). Chaturvedi is a member of the Core Group of Experts on Antarctica and Southern Ocean set up by the Ministry of Earth Sciences, Government of India, and has been a member of the Indian delegation to the Antarctic Treaty Consultative. He is also a member of the Scientific Committee on Antarctic Research (SCAR) Social Science Action Group.

## RELOCATING ARCTIC GOVERNANCE AND RETHINKING IT IN THE “ASIAN CENTURY”, AND THE ERA OF CLIMATE CHANGE AND SCARCITIES

Kishore Mahbubani has argued that what we are witnessing today is the end of Western domination of world history and a remarkable renaissance of Asian societies (Mahbubani, 2008). The Asian march to modernity represents diverse new opportunities for the West and the rest of world. In his view, “the era of Western domination has run its course, bringing both good as well as harm and destruction to human history. It is futile for the 12 per cent of the world’s population who live in the West to imagine they can determine the destinies of the remaining 88 per cent, many of whom feel newly energized and empowered” (Mahbubani, 2008: 125-126).

According to a recent study on the rise of Asia by a Danish diplomat and economist (Møller, 2010), between 1979 and 2007, “Asia was a beneficiary of high global growth, low prices for energy and commodities, including food, no real water problems, a rising available and elastic labour force all over the region except in Japan and Korea, and little focus on pollution, the environment and climate change. *Asia’s political job was to manage economic growth.*” (Møller, 2010: 105). However, he goes on to say:

Over the next twenty-five years, all this will change and for the worse. Global growth will almost certainly be lower, taking demographic trends and economic outlook for the United States and Europe into account. Commodity prices including those of energy and food will go up. The environment will need much more attention that calls for financial resources. In Asia demographic trends will split the continent into three groups of nation-states: falling populations, stagnant populations and rising populations. A number of problems that could be, and were disregarded, will surface, calling for political solutions that require financial resources, *Asia’s political job turns into establishing conditions for the preferred economic growth.* (Møller, 2010: 105-106).

According to Møller, the good news for Asia is that even though it is “still in catch-up phase with regard to technology, innovation, invention and science”, a number of assets remain at the disposal of its policy-makers to assist economic growth. It is Asia where global savings take place and will continue to be the place, “offering it the pleasant policy dilemma of how to use the money available, rather than pondering where to get the money from. Not only will Asia be the world’s creditor, but Asia will take over a large part of global economic activity...Most of the new multinationals entering the list of the world’s largest and most important enterprises will grow out of Asia” (Møller, 2010). For example, from 2000 to 2006 China’s saving rate rose from 38 per cent of GDP to 47.3 per cent, India’s from 23.7 per cent to 32.4 per cent, and in the case of Vietnam from 27.1 per cent to 30.2 per cent (Møller, 2010).

As Asia acquires control over how the global financial system is run and correspondingly, on how global investment patterns are shaped (Ibid.), the world view of its key movers and shapers (i.e. China, Japan, India, South Korea) will increasingly become Arctic-centric. Such a prospect is closely tied of course to the scale and pace of climate change induced transformations with regard to energy resources, trade-transportation routes, fishing, tourism and sovereignty polemics (Lytvynenko, 2011) issues.

Both the destiny of communities located in the Global South in the Asian century and the prospects of rising Asia, however, are closely tied to the threats and opportunities (with the current dominant discourses heavily tilted towards the former) offered by climate change. According to the Intergovernmental Panel on Climate Change (IPCC):

Increased flooding and the degradation of freshwater, fisheries and other resources could impact hundreds of millions of people, and socio-economic costs on coasts will escalate as a result of climate change . . . Populated deltas (especially Asian megadeltas), low lying coastal urban areas and atolls are key societal hotspots of coastal vulnerability, occurring where the stresses on natural systems coincide with low human adaptive capacity and high exposure. Regionally, South, South-east and East Asia, Africa and small islands are most vulnerable . . . Without adaptation, the high-end sea-level rise scenarios, combined with other climate changes (e.g.

increased storm intensity), are as likely as not to render some islands and low lying areas unviable by 2100 . . . Sea level rise has substantial inertia and will continue beyond 2100 for many centuries. *Irreversible breakdown of the West Antarctica and/or Greenland ice sheets, if triggered by rising temperatures, would make this long-term rise significantly larger, ultimately questioning the viability of many coastal settlements across the globe* (Nicholls et al. 2007: 317).

## ASIAN ENGAGEMENTS WITH CHANGING ARCTIC: REALITIES, PERCEPTIONS AND RESPONSES

In 2008, the National Intelligence Council in the U.S. published a study titled, “Global Trends: A Transformed World” (National Intelligence Council, 2008), and concluded that in 2025, the current U.S.-dominated global system will give way to a multipolar world with China and India demanding and exercising decisive influence on global geopolitics. The economic and political geographies of the transformed world would defy the West-centric geometry of the old world order. As for the Arctic, the report points out that “The greatest strategic consequence over the next couple of decades may be that relatively large, resource-deficient trading states such as China, Japan, and Korea will benefit from increased energy resources provided by any Arctic opening and shorter shipping distances” (National Intelligence Council, 2008: 53).

The discussion to follow reveals how some of the major Asian countries have responded to the call of the changing Arctic.

### *China and the Arctic: Assessing opportunities and threats*

The rise of China – at a double-digit rate since 2002 – continues to evoke wide-ranging responses from analysts and policy-makers the world over (Weightman, 2011; Pant, 2010; Smith, 2007). Located at the heart of China’s world view and self-image appears to be the proposition that as a rising power, China has compelling reasons to register its authoritative presence in the frontier domains of oceans, outer space and the polar regions, and actively shape their future governance. According to Guo Peiqing of the Ocean University of China, “any country that

lacks comprehensive research on Polar politics will be excluded from being a decisive power in the management of the Arctic and therefore be forced into a passive position” (cited in Jakobson, 2010: 7).

While the growing polar discourse in China underscores the value of international co-operation in the Arctic, it is at the same time alert to the possibility of climate change-induced melting of the Arctic ice. The subsequent geoeconomic, geopolitical, and strategic transformation in Northern Eurasia has put additional strain on China relations (Jakobson, 2010). Furthermore,

To date China has adopted a wait-and-see approach to Arctic developments, wary that active overtures would cause alarm in other countries due to China’s size and status as a rising global power. Chinese officials are therefore very cautious when formulating their views on China’s interests in the Arctic. They stress that China’s Arctic research activities remain primarily focused on the climatic and environmental consequences of the ice melting in the Arctic. However, in recent years Chinese officials and researchers have started to also assess the commercial, political and security implications for China of a seasonally ice-free Arctic region. (Jakobson, 2010)

Responding warmly to friendly gestures made by Norway (considerably strengthened in turn by co-operation in deep-sea drilling projects between the Chinese and Norwegian companies), China appears particularly determined to cultivate strong, friendly relations with the Nordic countries, especially Iceland. According to a recent story published in the *Daily Mail* (Simon, 2011), “A Chinese tycoon has sparked fears that his country has a covert plan to dominate new Arctic shipping lanes after buying up a huge chunk of frozen wilderness in Iceland. Former Communist Party official Huang Nubo has offered £100 million to turn a barren stretch of north-east Iceland into an eco-tourism resort. But observers fear his proposals for the bleak area are a way for China to exploit commercial and military shipping lanes in the Arctic when melting ice makes it possible to sail through the North Pole region.”

Be that as it may, China, fully conscious of its enviable status as a major export country (with half of its GDP dependent on shipping in one way or the other), is

steadily augmenting its polar exploration and research capacity and also aiming to strengthen Chinese shipping companies (Jakobson, 2010). Both the Chinese analysts and the government seem fully conscious of the threats and opportunities that a more accessible Arctic and its shipping routes will provide to China. The opportunities offered by reduced logistic costs of shipping companies, economic rejuvenation of Asia's high latitude ports, tourism potential and shifting global trade and shipping patterns in favour of China, however, may be seriously challenged by the deficit of trust and co-operation among the major Arctic coastal states themselves and the cutthroat competition posed by others to Chinese shipping companies and the decline in importance of Chinese ports located in lower latitudes (Jakobson, 2010). China also remains deeply conscious of the fact that contemporary international law is least helpful to China's shipping interests (Jakobson, 2010). Some Chinese academics have expressed the view that China could consider the option of questioning the Canadian and the Russian official positions on the status on North-West Passage and Northern Sea Route, respectively, under the law of the sea (Blunden, 2012).

The Arctic Council Sixth Ministerial Meeting held in Tromsø, Norway, on 29 April 2009 (a meeting attended by China and South Korea as ad hoc observers) resolved not to adopt China, and South Korea as permanent observers. The European Commission's application for "permanent observer" status was also not accepted.

While waiting for the final decision of the Arctic Council on its application for a permanent Observer Status, China (an ad hoc observer at present) seems well aware of the fact that its much discussed official foreign policy stand on supporting state sovereignty in its classical-territorial sense could come in the way of articulating the vision of a more inclusive and democratic regional (perhaps even global) governance for the circumpolar Arctic. And it is rather difficult to make sense of the following comments made by Chinese Rear Admiral Yin Zhuo: "The Arctic belongs to all the people around the world as no nation has sovereignty over it. The current scramble for the sovereignty of the Arctic among nations has encroached on many other countries" (cited in Depledge and Dodds, 2011: 72). This statement apparently undermines the hope expressed by Frederic Lasserre that, "Engaging China and supporting the admission of other countries as observers at the Arctic Council could prove useful for Canada in keeping its own agenda prominent in cooperation discussions ... working on building common

grounds with China and taking its concerns and interests into account could prove profitable inasmuch as China, in turn, consider Canada's specific interests in the Arctic" (Lasserre, 2010: 11)

*India in the Arctic: Emerging engagement*

British India's engagement with the Arctic materialised on 9 February 1920, in Paris, when The Right Honourable Earl of Derby, K.G., G.C.V.O., C.B., Ambassador Extraordinary and Plenipotentiary of the United Kingdom put his signatures on the Svalbard Convention/Treaty. India thus became one of the nine original signatories of Svalbard Treaty, the current membership of which, as of 1 January 2010, stands at 40. Under this multilateral agreement where sovereignty over the archipelago was awarded to Norway, the other signatories were guaranteed free access to the natural resources of the archipelago (Ulfstein, 1995).

It is useful to note in passing that this convention "even offers a limited precedent for demilitarization in the Arctic region itself" (Osherenko and Young, 1993: 247). Under Article 9 it is specified that Svalbard shall "...never be used for warlike purposes" and by prohibiting the construction of naval bases or fortification on the archipelago the principle of demilitarization is being introduced (Osherenko and Young, 1993: 247). The issue of geographical application of the Svalbard Treaty remains contested. Whereas the Norwegian government argues that the equal rights of fishing and mining do not apply beyond the territorial sea, a number of other States parties question this view.

In 2008, India established a scientific research station *Himadriat NyAlesund* which conducts its operations under the guidance of the National Centre for Antarctic and Ocean Research (NCAOR), under the Ministry of Earth Sciences (Nayak, 2008). So far, India has undertaken seven expeditions to the Arctic. It has also placed orders for a dedicated vessel for polar expedition which is expected to join the NCAOR in 2012.

According to Shyam Saran, former foreign secretary of India, climate change induced transformations in the ecologically pristine Arctic are likely to have a major impact on India and the world (Saran, 2011). He does raise a number of interesting questions carrying geopolitical connotations:

Should five countries, which, as an accident of geography, form the Arctic rim, have the right to play with the world's ecological future in pursuit of their economic interests? If there are significant shifts in the world's shipping and, therefore, trade patterns, what will this mean for countries like India? Will the exploitation of energy resources in the Arctic improve India's energy security or complicate it even more than currently is the case? There is currently a shift in the centre of gravity of the global economy from the trans-Atlantic to Asia Pacific. Will there be a reversal of this shift back to the trans-Atlantic via the Northern Tier? Will Russia re-emerge as a major power?

Another op-ed contribution by Shyam Saran to leading national daily *The Hindu* (2012), entitled, "India's Stake in the Arctic Cold War", might add to the apprehension shared by some in the Arctic Council that India, rather than applying for an observer status in the Arctic Council (which does not appear to be the dominant official stance of India as of now) might decide to question the current discourse and practices of Arctic governance in the UN and other international forums. India, they may argue, had after all made a forceful (even if unsuccessful) bid in the UN General Assembly in 1956 in favor of trusteeship for Antarctica (Howkins, 2008).

Shyam Saran strongly disagrees with the contention that India should follow China in seeking a pie in the Arctic resource bonanza in pursuit of her energy security and describes the ongoing politicking as "shortsighted" and highly damaging to Arctic ecology (Saran, 2011). Instead, Saran argues that both Antarctica and the Arctic Ocean are "global commons" and share a "common heritage and mankind", and India, along with other Arctic states, should assert a role in Arctic governance, which in his view cannot be "exclusive privilege of the Arctic littoral countries." According to him:

India should consider carefully whether it should pursue its reported application to join the Arctic Council as a permanent observer. The Council was set up in 1996 and has eight members viz. U.S., Canada, Russia, Norway, Denmark, Sweden, Finland and Iceland. There are five permanent observers viz. the U.K., France, the Netherlands, Poland and Italy. Brazil, China, Japan and South

Korea have also expressed an interest in becoming permanent members. However, it should be noted that a condition for being granted this status is acceptance of the sovereign rights of the Arctic Council members over the Arctic Ocean. India should instead press for the Antarctic Treaty template where the territorial claims of States have been shelved for the duration of the Treaty. The reasons for which the international community accepted the discipline of the Antarctic Treaty are today even more compelling and urgent with respect to the Arctic. Placing this on the U.N. agenda during India's term in the Security Council and initiating international action on it could be a historic contribution by India in its role as a responsible global power. (Saran, 2011)

At another extreme of the emerging opinion spectrum on India's future engagement with the Arctic and its governance is a policy brief published by the Indian Council of World Affairs (ICWA), New Delhi, which argues that "by virtue of the Svalbard Treaty India is a stakeholder in the Arctic" and it will be wise on the part of India to "forge relationships with the Arctic Council members and argue for a permanent membership of the Council by virtue of the 1920 Svalbard Treaty" (Sakhuja, 2011). Key recommendations to the Indian government in this policy brief include expanding co-operation with Nordic countries, and engaging in bilateral dialogues and policy research to better comprehend the evolving politico-strategic developments in the "High North". It is further proposed that an early formulation of an Arctic Strategy, Arctic resource assessment and exploitation studies, regular expeditions to the Arctic and a systematic pursuit of scientific research as well as technological capability to exploit Arctic living and non-living resources are important for promoting India's interests in the Arctic. Finally, it is suggested that, "India is a strong advocate of global nuclear disarmament and can play a vital role in promoting the idea of a nuclear-free Arctic" (Sakhuja, 2011).

Another interesting intervention in the nascent Indian engagement with Arctic governance issues can be found in the issue brief from the Indian Institute of Defense Studies and Analysis, New Delhi, entitled *The Arctic as Global Commons*. It is argued that:

The Arctic deserves to be treated as a global common and a common heritage of mankind. The current discourse on the Arctic is dominated by the Arctic Five countries and the Arctic Council. This is clearly insufficient. These countries are moreover militarising the Arctic in pursuit of their narrow national interests. Their focus is limited to issues such as claiming Exclusive Economic Zones so that resources can be exploited, rights and resources for sea passage and the like. Protecting the ecology is low in their priority. Their business as usual attitude towards global warming combined with the prospects of the pollution of the Arctic due to increased shipping is likely to further degrade the ecology of the region. Instead of leaving the issue of the Arctic's future to the developed countries, developing countries like India must begin to play an active role, as they are doing in negotiations over space and climate change. It is time that a policy on this issue is debated and evolved in India. The first step in this regard will be for India to become an ad hoc observer to the Arctic Council. At the same time, India's 'strategic community' needs to take the lead in articulating the debating the idea of including the Arctic in the discourse on global commons (Gautam, 2011: 1).

Various points raised above have been questioned on a website named "Maritime Perspectives: A Canadian Perspective on Arctic Maritime Shipping" through the deployment of a number of arguments (see Maritime Perspectives, 2011). We are told that since most of the foreseeable accessible resources are located in the EEZ's of the Arctic States, public opinion and debates on this issue among outsiders are immaterial. And it is the citizens of the Arctic countries that would be the beneficiaries of the resource bonanza as well as the major victims of ecological degradation that might follow. The critique calls upon India to address its own footprint and contain carbon emissions. The comment concludes on the note that:

The Indian concern is more likely a concern about keeping the regional counterweight China in check. China has a head start in Arctic research and would inevitably be able to exploit the resources of the Central Arctic Ocean before India has the ability to so. India's own interests in the Arctic are also closely tied to its energy concerns, as exemplified by a new LNG deal with Russian giant

Gazprom that has previously received comment at Maritime Arctic. It is highly likely that India's concerns are more economic than ecological. (Maritime Perspectives, 2011).

The unfolding narratives on India's growing interest in the Arctic and the role that one of the fastest growing economies in the world *could* and *should* play in the future governance of Circumpolar North in the era of climate change (some of which appear to be more speculative than factual in nature) demand and deserve critical attention.

#### *South Korea and the Arctic*

South Korea's interest in the Arctic is also prompted by the titillating prospects of the distance between Korea and Europe becoming much shorter (Ebinger and Zambetakis, 2009), and the fact that during 2007 one ship successfully shuttled between Ulsan, Korea and Rotterdam through the Northern Sea Routes. According to some analysts, Singapore may not welcome this development, as China, Japan and Korea may ultimately decide to skip its port for most of their international shipments. The emerging discourse in South Korea on the Arctic also articulates concerns similar to other Asian countries, especially over being left out of the decision-making.

Sensing the heated competition early on, countries with a stake have decided to form an inter-governmental forum to coordinate their activities and manage the race to the North Pole. So, in 1996 the eight Arctic-bordering countries of Canada, Denmark, Finland, Iceland, Norway, Russia, Sweden, and the United States established the "Arctic Council," which is the only international forum that discusses the Arctic Ocean [not correct since there is also the Arctic Ocean coastal state meetings]. Germany, Poland, the Netherlands, France, the United Kingdom and Spain are now participating in the council as observers. More or less, the council seems to be an exclusive membership entity. The Arctic Council is already creating new norms for this once forbidden maritime region such as Guidelines for Ships Operating in Arctic Ice-Covered Waters [it is the IMO and not the Arctic Council that endorsed these]. In other words, a new regime for this region is already in the offing, without

necessarily the participation of countries that stand to be affected by them in the future. Thus, countries whose interest would be affected by this development have a good reason to stay vigilant and try to have their views reflected in the new regime. The world has an experience of successfully managing a territorial race among countries for the other polar region in the past: It adopted the 1959 Antarctic Treaty and the treaty is full of cooperative spirits. The precedent shows the benefit of introducing an inclusive, rather than exclusive, regime in managing a new frontier. A regime for the Arctic region may require a similar approach. (Lee Jae-min, 9 August 2011).

Many in South Korea have attributed massive rainfall and flooding in Seoul to climate change, and some have even argued that “it is ironic that a victim of global warming (i.e., the thawing Arctic Ocean) somehow facilitates more human activities and oil excavation, which would in turn expedite further global warming” (Lee Jae-min, 9 August 2011).

#### *Japan and the Arctic: Perceptions and positions*

Japan, another Asian economic giant in the grip of energy insecurity and related cartographic anxieties, is observing climate change-induced physical transformations in the Arctic Ocean and emerging geopolitical discourses *in* and *about* the Arctic with a great deal of concern. Such concerns are being increasingly shared and articulated in Japan by media, academia and the public at large. Besides environmental concerns associated with the threats induced by climate change, there is a growing focus on the opportunities related to navigation in an ice-free Arctic Ocean. The distance between Yokohama and Hamburg is expected to be reduced by nearly 62 per cent in comparison to the distance via the Suez Canal. According to Hidehisa Horinouchi, the Deputy Director-General of International Legal Affairs Bureau, Ministry of Foreign Affairs of Japan, “Japan’s position is that the legal issues related to the Arctic Ocean should be addressed within the existing legal framework (Horinouchi, 2010:2). In case the establishment of new rules or legal frameworks should become necessary in order to respond to the ongoing changes, the matter should be discussed under the existing legal framework, with substantial participation by interested States and not only the Arctic States and the Arctic Ocean coastal states.” In Japan’s view, the Arctic should be acknowledged as

part of the common heritage of mankind. At the same time, the international community should protect the area and use it for peaceful purposes only (Horinouchi, 2010:2).

With China, India, South Korea and Japan (with a longstanding scientific-political presence in the Antarctic Treaty System) aiming to join the Arctic Council as observers, sooner than later their motives are likely to be scrutinized and debated, especially among the Arctic rim states. According to the 2008 Scenario Narratives Report entitled “The Future of Arctic Marine Navigation in Mid-Century” (Arctic Marine Shipping Assessment of the Arctic Council’s Protection of the Arctic Marine Environmental Working Group: 8).

By 2025, China and India were developing navies that could guard their network of secure maritime transport routes from energy states to their ports of Hong Kong, Shanghai, Calcutta, and Mumbai. China managed to sign an energy deal with Russia, one that included significant reductions in the amount of gas and oil that Russia would export to the EU. Russian-Chinese trade increased, with both countries making use of the Northern Sea Route with well-publicized ‘demonstration voyages.’ Norway, nervous about future Russian plans, reluctantly decided to invest in more naval forces to protect its own Arctic interests. Japan did the same. Mariners began calling the Bering Strait the ‘Bering Gate,’ with U.S. and Russian patrols on continuous deployment.

Like this author, others might argue that alternative scenarios, far more benign and co-operative in nature, may prevail. It is possible to imagine scenarios where the coast guards of the Arctic rim states are at the forefront of co-operative naval diplomacy to address challenges of common-comprehensive security. Despite the recent addition of the non-traditional to traditional threats to security discourse in the Arctic (e.g., trying to realize human security at sea through preventing major shipping accidents in these cold waters with SAR) there is no reason why the Northwest Passage and the Northern Sea Route should become militarized and not the sites of co-operation and burden sharing between the Arctic States and Asian stakeholders. Forecasting the future is a hazardous task indeed and this is certainly not the key intention of this chapter. The Arctic Council despite being a “policy shaping rather than decision making body” (The Arctic Governance Project, 2010:

15) enjoys the geopolitical advantage of being in a position to learn from various ongoing experiments in governance elsewhere on the globe and identify the best practices. No doubt polar exceptionalism has been strategically deployed as a useful ethical-normative purpose in both the Antarctic, where perspectives anchored in deep ecology make good sense, and the Arctic, where considerations of nature-human symbiosis and human-ecological security remain paramount. But there are some serious pitfalls in deploying this reasoning for the geopolitical purposes of demarcating and dictating the inside/outside of the circumpolar Arctic governance.

That the rising Asian economies perceive a vital stake in the future of the Arctic and its governance is fairly obvious from the tone and tenor of the current rhetoric and discourse –both official and academic – emanating from these countries. What is equally beyond doubt is that the movers and shapers of Arctic governance discourse in general, and the Arctic Council in particular, can afford to dismiss or underplay the concerns of outside stakeholders (as the Asian century unfolds in all its complexities) only at the cost of undermining the legitimacy, authority and efficacy of their efforts. Having said that it is equally important that the reactions from the Asian actors, including critique, are dictated and driven by a well-informed understanding and analysis of the complex and fluid contexts in which the discourse and practices of Arctic governance are being debated and shaped at present.

The discursive formulations, imaginations and representations of the Arctic have historically varied (see Caron, 2011; Powell, 2008) and the military-strategic imprints and ideological legacies of the cold war have not withered away entirely from the circumpolar landscapes (Kim and Blank, 2011) or from the memories of indigenous peoples for whom the Arctic is homeland (Åtland, 2008). At a time when both the physicality and the ideational aspects of the Arctic are in a state of flux due to multiscalar climate change, what is also in motion is the politics of both remembering and forgetting. What is being forgotten at times is the longstanding history of ecological degradation, even destruction, in various parts of the Arctic. It appears as if the current framings of the cause-effect interface of climate change (which in most cases appears to be overwhelmingly tilted in favour of effects/causes), this history is relatively marginalized and the ecological concerns that were at the forefront of critical debate on sustainability during the 1980s and

1990s (e.g. the worrisome state and status of fisheries in the Barents Sea) are being pushed to the margins.

The appropriate scale at which the circumpolar Arctic, experiencing a dramatic loss of ice as one of the key markers of its white exceptionality, could legitimately be approached, authoritatively understood and effectively governed (and by whom?) in the era of climate change and growing scarcities is not easy to decide (Chaturvedi, 2012). As rightly pointed out by some keen analysts of the Circumpolar North:

The Arctic has never fit well within the spatial template of the state system, which is based on a foundational, permanent distinction between enclosable land and free-flowing water. Today, climate change is bringing this divergence, which long had been at the margins of political consciousness to the core, in the Arctic states and beyond. On the one hand, climate change is opening opportunities in the Arctic, giving states new incentive to clearly define the region within the spatial ontology of the state system, whether as developable space that can be enclosed within territories or as transit space that is exempt from state power. On the other hand, these same geophysical changes that are spurring increased interest in the region are making it all the more difficult for the Arctic stakeholders to designate specific points in Arctic space as either definitively ‘inside’ or ‘outside’ the state territory (Gerhardt et al. 2010: 999).

## REIMAGINING THE POLAR REGIONS AS GLOBAL KNOWLEDGE COMMONS: HOW CAN ASIA CONTRIBUTE?

In a seminal book written more than two decades ago, titled *The Age of the Arctic: Hot Conflicts and Cold Realities* Gail Osherenko and Oran R. Young argued that, “the more we reflect on the Antarctic experience... the more it becomes apparent that the differences between the two polar regions with regard to regime formation greatly exceed the similarities (Young, 1989: 243). In many respects, the Arctic and

Antarctic are antipodes in terms of regime formation as well as in geographical terms.” Osherenko and Young were writing much before both the Arctic Council was formed as a forum in 1996 and its predecessor Arctic Environmental Protection Strategy (also known as the Finnish Initiative or the Rovaniemi process) was set up in 1991.

Fast forward to 2011; the ongoing search for the best practices for Arctic governance could also take us down south to the Antarctic where disputed sovereignty continues to cast its shadow on the discourse and practices of governance both on the continent and in the Southern Ocean. In the Arctic, the obvious mismatch between asserted geopolitical spaces of territorial sovereignty and transboundary environmental climate change continues to grow and undermine the human-ecological security. What is needed in the Arctic today, as pointed out by Timo Koivurova is “legal innovation”, which in turn, demands new understandings of sovereignty and security along with new imaginations of space, scale and power (Koivurova, 2009). I wonder whether the concept of “global knowledge commons” could be a catalyst for such innovation.

The use of the term “global knowledge commons” in reference to Antarctica is relatively new. Writing on the complex issue area of bioprospecting in the Antarctic, the British economist Heber has equated the notion of “public good” with that of “global knowledge commons”, with due emphasis on open access to “publically funded and internationally open knowledge” (Herbert, 2006: 145). The underlying geoeconomic rationale here relates to a “global public good [including scientific knowledge] with pervasive collective consumption qualities consumed across states (nations)” (Herbert, 2006: 145). According to Hebert, some of the key defining traits of global common knowledge can be observed in “Antarctica where scientific research has historically been characterized by publicly funded and internationally open knowledge, a classic example of a global public good” (Herbert, 2006: 145). His cautious optimism makes him say that “...any future Antarctic bioprospecting policy regime might well build upon a continuance of the long-established Antarctic scientific tenets of public funding and international openness that encompass the concept of the global knowledge commons” (Herbert, 2006: 145). Heber’s comment on much-celebrated open access (an issue essentially geopolitical in nature) to publically funded and internationally open Antarctic science demands both critical reflection in a geographical-historical perspective and acknowledgement of the fact that Antarctica as ‘global knowledge commons’

has to be a project in the making or a work in progress. And this brings me to the next strand of my argument, which is that the project of a similar nature is both highly desirable and feasible for the Arctic Council.

I too have argued elsewhere that with good reasons to celebrate its numerous achievements over nearly five decades, the multifaceted Antarctic Treaty System (ATS), increasingly impacted by globalization (Hemmings, 2007), is at the crossroads today. It is confronted with the prospects of two alternative, but not necessarily mutually exclusive futures. In the first scenario, a multilayered Antarctic governance structure, encounters a crowded, complex and compelling agenda (tourism, bioprospecting, IUU fishing, whaling, climate change (French and Scott, 2009) etc., with much reduced authority and efficacy at its command. The Antarctic Treaty Consultative Meetings (ATCMs) of shortened duration find it difficult to arrive at a consensus on not only legally binding measures but even resolutions that are hortatory in nature. No doubt the ATS remains structurally intact but experiences considerable loss of legitimacy despite vociferous critics like Malaysia having been co-opted into the regime. It is found struggling at the same time to overcome some kind of inertia, caused partly by the absence of well-informed debates on issues of critical global and regional importance and the unsettling presence of a number of silent national delegations.<sup>1</sup> Finally, the agenda and practices of Antarctic diplomacy remain hostage to both the colonial-imperial legacy of territorial claims (Scott, 2011) and counter-claims (zealously guarded under Article IV of the Antarctic Treaty) and the subtle but significant assertions of territoriality (Rothwell, 2008). The knowledge-power interface remains overwhelmingly tilted in favour of the seven territorial claimants and the two “semi-claimants”, to borrow the term used by Alan D. Hemmings to refer to the U.S. and Russia, with the leading Antarctic powers dictating and driving the Antarctic science-diplomacy agenda and its prioritization (Hemmings, 2011: 14). In the case of complex issue areas like bioprospecting, the agenda of Antarctic science diplomacy is further tempered with the logics of market, commerce and national good (as opposed to public good) and marked by scientific controversies (Rothwell, 2009: 126).

<sup>1</sup>As of 1 March 2012, 50 states have acceded to the Antarctic Treaty. Of these, 28 state parties are consultative parties with a veto right; a status granted after the ‘demonstration’ of ‘substantial scientific interest’ by the newcomers and due acknowledgement of the same by other consultative parties. The 22 non-consultative members are welcome to the ATCMs but not entitled to participate in them.

In the second scenario, the agenda before the Antarctic governance remains more or less the same as outlined above under the first scenario. But the perceptions and responses of the ATCPs are radically different in the sense that they are driven more by the principles underlying trusteeship, imperatives of scientific research as the first-order value in the ATS, and the advice given by a revitalized and more proactive Scientific Committee on Antarctic Research (Robert and Haward, 2009).

Taken together these principles sustain the visualization of Antarctica as global knowledge commons. Hopefully, under this scenario, the pursuit of international co-operation and exchange of information and knowledge are no longer hampered or manipulated by the geopolitical compulsions emanating from highly stubborn, but dubious, claims to territorial sovereignty. We are also likely to witness a process of democratization of governance as integral to the process of a genuine post-colonial engagement with Antarctica (Dodds, 2010). The ATS is characterized by a better informed debate and dialogue within and between its various instruments. Marked by greater transparency and accountability in terms of agenda setting and decision-making, an internally reformed and rejuvenated ATS responds far more proactively to new challenges like bioprospecting (Guyomard, 2010) and climate change through a consensus-based approach. Whereas the ethical dimensions of exceptional polar attributes of the Antarctic are retained in order to ensure that obligations under the Antarctic Treaty are collectively met within its area of jurisdiction (i.e. south of the 60 degrees south latitude), the ATCPs proactively engage with relevant regional and global instruments and norms while responding to Antarctic-specific challenges.

The vital task of sustaining the existing strands of Antarctica as global knowledge commons needs mutual trust, which in turn will facilitate not only a free and frank exchange of information and knowledge among the Antarctic Treaty parties, but also burden sharing. Looking ahead, one of the major future challenges that the Antarctic governance will face in my view relates to perceptions, representations and interpretations of Asia's rise with regard to the ATS. The manner in which the intentions or motives of rising Asian powers, especially India and China, will be approached and interpreted by others in the ATS, or for that matter in the Arctic Council, will be of critical importance in further democratization of Antarctic and Arctic governance. The presence and participation of China, India, Japan, and South Korea as observers will further strengthen the legitimacy, authority and effectiveness of the Arctic Council.

Alan D. Hemmings, in his thought provoking contribution to the maiden issue of *The Polar Journal* (Routledge), titled, “Why did we get an International Space Station before an International Antarctic Station?”, points out that, “...there is a very limited case history of joint Antarctic stations, both pre- and post-Antarctic Treaty, and drawing general lessons from it is difficult” (Hemmings, 2011: 12) and argues that, “a transition from an Antarctic world of national Antarctic programs to one of a more integrated trans-national science, with a corresponding multilateral infrastructure may be the harbinger of a new dispensation less amenable to territorial aspirations there (Hemmings, 2011:13). The proverbial billion dollar question then becomes: How can the contentious assertions of territorial sovereignty on Antarctica, firmly anchored in state-centric geopolitics of mastering space, be transformed into universally acceptable norms of trusteeship as the fundamental principles of Antarctic governance in the best interests of entire humankind? For the Arctic Council members and the candidate countries seeking observer status, setting up multilateral infrastructure for collaborative science (e.g. on Svalbard where a number of countries from Euro-Asia have set up national science bases) could perform a number of useful functions including confidence-building measures.

Looking ahead, the notion of the two polar regions as global knowledge commons as essentially non-territorial, epistemic visualization of the polar bio-geographical region, needs to be re-contextualized in terms of what Karen T. Litfin has described as “planetary politics”, the key dynamics of which are “well illustrated in the case of ozone depletion and climate change, namely the complexity of local-global linkages; the importance of science and global civil society; the necessity and inherent difficulty of North-South co-operation; intergenerational time horizons and a holistic perspective; and the problematic nature of sovereignty as a framework for addressing problems of global ecology” (Litfin, 2007: 476). As Adriana Craciun puts so aptly, “Circumpolarity [which appears to be withering away in the emerging ‘scramble for the Arctic’] should be orienting principle for our current discussion of the planetary” (Craciun, 2009: 109). Moreover,

The Circumpolar Arctic, defined from both within and without, using both indigenous and alien knowledge, sustains a power incarnation of the planetary, one that reaches out beyond territoriality in ways uniquely possible in a polar world encircling

an ocean...The Arctic invites us beyond the terrestrial 'global human ideal' on which current 'planetary longings' typically depend, offering allegiances with non-anthropogenic alterity on an extreme scale ...a circumpolar orientation is also significant, with asymmetrical configurations, for current formulations of the 'Global South', its Southern Ocean, mythic Great Southern Continent, and postcolonial struggles in the looming 'Question of Antarctica' ( Craciun, 2009: 113).

From one important perspective, the scale at which we should be approaching both Antarctica and the Arctic as global knowledge commons in the context of planetary politics is the unorthodox scale of the new geological period called "Anthropocene" by Paul Crutzen (Crutzen, 2002: 23). As Simon Dalby puts it so thoughtfully, "the sheer scale of human activities means that we are living in increasingly artificial circumstances in a biosphere that we are changing" (Dalby, 2009). A radical revision of the conventional state-centric understandings of sovereignty and security in an increasingly warming world is overdue and the two polar regions (differences between them notwithstanding) provide an excellent interdisciplinary laboratory to revisit and rethink the concepts of scale, space and power in the era of profound transformations and transitions. It is highly desirable and most timely to envisage a future for Antarctica and its governance based on the principles of global knowledge commons, and it is in this direction that the ATS should continue to invent and reinvent itself. For the Arctic Council it has to be much more nuanced engagement with the ethics and the politics of scale, due to the fact that the issues of social-cultural geographies and human security, with special reference to indigenous peoples, should remain paramount.

This brief concluding reflection on bio-polar perspectives is dictated by my hope that treaty or no treaty, innovation (legal, social, political, economic, and technological) or lack of it, is what will decide to a large extent the future of the Arctic as a "zone of peace". (Young, 2011: 193). I also agree with Oran Young that "what is needed to maintain the Arctic as a Zone of Peace is a more effective governance system for the region" (Young, 2011: 192). One of the major threats to Arctic as a zone of peace, in my view, comes from the dominant securitization trends, framed in terms of climate change, turning the top of the world into a site of shadow boxing.

Out of the eight member states of the one and only pan-Arctic governance structure, the Arctic Council, an outgrowth of the Arctic Environmental Protection Strategy, devoted to environmental conservation and sustainable development (Bloom, 1999), Canada and Denmark happen to be the non-consultative members of the Antarctic Treaty whereas the U.S., Russia, Norway, Finland and Sweden are the consultative members with full veto rights. Most of these countries have the exceptional advantage of longstanding bio-polar experience, perspectives and insights. Those who are familiar with the specificities of the origins and evolution of the ATS on the one hand, and the emerging complexities associated with increasing globalization and commercialization of Antarctica landscape and resources (e.g. tourism and biological prospecting) are quite unlikely to stick their neck out and announce that the Antarctic model of governance can be transported to and transplanted on the Arctic either in its entirety or in parts. But at the same time they might find it equally undesirable to blow the differences (real and imagined) between Antarctica and the Arctic out of reasonable proportions and to such an extent that it becomes more or less taboo to raise questions of following nature: What are the ethical implications of bioprospecting (Leary and Walton, 2010) in Antarctica and the Arctic, an issue area where both the ATS and Arctic Council have much to think, plan and act? What is the current state and status of our knowledge about the Polar Regions and their environments? For example, where do we stand in terms of our hydrographic knowledge of the Arctic Ocean and the Southern Ocean? As the number of tourists visiting the Arctic multiplies due to the opening of new climate change-induced sites, do we need an organization similar to International Association of Antarctica Tour Operators (IAATO in the Arctic? How relevant are the eco-system approach and experiences of CCAMLR to the conservation (which in the case of CCAMLR and the Southern Ocean includes rational use) of marine living resources of circumpolar, semi-enclosed (see Caron, 2011) Arctic Ocean?

## CONCLUSION

Between now and 2013, when Canada takes over as Chair of the Arctic Council, we are likely to witness a rich debate on the past, present and future of Arctic governance. Some might argue that given the likelihood of further militarization and securitization of the Arctic (Murgatroyd, 2009; Åtland, 2008), defense/security issues should be added to the mandate of the Arctic Council (Lytvynenko, 2011),

whereas others might point out that “the existing set of disparate agreements, the AEPS, and the Arctic Council are insufficient to protect the Arctic from the adverse effects of increased oil and gas exploration because they are soft law” (Carpenter, 2009: 251). Hence, according to this viewpoint, what is needed is a “hard law Arctic Treaty”, which will force the “coastal states to stop and think about whether they really want to despoil one of the last pristine places on planet” and thereby “prevent a tragedy of commons in the Arctic” (Ibid. 251). And then there may be those who agree with Donat Pharand that, “The limits of national sovereignties in the Arctic must be clarified before there can be any meaningful circumpolar stewardship” (Pharand, 2007: 59).

According to Barret Weber and Rob Shields, “the urgency in the north is usually presented as something that we ought to be concerned about. But rarely do we hear about plans for concrete action and how real collective movements might begin” (Weber and Shields, 2010: 111). However, the Seventh Ministerial Meeting of the Arctic Council, held in Nuuk Greenland, in 2011 (Nuuk Declaration, 2011) can be described as a landmark in the sense that a number of concrete measures were proposed with regard to climate change and environmental protection (e.g. establishing a Short-Lived Climate Forcer Contaminants Project Steering Group), and Arctic marine environment (e.g. establishing a task force to develop an international instrument on Arctic marine pollution preparedness and response) besides establishing an expert group on Arctic eco-system based management (EBM) for the Arctic environment. The outstanding outcome of the Nuuk meeting was of course the Agreement on Cooperation in Aeronautical and Maritime Search and Rescue in the Arctic (Arctic SAR Agreement, 2011), as the first legally-binding agreement negotiated under the auspices of the Arctic Council (Arctic SAR Agreement, 2011).

The Nuuk Ministerial Meeting also decided to adopt the recommendations of the Senior Arctic Officials (SAOs) on the role and criteria for Observers to the Arctic Council (see SAO Report, May 2011). The SAO Report does acknowledge at the outset that, “Since the establishment of the Arctic Council participation by observers has been a valuable feature through their provision of scientific and other expertise, information and financial resources. The involvement of observers should enhance and complement the unique and critical role of Permanent Participants in the Arctic Council” (SAO Report, May 2011: 50). However, “In the

determination by the Council of the general suitability of an applicant for observer status the Council will, inter alia, take into account the extent to which observers:

“Accept and support the objectives of the Arctic Council defined in the Ottawa declaration; recognize Arctic States' sovereignty, sovereign rights and jurisdiction in the Arctic; recognize that an extensive legal framework applies to the Arctic Ocean including, notably, the Law of the Sea, and that this framework provides a solid foundation for responsible management of this ocean; respect the values, interests, culture and traditions of Arctic indigenous peoples and other Arctic inhabitants; have demonstrated a political willingness as well as financial ability to contribute to the work of the Permanent Participants and other Arctic indigenous peoples; have demonstrated their Arctic interests and expertise relevant to the work of the Arctic Council; and Have demonstrated a concrete interest and ability to support the work of the Arctic Council, including through partnerships with member states and Permanent Participants bringing Arctic concerns to global decision making bodies” (SAO Report, May 2011:50).

As for the role of observers, it has been resolved that, “Decisions at all levels in the Arctic Council are the exclusive right and responsibility of the eight Arctic States with the involvement of the Permanent Participants” (SAO Report, May 2011:51). Once observer status has been granted to them, the primary role of observers would be “to observe the work of the Arctic Council” and “continue to make relevant contributions through their engagement in the Arctic Council primarily at the level of Working Groups.” Observers are allowed to propose projects through an Arctic state or a permanent participant “but financial contributions from observers to any given project may not exceed the financing from Arctic States, unless otherwise decided by the SAOs” (SAO Report, May 2011:51).

The Asian aspirants for the observer status, and others like the EU, will no doubt be expected to continue to meet all the criteria for observers to the Arctic Council, and more importantly be *seen* as having done so by *all* eight member states of the Arctic Council. In some cases this may not prove to be a smooth passage. For example, meeting the criteria related to recognizing Arctic states' sovereignty, sovereign rights and jurisdiction in the Arctic is likely to be problematic in cases of

mutual disagreements/disputes among some of the Arctic states themselves. At the same time the criteria related to recognizing that “an extensive legal framework applies to the Arctic Ocean including, notably, the Law of the Sea, and that this framework provides a solid foundation for responsible management of this ocean” loses some of its persuasive reasoning due to the fact that one of the major Arctic states, namely the U.S., has yet to ratify UNCLOS; which may hopefully happen sooner than later.

Having noted that the pro-active participation of Asian countries as observers in the Arctic Council, along with that of the European Union (see Wallis and Arnold, 2011) and the UK (see Depledge and Dodds, 2011), could prove to be a major catalyst for introducing legal-political innovations within the overarching guiding principle of global knowledge commons. There is no doubt that the Asian aspirants for observer status in the Arctic Council have a fairly impressive record of Antarctic science since the mid-1980s. Similar efforts and investment are needed in the Arctic. Whether the physicality of their scientific-logistic presence is equally matched by their geopolitical profile and influence within the ATS is a question that needs critical introspection on the part of not only these two, but other Asian member countries as well. This has relevance for their Arctic engagement in the sense that India has been doing science at NyAlesund since July 2007, and China since July 2004. An ideal scenario from Asia’s point of view, as pointed out earlier, could be a joint research facility to be set up by China, India, South Korea and Japan on NyAlesund. As further demonstration of their commitment to the objectives of the Arctic Council, each country should work out an Arctic policy document as a first step towards putting into place a bipolar strategy with a strong emphasis on international scientific collaboration on climate change and sustainable development issues. Li Weifang and Wudi have made a few useful recommendations aimed at strengthening the case of East Asian countries for permanent observer status in the Arctic including participating as ad hoc observers in the Arctic Council’s working group meetings on various important issue areas such as Arctic contaminants, conservation of Arctic Flora and Fauna, protection of Arctic marine environment and sustainable development (Weifang and Wudi, 2011). Needless to say, against that backdrop of recently concluded Search and Rescue Agreement (Arctic SAR Agreement, 2011), the involvement and commitment of both present and potential stakeholders (especially EU, China, Japan, India and South Korea and Singapore) in fast multiplying human uses of

Arctic space and resources (e.g., fishing, tourism, seaborne trade and commerce) would be highly desirable. According to Oran Young:

Three things make it impossible to ignore this growth of interest on the part of key non-Arctic states in the politics of the region. Under the terms of UNCLOS, non-Arctic states have a right to engage in a range of activities in parts of the Arctic basin, including commercial shipping and industrial fishing. Equally important are the incentives that some of the Arctic states have to enter into cooperative engagements with non-Arctic states regarding the exploitation of the region's natural resources. Russia, for instance, is already cultivating relationships with several members of the EU, China, and even India, focusing on collaborative efforts to develop oil and gas reserves located in its portions of the Arctic (Young, 2011).

I wish to conclude on the note that as the rising Asian powers prepare and push their cases for observer status in the Arctic Council, it is vitally important that they give due space and attention to the human dimension of Arctic governance. In most reasoning advanced so far, what is missing by and large is the engagement with indigenous peoples of the circumpolar North; their knowledge systems, world-views and aspirations. It is useful to be reminded that Arctic (both on land and at sea) is not a strategic void and it is the *lived in* geographies of the circumpolar North that are in the front line of adverse climate change consequences. What might appear as opportunities offered by climate change may in some cases pose serious threats to the livelihoods of Arctic communities; especially the indigenous peoples. It is vital in other words that the Asian efforts at confidence-building and alliance-making go beyond the state actors in the Arctic Council. As pointed out by Heather N. Nicol, "While there may be disagreement about the potential for indigenous participation, or even the future efficacy of an indigenous rights in achieving its goals within the international system, the point here is that within Arctic states, recent land claims, indigenous rights settlements, and other types of agreements have positioned many indigenous peoples as actors with a say in sovereignty claims. It would be unfair to represent this group as silent or ignored" (Nicol, 2010: 80). The following excerpts from the 2009 Inuit circumpolar declaration on Arctic Sovereignty graphically underline the importance as well as urgency of approaching Circumpolar Arctic as a social

science laboratory to rethink and reassess the conventional understandings of sovereignty in the era of climate change:

There is a pressing need for enhanced international exchange and cooperation in relation to the Arctic, particularly in relation to the dynamics and impacts of climate change and sustainable economic and social development. Regional institutions that draw together Arctic states, states from outside the Arctic, and representatives of Arctic indigenous peoples can provide useful mechanisms for international exchange and cooperation.

The conduct of international relations in the Arctic and the resolution of international disputes in the Arctic are not the sole preserve of Arctic states or other states, they are also within the purview of the Arctic indigenous peoples. The development of international institutions in the Arctic, such as multi-level governance systems and indigenous people's organizations must transcend Arctic states' agenda on sovereignty and sovereignty rights and the traditional monopoly claimed by states in the area of foreign affairs (Inuit Circumpolar Council, 2009).

The future of Arctic governance in general, and the Arctic Council in particular, in a globalizing world is going to be impacted by wide-ranging factors and multiscalar forces. Various imaginative geographies of a "new great game" in the Arctic, firmly embedded in the traditional state-centric understandings of military security and territorial sovereignty will no doubt remain in circulation and continue to give rise to (and in turn thrive upon) cartographic anxieties. Yet confrontations and rivalries *in* and *over* the Arctic are not inevitable and alternative futures marked by mutual trust, co-operation and partnerships among various actors (regional, national and local), agencies and civil societies are both feasible and desirable. There is a growing acknowledgement of the fact that in the era of climate change and scarcities, Arctic governance, can no longer be state-centric (as rightly pointed out in the above-cited Inuit declaration on Arctic sovereignty), nor restricted to the eight Arctic rim states (Young 2011). According to Franklyn Griffiths, we should be aiming at Stewardship in the Arctic, which "in an Arctic setting means locally informed governance that not only polices but also shows respect and care for the natural environment and living things in it. The reference to the local is to the singular need for cooperation and input from Arctic indigenous peoples" (Griffiths, 2011: 7).

The discourse and practices of Arctic governance are likely to benefit immensely from a set of new imaginations, representations, vocabulary and diplomacy rooted in trans/circumpolarity. The prefix “trans” here derives from Latin and Germanic roots. It implies across or over; beyond or above; from one place to another; to cross over, pass through, overcome; a bridge. “Trans” also evokes problems of trans/lation, itself a word that derives from roots meaning “carried across”, an expression often invoked when two or more persons who speak different languages are trying to communicate. In my view, a major challenge as well as opportunity before the Arctic Council is to proactively engage in a politics and diplomacy of translation that facilitates communication, understanding, dialogue and co-operation not only *among* its eight Arctic-rim member States (the big and the small), indigenous peoples’ organizations and other permanent members including international organizations, but also *between* the Arctic and the non-Arctic Asian actors (both state and non-state) having stakes in the governance of circumpolar North.

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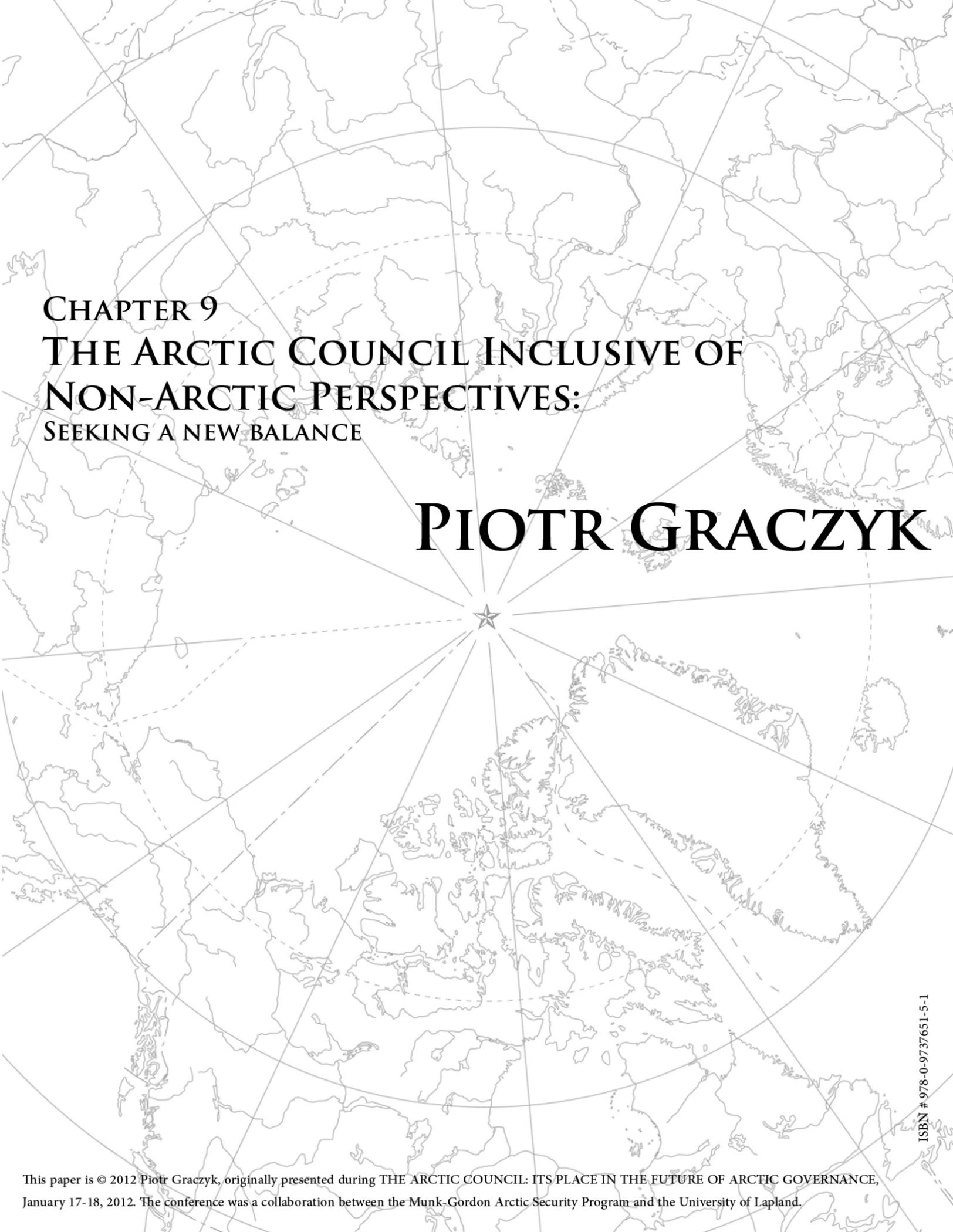
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**CHAPTER 9**  
**THE ARCTIC COUNCIL INCLUSIVE OF**  
**NON-ARCTIC PERSPECTIVES:**  
**SEEKING A NEW BALANCE**

**PIOTR GRACZYK**

ISBN # 978-0-9737651-5-1

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# THE ARCTIC COUNCIL INCLUSIVE OF NON-ARCTIC PERSPECTIVES: SEEKING A NEW BALANCE

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## ABSTRACT

*The Arctic Council's (AC) openness to the outside world has become an increasingly important issue in the current debate on its shape and place in the Arctic governance structure. The growing interest of states such as China and entities like the European Union in obtaining Observer status on the Council, and the search for an enhanced role by existing Observers, has triggered an emotional debate between the Arctic states, Observers and Permanent Participants. Admission of new non-Arctic actors as Observers and strengthening the role of the status might have broader consequences for the Council's design, functioning and general direction in which international relations in the Arctic would unfold. This article attempts to develop a new concept of the place and form of the Arctic Council from the perspective of a redefined non-Arctic participation. It seeks the most appropriate way of involvement of non-regional players into the Arctic Council's activities that would be congruent with all parties' interests and would not encroach upon the unique character of the Council. To achieve this goal, a three-step approach is employed. First, earlier concepts about the improvement of the Arctic Council are briefly reviewed and summarised. Second, the stances and policies of the Arctic states on the reform of the AC are explored. Third, the current political context in reference to the Observer debate is described. The new concept is introduced within the framework set by conclusions emerging from these three backgrounds.*

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## INTRODUCTION

Arctic change, driven by receding icecaps and globalization (ACIA, 2005; Koivurova, 2010; Heininen and Southcott, 2010), has triggered a debate on how to adapt the existing regional governance system to the challenges posed by these developments. A central role in the international architecture of the North has been assigned to the Arctic Council (AC), the premier circumpolar intergovernmental forum. Despite successes under the auspices of the AC, such as the Arctic Climate Impact Assessment, the Arctic Human Development Report and the Agreement on Search and Rescue in the Arctic, today's picture of the Council emerging from the academic and media discussions suggests that it is not well-suited to govern a rapidly changing Arctic (Koivurova, 2009; Young, 2009b; Koivurova and Hasanat, 2009).

Particularly challenging for the Arctic Council seems to be the growing global interest to participate in its works, driven mainly by emerging economic opportunities and environmental concerns as well as political and strategic issues (Berkman and Young, 2009). A number of outside actors, including China, Italy, Japan, South Korea and the European Union have shown their intention of being included in the affairs of the region by applying for Observer status at the forum, while those already accorded this standing seek an increased role within the Council's structures (Graczyk, 2011). This, however, has been met with certain reluctance from the Arctic states and Permanent Participants of the AC (AAC, 2007; ICC, 2010; Graczyk, 2011). The AC, which was conceived before climate change became so readily apparent in the region, and global interest in the region mounted, suffers from deficiencies that impede its ability to adapt to the changing political and environmental realities (Young, 2000; Young, 2009a; Haavisto, 2001; Koivurova, 2006; Koivurova, 2009; Koivurova and Hasanat, 2009). One problem is that differences between the Arctic states make it difficult to apply any significant changes to the Council's mode of action that could strengthen its position in the future Arctic governance system. Given the currently evolving nature of Arctic politics, the question of non-Arctic actor participation may be seen as one of the factors that will have significant impact on the shape of the regional co-operation structure that emerges.

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## METHODOLOGY

The present article offers a view on the possible reform of the Arctic Council's role, structure and rules of procedure in a wider perspective of involvement of non-Arctic actors and increasing interest of the outside world in Arctic affairs. First, however, it attempts to briefly review and summarise selected proposals for and visions of the AC's place in the regional governance structure, along with envisioned enhancements, and what actually has been done to improve its performance. Ideas developed in this paper take these concepts as a point of departure. Furthermore, the recently issued Arctic policy documents of interested parties are also examined with respect to the AC. The purpose of that is to set a realistic framework for further considerations that could be consistent with positions and interests of the Arctic countries.

It is essential to identify propositions that have been applied by the member states (entirely or partially) and those which were rejected or did not meet with their interest. This reveals the main obstacles and particularly sensitive areas in the Arctic states' policies within which they could be reluctant to agree to changes. To outline a new vision, first an overview of what has already been suggested is provided, then these recommendations are juxtaposed with the official Arctic governments' statements and the Arctic Council documents. Finally, on this basis, a refreshed proposal for the AC's architecture and the rules of procedure along with an imaginable way of implementation is advanced.

The ideas offered by this paper are based on certain assumptions that have been formulated after interviews and consultations with Arctic and non-Arctic governments' officials, NGO and indigenous representatives, as well as researchers involved in the Arctic Council projects. To some extent they are also based on the author's personal experience from participation in the Arctic Council meetings and work at the AC Secretariat.

## DEBATE ON THE ROLE AND SHAPE OF THE ARCTIC COUNCIL

Much attention and research in recent years have focused on the governance structure of the Arctic including the role of the Arctic Council (Young 2000; Young, 2009a; Young, 2009b; Young, 2010; Koivurova and VanderZwaag, 2007; Huebert, 2008; Huebert and Yeager, 2008; Koivurova, 2009; Koivurova and Molenaar, 2010). Finding a proper place for the Council within the rapidly changing international environment in the Far North appears to be problematic. The reasons for this are complex and differ due to national interests, diverse views on Arctic co-operation and governance, and discrepant definitions of legitimate stakeholders – a crucial question when according Observer status. There are also contrasting expert opinions as to sufficiency of the existing governance framework in the Arctic (mainly pertaining to the marine Arctic) which, according to some academics, does not fulfill its role (Huebert, 2008; Koivurova and Molenaar, 2010), whilst in view of others there are all necessary mechanisms already in place (Stokke, 2007; Hoel, 2009). The position of the only intergovernmental forum within the international architecture in the region plays a central role in these deliberations.

### *Identified limitations*

Since the establishment of the Arctic Council, and even at the negotiation stage (Scrivener, 1996; Keskitalo, 2004), many of its limitations have become apparent. The catalogue of hindrances impeding the works of the Council is relatively wide and well-known. It includes issues pertaining to a general role of the concerned forum in the international system, lack of legal basis, limited mandate, structural shortcomings, indigent communication and outreach capabilities, and quite specific questions concerning scope definition of the Working Groups work and project financing.

Criticism focused primarily on a soft law profile of the Council's mandate based on a declaration not a treaty (Koivurova, 2006, 2009; Huebert, 2008; Huebert and Yeager, 2008; Koivurova and Molenaar, 2010), insufficient or no implementation monitoring of self-imposed recommendations and guidelines (Koivurova, 2006; Koivurova and Molenaar, 2010) and avoiding certain themes, like fisheries or security (geopolitical) issues (Huebert, 2008; Huebert and Yeager, 2008). In

addition, it has been pointed out that the Council is mistakenly based on twin pillars of sustainable development and environmental protection, which in reality prove to be both overlapping and competing (Young, 2000; Haavisto, 2001). Concerns have also been raised about the long-term policy of the Council, as strategic directions are subject to shifts as the chairmanships rotate every two years (Koivurova and VanderZwaag, 2007).

Moreover, the division of labour between the AC's Working Groups limits the ability to handle complex and interrelated questions emerging from the changes occurring in the Arctic (Huebert and Yeager, 2008) and in certain cases (like AMAP and CAFF) their mandates overlap (Young, 2000). Additionally, the performance of the Working Groups is further undermined by deficient communication between them, inadequate contacts between the WGs and the Senior Arctic Officials (SAO)s and competition for the same financial resources (Haavisto, 2001). Another aspect of the Working Groups' work is acceptance of the projects that do not have a circumpolar scope, what may cause both resource dispersion and divergence from the mandate and region-wide focus (Haavisto, 2001).

Communication and outreach problems still remain unresolved in a satisfactory way, nonetheless studies and recommendations have been prepared and submitted to the Council at its request (Haavisto, 2001; Turunen and Kankaanpää, 2002; SAO Report, April 2009; AC Communications and Outreach Contact Group, October 2010; CCGS and WDGF, May 2011). Identified gaps and shortcomings include, inter alia, little knowledge about Council's activities even among northern residents and indigenous peoples, limited institutional knowledge or insufficient flow of information from the Council to a wide public both locally and globally (CCGS and WDGF, May 2011). This, as well as a lack of clear policy on priorities, also affects co-operation with other Arctic institutions, which should be better structured (Haavisto, 2001).

Finally, many authors have drawn attention to the issue of Observers, primarily non-Arctic actors, as not convincingly resolved. The main criticism focused on their limited participation (Koivurova and Molenaar, 2010; Koivurova 2010a) as well as an unclear definition of their role within the Council and criteria for their admission (Haavisto, 2001; Keskitalo, 2004). To a certain extent, it might be also said, there is a tendency to disregard links between challenges in the Arctic and

their sources in the South (Young, 2009a; Young, 2009b), as well as concern of outside actors about the developments in the region that may affect areas far below the Arctic Circle, causing frustration among non-Arctic entities (Young, 2009b; Young, 2010). Furthermore, a growing reluctance towards these actors can be observed. Recently, it was perceived (by some non-Arctic states) that there was an intentional reduction in the role of the Observers as guaranteed by the Arctic Council Rules of Procedure during negotiations on the Search and Rescue instrument (Graczyk, 2011).

This list is not exhaustive, but should outline a wide picture of the most immediate and critical problems the Council has to face in coming years. Until recently, it contained issues of a permanent secretariat, regular funding, and a lack of institutional memory (e.g. Molenaar and Koivurova, 2010). However, these problems were addressed at the Nuuk Ministerial Meeting, where the Arctic states decided to establish a permanent secretariat in Tromsø, Norway (Nuuk Declaration, May 2011; cf. SAO Report, May 2011) and, along with the allocation of 10 million euro towards Pollution Prevention Initiatives by Russia, the requirements to launch the Project Support Instrument had been met (SAO Report, May 2011). This provides more reliable – but not permanent – funding for the AC's projects on the elimination of contaminants in the Arctic, primarily carried out by the ACAP Working Group. Moreover, it is seen as a precedent for funding other Council projects (SAO Report, May 2011). The criteria for admitting new Observers and a role for their participation in the AC have also been defined. Yet, this has not entirely resolved the problem as the disappointment of some Observer countries and non-Arctic state applicants to the status has already been noted (Larsen, 2011).

#### *Proposals for the reform*

Comprehensive reform of the Arctic Council is not a feasible task for the present Swedish Chairmanship, nor even the subsequent Canadian one. It will require a well-designed step-by-step approach towards the ultimate goal of redefining the role of the Council appropriate to the international and environmental realities and its ability to quickly react if new challenges emerge. Nevertheless, many of the above mentioned studies offered options for changes within the Council that could possibly improve its capabilities, make it more efficient and free of certain shortcomings. It is also important to note that the AC's subsequent Chairmanships

have initiated discussions and activities towards strengthening its role and improving its structures (Arctic Council Capacity Building Workshop, November 2001; SAO Report, April 2009; SAO Report, May 2011).

The focus and scope of the proposals ranged from very specific issues and detailed solutions applicable to narrow areas, to comprehensive concepts placing the Council within the regional structure of governance. It seems, therefore, indispensable to briefly examine these proposals and point out the main issue areas on which they generally focus on. This is expected to provide a useful basis for developing a new concept on the possible reform of the Arctic Council.

Many authors and researchers have sought the most felicitous place for the Council within the landscape of international initiatives in the Far North. Often it was driven by disappointment with the actual performance of the only circumpolar intergovernmental body and high expectations that such an institution could solve many regional problems stemming from the effects of climate change. Furthermore, issues of structural deficiencies and participation of stakeholders other than the Arctic countries have been raised. Finally, some authors identified areas in regional governance in which certain improvements are needed and the Council could play an important role in filling existing gaps.

First and foremost, the question of the place of the Council within the governance of the Arctic and its relations with the other institutions has been raised (e.g. Young, 2000; Stokke, 2007; Stokke and Hønneland, 2007; Koivurova and Molenaar, 2010). It was recommended that it should focus on regional issues and those which give it a comparative advantage given its limited mandate (Young, 2000). Such a niche approach (Stokke and Hønneland, 2007) assumes that the AC should keep and further advance its function in producing influential and well-researched assessments and guidelines pertaining to the most pending challenges in the Far North (e. g. Young, 2000; Young, 2009b; Young, 2010; Stokke and Hønneland, 2007; Koivurova and VanderZwaag, 2007; Koivurova, 2009). The AC could also play a key role in strengthening implementation of existing (and possibly also future) international agreements pertaining to the Arctic and co-ordinate their application (Koivurova and Molenaar, 2010). As recent developments have illustrated in respect of the Search and Rescue agreement, it is also possible that the AC could become a platform for negotiating legally-binding agreements (Koivurova and Molenaar, 2010). Some authors have suggested that

the Arctic Council could be a good and desirable place for developing a regional seas agreement as envisaged under the Regional Seas Programme of the United Nations Environment Programme (Huebert and Yeager, 2008; Exner-Poirot, 2011; cf. Young, 2000; Koivurova and Molenaar, 2010).

Internationally, the Arctic Council should be nested within the broader international structure of regional co-operation, where it could perform tasks in setting the policy agenda. Accordingly, it would require interplay with other institutions already in place (Stokke, 2007). The AC could also be a part of a tripartite “governance complex”, comprising agreement stabilizing jurisdictional claims and boundary issues, the AC as a linkage between Arctic and the outside world as it comes to global concerns like climate change, and the development of issue-specific regulative regimes to address concerns involving questions like shipping or offshore oil and gas (Young, 2009b).

As to strengthening the internal structure, there are opinions that the scope of Council’s activities should be expanded to include issues of fisheries, marine mammals (Koivurova and VanderZwaag, 2007; Huebert and Yeager, 2008) as well as political (Norwegian MFA, April 2005) and security-related (Huebert, 2008) co-operation. According to some studies, it would be beneficial to abandon the AC’s current mandate of environmental protection and sustainable development and to reorganize the work of the Council around a larger number of issues (Young, 2000; Young, 2009b). This could also allow a better division of labour between the Working Groups. In addition, creating new Working Groups to address issues like fisheries, marine living resources and “enhancing the social and cultural environment of Northern territories” (Koivurova and VanderZwaag, 2007; Huebert and Yeager, 2008), were advanced. To increase an “Arctic voice” in other relevant fora and keep the Council abreast of the international processes in fields of its interest, Timo Koivurova and David VanderZwaag proposed the formation of an International Co-operation Working Group, or some kind of committee for external relations (Koivurova and VanderZwaag, 2007; cf. Ronson, 2011). This body could also review treaties and regulations pertaining to the region.

One of the most important roles of the Arctic Council has been seen in providing an Arctic perspective to various international institutions, primarily those with a global range (Young, 2000, 2009b; Koivurova and VanderZwaag, 2007), and boosting understanding of phenomena occurring in the region among

Southerners. To increase the visibility of the Council, both among the Northerners and worldwide, several recommendations have been made, mainly by expert groups at the request of the SAOs. The most critical suggestions include development of a communications strategy for the Arctic Council, hiring a person responsible for media relations, utilizing a wide-range of mass media, publishing the Arctic Council Bulletin, and to intensify interaction between Arctic inhabitants, educational institutions and the Council (Turunen and Kankaanpää, 2002). Recently, the Member States adopted the Strategic Communication Plan Guidelines prepared by the Arctic Council Communications and Outreach Contact Group and instructed the SAOs to develop them further (Nuuk Declaration, 2011).

Another source of concern is a common perception of the Arctic Council as another top-down forum governed from capitals located outside the region (Young, 2000; CCGS and WDGF, May 2011). This could be alleviated by both the development of appropriate relations with the Northern Forum (Young, 2000) and inclusion of Northerners themselves in the process of setting policy priorities in the Arctic Council (Arctic Council Capacity Building Workshop, November 2001).

Finally, many studies conclude the question of Observers as not sufficiently resolved and posing a potential challenge for the Arctic Council in the years to come (Huebert, 2008; Young, 2009a; Koivurova, 2010a; Koivurova, 2010b). Some authors (e.g. Young, 2000), as well as the SAO Reports (e.g. SAO Meeting Report, April 2008; SAO Report, April 2009) emphasize a positive input – such as research capabilities and financial support – which may be provided for the Arctic Council activities. In addition, their critical role in dealing with global processes affecting the Arctic has been recognized (Young, 2009b). Probably the most striking concern in deliberations regarding non-Arctic entities is dramatically increased interest in obtaining an Observer status expressed by powerful actors like China, Japan, Italy and South Korea as well as the European Union (Commission), which emerged as a considerable challenge for the Council appearing to be unprepared for such a development (Koivurova, 2009; Young, 2009b; Graczyk, 2011). By the same token, the present stateObservers have raised a question of increasing their role within the AC (Koivurova, 2009; Young, 2009b; Graczyk, 2011). It was noted that their position may seem inadequate compared to their aspirations (Young, 2009b; Graczyk, 2011). Simultaneously, some authors pointed out that Observers may pose a threat to the position of Permanent Participants (Young, 2009b;

Koivurova, 2010b), which was also highlighted by the Indigenous Peoples Organisations (IPO) themselves (ICC, 2010).

Still, little has been said on how to solve this issue. One concept suggested that Observers could be entitled to speak during ministerial meetings and have an access to non-confidential material (Koivurova and Molenaar, 2010); the other says that there will probably be a need to include a new group of outside actors in some way (Young, 2009a; Young, 2009b; Koivurova, 2009), and to mitigate growing frustration (Young, 2009b) both of ad hoc observers and permanent ones stemming from the protracted application process and limited role. But what exactly could be done? Are there any solutions that could prove to be acceptable for the Member states, the Permanent Participants and Observers? It seems, therefore, important to devote more attention to this issue and to look for somewhat more specific arrangements. This will be attempted below.

## ARCTIC STATES' VISIONS OF THE ARCTIC COUNCIL

When looking at what actually has been done within the Council to strengthen its capabilities, it should be concluded that the above mentioned suggestions and recommendations set forth by the subsequent AC's Chairmanships, experts and scholars met with limited interest and attention from the Arctic governments. The possible reason for that is suggested by Timo Koivurova and Erik Molenaar, who pointed out that usually the proposals for the reform of the Arctic governance system (including the AC) "suffer from their political realism" (Koivurova and Molenaar, 2010). Since the AC is a product of the Arctic states, it is important to bear in mind that only they may assign to it any role they consider appropriate.

Even though the above mentioned concepts provide complementary and relatively comprehensive vision of strengthening the AC, many of them did not take into account northern policies and the strategies of the Arctic states, which have become available only recently.

It is fair to say that states' attitudes might change; however, it is rather difficult when it comes to national interests. On the other hand, this possibility cannot be

completely rejected as the dynamics of international relations may force the Arctic states to move towards the idea, for instance, of an Arctic Treaty. It does not, however, seem possible in the foreseeable future. Some observers note that the changes occurring in the Arctic are so dynamic that “policy statements and strategies cannot really be seen as definitive, indeed, they often express only a declaration of intent or interest and cannot really ever fully reflect on changing conditions” (Nordic Council of Ministers, 2011). Nevertheless, when seeking any viable concepts of the AC, it is essential to take into account the current context, circumstances and, above all, the goals and interests of the Arctic states.

All the AC’s Member States have now published their northern policy documents. There are good reasons to think that the short and medium-term priorities of the Arctic governments will not be subject to previously observed seasonal fluctuation (Koivurova and VanderZwaag, 2007). Perhaps, these statements will positively contribute to balanced and far-reaching policy within the Arctic Council. Although the documents do not provide any explicitly stated ideas in respect to the reformation of the Council, it is possible to draw some conclusions and a general overview of the Arctic states’ approaches and, accordingly, a general framework within which any further considerations may be developed.

What picture of the Arctic Council and possible role of non-Arctic actors emerges from the policies and strategies? It will come as no surprise that there are different views on how the AC should perform its role within the emerging international governance of the Arctic. In Canada’s view there is a need to increase policy dialogue within the AC, encourage implementation of guidelines, development of “best practices” (e.g. in ecosystem-based oceans management, cf. Hoel, 2009) and negotiation of new instruments (if applicable). Moreover, a strategic communications role for the forum should be developed. Importantly, the Statement on Canada’s Arctic Foreign Policy articulates that although the “current informal nature [of the AC] (...) has served Canada well for many years (...) the growing demands on the organization may require changes to make it more robust” (Government of Canada, 2010). This means that Canada will “work with other Arctic states to develop options, including with respect to the role of the Council, related ‘secretariat’ functions, and funding issues” (Government of Canada, 2010). There is also a meaningful statement concerning non-Arctic actors, which are perceived as a challenge for the Permanent Participants. Canada, therefore, sees its own role in ensuring that the Permanent Participants’ central

role within the Council “is not diminished or diluted” (Government of Canada, 2010). In addition, the “key foundation for any collaboration” with outside players will be their recognition of the Arctic states’ sovereignty and leadership in the management of the region (Government of Canada, 2010).

To a certain extent, similar views are held by the United States. According to the American Arctic policy document “the Arctic Council should remain a high-level forum devoted to issues within its current mandate and not be transformed into a formal international organization, particularly one with assessed contributions” (U.S. White House, 2009). Nevertheless, the U.S. allows for “updating the structure of the Council, including consolidation of, or making operational changes to, its subsidiary bodies, to the extent such changes can clearly improve the Council’s work and are consistent with the general mandate of the Council” (U.S. White House, 2009).

The Russian Arctic policy document entitled *The Fundamentals of State Policy of the Russian Federation in the Arctic in the Period Up to 2020 and Beyond*, may be seen as reflecting areas of particular interest and aspirations rather than presenting a consistent strategy to pursue objectives (Zysk, 2010), although it mentions the Arctic Council only once in reference to the strategic priority of the Russian Federation in enhancing co-operation in the Far North (Security Council of the Russian Federation, 2008). However, some more detailed insights were provided by the Russian SAO Anton Vasiliev at the 5th Northern Research Forum Open Assembly in Anchorage, Alaska in September 2008, a few days after the issuance of the strategy. In his opinion, it is important to keep “sustained in a very careful and responsible manner” balances between certain issues within the Council, including “scope of its activities and the character of its products”, “its internal arrangements and decisions and transparency and co-operation with non-member states and entities”, as well as the role of the Permanent Participants (Vasiliev, 2008). This may imply that, in his view, the balance within the Council is relatively fragile and every change could possibly affect it. Thus, it might be assumed that to maintain balance, any significant changes (such as a different mandate, reconstruction or an increased role and number of observers) should not be made. This interpretation is further supported, at least in case of non-Arctic actors, by media materials. Both the Norwegian Government’s *High North Strategy* published in 2006 and its follow-up document from 2009 do not address any questions of possible reform of the Arctic Council (Norwegian MFA, 2006, 2009). However, according to the

Norwegian Minister of Foreign Affairs Jonas Gahr Støre the Council should focus on “filling knowledge gaps, identifying appropriate adaptation and mitigation measures and drawing up strategies” (Støre, 2006). Furthermore, he sees the role of the AC in decision-shaping rather than decision-making (Støre, 2009). To complete the picture, Norway has expressed its openness and willingness to admit new Observers, as well as increase their role within the Council (see Støre; Støre, Støre 2010a; Støre, 2010b; Støre, 2010c).

Contrary to the Norwegian and American positions, Denmark stated that the AC “must evolve from a decision-shaping to a decision-making organization” (Denmark, Greenland and Faroe Islands, 2011). The role of the forum as an “instrument exerting influence on nation states and international organizations” should be further strengthened. If it proves to be feasible, also decision-making actions should be pursued. To this end, it is essential to co-operate with all the states and organizations that may provide an input and can contribute to the Council’s activities (Denmark, Greenland and Faroe Islands, 2011). This also means, according to the Kingdom of Denmark, that policies and mechanisms “must be organized in close co-operation with other Arctic nations and other stakeholders [all relevant countries and organizations] with interest in the Arctic” (Denmark, Greenland and Faroe Islands, 2011). It is important to note that during its Chairmanship of the Arctic Council (2009-2011) Denmark was exceptionally active with respect to Observers and strongly advocated for admission of actors awaiting status. This, however, met with continued reluctance from the other Arctic states, what became apparent also in the survey carried out by the Danish Chairmanship. Nevertheless, a caveat is made in respect with involvement of the European Union that it should be based on Northerners’ own terms. This originates in the EU’s restrictions imposed on the import of seal products, which was considered the main reason for rejection of application for its Observer status (cf. Phillips, 2009). Additionally, Denmark asserts that the Arctic Five formula will be retained as “an essential complementary [to the Arctic Council - PG] regional forum for the coastal states of the Arctic Ocean” (Denmark, Greenland and Faroe Islands, 2011).

It comes as no surprise, therefore, that the Finnish, Swedish and Icelandic documents address the role of the Council vis-à-vis the Arctic Ocean Meetings (henceforth often referred to as the Arctic Five - A5). The origins of this formula can be traced back to the meeting at the level of senior officials held in Oslo on 15-

16 October 2007 at the invitation of the Norwegian Government. Representatives of the five Arctic Ocean coastal states met to hold informal discussions on the international legal framework applying to the Arctic, particularly the UN Convention on the Law of the Sea and its domestic implementation in different areas. This meeting provided the basis for the ministerial summit in Ilulissat, Greenland in May 2008, where the Ilulissat Declaration was issued. The last Arctic Ocean Meeting at the ministerial level took place in Chelsea, Québec on 29 March 2010. A common feature of these three statements is that they, while recognizing the rights and interests of the Arctic Ocean coastal states, will make efforts to ensure that the AC is the premier forum for addressing and making decisions on regional issues (Prime Minister's Office, 2010; Government of Sweden, 2011; Althingi, 2011). Furthermore, the extensive and detailed Finnish document offers a relatively comprehensive list of improvements to strengthen the AC's position. According to Finland, a possible role for the AC within the regional governance structure is to co-ordinate and monitor already existing and new regulatory arrangements and treaties, such as the United Nations Convention on the Law of the Sea (UNCLOS) and supplementary sector-based regulations, also in regard to developments on land. Moreover, it could also review different international instruments and "identify potential regulatory gaps and overlaps" (Prime Minister's Office, 2010). Finland encourages broadening the Council's agenda to include new sectors, in addition to its current function of monitoring and assessing the Arctic environment. The forum should play the role of a place for strategic Arctic discussion. To this end, Finland proposes further development of the deputy-ministers meetings, and introduces the idea that the Arctic Summits could be held "from time to time to discuss the guidelines of Arctic policy more broadly" (Prime Minister's Office, 2010). It also states that Observers could participate in such meetings "if necessary". Interestingly, the Finns are favorably disposed to admit new Observers, even if it would require amending the Declaration on the Establishment of the Arctic Council (the Ottawa Declaration).

At the opposite extreme, Sweden seems to ignore the growing outside interest in the Arctic. There is no single reference in either the Swedish AC Chairmanship programme (2011-2013) or the newly issued Arctic policy document to aspirations of non-Arctic actors in general and their participation as Observers in the Council in particular (Swedish MFA, 2011; Government of Sweden, 2011). Instead, Sweden focuses on an elevation of the AC's rank by the inclusion of "important strategic issues such as joint security, infrastructure etc." to its mandate. Furthermore, in

the Swedish view, development of more concrete projects and policy initiatives could energize co-operation within the Council and consequently reduce the need for the Arctic Five meetings (Government of Sweden, 2011).

Another idea on how to stimulate the Arctic Council, but also the Barents Euro-Arctic Council (BEAC), has been suggested by Iceland. In the Icelandic strategy it is stated that the BEAC could be “plugged into the Arctic Council” in a formal manner, for instance, by holding joint ministerial meetings of both councils (Icelandic MFA, 2009). This would allow creating synergies, avoiding duplication of common goals as well as better utilization of human and financial resources (Icelandic MFA, 2009). It is also worth noting that Iceland supports strengthening the role of Observers and admitting new ones. Moreover, Icelanders acknowledge that these actors are very active within the AC’s Working Groups and that their work contributes to the success of the projects (Icelandic MFA, 2009).

It can be seen from the foregoing that there is no common vision of the AC’s future, making any deliberation on the place of the AC in the evolving landscape of regional co-operation even more difficult. Appropriately, a new concept of AC reform should be kept within a framework set out by the convergence points of the above priorities for the member states, as it might be problematic to negotiate concessions from their positions declared in the policy documents. As a matter of fact, it cannot be ruled out that certain adjustments and trade-offs in different areas are possible; however, they are difficult to foresee at this stage.

What conclusions emerge from these policies for a possible new concept? First and foremost, it seems fair to say that the AC should remain a high-level forum (not a formal organization) keeping its mandate in the present form. Although the majority of Arctic states would like to broaden the Council’s activities to include other issues, it is unlikely that they would change the “two-pillar” scope defined in the Ottawa Declaration, especially in respect to more controversial questions. On the other hand, it is possible that new sector-based regulations akin to the SAR agreement will be used instead. Bearing this in mind, it seems expedient to adhere to the existing general idea of mandate with possible sector amendments.

Furthermore, the AC, in the combined view of the Arctic states, should keep its decision-shaping character rather than be transformed into a decision-making body. But there are, nonetheless, good reasons to think that discussion on this

question might be launched in the not-too-distant future. Since the scope of the term “decision-shaping” may encompass many instruments and roles, including co-ordinative and consultative tasks, it is crucial to utilize this function as much as possible. Given that all the Member States agree to strengthen the forum internally, it may be assumed that there is a space for new arrangements that could enhance the dialogue, even including non-Arctic players.

Although there are a number of references in the above documentation to the admission of new Observers, little is said on their role within the AC. It is important, therefore, to find ways of their inclusion that could be both acceptable for all the parties and consistent with the current mandate as well as newly issued criteria, which seems to be fully compatible with the Canadian statement. This question, evoking different reactions, seems to be the most challenging in the debate on the reform as it involves actors with different understanding of certain issues (Nordic Council of Ministers, 2011). Successful reform concept must find a way to alleviate discrepancy in this regard.

The point to be made here is that the AC is a product of the Arctic countries and that their formative function will remain the major shaping factor in the foreseeable future. Accordingly, their leading role at the AC should not be challenged and it should remain strictly regional in nature – with a decisive voice of the Member States. On the other hand, the Arctic countries must also take into account the international environment, the interdependencies of interested non-Arctic actors and themselves in other intergovernmental institutions, and their mutual national interests. Therefore, to keep the new concept realistic, ideas being developed should seem possible to be introduced on the outlined basis and be congruent with the specific character of the region, Arctic states’ national interests and the existing international circumstances.

## THE POLITICAL CONTEXT OF THE DEBATE ON THE ARCTIC COUNCIL’S PLACE IN REGIONAL GOVERNANCE

According to Oran Young, we are now witnessing the second significant state change of key international conditions in the Arctic that has brought the region

into the global limelight (Young, 2009a). Particularly, the publication of the Arctic Climate Impact Assessment (ACIA) in 2004 introduced an iconic shift in perception of the Far North from the picture of a frozen desert to the image of the Arctic in change that may have (and perhaps have had) far-reaching impact on global awareness about Arctic affairs (Koivurova, 2009).

The large and unforeseen response to the ACIA showed that the Council was inadequately prepared for this new global attention, especially in regard to the economic interest of outside actors in Arctic natural resources and shipping routes, and consequently, in the involvement in the Arctic Council, giving a clear signal for the need for change in this respect. Additionally, in August 2007, the world's attention was drawn to the Arctic by the Russian expedition Arktika 2007, which planted a Russian flag on the sea bottom at the North Pole. This action can be seen as a symbolic introduction of the Arctic to the current geo-political debate. The Arctic has gained increased political, economic and strategic significance not only among the Arctic states. Several powerful outside players have also expressed their interest in access to both economic opportunities and governance structures in the region (Koivurova, 2009; Young, 2009a; Graczyk, 2011). Those already involved in the Arctic co-operation processes raised the question of improving their position within the AC (Graczyk 2011). Accordingly, the problem of number, role and justification of Observers' presence emerged as one of the main points of discussion on the Council's reform (SAO Report, April 2009; SAO Report, May 2011; Graczyk, 2011). As indicated by the survey carried out by the Danish Chairmanship among the eight northern governments and the six Permanent Participants, there are still profound differences in respect to this issue. By the same token, the role of Observers is rather symbolic compared to their abilities and aspirations (Graczyk, 2011).

The AC's Member States seem to treat actors from outside the region cautiously and, despite favorable declarations, keep them at distance. Recently, even a shift towards more assertive statements could be observed. For example, the senior member of the Russian delegation to the Nuuk Ministerial Meeting (2011) commented for Kommersant:

“Recently there is the rage for the Arctic, largely, of course, due to opening economic opportunities. At the same time, many countries which are irrelevant to the North Pole, do have a desire to chop off a

piece ‘of the Arctic pie’. If you give them the green light, soon there will be one hundred observers on board, who will gradually require more and more rights, and then insist on turning the Arctic in the ‘universal humankind heritage’ on the model of the Antarctic.” (Chernenko, 2011).

The argument invoked frequently by the Arctic states and the Permanent Participants is the possible suppression of the AC if the number of observers increased. This was clearly stated by a Canadian diplomat at the Nuuk Meeting:

“Keeping in mind [the] failed climate conference in Copenhagen – the more members in the club, the harder it is to negotiate something, and there are questions in the Arctic, especially environmental ones that need to be addressed quickly.” (Chernenko, 2011; cf. AAC, 2007; ICC, 2010)

Lack of consensus on the Observer issue, despite the relatively high activity of the Danish Chairmanship in this regard, may lead to a weakening of the AC in the future. It is conceivable that rejected non-Arctic entities could look for other avenues for pursuing their interests, including through bilateral relations with the Arctic countries, other forums, or even by creating new structures (Larsen, 2011; Willis, 2011).

Nevertheless, such a way of dealing with regional issues, apart from the Council, has been constituted by the five Arctic Ocean coastal states at the ministerial meetings in Ilulissat, Greenland in 2008 and Chelsea, Québec in 2010. As mentioned above, it is also supported in the Canadian and Danish Arctic policy documents. On the first occasion these countries declared their commitment to the existing international legal framework pertaining to the Arctic Ocean, and expressed their view that there is no need for any new legal arrangements for the region, including a treaty (Ilulissat Declaration, 2008). Continuation of meetings in this format, proposed by Canada to advance “[a] forward-looking dialogue on issues related to our [the coastal states’ – PG] roles and responsibilities in areas under our jurisdiction” (Cannon, 2010), may, however, be indicating a new trend in the circumpolar co-operation.

While the exclusion of Finland, Sweden and Iceland as well as the Permanent Participants at the summit in Ilulissat, although criticized, could have been justified by a single-case commitment to the existing international law and governmental nature of such declaration, the offer of the Arctic Ocean Foreign Ministers' Meeting in 2010 was met with rather harsh reactions not only from the rest of the Arctic States (particularly Iceland, CBC News, 2010b; SAO Report, November 2007), IPOs (CBC News, 2010c), but also U.S. Secretary of State Hillary Clinton (O'Neill and Boswell, 2010). Notwithstanding the Canadian government's defence of the A5 summits focused "on issues of particular relevance to the Arctic Ocean coastal states, generally not dealt with in the Arctic Council" (CBC News, 2010a), this formula may move the mainstream of regional co-operation towards bilateral relations and ad hoc meetings of interested countries (such as the A5), thereby marginalizing the Council (Heininen, 2007; Heininen, 2010; CCGS and WDGF, May 2011).

On the other hand, it is also important to note that despite the significant changes that have occurred in the region since the Arctic Environmental Protection Strategy (AEPS) and its further development within the AC, the legal status of these instruments, mandate and institutional structure have not been significantly modified (Koivurova, 2010). Nonetheless, in recent years various initiatives and proposals to strengthen the AC in this regard have been undertaken by the Chairmanships (Norwegian MFA Report, April 2005; Norwegian MFA, 2008; The Kingdom of Denmark, April 2009), some of the Permanent Participants (AAC, 2007; ICC, 2010) as well as by researchers examining Arctic institutions. By the same token, the commitment of the Arctic countries to reform the AC, with recognition of recent developments in this regard agreed in Nuuk, seems to be far from optimal from the beginning of the Arctic co-operation to the present day (Koivurova, 2009).

Drawing these observations together, it may be concluded that the AC has reached the moment in which it must decide what role it should play in the years to come. Shall it be the central institution for policy decisions in the Arctic? Or rather, a low-profile assessment and discussion body marginalized by other arrangements like A5? It seems fair to say that it is high time the AC took appropriate steps to find a niche for its prospective activities (cf. Koivurova, 2009). Bearing the above picture in mind, we may attempt to offer a somewhat new view on the place of the Arctic Council in the future of Arctic governance.

# HOW TO ADAPT THE ARCTIC COUNCIL? A NEW CONCEPT

## *General remarks*

The preceding analysis shows that the problem of adaptation to emerging circumstances is one of the most critical and complex for the Arctic Council. Presumptively, it would require a laborious negotiation process to reach a consensus on the future shape of this forum. Additionally, it is important to note that different models of the reform may be considered, employing categories such as focus (from narrow to cross-sectoral), outcome (legally/non-legally binding, creation of new institutions), as well as the place of the AC within the wider structure of international institutions and instruments (cf. Koivurova and Molenaar, 2010).

The major focus of the AC should be, therefore, to act as a co-ordinative hub (cf. Young, 2009b) for a network of international agreements (legally and non-legally binding), instruments and organizations applicable to the Arctic. Such a role would imply linking and providing other international institutions with reliable, high quality and up-to-date knowledge and recommendations. The AC in this position would be also entitled to review these arrangements and identify gaps and overlapping issues pertaining to the Arctic, and in co-operation with their appropriate organs, would advocate the most proper method of resolution. Consequently, such a forum would need to address literally all issues concerning the region. Moreover, it should aim for the creation of instruments that could facilitate achieving legally-binding regulations at other institutions or in the form of separate treaties. After a review of a specific case (in appropriate subsidiary body – see below) there would be three possible actions to be made: 1) to refer an instance to the other and more relevant authority or institution (if such exists) which is mandated to deal with such specific areas, 2) to handle the case within the AC (if it corresponds to its mandate and activities), or 3) to create a new instrument (e.g. a treaty) to cover the issue (in a way similar to the SAR agreement). Selecting one of these options should be obligatory, binding and made by consensus. Although there are examples of successful efforts in this realm (the Århus Protocol on POPs, the Stockholm Convention on POPs) which give a good basis for further developments, it is still rather occasional and may be perceived as one of the most unused features of the Council, mainly due to lack of consensus.

This may, however, be about to change together with the adoption of the SAR agreement.

These tasks are envisaged to strengthen the decision-shaping (or policy-shaping) function; nonetheless certain decision-making elements can also be noticed. The member states should consider whether negotiations of legally-binding sector instruments are better managed outside or under the auspices of the Arctic Council (but perceived as de facto AC products) instead of adding them to the AC competences. It is fair to say, however, that legitimacy of this function in the forum's fundamental documents would increase the role of the Council significantly. The scope of sector agreements (that would be possible to negotiate within the AC) could be defined in advance in a detailed manner (e.g. security issues would be excluded) thus all the Member States could accept it.

As noted above, it would be a third option and just a formal confirmation of the already established arrangement. The opponents may have, nevertheless, reservations about the status of such regulations and could consequently argue that indeed this would imply a shift towards an international organization with regulatory authority. In fact, the decision whether to use this measure would remain at the discretion of the Arctic States on the consensus basis. Although enacting legally-binding regulations requires a treaty-based organization, both the Ottawa Declaration and the Rules of Procedure do not preclude the launching and conducting of negotiations on legally-binding arrangements. Nevertheless, some amendments in this regard could be introduced to these documents to highlight this function of the Council. Still, when positively interpreted, the founding documents may be perceived as creating a space for arrangements of this kind even within the current mandate.

It is, therefore, a task for the Arctic states to deal with the pros and cons of such a resolution and their key criterion should be efficiency. It means that they need to answer a question about whether regulative instruments would be better managed and implemented outside the Council or within it. Nevertheless, if the inconsistencies with some states' policies would be too glaring (in their interpretation), for the time being the AC should further develop its role as a venue for negotiations on instruments operating externally. The important thing to note in this connection is that the Council should not compete with the existing

institutions and instruments but rather supplement, enhance and co-ordinate them.

Being a leading forum dealing with circumpolar affairs implies fostering relations between the Arctic and other regional and global entities. The AC's role in this regard should be not only co-operation with relevant institutions on regulations and governance of the region, but also drawing international public opinion's attention to the problems of the Arctic and enriching its understanding of processes occurring there. To this end, the forum should increase the level of awareness of its very existence and activities, above all locally and regionally, and then, also globally. First and foremost, there is a need to enhance a "brand" of the Arctic Council and its stature as a premier source of well-established and reliable information on the Far North acknowledged by the Arctic states and involved non-Arctic actors. Communication with the rest of the world would require, in addition to scientific reports, a popular science approach based on intelligible messages distributed in the form of TV programs, newspaper articles, books, bulletins, etc. It is also important to develop a good platform for information flow between the Council (e.g. secretariat) and the mass media. There is, therefore, a need to enhance the AC's capabilities in this field by the creation of a specialized section within the Secretariat.

In this context, it seems also inevitable to enhance co-operation with southern states, which often are key players in various international institutions, but also may facilitate amplifying the voice of the Arctic Council domestically. A special role might be played by the European Union with all its means and possibilities of influence and promotion, both among the member states and places where it acts as a unified entity. Promotion of the AC's goals and programs worldwide should be one of the most critical functions of observers concerned with the Arctic. To effectively perform this task it seems important to maintain a constant and continuous exchange of information, access to research activities within the Working Groups, as well as meetings of the Arctic Council. This issue indicates another challenging area where the AC needs to seek improvement in the immediate future.

Along with increased interest in Arctic affairs, the outside actors aspire to be recognized as legitimate stakeholders in the region. Arctic states might be successful in blocking their efforts, as well as assuming an apt role within the AC

(Young, 2009a), but may find it difficult (if not impossible) to restrain the presence and activities of non-Arctic players in the Far North. Here the question emerges whether the Member States would prefer to have information about these developments in areas beyond their jurisdiction and maintain good relations with non-Arctic entities or close their own circle and allow the situation to unfold in an unco-ordinated manner. To avoid the latter scenario, Arctic states should analyze and take into consideration the goals and Arctic policies of these actors and envisage what potential alternatives to the AC are, which may prove to be detrimental to the Council itself as well as to regional co-operation and governance. Given that in all likelihood it takes place in the Ministries of Foreign Affairs of the Member States, these governments need to juxtapose their conclusions with each other and forge a common and balanced position. The new criteria for Observers (SAO Report, May 2011), although posing a step forward to settle the issue, seem rather to defer decisions on the applications, thus increasing impatience among non-Arctic actors and causing their sometimes harsh reactions (Larsen, 2011; Johnson, 2011). By the same token they have laid a foundation for a more restricted and cautious policy towards Observers aimed at discouraging rather than encouraging them to participate in the Council's work (Graczyk, 2011). Additionally, it may be easily seen from above that these criteria do not fully reflect all the publicly stated positions of the Member States in this respect.

In this context, the Arctic Council should also take into account its role in the emerging security environment in the region. This does not mean dealing with military-related issues, excluded from its mandate, but rather seeking and establishing appropriate relations with organizations crafted for such purposes, namely the North Atlantic Treaty Organization (NATO) – including the NATO-Russia Council – and the Organization for Security and Co-operation in Europe (OSCE). Both institutions have expressed their interest in developments in the Far North, thus pondering the consultative and informative role of the Council seems to be highly pertinent to keep it the central forum for Arctic affairs. Interconnectedness and interplay between the AC and the OSCE could generate synergies in security areas, especially as all the Arctic states are members of the OSCE. Furthermore, the Council could consider its role in promoting regional peace and stability through respect for justice and the rule of international law, by for instance, incorporating the chief principles of the Ilulissat Declaration (with possible amendments) to the AC's fundamentals, and making the parties of it also non-Arctic actors having interests and capabilities to operate in the Arctic (in a

manner corresponding to their presence in the region). This has been partly done in the criteria for Observers.

Nevertheless, bearing in mind the wider international and high politics dimension of the possible AC's role, it is essential to preserve and further enhance the unique character of the forum focused on the local and indigenous inhabitants. This means that the Council should not evolve towards a typical regional organization with a predominant political level, but instead be based on a bottom-up principle with the Working Groups and the Permanent Participants as fundamentals. Higher politicization and decisions being made far below the Arctic Circle without hearing the Northern voices would not solve problems of the region. On the contrary, involvement of indigenous peoples in decision-shaping processes and research programs laying groundwork for policy recommendations have proved to be a right way of addressing many issues emerging in the Arctic. Accordingly, due to the growing importance of scientific assessments, primarily those of the WGs, for the entire governance system in the Arctic region, certain improvements might be applied to Observer participation in the projects carried out by the Arctic Council's Working Groups.

The working level (comprising both the WGs and Task Forces) of the Arctic Council's structure seems to be the most appropriate place to strengthen co-operation with non-Arctic actors and to demonstrate their commitment to the problems of the Arctic and Northerners as well as the goals of the AC. On the other hand, it is also an opportunity for the AC to receive additional financial resources, scientific expertise, as well as new views and proposals that could contribute to energizing activities within the AC. It is understandable that their involvement should be of a supportive nature (with the leading role of the Arctic nations) however Observers should not be perceived merely as a source of funding and resources, but as full research partners.

Currently, the AC does not seem to be ready to perform these functions unless the forum is substantially reformed. It will require concrete changes in the approach to its work and architecture. Thus, how can the Arctic Council structurally adapt to deal with the above outlined roles?

### *Structural improvements*

The core issues pertaining to the structure include both questions of improvement of the existing bodies such as the Secretariat (ACS) and ideas for the creation of the new organs within the AC. These suggested arrangements have been narrowed to the most essential and involve as little resources as possible from the Arctic states for the sake of their limited willingness to increase financial commitments.

To improve the AC's performance at the highest levels it should maintain the current non-binding nature of decisions and remain a decision-shaping rather than decision-making forum. However, as mentioned above, it seems that even with this caveat there is a room for certain improvements in this regard. First and foremost, there is a need to ensure efficient and well-established strategic planning in long- and medium-term perspectives. To this end a new political arrangement could be created, namely the Arctic Summits as proposed by Finland in its policy document. They would have a form of strategic conference (perhaps on the level of Prime Ministers) held every six to eight years (e.g. after completion of four subsequent chairmanships held by half of the AC member states), which could gather representatives of all the stakeholders (also non-Arctic) to discuss priority problems in the years to come, as well as to outline directions and goals in dealing with them. This would establish a framework for the AC's work for the next decade, ensuring a comprehensive and coherent approach. In addition, such meetings would undoubtedly draw the world's attention to the problems of the Arctic. Needless to say, the forum should also maintain the ability to react quickly to emerging and pending issues.

Chairmanships would operate within these schemes and could add their own objectives in line with the general plan. Biennially held Ministerial Meetings would do their current work and review sub-goals for the next chairmanship to keep it in accordance with the agreed strategic directions. This task could be supplemented by further developed meetings of Deputy Ministers, which could become sectoral in nature, gathering deputy ministers entitled to make decisions on specific issues discussed (e.g. ministers of transport, natural resources, and environment).

A novel feature that could contribute to more robust discussions within the Arctic Council is a group (committee) of experts ("wise men") that would be responsible for directing the debate on Arctic-wide matters by delivering their expertise to the

PMs (at the Arctic Summits), ministers and deputy ministers, for instance, in the form of a keynote speech. This group would also serve as an advisory body that could be consulted both at the meetings and in periods between them (also by the SAOs if necessary). Its key role would be to stimulate the discussion on emerging issues and phenomena that need to be addressed by politicians. The more direct interaction could prove to be essential in the region of rapid changes. It is an open question who should be part of this group, but there should be places for distinguished scholars encompassing different fields of Arctic science. It is conceivable that it could emerge from enhanced co-operation between the AC and the International Arctic Science Committee, the Northern Research Forum, as well as the International Arctic Social Science Association.

While these arrangements are believed to elevate the Arctic Council's status and trigger in-depth and intense discussions on a wide range of Arctic issues, the AC should focus on co-ordination of regional affairs without having to deal directly with issues that are controversial or excluded from its mandate. To act effectively as a co-ordinative hub for a set of international agreements and organizations, the Council needs to both initiate new processes and review existing ones in other bodies. It is critical to ensure that the Arctic Council has a say in any international agreement with relevance to the Arctic.

This role should be performed at all levels of the Arctic Council's structure. At the political plane, comprising Arctic Summits, ministerial and vice-ministerial meetings, it could be considered to hold joint conferences with apparent institutions (when a certain issue is to be deliberated), for instance, representatives of the International Maritime Organization could be invited to the Ministerial or Deputy Ministerial Meetings in the case of discussions on the "Polar Code" or the Arctic Marine Shipping Assessment (AMSA) recommendations follow-up. Moreover, the form of joint sessions of two (or more) organizations, for example, the AC and the BEAC, should also seek to achieve synergies and reduce overlaps. The critical role of the Arctic Summits in this respect would be to initiate discussions on strategic legally-binding instruments regarding the Arctic that should be pursued in other institutions (presumptively requiring laborious negotiations) and, if necessary, to furnish different agreements with an Arctic perspective.

To increase chances of success for political projects in this regard, it would be necessary to adjust the operating level to these new needs. The most pertinent seems to be the creation of a working group or appropriate legal unit within the Secretariat which would review and trace all international instruments and institutions having any impact on the Arctic and could prepare expert reports recommending decisions for ministers in accordance with the “three-option” model and suggest steps forward. This special organ would also monitor domestic implementation of relevant international agreements and the AC’s recommendations among the Arctic (and possibly involved non-Arctic) states.

With regard to the Arctic Council Secretariat, further changes and redesign would be required. Above all, it seems inevitable to expand its structure by developing different units focused on specific areas. It should be capable to provide an institutional memory (archive, information centre, ensured continuity), legal services (review of international institutions and linkages to them, expert recommendations – if a special WG was not created) and currently performed tasks (SAO Report, May 2011). Moreover, it may be particularly useful to develop communications and outreach, media relations, or even a marketing unit that would strengthen the Council’s visibility. In addition, the Indigenous Peoples Secretariat (IPS) should be integrated with the ACS, as proposed in the SAO Report to Ministers at the Nuuk Ministerial Meeting (SAO Report, May 2011). This could both elevate the status of indigenous peoples (they would have their own unit and co-chair in the secretariat of the intergovernmental institution) as well as would add indigenous insight into the work of the ACS. This could also help to reduce costs and contribute to more efficient co-operation with the Permanent Participants. Relatively well-positioned SAOs should further supervise these developments, however, it comes as no surprise that their meetings most likely would have to be extended or become more frequent to cover all the issues.

A more intriguing question perhaps is how to tackle the Observer issue in a way that meets all the parties’ needs. First and foremost, it is apparent that the current arrangements are not entirely fit for this purpose, especially in relation to communication between the Arctic states and Observers. A good step forward may be the idea of an Information Symposium held for the first time along with the Deputy Ministers Meeting in May 2010 in Copenhagen. Nevertheless, given a rather informative and brief character of presentations, this form of communication is not sufficient to conduct an effective and substantive dialogue;

neither is it possible at the SAO nor (deputy) ministerial meetings. There is, therefore, a need to develop and regularize an additional channel of communication with accredited Observers.

A new arrangement could be modeled on the informal Warsaw meeting (March 2010) between all the state (and EU) Observers and the SAO Chair representing the Danish Chairmanship. Such a format allows free discussions on the most pending issues without disrupting the work of the Council. In addition, these meetings could be organized by Observer states that would not require any additional effort from the Arctic states except for the presence of its representative. The SAO Chair would be responsible for circulation of the meeting's conclusions among the other Member States and the Permanent Participants and perhaps it could be discussed (if particularly relevant) at the SAO Meetings or further addressed (with reply from the Arctic states and the PPs) at the next meeting of this kind. Other guests, such as IPOs or IPS representatives, could also be invited. In addition, it is envisaged that Observers would be entitled to sit at the table and speak during the Arctic Summits.

Nonetheless, the fundamental question centers on a practical involvement of Observers into the Council's work. The main emphasis should be placed on their scientific contribution within the WGs and Task Forces. All the state Observers carry out well-established and dynamic polar research programs that may provide the ACs projects with additional knowledge and experience, but also facilities and resources. Yet, it is accurate to say that their possible input is not (for many reasons) utilized sufficiently. It seems, therefore, necessary to improve a mechanism for incorporating Observers' scientists into the WGs and TFs activities and avoid politicization of this level of the Arctic Council's structure. Inclusion of non-Arctic researchers should be based on substantial consideration as well as the search for synergies and linkages between the AC's projects and polar programs of southern institutes.

Making progress toward the achievement of these goals would require the participation of representatives of research centers from non-Arctic countries at the meetings of WGs and TFs with the right to propose new projects, especially those ones they would wish to finance. The chief idea behind this arrangement is that the WGs should operate as international research institutions, taking into account the quality of the projects and the researchers' backgrounds rather than as

an extension of political organs. To further equalize the position of non-Arctic states at the working level, Observers should provide input to the AC's project budget (Project Support Instrument), in addition to ad hoc funding. An application procedure based on the new criteria should allow the Member States to discard the last concerns about an Observers' participation in the AC research programs.

The soft law nature of the Arctic Council makes the question of efficiency exceptionally important and challenging. This is particularly apparent with respect to the implementation of guidelines and recommendations which frequently have no follow-up activities. As a result, the AC's projects do not fully comply with their role and there is no information on how efficacious the AC's effort is. There are no simple solutions to the problem, but one way forward may be the creation of a mandatory mechanism to monitor the scope of implementation of programs, and to encourage the Arctic states to introduce recommendations to their domestic legal orders. Being in a good position to perform such tasks could prove to be the above described unit within the Secretariat, which could be based on the Protection of the Arctic Marine Environment WG (PAME) experiences in monitoring activities related to the AMSA follow-up. The procedure would involve periodical reports on how the states act on approved recommendations, what the level of implementation is and how much time would they need to apply certain solutions. On this basis, the unit would create a summary report on the status of implementation of specific recommendations, which would be presented at the SAO meetings. Such a mechanism could also contribute to increase capabilities related to the institutional memory.

Respectively, compliance information and the effectiveness of regional co-ordination would depend largely on the unit and its reports for decision-making. This supplementary body should ensure the exchange of information between the AC and these (or on these) institutions and search for the best proposals for filling in possible gaps and avoiding overlaps with respect to international regulations pertaining to the Arctic. Potential recommendations could include involvement of appropriate institutions (organizations and other bodies) or development of a new specific instrument.

### *Implementation*

It is difficult to predict which of the proposed ideas are possible to implement, and to what extent they would meet the interest of the Arctic states. The premise of this paper in terms of implementation is to maximize utilization of the existing structures and minimizing the need for (protracted) negotiations, the outcomes of which may be far from expectations. There are certain arrangements and mechanisms already in place that may give a good basis for further development of the solutions offered by the present article. The majority of the decisions could be made by the ministers of the Member States, building on the already functioning framework. This applies, for instance, to the establishment of new working groups or decisions relating to the Secretariat. The ministers would also play a key role in convincing leaders of their governments about the idea of arranging the Arctic Summits with their participation. But it would be equally appropriate to develop further feasibility studies (especially to its legal and operational feasibility).

Furthermore, the introduction of permanent consultative meetings with Observers can easily be enhanced and expanded on the basis of the three previous meetings (in Brussels, London and Warsaw) and the experience of the entities that organized them. In addition, they could still be held in the Observer states, which could increase interest and provide reliable information on the Arctic co-operation, as well as promote the AC itself in the South (press coverage would be highly recommended), and contribute to outreach and communication in non-Arctic countries. One of the ideas for advancing implementation of the suggested actions may be a special conference (different from the ordinary AC meetings) on the reform of the AC which would have powers to make certain decisions or launch specific processes (including negotiations) leading to establishment of the proposed arrangements. The latter action could be also performed by the ministers at the ministerial meetings.

## CONCLUDING REMARKS

The Arctic Council should remain a venue where interested actors (Arctic and non-Arctic) meet to solve real problems of the region, not only to assess and make recommendations, but to co-ordinate joint actions and develop mechanisms that review how adopted guidelines are implemented in domestic policies.

Simultaneously, any reforms should not be forced. It is the nature of international processes that any imposed actions, to which states have not yet matured, may do more harm than good. Changes within the AC should be a continuous process of adaptation to the dynamically changing environment.

However, some innovations are needed today. One of these is a question about the involvement of non-Arctic actors. They should add value, not cause problems. Joint research carried out under the auspices of the Arctic Council seems to be one of its most valuable achievements. Development of recommendations by scientists from many countries (including non-Arctic ones) contributes not only to a possession of the same and common knowledge, which is a basis for further action, but also enables learning from each other, understanding problems of individual countries from the earliest stages of decision-making processes, thereby increasing the potential for further peaceful co-operation. But if the AC became a more politicized body, i.e. if high politics and national interests dominated the Council's work and influenced its shape, it is highly possible that its unique position and impact on the region would melt.

This paper has attempted to devise a profile of the Arctic Council in the years to come. It becomes more and more apparent that the AC cannot remain just a "study and talk" forum for discussion about the environment and sustainable development (Koivurova and VanderZwaag, 2007). Instead, the AC should increase its engagement in areas critical for the region, which includes not just the impact of oil and gas extraction, or increased marine shipping, but also issues that may pose a challenge for the spirit of co-operation in the Arctic. The member states should bear in mind both realms in which the Arctic Council has proved to be successful and those which it should cover in the forthcoming years. The intent behind this is to raise the AC's role, so that the key players would not search for other avenues to handle their interests, while maintaining balance and the bottom-up structure. However, the present study has also revealed that there is no common vision for the Council's future among the Member States. Overcoming these differences seems to be the issue of paramount importance in making any attempts to reform the Arctic Council.

## ANNEX 1: THE NEW BALANCE WITHIN THE ARCTIC COUNCIL

Given the preceding analysis and subsequent conclusions, this section outlines 14 major recommendations based on research findings to make the key ideas more apparent. When searching for a new balance within the AC the following propositions may be considered:

### *Recommendation 1*

The Arctic Council should adhere to the existing general idea of the mandate with possible new sector-based regulations akin to the SAR agreement.

### *Recommendation 2*

The Arctic Council should utilize its “decision-shaping” function as much as possible since it may include many instruments and roles, including co-ordinative and consultative tasks. Given that all the Member States agree to strengthen the forum internally, it may be assumed that there is a space for new arrangements that could enhance the dialogue, also with non-Arctic players.

### *Recommendation 3*

The formative, decisive and leading role of the Arctic states should not be challenged, and the Arctic Council should remain strictly regional in nature, albeit bearing in mind the international environment and the importance of the Arctic for the entire planet, as well as legitimate interests and the presence of external actors and interdependencies of the regional and global institutions.

### *Recommendation 4*

The unique character of the forum focused on the local and indigenous inhabitants should be preserved and enhanced. This means that the Arctic Council should not evolve towards typical regional organization with a predominant political level, but instead be based on a bottom-up principle with the working groups and the permanent participants as fundamentals.

#### *Recommendation 5*

A major focus of the Arctic Council should be to act as a co-ordinative hub for a network of international agreements (legally and non-legally binding), instruments and organizations regarding the Arctic, addressing literally all issues concerning the region by linking and providing other international institutions with reliable, high-quality and up-to-date knowledge and recommendations. This role should be performed at all levels of the Arctic Council's structure. Accordingly, certain formalized actions to close identified gaps in regional governance architecture should be developed.

#### *Recommendation 6*

The Arctic Council should be able to draw international public attention to the problems of the Arctic and enrich its understanding of processes occurring there. To this end, the forum should increase the level of awareness of its very existence and activities by, in addition to scientific reports and assessments, a popular science approach based on intelligible messages distributed in a range of measures. An effective platform for information flow between the AC and the mass media by the creation of a specialized section within its secretariat should be considered.

#### *Recommendation 7*

One of the most essential functions of observers should be to promote the AC's goals and programs domestically and worldwide. To effectively perform this task it is important to maintain a constant and continuous exchange of information and access to research activities within the WGs as well as meetings of the Arctic Council.

#### *Recommendation 8*

Co-operation with non-Arctic actors should be strengthened, first and foremost, at the working level (comprising both the WGs and TFs) of the Arctic Council's structure. The mechanism of incorporating Observers' scientists into the WGs and TFs should be improved by the creation of a permanent place for researchers from Observer states and organizations filled by agreement between these entities depending on their resources and interests. Inclusion of non-Arctic scientists should be based on a substantial consideration as well as a search for synergies and linkages between the AC's projects and polar programs of southern institutes,

taking into account the quality of the projects and the researchers' backgrounds. Politicization of this level should be avoided.

#### *Recommendation 9*

The Arctic Council should take into account its role in the emerging security environment in the region by promoting regional peace and stability through respect for justice and the rule of international law and consider interplay with security institutions. This does not mean dealing with military related issues excluded from its mandate, but rather seeking and establishing appropriate relations with organizations crafted for such purposes, namely the Organization for Security and Co-operation in Europe (OSCE), the North Atlantic Treaty Organization (NATO) including the NATO-Russia Council.

#### *Recommendation 10*

A new format for the Arctic Summit should be created to ensure efficient and well-established strategic planning through a long- and medium-term perspective. The purpose of these meetings would be to gather representatives of all the stakeholders (also non-Arctic) and establish a framework of the Arctic Council's work for the next decade. Observers (as invited guests) should be entitled to sit at the table and speak during the Arctic Summits.

#### *Recommendation 11*

To enhance critical discussions within the Arctic Council, the creation of a group (committee) of experts ("wise men") should be considered. Its task would be to direct the debate on Arctic-wide matters by delivering their expertise to the Arctic Summits, ministers and deputy ministers meetings, for instance in the form of a keynote speech. The committee would also serve as an advisory body and could be consulted both at the meetings and periods in between.

#### *Recommendation 12*

To further develop and regularise an additional channel of communication with accredited observers, a new arrangement – modeled on the informal Warsaw meeting (March 2010) between all the state (and EU) Observers and the SAO Chair – should be introduced. This format would allow free discussions on the

most pending issues without disrupting the work of the AC and would contribute to common understanding of the problems occurring in the region.

*Recommendation 13*

The creation of a mandatory mechanism to monitor implementation status and to encourage the Arctic states to introduce recommendations to their domestic legal orders is of great importance to improve the effectiveness of the Arctic Council. A specially designed unit within the secretariat could prove to be in a good position to perform such tasks.

*Recommendation 14*

Different units/posts focused on specific areas should be developed within the Arctic Council Secretariat. They should be capable to provide institutional memory, legal services, communications and outreach efforts, as well as currently performed tasks. In addition, the Indigenous Peoples Secretariat (IPS) could be integrated with the ACS.

## ACKNOWLEDGEMENTS

The author is most grateful to Alf Håkon Hoel and Erik Gant for their invaluable comments on earlier drafts of this paper.

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