



Glossary of Terms for Multilateral Negotiations Inside and Outside the Arctic Council

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Glossary of Terms for Multilateral Negotiations Inside and Outside the Arctic Council

1.0 Introduction

The purpose of this document is to explore the vocabulary commonly used in multilateral organizations and identify and define terms, concepts and mechanisms used to communicate interests and negotiate agreements both inside and outside of the Arctic Council.

1.1 Unique Characteristics on the Arctic Council

The Arctic Council is not an international organization like the United Nations and its Specialized Agencies (World Health Organization, International Labour Organization, International Civil Aviation Organization, International Maritime Organization, etc.), the World Trade Organization, the World Bank, or the International Monetary Fund.

Rather “the Arctic Council is the leading intergovernmental forum promoting cooperation, coordination and interaction among the Arctic states, Arctic Indigenous communities and other Arctic inhabitants on common Arctic issues, in particular on issues of sustainable development and environmental protection in the Arctic”.

The Arctic Council is a forum; it has no programming budget. All projects or initiatives are sponsored by one or more Arctic States. Some projects also receive support from other entities.

The Arctic Council does not and cannot implement or enforce its guidelines, assessments or recommendations. That responsibility belongs to each individual Arctic State.

The Arctic Council’s mandate, as articulated in the Ottawa Declaration, explicitly excludes military security.

As stated on the Arctic Council web-site its Ministerial Declarations are not binding international agreements.

Additional information on the Council may be found directly from the [Arctic Council web-site](#).

1.2 Glossaries of terms used by the United Nations and other international organizations

Each multilateral organization has a glossary of terms relevant to its activities. For example the glossary for delegates to United Nations General Assembly meetings contains 190 pages of terms. http://www.unitar.org/mdp/sites/unitar.org/mdp/files/Glossary_E.pdf

The glossary of terms for negotiators of Multilateral Environmental Agreements contains 109 pages <https://www.cbd.int/doc/guidelines/MEAs-negotiator-glossary-terms-en.pdf>

There is also a glossary for bodies dealing with humanitarian issues containing 62 pages <http://www.who.int/hac/about/reliefweb-aug2008.pdf>

The United Nations Treaty Handbook has a glossary of 11 pages related to negotiation of treaties. (Pages 62-72 <https://treaties.un.org/doc/source/publications/THB/English.pdf>).

The United Nations Framework Convention on Climate Change (UNFCCC) has a glossary of climate change acronyms. http://unfccc.int/essential_background/glossary/items/3666.php

A glossary on international climate change negotiations can be found at: <http://www.carbonbrief.org/an-international-climate-change-negotiations-glossary/>

1.3 Arctic Council Declarations Similar to United Nations General Assembly Resolutions

Arctic Council Ministerial Declarations are not legally binding treaties and more akin to United Nations resolutions. United Nations resolutions are formal expressions of the opinion or will of United Nations organs. They generally consist of two clearly defined sections: a preamble and an operative part. The preamble generally presents the considerations on the basis of which action is taken, an opinion expressed or a directive given. The operative part states the opinion of the organ or the action to be taken.

Most experts consider most General Assembly resolutions to be non-binding. Articles 10 and 14 of the UN Charter refer to General Assembly as "recommendations"; the recommendatory nature of General Assembly resolutions has repeatedly been stressed by the International Court of Justice. However, some General Assembly resolutions dealing with matters internal to the United Nations, such as budgetary decisions or instructions to lower-ranking organs, are clearly binding on their addressees. The same is the case for Ministerial Declarations in the Arctic Council.

1.4 No Arctic Council Specific Glossary of Terms

There is no glossary of terms for the Arctic Council but there are some defined terms in the Rules of Procedure adopted in Iqaluit in 1998 and modified more recently in Kiruna in 2013.

Arctic States means the Members of the Arctic Council, namely Canada, Denmark, Finland, Iceland, Norway, the Russian Federation, Sweden and the United States of America.

Permanent Participants means the organizations referred to in Article 2 of the Declaration as well as any other organization granted Permanent Participant status in accordance with these Rules.

Observer means an entity described in Article 3 of the Declaration which has been granted observer status in accordance with these Rules.

Host Country means the Arctic State which chairs the Arctic Council during the particular period in question.

Quorum: Six of the Arctic States shall constitute a quorum for purposes of holding a Ministerial or Senior Arctic Official (SAO) meeting.

Permanent Participant: the category of Permanent Participation is created to provide for active participation and full consultation with the Arctic indigenous representatives within the Arctic Council. This principle applies to all meetings and activities of the Arctic Council.

Consensus Decision-making: all decisions of the Arctic Council and its subsidiary bodies, including with respect to decisions to be taken by Senior Arctic Officials, shall be by a consensus of all eight Arctic States.

Chair: The Host Country shall act as chair of the Arctic Council from the conclusion of a biennial Ministerial meeting to the conclusion of the next biennial Ministerial meeting, and shall coordinate arrangements for Ministerial meetings.

Observer means an entity described in Article 3 of the Declaration which has been granted observer status in accordance with these Rules. Criteria for admitting Observers are found in [Annex 2 to the revised Rules of Procedure](#) approved in 2013.

Chairmanship means the Arctic State which chairs the Arctic Council during the particular period in question.

Secretariat means the Arctic Council Secretariat, located in Tromsø, Norway.

Guidelines for Arctic Council proposals for projects and programs are contained in [Annex 1 of the revised Rules of Procedure](#).

Footnotes: In some international organizations the placing of language in a footnote rather than in the main body of the operative text can signify a somewhat lesser importance in terms of the text being negotiated. That does not appear to be the case for Arctic Council Declarations. Footnotes to Arctic Council Ministerial Declarations have been used for a variety of purposes: to add clarity to the Declaration; to record a consensus understanding of an issue; to record the views of one Member State on wording in the Declaration; to further identify a meeting mentioned in a Declaration; to give specificity to a generic term used in the Declaration i.e. to specifically identify the Working Groups of the Arctic Council.

Footnotes in Arctic Council Ministerial Declarations have been used rarely: the Ottawa Declaration which established the Arctic Council had two: 1) “*The Arctic Council should not deal with matters related to military security*” and 2) *The use of the term “peoples” in this declaration shall not be construed as having any implications as regard the rights which may attach to the term under international law that the Council determines can contribute to its work*”. They reflected a consensus understanding by Ministers of those two issues.

There were no footnotes in 1998 Iqaluit or 2000 Barrow Declarations.

The 2002 Inari Declaration, the 2004 Reykjavik Declaration and the 2006 Salekhard Declaration contained a footnote inserted by the United States which said “*The United States notes that the use of the term "peoples" in this Declaration and related documents shall not be construed as having any implications as regard the rights which may attach to the term under international law.*” These footnotes record the views of one member state on specific wording in those Declarations.

2009 Tromsø Declaration had two footnotes to clarify language in the Declaration. The first was to more properly identify the “Washington Ministerial Declaration” mentioned in the Declaration as “*the Washington Ministerial Declaration on the International Polar Year and Polar Science adopted at the Antarctic Treaty Consultative Meeting-Arctic Council Joint Meeting, 6 April 2009*”. The second identified by name the six Council Work Groups for which a generic mention had been made under the Section of Declaration dealing with Administration and Organization of Arctic Council (“**note** with appreciation the progress made by the Working Groups”). The footnote identified the working groups as: “*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)*”

There were no footnotes in the 2011 Nuuk Declaration, the 2013 Kiruna Declaration or the 2015 Iqaluit Declaration.

The AGREEMENT ON COOPERATION ON AERONAUTICAL AND MARITIME SEARCH AND RESCUE IN THE ARCTIC, the first legally binding agreement negotiated between all member states of the Arctic Council, has one footnote in Annex 1 which identifies “the search and rescue regions relevant to this Agreement are delimited as follows”. The footnote reads “*The coordinates in this Annex use the World Geodetic System 1984 (“WGS 84”). All coordinates are connected by geodetic lines. The North Pole refers to the Geographic North Pole, located at 90 degrees North latitude, and the Arctic Circle refers to 66°33’44”N latitude*”.

There are no footnotes in the AGREEMENT ON COOPERATION ON MARINE OIL POLLUTION PREPAREDNESS AND RESPONSE IN THE ARCTIC, which has not yet been ratified by all member states.

Interpretation: A means for a member state to record its views on how an agreement will be implemented by it. The Senior Officials’ Report at Iqaluit 2015 contained a Russian interpretation of how the “Enhanced Black Carbon and Methane Reductions: An Arctic Council Framework for Action” will be implemented in Russia.

The following two glossaries are presented as tools to foster better understanding both the mechanics of international negotiations and how they are implemented. Some are relevant to negotiations in the Arctic Council and others are presented to offer familiarity with terms commonly used in international diplomacy to give context.

2.0 Glossary of Some Terms Used in Multilateral Negotiations

2.1 Active Listening

Active listening is a way of listening that focuses entirely on what the other person is saying and confirms understanding of both the content of the message and the emotions and feelings underlying the message to ensure that understanding is accurate.

2.2 Adversarial Approach

The adversarial approach to a conflict sees the other party or parties as an enemy to be defeated. It can be compared to the problem-solving approach which views the other party or parties as people who have a common problem that needs to be jointly solved. The adversarial approach typically leads to competitive confrontation strategies, while the problem-solving approach leads to cooperative or integrative strategies for approaching the conflict situation.

2.3 Advocacy

Advocacy is the process of taking and working for a particular side's interests in a conflict. Lawyers engage in advocacy when they represent a client in a legal proceeding. Disputants can also engage in advocacy themselves by arguing for their own position in negotiation, mediation, or a political debate. Any attempt to persuade another side to agree to your demands is advocacy.

2.4 Alternative to negotiation (see also ATNA, BATNA and EATNA below)

Analytically, the non-agreement alternative provides a lower bound for the minimum worth, or utility, that would be required of any potential agreement resulting from a negotiation to persuade you to agree with it. In other words, an agreement must provide at least the utility that you could achieve from your non-agreement alternative. If a prospective outcome appears to be worse than the non-agreement alternative, then it would be better to withhold your agreement to a joint decision.

2.5 Alternative Outcomes

For each issue, negotiators will now have identified their most (maximum) and least (reservation point) preferred outcomes. The results of any negotiation are very likely to fall somewhere between these extremes, however. To anticipate this, and prepare adequately, for each issue the negotiators should identify several **alternative outcomes** (ALTs) between the maximum and the reservation point before entering into negotiations. Alternatives should also be estimated for the other parties.

2.6 Analytical Problem-Solving

This is an approach to deep-rooted or intractable conflicts that brings disputants together to analyze the underlying human needs that cause their conflict, and then helping them work together to develop ways to provide the necessary needs to resolve the problem.

2.7 Arbitration

Arbitration is a method of resolving a dispute in which the disputants present their case to an impartial third party, who then makes a decision for them which resolves the conflict. This decision is usually binding. Arbitration differs from mediation in which third party simply helps the disputants develop a solution on their own.

2.8 ATNA

This is a variation of the concept of BATNA, which stands for best alternative to a negotiated agreement. ATNA refers to any alternative to a negotiated agreement, not just the best one. See 2.10 BATNA.

2.9 Bargaining Set

A set of possible agreements that are bounded by their respective non-agreement alternatives at one end and by various combinations of shared utility at the other.

2.10 BATNA

BATNA is a term invented by Roger Fisher and William Ury which stands for "best alternative to a negotiated agreement." Any negotiator should determine his or her BATNA before agreeing to any negotiated settlement. If the settlement is as good as or better than one's BATNA, the agreement should be accepted. If the alternative is better, it should be pursued instead of the negotiated settlement. When one party's BATNA is good (or even if they just think it is good), they are unlikely to be willing to enter into negotiations, preferring instead to pursue their alternative option.

2.11 Citizen Diplomacy

Citizen diplomacy (sometimes called "track-two diplomacy") refers to unofficial contacts between people of different nations, as differentiated from official contacts between governmental representatives. Citizen diplomacy includes exchanges of people (such as student exchanges), international religious, scientific and cultural activities, as well as unofficial dialogues, discussions, or negotiations between citizens of opposing nations.

2.12 Common Ground/Commonalities

Common ground or commonalities refers to the things two people or groups share, or hold in common. These may include living in the same place, having similar values, interests, or needs, or even similar experiences or fears. Although disputants often assume they have nothing in common with their opponents they almost always have some common ground even if it is only a common desire to live in peace and security without having to fear the other.

2.13 Communication Channels

Communication channels are the means available to communicate with another person or group. They may include direct face-to-face communication, telecommunications (telephone, e-mail, written communications), or indirect communication through third parties or the media.

2.14 Community Organizing

Community organizing is a process through which an expert helps a group of individuals engage in collective action to address a social problem. Community organizers help people work together to get what they want or need: they may help people work together to get more jobs in a community; they may help people fight an unfair government law or ruling; or they may help people work together to force a polluter to clean up their industrial process so it no longer pollutes the environment as badly.

2.15 Competition/Competitive Approach

See 2.2 Adversarial Approach

2.16 Competitive Strategies

Also referred to as distributive bargaining, value claiming, contending, or zero-sum negotiation, a competitive strategy seeks to persuade the other party to concede.

2.17 Complicating Factors

Conflict complicating factors are dynamics such as communication problems or escalation which, while common, are usually extraneous parts of the conflict which confuse the core issues in the conflict and make them more difficult to understand and deal with.

2.18 Compromise

A solution to a mutual problem that meets some, but not all, of each of the parties' interests.

2.19 Concessions

Concessions are things one side gives up to try to de-escalate or resolve a conflict. They may simply be points in an argument, a reduction in demands, or a softening of one side's position.

2.20 Conciliation

Conciliation involves efforts by a third party to improve the relationship between two or more disputants. It may be done as a part of mediation, or independently. Generally, the third party will work with the disputants to correct misunderstandings, reduce fear and distrust, and generally improve communication between the parties in conflict. Sometimes this alone will result in dispute settlement; at other times, it paves the way for a later mediation process.

2.21 Conflict Management

This term refers to the long-term management of intractable conflicts and the people involved in them so that they do not escalate out of control and become violent.

2.22 Conflict Resolution

This term (along with dispute resolution) usually refers to the process of resolving a dispute or a conflict permanently, by providing each sides' needs, and adequately addressing their interests so that they are satisfied with the outcome.

2.23 Conflict Transformation

This term refers to a change (usually an improvement) in the nature of a conflict that results in the de-escalation of a dispute or reconciliation between people or groups. Unlike conflict resolution, which denies the long-term nature of conflict, or conflict management, which assumes that people and relationships can be managed as though they were physical objects, the concept of conflict transformation reflects the notion that conflicts go on for long periods of time, changing the nature of the relationships between the people involved, and themselves changing as people's response to the situation develops.

2.24 Conflicts of Interest

This term refers to the situation in which a person has a vested interest in the outcome of a decision, but tries to influence the decision-making process as if they did not. In other words, they stand to benefit from a decision if it goes a particular way, but they participate in the decision-making process as if they were neutral. An example would be an expert from the tobacco industry testifying that tobacco is safe and does not cause cancer. If he argued this on the basis of scientific merits, rather than his connection to the tobacco industry, he could be charged with having a conflict of interest which altered his position on tobacco research.

2.25 Consensus

Consensus decision-making requires that everyone agrees with a decision; not just a majority as occurs in majority-rule processes. In consensus-based processes, people must work together to develop an agreement that is good enough (though not necessarily perfect) that all of the people at the table are willing to agree to it. There are at least two kinds of consensus: active consensus and passive consensus. Active consensus is when members (or participants) are able to contribute to a genuine consultations and bargaining process by expressing their support, opposition and doubts regarding various aspects of the negotiation, and consensus emerges from such a discussion. Passive consensus emerges simply because members remain silent. Consensus doesn't mean that everyone supports a particular solution to an issue. It means that no one is prepared to openly oppose it. Consensus systems require dialogue and compromise. They are generally difficult to manage and can easily be mischaracterized as undisciplined and unresponsive.

2.26 Constituents/Constituency

Constituents or one's constituency refers to the people a decision maker represents. The constituents of a governmental leader are the citizens he or she represents in Parliament or other legislative body. The constituents of a negotiator are the people he or she is negotiating for; members of a union, perhaps, or of an interest group or business.

2.27 Constructive Conflict/Confrontation

The term "constructive" refers to a conflict which has more benefits than costs--one that pulls people together, strengthens and/or improves their relationship (by redefining it in a more appropriate or useful way) and one that leads to positive change in all of the parties involved. It is contrasted with destructive conflict which has largely negative results--pushing people apart, destroying relationships, and leading to negative changes including an escalation of violence, fear, and distrust.

2.28 Cooperation/Cooperative Approach

In cooperation, disputants work together to solve a mutual problem. A cooperative situation is one in which the goals of the participants are so linked that any participant can attain his goal if, and only if, the others with whom he is linked can attain their goals. It is contrasted with a competitive approach in which it is assumed that it is impossible to win, unless the other side loses.

2.29 Cooperative Strategies

Also referred to as integrative bargaining, value creation, problem-solving, or win-win negotiation, a cooperative strategy seeks to identify options that satisfy the goals of all parties to the negotiation.

2.30 Core Issues

We distinguish between core issues in a conflict, which are the fundamental interests, values, and needs which are in conflict with each other, and complicating factors, which are dynamics such as communication problems or escalation which, while common, are usually extraneous parts of the conflict which confuse the core issues and make them more difficult to understand and deal with.

2.31 Costing

Costing is the process of assessing the costs and benefits of a particular action; not only in monetary terms, but in terms of time, resources, emotional energy, and other intangible effects on people's lives.

2.32 Credibility

Credibility refers to whether or not a person or a statement is believed or trusted. Sometimes leaders or expert witnesses are not considered by the public to be credible because they have a

personal interest in the outcome of a situation or a conflict which would likely influence their views and/or statements about that situation or conflict.

2.33 Decision-Making Process

The decision-making process is the process that is used to make a decision. It can be an expert process, where the decision is made by one or more "experts" who look at the "facts" and make the decision based on those facts; it can be a political process through which a political representative or body makes the decision based on political considerations, or it might be a judicial process where a judge or a jury makes a decision based on an examination of legal evidence and the law.

2.34 De-Escalation

De-escalation is the opposite of escalation. It is the ratcheting down of the intensity of a conflict which occurs as parties tire out, or begin to realize that the conflict is doing them more harm than good. They then may begin to make concessions, or reduce the intensity of their attacks, moving slowly toward an eventual negotiated resolution.

2.35 Destructive Conflict/Confrontation

Destructive conflict and confrontation have largely negative results. It pushes people apart, destroys relationships, and leads to a host of negative personal and social changes including an escalation of violence, fear, and distrust. It is contrasted with constructive conflict and confrontation which have more benefits than costs. Specifically, conflicts that pull people together, strengthens and/or improves their relationships (by redefining them in a more appropriate or useful way) and one that leads to positive change for all of the parties involved.

2.36 Dialogue

Dialogue is a process for sharing and learning about another group's beliefs, feelings, interests, and/or needs in a non-adversarial, open way, usually with the help of a third party facilitator. Unlike mediation, in which the goal is usually reaching a resolution or settlement of a dispute, the goal of dialogue is usually simply improving interpersonal understanding and trust.

2.37 Diplomacy

Generally, diplomacy refers to the interaction between two or more nation-states. Traditionally carried out by government officials, who negotiate treaties, trade policies, and other international agreements, the term has been extended to include unofficial exchanges of private citizens (such as cultural, scientific, and religious exchanges) as well as unofficial (sometimes called "citizen" or "track-two") diplomacy in which private citizens actually try to develop solutions to international diplomatic problems.

2.38 Disarming Strategies

Disarming strategies are actions that are designed to break down or challenge negative stereotypes. If one person or group is seen by another as extremely threatening and hostile, a

gesture of friendship and goodwill is a disarming move, which will alter perceptions of the other and can significantly de-escalate the conflict.

2.39 Discounting

An attempt by one party to obtain more than one concession from another party without offering a counter-concession. Discounting, in effect, will have you making two concessions, your first and the discounting second, in return for none by the other party, a sure way to find yourself deep in your own end of the zone of potential agreement, at or near your reservation outcome.

2.40 Disputants

Disputants are the people, groups, or organizations who are in conflict with each other. They are often also called "parties." (Third parties, however, are not disputants, but rather people who intercede to try to help the disputants resolve the dispute.)

2.41 Dispute Resolution

See 2.22 Conflict Resolution

2.42 EATNA

This is a variation of the concept of BATNA, which stands for best alternative to a negotiated agreement. EATNA refers to one's *estimated* alternative to a negotiated agreement, meaning what you think you can get, which may be different from what you really can get if you use a power strategy other than negotiation to pursue your goals.

2.43 Empowerment

Empowerment means giving a person or group more power. This may be done by the party alone, through education, coalition building, community organizing, resource development, or advocacy assistance. It can also be done by a mediator, who can work with the lower power person or group to help them represent themselves more effectively. Although this approach causes ethical dilemmas (since helping one side more than another compromises a mediator's impartiality), it is quite commonly done in the problem-solving or "settlement-oriented" approach to mediation, since this approach works best when the two parties are relatively equal in power.

2.44 Face-Saving

"Face" refers to one's image, both to oneself and to others. A face-saving approach is an approach that does not damage one's own or the other side's image. It does not make oneself or the other side appear weak, inept, or otherwise as a failure, but makes them look like they are wise and victorious, even when they are not. By allowing all disputants to save face, a negotiated settlement is much more likely to be reached.

2.45 Facilitation

Facilitation is done by a third party who assists in running consensus-building meetings. The facilitator typically helps the parties set ground rules and agendas, enforces both, and helps the

participants keep on track and working toward their mutual goals. While similar to a mediator, a facilitator usually plays a less active role in the deliberations, and often does not see "resolution" as a goal of his or her work, as mediators usually do.

2.46 Fact-Based Disputes

Fact-based disputes are disputes about what has occurred or is occurring. Such disputes can be generated from misunderstandings or inaccurate rumors (when someone is accused of doing something they did not actually do). Facts-based disputes can also be generated by differing perceptions or judgements about what has occurred or is now occurring. For example, a dispute over the level of threat caused by the ozone hole or the greenhouse effect is a "facts-based dispute," even though all the scientific facts are not readily discernible or agreed to.

2.47 Force

We use the term "force" to refer to any situation when one party is made to do something against their will through threat. Force does not need to be violent. It can simply be a coercive statement that says that if you do not comply with my demand, I will fire you from your job, or I will stage a hunger strike, or I will organize a work slow-down or do anything else that is likely to harm the party in some significant way.

2.48 Forcing Power Shortcuts

Forcing Power Shortcuts are ways to measure relative power without having a protracted (and destructive) power struggle. For example, polls can measure public opinion without having to have a full vote on an issue. Shortened alternative dispute resolution procedures such as arbitration or mini-trials can be used to replace costly litigation. Even wars can be avoided by measuring relative military strength and then making an assessment of which side would be likely to win. If both sides agree (at least approximately) on the likely outcome, then a negotiated solution can be worked out which is consistent with that outcome, avoiding the high costs of the protracted struggle.

2.49 Forming Coalitions

The complexity of multilateral negotiation is also rendered more manageable through the formation of coalitions, where countries (or organizations) form an alliance, usually temporary, to promote or defend their common interests. If coalitions are forming in a multilateral negotiation, it is best to join an alliance, rather than to be left on the outside, standing alone.

2.50 Frames

Frames are ways of defining a problem. Some people may define a problem in terms of rights, while others may define it in terms of interests or relative power. These different positions are sometimes referred to as different "frames."

2.51 Framing

Framing is the process of defining what a problem is about. Just as a frame can be placed around a photograph, including some portions of the picture, but cropping other portions out, people can define some aspects of a problem as important, while they ignore (or are unaware of) other issues that do not concern them.

2.52 GRIT (Gradual Reduction in Tension)

This term refers to a gradual de-escalation process, in which one side makes a unilateral, minor concession in the hopes that the other side will then be encouraged to do the same. This is then followed by a second concession, which hopefully is matched, and a de-escalation process then continues with matched concessions and disarming moves.

2.53 Hard Bargaining

This is a term used to refer to adversarial, competitive bargaining that assumes that the opponent is an enemy to be defeated, rather than a partner to be worked with cooperatively. This can be contrasted with soft bargaining, which is highly conciliatory to the point of giving concessions on important points. This also contrasts with principled negotiation, which is neither hard, nor soft, but rather integrative in its approach.

2.54 Identity Conflicts

Identity conflicts are conflicts that develop when a person or group feels that their sense of self is threatened or denied legitimacy or respect. Religious, ethnic, and racial conflicts are examples of identity conflicts.

2.55 Impartiality

This refers to the attitude of the third party. An impartial third party will not prefer one side or one side's position to another side's position, but will approach them both as equally valid. In principle, this objective can be hard to achieve, although a third party can make an active effort to treat each side the same, even if he or she tends to prefer one party or one party's argument over the other.

2.56 Importance Weights

Percentage values between zero (0) and one hundred (100) that reflect the relative importance of any particular issue vis-à-vis other issues being negotiated at the same time. For any group of issues being negotiated, the sum of importance weights assigned to each cannot exceed 100%.

2.57 Incompatible Interests

Incompatible interests are things that people want but that cannot be simultaneously achieved. For example, if a community has a limited budget to spend on public services and each of four agencies (the police, the schools, the hospital, and the roads department, for instance) require a

budget increase to maintain current services, these departments would be defined as having incompatible interests as their funding requests could not be met simultaneously.

2.58 Interest-Based Problem-Solving

Interest-based problem-solving defines problems in terms of interests (see 2.60 Interests) and works to reconcile them to obtain a mutually-satisfactory solution.

2.59 Interest Groups

Interest groups are advocacy groups of people who join together to work for a common cause. Environmental groups, groups defending human rights, and groups working for social causes are all interest groups.

2.60 Interests

Interests are the underlying desires and concerns that motivate people to take a position. While their position is what they say they want, such as "I want to build my house here!", Their interests are the reasons why they take that position (because I want a quiet lot with a good view of the city). Often parties' interests are compatible, and hence negotiable, even when their positions seem to be in complete opposition.

2.61 Intolerance

Intolerance is the unwillingness to accept the legitimacy of another person, group, or idea that differs from one's own. It may result in an effort to get rid of the "objectionable" person or idea, or it may simply result in treating them in a subservient way, as occurs when people of certain racial or ethnic groups are discriminated against by the dominant group in a society.

2.62 Intractable Conflicts

This term refers to conflicts that go on for a long time, resisting most (if not all) attempts to resolve them. Typically they involve fundamental value disagreements, high stakes distributional questions, domination issues, and/or denied human needs, all of which are non-negotiable problems. They often involve unavoidable win-lose situations as well.

2.63 I-Statements and You-Statements

"I statements" state the way someone feels about a situation, while "you statements" are accusations that another person did something wrong. By stating problems in terms of one's own feelings (using I statements) instead of accusing the other person of causing the problem (as occurs with you-statements) defensiveness and hostility can be minimized and the chances of resolution improved.

2.64 Joint Fact-Finding

Joint fact-finding is a process in which two or more disputants work together to clarify disputed facts in a conflict. For example, they might cooperate on a scientific study of environmental

impacts of a proposed project, or on an inquiry into the extent of human rights abuses during or after a war.

2.65 Legitimacy

Legitimacy refers to the perceived fairness of a dispute resolution process. For example, fair elections or litigation based on socially-accepted laws are generally considered legitimate, as are the decisions that result from such processes. On the other hand, elections where voters are harassed or forced to vote a particular way are usually considered illegitimate, as are court decisions handed down by biased courts. Legitimacy of decision-making procedures is important, because illegitimate procedures almost always escalate conflicts, making their ultimate resolution more difficult.

2.66 Lose-Lose Situations

Game theory makes a distinction between positive-sum situations (often called "games,") which everyone can win (also referred to as "win-win"), negative sum games in which all sides lose (also referred to as "lose-lose") and zero-sum games in which one side wins only if another side loses.

2.67 Maximum Outcome

The maximum outcome is everything that you would like to achieve on an issue being negotiated.

2.68 Mediation

Mediation is a method of conflict resolution that is carried out by an intermediary who works with the disputing parties to help them improve their communication and their analysis of the conflict situation, so that the parties can themselves identify and choose an option for resolving the conflict that meets the interests or needs of all of the disputants. Unlike arbitration, where the intermediary listens to the arguments of both sides and makes a decision for the disputants, a mediator will help the disputants design a solution themselves.

2.69 Multilateral Negotiation

A process in which at least three parties communicate requests and proposals to one another in an effort to arrive at a joint decision that is acceptable to all.

2.70 Multi-Track Diplomacy

This term has been developed recently to reflect the idea that international exchanges can take many forms beyond official negotiations between diplomats. Examples of multi-track diplomacy include official and unofficial conflict resolution efforts, citizen and scientific exchanges, international business negotiations, international cultural and athletic activities and other international contacts and cooperative efforts.

2.71 Negative-Sum Situations (or Games)

Game theory makes a distinction between positive-sum situations (often called "games,") which everyone can win (also referred to as "win-win"), negative sum games in which all sides lose (also referred to as "lose-lose") and zero-sum games in which one side wins only if another side loses.

2.72 Negotiation

Negotiation is bargaining, the process of discussion and give-and-take between two or more parties who seek to find a solution to a common problem. Negotiation is an inherent form of communication that occurs between and among individuals, organizations and societies, whether between parents and children, workers and employers, or nations, to name a few examples. It can be relatively cooperative, as it is when both sides seek a solution that is mutually beneficial (commonly called win-win or cooperative bargaining), or it can be confrontational (commonly called win-lose or adversarial) bargaining, when each side seeks to prevail over the other.

2.73 Negotiation Loopbacks

This term refers to the return to negotiation after rights-based and power-based processes are used to clarify respective rights and relative levels of power. These tests of rights and power determine the parties best alternatives to a negotiated agreement (their "BATNA"s). Once these are known, the parties can "loopback" to negotiation to avoid a protracted and costly struggle, while usually obtaining the same result.

2.74 Neutrality

This term means that a third party is not connected to or had a prior relationship with any of the disputants.

2.75 Non-governmental Organizations

The term "non-governmental organizations" (NGOs) refers to international organizations that are not associated with any government. Examples include many religions that cross borders, international humanitarian aid organizations such as CARE or the International Red Cross, sporting organizations such as the International Olympic Committee, and many scientific, business, educational, and other professional organizations.

2.76 Parties

The parties are the people who are involved in the dispute. Most parties are disputants, the people who are in conflict with each other. Other parties, often called "third parties," are parties that intervene in the dispute to try to help the disputants resolve it. Mediators and judges, for example, are third parties.

2.77 Persuasion

Persuasion involves convincing another party to change their attitude and/or their behavior. Although this can be done through coercion, we generally use the term "persuasion" in a more positive sense--to refer to emotional or rational appeals based on common values and understandings.

2.78 Polarization

Polarization of a conflict occurs as a conflict rises in intensity (that is, escalates). Often as escalation occurs, more and more people get involved, and take strong positions either on one side or the other. "Polarization" refers to this process in which people move toward extreme positions ("poles"), leaving fewer and fewer people "in the middle."

2.79 Political Context

Is the outcome of the conflict affected by the political system or decision-making structure of the community or nation in which the conflict occurs? Who holds the power in the community or society? Are decisions made democratically, or by an authoritarian system?

2.80 Positive-Sum Situations (Positive-Sum Games)

Game theory makes a distinction between positive-sum situations (often called "games,") which everyone can win (also referred to as "win-win"), negative sum games (also referred to as "lose-lose") and zero-sum games in which one side wins only if another side loses.

2.81 Power

Power is the ability to get what you want, or, to "change the future." This can occur through force (sometimes referred to as "power-over"), through cooperation (referred to as "power-with" or exchange power) or through the power of the integrative system--the system of identity and relationships that holds people together in groups.

2.82 Power Strategy Mix

This term refers to the mix of force, exchange, and integrative power that is used by a disputant in an effort to prevail in any conflict situation.

2.83 Practitioners

Practitioners are people who engage in conflict resolution as a profession--mediators, arbitrators, facilitators, and diplomats, for example.

2.84 Principled Negotiation

This approach to negotiation was developed by Roger Fisher and William L. Ury and first presented in their best-selling book, *Getting to Yes*, in 1981. An integrative negotiation strategy calls for "separating the people from the problem," negotiating on the basis of interests rather

than positions, identifying options for mutual gain, and using objective criteria to judge fairness of any proposed settlement.

2.85 Problem-Solving

This term is sometimes used to refer to analytical problem solving workshops that seek to analyze and resolve conflicts based on identifying and providing the underlying human needs. In other situations, it refers to an approach to mediation that focuses primarily on resolving the conflict (as opposed to transforming the relationships of the people involved).

2.86 Problem-Solving Approach

The problem-solving approach to conflict involves working cooperatively with the other disputants to solve a common problem. It can be contrasted with the adversarial approach which views the other disputants as opponents or enemies to be defeated, not cooperated with.

2.87 Procedural Problems

Procedural problems are problems with decision-making procedures. Examples are decisions that are made without considering relevant and important facts, decisions that are made arbitrarily without considering the interests or needs of the affected people, or decisions that are made without following the established and accepted process. Often, procedural problems can intensify and complicate disputes which could be resolved relatively easily if proper procedures were followed.

2.88 Reconciliation

Reconciliation is the normalization of relationships between people or groups. It involves four simultaneous processes: the search for truth, justice, peace, and mercy. When all four of these factors are brought together reconciliation is achieved.

2.89 Reframing

Reframing is the process of redefining a situation by seeing a conflict in a new way, based on input from other people who define the situation differently than you do.

2.90 Relationship Problems

Relationship problems are problems between two or more people that involve, most importantly, the relationship between those two people. For example, conflicts can be caused because two people don't trust each other, or because they are in constant, hostile competition with each other.

2.91 Reservation Outcome

The reservation outcome (RES) is the most a negotiator is prepared to give, or the least a negotiator will take, in an agreement. If the other party (or parties) offers less or demands more on an issue, then the negotiator would prefer to break off negotiations and opt for a non-

agreement alternative, at least on that issue, rather than accept the other party's position as the basis for an agreement.

2.92 Resolution

See 2.22 Conflict Resolution

2.93 Resolution - Resistant Conflict

We use this term to refer to conflicts that are highly difficult, but not impossible, to resolve. The term "intractable conflict" means the same thing, but often we use "resolution-resistant" instead because some people interpret "intractable" to mean "impossible."

2.94 Responsive Strategy

To engage in reciprocal, responsive behaviour. This requires you to respond in kind, adopting precisely the same tactical behaviour toward the other parties as they direct toward you. The responsive strategy is a means of communicating to the other party that their competitive demands for concessions will not be rewarded with compliance, but that it is possible to cooperate to identify options that satisfy the goals of both parties, if they wish to do so.

2.95 Restitution

Restitution involves paying a person or group back for harm that was done to them. It may involve making a symbolic repayment of money, providing social or economic assistance, or whatever efforts may be deemed appropriate to alleviate damage or harm that was done in the past so as to move toward the resolution of a conflict and toward reconciliation.

2.96 Retribution

Retribution is retaliation. The act of inflicting damage or harm by one party against another in a response to damages and harm experienced previously at the hand of the opposing party.

2.97 Ripeness

A conflict is said to be "ripe" for settlement or negotiation when it has reached a stalemate, or when all of the parties have determined that their alternatives to negotiation will not get them what they want or need. In this case they are likely to be ready to negotiate a settlement which will attain at least part of their interests than it would otherwise achieve by pursuing their force-based options.

2.98 Roles Negotiators Can Play

Negotiator behaviour may, at times, be defined as roles that commonly occur (throughout or on occasion) during negotiations. Being able to recognize some of these roles will assist practitioners with identifying and deploying appropriate tactics and communication. William Zartman in his book *International Multilateral Negotiation: Approaches to the Management of Complexity* (San Francisco: Jossey-Bass, 1994) provides the following role descriptions:

- **Drivers: Drivers** lead the negotiations, trying to organize participants to produce an agreement that serves their interests.
- **Conductors: Conductors** also seek to manage negotiations to produce an agreement, but from a more neutral position, without pushing for their own particular interest, beyond achieving an agreement.
- **Defenders: Defenders** are focussed on a single issue, concerned more with promoting their interest on that issue than with the overall outcome of the negotiation.
- **Brakers: Brakers**, too, focus on a limited number of issues, but seek to block agreement in order to protect their interests, and preserve their freedom of action, on those issues.
- **Cruisers: Cruisers**, as their name suggests, are simply along for the ride, with no strong interests to promote or protect, and hence are available to act as followers.

2.99 Scale-up Problem

Most negotiations and other conflict resolution processes occur among a small group of people. In intergroup, inter-organizational, and international conflicts, these negotiators represent a large number of other people, not just themselves. Getting those people or “constituents” to agree to a settlement developed by the negotiators is often a problem, as they have not gone through the same trust-building and understanding-improving process that the negotiators have experienced. We refer to this as the "scale-up problem," as the small group understandings and trust must be "scaled up" to the larger population if agreement is to be achieved.

2.100 Scoping

Scoping is the process of determining who else is involved in a conflict and what their interests, needs, and positions are. It also involves the determination of external constraints that affect the situation and any other factors that define the conflict situation beyond one's own view of the conflict.

2.101 Social Context

The term "social context" refers to the social relationships that exist in a community at the time the conflict occurs. For instance, is one group socially and/or economically dominant, while other groups are less successful or discriminated against?

2.102 Soft Bargaining

This is a term used to refer to very cooperative, conciliatory bargaining that focuses primarily on reaching an agreement and not making the other side upset. Fisher and Ury contrast it with adversarial, competitive bargaining that assumes that the opponent is an enemy to be defeated, rather than a partner to be worked with cooperatively. They contrast both these approaches with a third approach, principled negotiation, which is neither hard nor soft, but rather integrative in its approach.

2.103 Stable Peace

Stable peace is the situation in which two countries do not even consider war to be an acceptable or possible option for dispute resolution between them. It is contrasted with unstable peace (in which countries are at peace but think that war is possible at a future time).

2.104 Stakeholders

Stakeholders are people who will be affected by a conflict or the resolution of that conflict. It includes current disputants, and also people who are not currently involved in the conflict but might become involved because they are likely to be affected by the conflict or its outcome sometime in the future.

2.105 Stalemate

A stalemate is a standoff; a situation in which neither side can prevail in a conflict, no matter how hard they try. Often parties must reach a stalemate before they are willing to negotiate an end to their conflict.

2.106 Stereotyping

Stereotyping is the process of assuming a person or group has one or more characteristics because most members of that group have (or are thought to have) the same characteristics. It is a simplification and generalization process that helps people categorize and understand their world, but at the same time it often leads to errors. When stereotypes are inaccurate and negative (as they often are between groups in conflict) they lead to misunderstandings which make resolving the conflict more difficult.

2.107 Strategy

A strategy is your plan to achieve desired goals.

2.108 Tactical Escalation

This is intentional escalation, when one (or multiple) parties escalate a conflict on purpose to try to mobilize support for their own side.

2.109 Tactics

Tactics are the specific acts taken to implement the strategy. In negotiations, strategies and tactics represent ways of communicating messages to the other party.

2.110 Third Party

A "third party" is someone who is not involved in the conflict who gets involved to try to help the disputants work out a solution (or at least improve the situation by communicating better or increasing mutual understanding.) Examples of third parties are mediators, arbitrators, conciliators, and facilitators.

2.111 Third Party Intervention

The term "third party" usually refers to a person who gets involved in a dispute in an effort to help the disputing parties resolve the problem. This third party can be a neutral outsider, or he or she may be a person already involved in the conflict (an insider) who takes on the role of a mediator to help work out a mutually-acceptable resolution.

2.112 Threat

A threat is any statement that takes the form "you do something I want, or I will do something you do not want."

2.113 Track Two Diplomacy

Track two diplomacy involves unofficial dialogue, discussions, or even negotiations between ordinary citizens about topics that are usually reserved for diplomats--for instance about arms control agreements, or negotiations to end to long-standing international conflict. It is differentiated from Track One diplomacy which involves formal discussions between official diplomats.

2.114 Triggering Events

A triggering event is an event that initiates a conflict or disruption in the real and / or normative status quo. It can be minor such as a simple statement that is misinterpreted, or a careless mistake or it can be a major event. The assassination of Arch Duke Ferdinand, for example, is considered the "triggering event" that started World War I. It may even be a natural event that was unforeseen such as an earthquake or a weather related disaster.

2.115 Value Differences

Value differences are differences in people's fundamental beliefs about what is good and bad, right and wrong. When peoples' values differ significantly, the resulting conflict is often very hard to resolve, as people are not willing to change or compromise their fundamental values and beliefs.

2.116 Values

Values are the ideas we have about what is good and what is bad, and how things should be. We have values about family relationships, work relationships and other personal and professional relationship issues (regarding, for example, how children should behave towards adults, or how people should follow particular religious beliefs).

2.117 Value Trade-Offs

Which issues and outcomes are more important than others? Which are less important and may be traded for valuable outcomes on more important issues? You should also estimate the potential value trade-offs that may be of interest to the other parties.

2.118 Win-Lose (Adversarial) Approach

This is the approach to conflict taken by people who view the opponent as an adversary to be defeated. It assumes that in order to win, the opponent must lose. This is opposite to the win-win approach to conflict that assumes that if the disputants cooperate, a solution which provides a victory for all sides can be found.

2.119 Win-Win (Cooperative or Problem-Solving) Approach

This is the approach to conflict taken by people who want to find a solution that satisfies all the disputants. In "win-win" bargaining, the disputing parties try to cooperate to solve a joint problem in a way that allows both parties to "win." This is contrasted with the "win-lose" (adversarial) approach to conflicts that assumes that all opponents are enemies and that in order to win a dispute, the opponent must lose.

2.120 Win-Win Situations

Game theory makes a distinction between positive-sum situations (often called "games") which everyone can win (also referred to as "win-win"), negative sum games (also referred to as "lose-lose"), and zero-sum games in which one side wins only if another side loses.

2.121 Zero-Sum Games (or Situations)

Zero-sum games or situations are situations in which the only way one side can get ahead (or get more of something) is if the other side gets less. This occurs when there is a finite amount of a resource to be distributed, and the together the parties want more than is available. In this situation, no side can get what they want unless the other side gets less than they want. This is also referred to as win-lose situations.

2.122 Zone of Potential Agreement

The zone of potential agreement in a negotiation is bounded by the reservation outcomes of the parties, commonly referred to as their "bottom lines".

3.0 United Nations Treaty Glossary

This section provides a guide to terms commonly used in relation to treaties and used in the practice of the Secretary-General as depositary of multilateral agreements. Some of the terms found here are directly transferable to the Arctic Council context while others are not. Those directly applicable in the Arctic Council context are marked with an asterisk. The others are included for reference and to highlight the differences between Arctic Council and other international fora.

3.1 Acceptance

See 3.30 Ratification, acceptance, approval

3.2 Accession

Accession is the act whereby a State that has not signed a treaty expresses its consent to become a party to that treaty by depositing an “instrument of accession” (see annex 5). Accession has the same legal effect as ratification, acceptance or approval. The conditions under which accession may occur and the procedure involved depend on the provisions of the relevant treaty. Accession is generally employed by States wishing to express their consent to be bound by a treaty where the deadline for signature has passed. However, many modern multilateral treaties provide for accession even during the period that the treaty is open for signature. **Since any binding agreement by Arctic Council member states requires full consensus to come into effect, accession is not a practice used in the Arctic Council.**

3.3 Adoption

Adoption is the formal act by which negotiating parties establish the form and content of a treaty. The treaty is adopted through a specific act expressing the will of the States and the international organizations participating in the negotiation of that treaty, for example, by voting on the text, initialling, signing, etc. Adoption may also be the mechanism used to establish the form and content of amendments to a treaty, or regulations under a treaty. Treaties that are negotiated within an international organization are usually adopted by resolution of the representative organ of that organization. For example, treaties negotiated under the auspices of the United Nations, or any of its bodies, are adopted by a resolution of the General Assembly of the United Nations. Where an international conference is specifically convened for the purpose of adopting a treaty, the treaty can be adopted by a vote of two thirds of the States present and voting, unless they have decided by the same majority to apply a different rule. **Binding agreements negotiated within the Arctic Council are adopted by Ministers by consensus not voting.**

3.4 Amendment*

Amendment, in the context of treaty law, means the formal alteration of the provisions of a treaty by its parties. Such alterations must be effected with the same formalities that attended the original formation of the treaty. Multilateral treaties typically provide specifically for their

amendment. In the absence of such provisions, the adoption and entry into force of amendments require the consent of all the parties.

3.5 Approval

See 3.30 Ratification, acceptance, approval

3.6 Authentication*

Authentication is the procedure whereby the text of a treaty is established as authentic and definitive. Once a treaty has been authenticated, its provisions cannot be modified except by formal amendment. If procedures for authentication have not been specifically agreed, the treaty will usually be authenticated by signature, or initialling, by the representatives of those States. It is this authenticated text that the depositary uses to establish the original text.

Authentic language*: A treaty typically specifies its authentic languages—the languages in which the meaning of its provisions is to be determined.

Authentic or authenticated text: The authentic or authenticated text of a treaty is the version of the treaty that has been authenticated by the parties.

3.7 Bilateral Treaty

See 3.33 Treaty

3.8 Contracting State

A contracting State is a State that has expressed its consent to be bound by a treaty where the treaty has not yet entered into force or where it has not entered into force for that State.

3.9 Convention

Whereas in the twentieth century the term “convention” was regularly employed for bilateral agreements, it is now generally used for formal multilateral treaties with a broad number of parties. Conventions are normally open for participation by the international community as a whole, or by a large number of States. Usually instruments negotiated under the auspices of an international organization are entitled conventions. The same holds true for instruments adopted by an organ of an international organization.

3.10 Correction*

Correction of a treaty is the remedying of an error in its text. If, after the authentication of a text, the signatory and contracting States agree that an error exists, those States can correct the error by: (a) Initialling the corrected treaty text; (b) Executing or exchanging an instrument containing the correction; or (c) Executing the corrected text of the whole treaty by the same procedure by which the original text was executed. If there is a depositary, the depositary must communicate the proposed corrections to all signatory and contracting States.

3.11 Credentials*

Credentials take the form of a document issued by a State authorizing a delegate or delegation of that State to attend a conference, including, where necessary, for the purpose of negotiating and adopting the text of a treaty. A State may also issue credentials to enable signature of the Final Act of a conference. Credentials are distinct from full powers. Credentials permit a delegate or delegation to adopt the text of a treaty and/or sign the Final Act, while full powers permit a person to undertake any given treaty action (in particular, signature of treaties).

3.12 Date of Effect*

The date of effect of a treaty action (such as signature, ratification, acceptance of an amendment, etc.), in the depositary practice of the Secretary-General of the United Nations, is the time when the action is undertaken with the depositary. For example, the date of effect of an instrument of ratification is the date on which the relevant instrument is deposited with the Secretary-General. The date of effect of a treaty action by a State or an international organization is not necessarily the date that action enters into force for that State or international organization. Multilateral agreements often provide for their entry into force for a State or international organization after the lapse of a certain period of time following the date of effect. **This has been used for the two binding agreements adopted by the Arctic Council Ministers.**

3.13 Declaration*

There are three major types of declarations:

Interpretative declaration. An interpretative declaration is a declaration by a State as to its understanding of some matter covered by a treaty or its interpretation of a particular provision. Unlike reservations, declarations merely clarify a State's position and do not purport to exclude or modify the legal effect of a treaty. The Secretary-General, as depositary, pays specific attention to declarations to ensure that they do not amount to reservations. Usually, declarations are made at the time of signature or at the time of deposit of an instrument of ratification, acceptance, approval or accession. Political declarations usually do not fall into this category as they contain only political sentiments and do not seek to express a view on legal rights and obligations under a treaty.

Mandatory declaration: A mandatory declaration is a declaration specifically required by the treaty itself. Unlike an interpretative declaration, a mandatory declaration is binding on the State making it.

Optional declaration: An optional declaration is a declaration that a treaty specifically provides for, but does not require. Unlike an interpretative declaration, an optional declaration is binding on the State making it.

3.14 Depositary

The depositary of a treaty is the custodian of the treaty and is entrusted with the functions specified in article 77 of the Vienna Convention 1969. The Secretary-General, as depositary, accepts notifications and documents related to treaties deposited with the Secretary-General, examines whether all formal requirements are met, deposits them, registers them subject to Article 102 of the Charter of the United Nations and notifies all relevant acts to the parties concerned. Some treaties describe depositary functions.

Canada is the depositary for the AGREEMENT ON COOPERATION ON AERONAUTICAL AND MARITIME SEARCH AND RESCUE IN THE ARCTIC and Norway is the depositary for the AGREEMENT ON COOPERATION ON MARINE OIL POLLUTION PREPAREDNESS AND RESPONSE IN THE ARCTIC.

3.15 Depositary Notification (C.N.)

A depositary notification (usually referred to as a C.N.—an abbreviation for circular notification) is a formal notice that the Secretary-General sends to all Member States, non-member States, the specialized agencies of the United Nations, and the relevant secretariats, organizations and United Nations offices, as depositary of a particular treaty. The notification provides information on that treaty, including actions undertaken. Such notifications are typically distributed by e-mail on the day that they are processed. Notifications with bulky attachments are transmitted in paper form.

3.16 Entry into Force

Entry into force of a treaty is the moment in time when a treaty becomes legally binding on the parties to the treaty. The provisions of the treaty determine the moment of its entry into force. This may be a date specified in the treaty or a date on which a specified number of ratifications, approvals, acceptances or accessions have been deposited with the depositary. This is also referred to as a **Definitive entry into force**. The date when a treaty deposited with the Secretary-General enters into force is determined in accordance with the treaty provisions. Entry into force may also occur provisionally.

Provisional entry into force may be allowed by the terms of a treaty, for example, in commodity agreements. Provisional entry into force of a treaty may also occur when a number of parties to a treaty that has not yet entered into force decide to apply the treaty as if it had entered into force. Once a treaty has entered into force provisionally, it creates obligations for the parties that agreed to bring it into force in that manner.

3.17 Exchange of Letters (or Notes)

An exchange of letters or notes may embody a bilateral treaty commitment. The basic characteristic of this procedure is that the signatures of both parties appear not on one letter or note but on two separate letters or notes. The agreement therefore lies in the exchange of these letters or notes, each of the parties retaining one letter or note signed by the representative of the other party. In practice, the second letter or note (usually the letter or note in response) will

reproduce the text of the first. In a bilateral treaty, the parties may also exchange letters or notes to indicate that they have completed all domestic procedures necessary to implement the treaty.

3.18 Final Act

A Final Act is a document summarizing the proceedings of a diplomatic conference. It is normally the formal act by which the negotiating parties bring the conference to a conclusion. It is usually part of the documentation arising from the conference, including the treaty, the resolutions and interpretative declarations made by participating States. There is no obligation to sign the Final Act, but signature may permit participation in subsequent mechanisms arising from the conference, such as preparatory committees. Signing the Final Act does not normally create legal obligations or bind the signatory State to sign or ratify the treaty attached to it.

3.19 Final Clauses

Final clauses are provisions typically found at the end of a treaty, dealing with such topics as signature, ratification, acceptance, approval, accession, denunciation, amendment, reservation, entry into force, settlement of disputes, depositary matters and authentic texts. In the case of multilateral treaties to be deposited with the Secretary-General, parties should submit for review draft final clauses to the Treaty Section well in advance of the adoption of the treaty.

3.20 Full Powers / Instrument of Full Powers

Full powers take the form of a solemn instrument issued by the Head of State, Head of Government or Minister for Foreign Affairs, empowering a named representative to undertake given treaty actions.

The Secretary-General's practice in relation to full powers may differ in certain respects from that of other depositaries. The Secretary-General does not accept full powers transmitted by telex or powers that are not signed. The Head of State, Head of Government and Minister for Foreign Affairs are considered as representing their State for the purpose of all acts relating to the signature of, and the consent to be bound by, a treaty. Accordingly, they need not present full powers for those purposes. See articles 2 (1) (c) and 7 of the Vienna Convention 1969. An instrument of general full powers authorises a named representative to execute certain treaty actions, such as signatures, relating to treaties of a certain kind (for example, all treaties adopted under the auspices of a particular organization).

3.21 Memorandum of Understanding (M.O.U.)*

The term memorandum of understanding (M.O.U.) is often used to denote a less formal international instrument than a typical treaty or international agreement. It often sets out operational arrangements under a framework international agreement. It is also used for the regulation of technical or detailed matters. An M.O.U. typically consists of a single instrument and is entered into among States and/or international organizations. For example, the United Nations usually concludes M.O.U.s with Member States in order to organize its peacekeeping operations or to arrange United Nations conferences. The United Nations considers such M.O.U.s concluded by the United Nations to be binding and registers them ex officio.

3.22 Modification*

Modification, in the context of treaty law, refers to the variation of certain provisions of a treaty only as between particular parties to that treaty. As between other parties, the original provisions apply. If a treaty is silent as to modifications, they are allowed only to the extent that they do not affect the rights or obligations of the other parties to the treaty and do not contravene the object and purpose of the treaty. For example, some have proposed an amendment to the Ottawa Declaration to remove the provision including discussions about military matters.

3.23 Multilateral Treaty

See 3.33 Treaty

3.24 Party*

A party to a treaty is a State or other entity with treaty-making capacity that has expressed its consent to be bound by that treaty by an act of ratification, acceptance, approval or accession, etc., where that treaty has entered into force for that particular State. This means that the State is bound by the treaty under international law.

3.25 Plenipotentiary*

A plenipotentiary, in the context of full powers, is the person authorized by an instrument of full powers to undertake a specific treaty action. Some states have made their Arctic Ambassadors, who also tend to serve as their Senior Arctic Officials, as "plenipotentiary" other have chosen not to.

3.26 Protocol*

A protocol, in the context of treaty law and practice, has the same legal characteristics as a treaty. The term protocol is often used to describe agreements of a less formal nature than those entitled treaty or convention. Generally, a protocol amends, supplements or clarifies a multilateral treaty. A protocol is normally open to participation by the parties to the parent agreement. However, in recent times States have negotiated a number of protocols that do not follow this principle. The advantage of a protocol is that, while it is linked to the parent agreement, it can focus on a specific aspect of that agreement in greater detail. An example of treaty related protocols include the 34 current protocols on Environmental Security attached to the 4 treaties that comprise the Geneva Convention on managing humanitarian issues in war.

3.27 Provisional Application

Provisional application of a treaty that has entered into force. Provisional application of a treaty that has entered into force may occur when a State unilaterally undertakes to give legal effect to the obligations under a treaty on a provisional and voluntary basis. The State would generally intend to ratify, accept, approve or accede to the treaty once its domestic procedural requirements for international ratification have been satisfied. The State may terminate this provisional application at any time. In contrast, a State that has consented to be bound by a

treaty through ratification, acceptance, approval, accession or definitive signature generally can only withdraw its consent in accordance with the provisions of the treaty or, in the absence of such provisions, other rules of treaty law.

Provisional application of a treaty that has not entered into force Provisional application of a treaty that has not entered into force may occur when a State notifies the signatory States to a treaty that has not yet entered into force that it will give effect to the legal obligations specified in that treaty on a provisional and unilateral basis. Since this is a unilateral act by the State, subject to its domestic legal framework, it may terminate this provisional application at any time.

A State may continue to apply a treaty provisionally, even after the treaty has entered into force, until the State has ratified, approved, accepted or acceded to the treaty. A State's provisional application terminates if that State notifies the other States among which the treaty is being applied provisionally of its intention not to become a party to the treaty.

3.28 Ratification, Acceptance, Approval*

Ratification, acceptance and approval all refer to the act undertaken on the international plane, whereby a State establishes its consent to be bound by a treaty. Ratification, acceptance and approval all require two steps:

- (a) The execution of an instrument of ratification, acceptance or approval by the Head of State, Head of Government or Minister for Foreign Affairs, expressing the intent of the State to be bound by the relevant treaty; and
- (b) For multilateral treaties, the deposit of the instrument with the depositary; and for bilateral treaties, the exchange of the instruments between parties.

The instrument of ratification, acceptance or approval must comply with certain international legal requirements. Ratification, acceptance or approval at the international level indicates to the international community a State's commitment to undertake the obligations under a treaty. This should not be confused with the act of ratification at the national level, which a State may be required to undertake in accordance with its own constitutional provisions, before it consents to be bound internationally. Ratification at the national level is inadequate to establish the State's consent to be bound at the international level.

3.29 Registration

Registration refers to the obligation by Member States of the United Nations to submit their treaties and international agreements to the Secretariat of the United Nations in accordance with Article 102 of the Charter of the United Nations.

3.30 Reservation

A reservation is a statement made by a State by which it purports to exclude or alter the legal effect of certain provisions of a treaty in their application to that State. A reservation may enable a State to participate in a multilateral treaty that it would otherwise be unable or unwilling to participate in. States can make reservations to a treaty when they sign, ratify, accept, approve

or accede to it. When a State makes a reservation upon signing, it must confirm the reservation upon ratification, acceptance or approval. Since a reservation purports to modify the legal obligations of a State, it must be signed by the Head of State, Head of Government or Minister for Foreign Affairs. Reservations cannot be contrary to the object and purpose of the treaty. Some treaties prohibit reservations or only permit specified reservations. Because the Arctic Council operates on a consensus decision-making method, reservations are not used in the Arctic Council context.

3.31 Revision / Review

Revision/review basically means amendment. However, some treaties provide for revisions/reviews separately from amendments (see, for example, Article 109 of the Charter of the United Nations). In that case, revision/ review typically refer to an overriding adaptation of a treaty to changed circumstances, whereas the term amendment refers to changes to specific provisions.

3.32 Signature

The definition of a treaty Signature will vary according to whether a state needs to ratify an agreement or not, depending on legislative or constitutional requirements.

A Definitive Signature (signature not subject to ratification) occurs where a State expresses its consent to be bound by a treaty by signing the treaty without the need for ratification, acceptance or approval. A State may definitively sign a treaty only when the treaty so permits. A number of treaties deposited with the Secretary-General permit definitive signature.

Simple signature (signature subject to ratification) Simple signature applies to most multilateral treaties. This means that when a State signs the treaty, the signature is subject to ratification, acceptance or approval. The State has not expressed its consent to be bound by the treaty until it ratifies, accepts or approves it. In that case, a State that signs a treaty is obliged to refrain, in good faith, from acts that would defeat the object and purpose of the treaty. Signature alone does not impose on the State obligations under the treaty.

3.33 Treaty

Treaty is a generic term embracing all instruments binding under international law, regardless of their formal designation, concluded between two or more international juridical persons. Thus, treaties may be concluded between: (a) States; (b) International organizations with treaty-making capacity and States; or (c) International organizations with treaty-making capacity. The application of the term treaty, in the generic sense, signifies that the parties intend to create rights and obligations enforceable under international law.

The Vienna Convention 1969 defines a treaty as “an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation” (article 2 (1) (a)). Accordingly, conventions, agreements, protocols must be governed by international law and is normally in written form. Although the Vienna Convention 1969 does not apply to

non-written agreements, its definition of a treaty states that the absence of writing does not affect the legal force of international agreements. No international rules exist as to when an international instrument should be entitled a treaty. However, usually the term treaty is employed for instruments of some gravity and solemnity.

Bilateral treaty - A bilateral treaty is a treaty between two subjects of international law.

Multilateral treaty - A multilateral treaty is a treaty between more than two subjects of international law.

A complete source for all UN related terms and definitions may be found in the [UN Treaty Handbook](#).

4.0 Understanding the Arctic Council Declarations

There are two parts to the structure of Arctic Council Ministerial Declarations: the preamble and the operative part.

4.1 Preamble

The preamble part can refer to previous decisions and events inside or outside the Arctic Council but it may not contain any reference to or statement about the decision being declared. Statements of decision must be in the operative part of the declaration. As a general principle of international negotiations, preambles may be full of flowery, aspirational language, but do not represent agreement of any sort including on the provisions of the document being cited. The general rule is that a preamble uses adverbs, while the operative part of the declaration uses verbs.

Examples of Adverbs in the Preamble part of Arctic Council Ministerial Declarations

Celebrating

Welcoming

Noting

Recognizing

Acknowledging

Taking into account

Emphasizing

Confirming

Regarding

Deeply concerned

Recalling

Expressing concern

None of these adverbs represents a binding commitment on the part of any member state.

4.2 Operative part

The operative or operational part of Arctic Council Ministerial Declarations uses verbs to record decisions. However with the exception of the budget and work plans, observers will note that most of these verbs and phrases are employed in a manner that does not bind member states from taking actions that they do not wish to take. As mentioned at the beginning “The Arctic

Council does not and cannot implement or enforce its guidelines, assessments or recommendations. That responsibility belongs to each individual Arctic State.”

Examples of verbs in the operational part of Arctic Council Ministerial Declarations

Accept	Decide	Note, recognize, acknowledge	Reiterate
Accept with appreciation	Determine	Note with appreciation and welcome	Reiterate full support
Acknowledge	Direct	Note with concern	Reconfirm
Acknowledge with appreciation	Disseminate	Note with interest	Recognize
Adopt	Emphasize	Note with satisfaction	Request Arctic States to consider
Adopt the recommendations	Encourage	Noting with pleasure	Support
Agree	Encourage and support	Offer political support	Stress the importance
Announce	Endorse	Promote	Underline
Approve	Endorse and adopt	Provide	Urge
Ask	Establish	Reaffirm	Take note of
Authorize	Express the strong support	Reaffirm the commitment	Take note
Bear in mind	Favor	Receive	Welcome and accept with appreciation
Call upon	Fully support	Receive with appreciation	Welcome and approve
Commit	Hereby declare:	Request	Strongly welcome
Consider	Instruct SAOs	Recommend	Welcome and endorse
Declare	Intend	Referring	Welcome with appreciation
	Look forward		
	Note		

None of these verbs commits any of the member states to binding international agreements. Some of them represent decisions within the Arctic Council to proceed with a work plan, budget, etc. But the Council has no mechanism to enforce respect for its Ministerial Declarations. It is up to each member state to decide how or whether to implement most of the decisions contained in Ministerial Declarations. Close attention should be paid to the verbs used and the extent to which they actually commit member states to do something. Ministerial Declarations are drafted to ensure consensus and therefore sometimes engage in the use of ambivalent language to paper over real differences of substance. That is the very nature of much multilateral negotiation in any forum.