

Towards Arctic Resolution:

Issues of Sovereignty and Governance in the Circumpolar North

Task Force 2009

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The Issue:

As the Arctic Ice Cap melts at an increasing rate, many predict the Arctic will experience an ice-free summer in the proximate future. This opens up new opportunities for shipping and resource extraction, but also poses new challenges for environmental protection, territorial boundaries, and indigenous interests. This task force addresses how these new opportunities and challenges should be managed or developed.



Our Recommendations:

Increase Multilateral Cooperation:

- Russia should increase its multilateral relations with other Arctic countries by “exchanging best practices” for ecotourism and in the University of the Arctic
- Jointly manage the Northwest Passage via a treaty between the United States and Canada
- Increase solidarity between indigenous peoples of different circumpolar nations via a supranational organization
- Northern Europe (Norway, Sweden, Finland, Iceland, and Denmark/Greenland) should continue their work through transnational organizations

Increase Standardization of Enforcement and Regulation:

- Arctic countries should increase their commitment to international regulatory bodies regarding maritime jurisdiction
- Stronger environmental regulation and enforcement through investments in green technology and national standardizations of the Environmental Impact Assessments and Strategic Environmental Assessment

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The Henry M. Jackson School of International Studies
University of Washington

Task Force Policy Report on Arctic Sovereignty

Winter 2009

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Table of Contents

	<u>Page</u>
<u>Acknowledgments</u>	5
<u>Preface</u>	9
<u>Introduction</u>	13
<u>Chapter One: The Arctic Environment: A Changing Landscape</u>	19
<u>Chapter Two: International Tools for Arctic Management: Legal, Regulatory and Diplomatic Means of Resolution</u>	63
<u>Chapter Three: North America and the Arctic North</u>	99
<u>Chapter Four: Europe: A New Model for Arctic Cooperation</u>	125
<u>Chapter Five: The Russian Arctic: National Interests and International Relations</u>	181
<u>Chapter Six: Indigenous Peoples in the Circumpolar North</u>	207
<u>Conclusion</u>	233
<u>Bibliography</u>	241
<u>Appendix</u> Fact-Finding Mission to Ottawa Report	

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- Indian and Northern Affairs Canada
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- The Inuit Relations Secretariat, Indian and Northern Affairs Canada
- The Inuit Tapiriit Kanatami
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Preface

The authors of the Arctic Sovereignty report are undergraduate students in the Jackson School of International Studies at the University of Washington. The Jackson School requires all students to complete a series of interdisciplinary courses covering basic economics, political science, world history, cultural studies and political economy. All Jackson School coursework includes critical reading of social science texts and writing of research papers. In addition to the basic requirements, students are given the opportunity to specialize in a particular field: environmental studies; development; international political economy; ethnicity and nationalities; international human rights, law, state and society; and foreign policy, security and diplomacy. This contributes to the cumulative undergraduate project – Task Force.

Task Force is a collaborative research project spanning one academic quarter, resulting in a two hundred to three hundred page policy recommendation report. The subjects of Task Force change each year and are meant to reflect contemporary issues in the international arena. Task Force reports are evaluated by an external expert. The Arctic Sovereignty Task Force is the first Jackson School Task Force addressing the Arctic as a region.

The entirety of the report (research, writing and editing) was conducted between December 2008 and March 2009. Research methods for the Task Force included: library research, online sources, presentations by experts, interviews with stakeholders, representatives of embassies, international law experts and government officials conducted during a Fact-Finding Mission to Ottawa (see appendices) and the Arctic Sovereignty Lecture Series at the University of Washington. The Fact-Finding Mission to Ottawa took place from January 24th to January 31st.

This Task Force was provided with the working title “Arctic Sovereignty.” The readings in preparation for Task Force provided the authors with an initial understanding of Arctic issues. Taking the original title into account, the thirteen authors deliberated on the contents, structure and approach of this report. The authors concluded that “sovereignty” is too narrow a lens by which to approach developments in the Arctic region. The true objective was to uncover policies of governance. In addition, the preliminary readings pointed to approaches towards Arctic issues: the first being

competitive-national, and the second collaborative-international. The competitive-national approach seems to have greater potential to continue on a trajectory of serious international conflict. Major conflict between countries with interests in the Arctic would spill over to other regions, and so, the premise of the report is that the interests of ongoing global security as well as effective governance of the Arctic would better be approached with an objective of a working international system of agreements.

From initial research, it seemed apparent that focusing on the policy of an individual stakeholder would be limited given the inability of any stakeholder to dictate the outcome of Arctic issues. The intention was then to:

- Identify the different stakeholders, their interests and projected policies
- Recognize current opportunities and limitations for implementation of these policies
- See where these might be reconciled and where overall recommendations might be made.

Each chapter will provide a critical analysis of current policies and will formulate recommendations for the specific stakeholder(s). The conclusion of the report will discuss the interplay of these recommendations should they be implemented in future negotiations. The final recommendations of the authors will be based on those projections. The intended recipients of this report include a range of international stakeholders and policymakers.

The structure consists of six chapters: “The Arctic Environment: a Changing Landscape,” “International Tools for Arctic Management: Legal, Regulatory and Diplomatic Means of Resolution,” “North America and the Arctic North,” “Europe: A New Model for Arctic Cooperation,” “Russia in the Arctic: National Interests and International Relations,” and “Indigenous Peoples in the Circumpolar North.” The authors considered several options regarding the division of subjects for chapters. For instance, the subject of Arctic maritime navigation would have merited a chapter of its own. Due to the interdisciplinary nature of Arctic issues, it is referenced in all chapters. This example illustrates the difficulty in objectively separating interrelated questions and stakeholders. In that sense, any choice for a division of chapter heading would have been arbitrary. The chosen headings represent a mix of state and non-state points of view. This

structure allowed the authors to both examine and challenge traditional approaches to international negotiations. The authors of this report recognize that articulating the issues, interests and policies of stakeholders is a difficult task. The authors recognize a potential for individual or group biases in the contents of this report, despite all attempts to avoid such biases.

The preface, introduction, introduction to the chapters (*italicized at the beginning*) and conclusion were written by the editors.

Introduction

The issues emerging in the Arctic require an interdisciplinary approach to reflect the complexities. This report was designed to address current developments in the Arctic, compare and contrast Arctic policies, interests and technical and legal limitations and attempt to find creative solutions. Developments in the Arctic clash state, environmental and local/indigenous interests. In writing this report, many different fields of knowledge needed to be applied including scientific, legal, historical, technical, international relations, economics, sociology, engineering and theory. It was both a challenge and a pleasure to formulate the methods understandings that contributed to the contents and organization of this report. The authors of this report relied on previous knowledge and newly acquired knowledge and collaborative discussion. This policy report includes the following chapters:

- “The Arctic Environment: A Changing Landscape” that discusses evidence of climate change in the Arctic, the protection of the environment, incentives for sustainable development and what methods of regulation and enforcement that should be implemented to avoid crises in the future;
- “International Tools for Arctic Management: Legal Regulatory and Diplomatic Means of Resolution” that considers how laws and frameworks should be reexamined to better reflect changes in the environment, physical accessibility and opportunities attracting new actors to the Arctic;
- “North America and the Arctic North” that explores the relations between the United States and Canada in the Arctic through lens of the dispute regarding the right regulate the Northwest Passage;
- “Europe: A New Model for Arctic Cooperation” that explores means of cooperation as a way to further the interests of states and organizations within the complex European system;
- “Russia in the Arctic: National Interests and International Relations” that analyzes the relationship between strong Russian interests in the Arctic, Russian communication policies and Russian bilateral and multilateral participation, and;

- “Indigenous Peoples in the Circumpolar North” that includes the history of the emergence of national and international indigenous political participation and challenges and opportunities facing indigenous Arctic peoples.

Each chapter will define the issues and outline the background, interests and options available to the stakeholders addressed in its contents. Each chapter will offer policy recommendations based on this analysis.

There is a fine line between where legal state sovereignty is necessary for clear and effective regulation of a territory and where it is not. Assuming a country has the capability to enforce its laws over a region, the legal status of the area’s sovereignty may greatly affect what can and can’t be done within that territory (implementation of local, sovereign law and regulations). In regions like the Arctic, where capabilities are in question or do not yet exist, the legal status of sovereignty over territory may not be adequate to enforce the state’s laws. Opportunities are providing incentives for states to experiment with different types of sovereignty assertions in an attempt to further each state’s interests. The incapability of states to enforce their laws and regulations in this challenging terrain might be pulling actions and policies in a less competitive direction, namely that of deferring sovereign claims in the interest of pooling resources to allow for better governance.

In today’s world, there are frameworks to govern and regulate territory beyond exclusive state sovereignty. Examples referenced in this report include advisory and regulatory bodies. An example of advisory framework is the Arctic Council, which acts as a consensus-based forum involving the participation of Arctic states, permanent participants, permanent observers and recommendations of working groups. However, certain international laws apply to territories that are outside the boundaries of any state or have not yet been determined. While it is possible to regulate non-sovereign territories, it is against international laws to apply certain types of enforcement. An example of a regulatory body relevant to the Arctic is the International Maritime Organization, which regulates and enforces the high seas in accordance with international law (for further discussion, see Chapter 2). This raises questions regarding whether a clear legal designation of sovereignty is necessary for enforcement and regulation of sensitive issues in the Arctic, such as environmental protection.

Pertinent issues of the Arctic region include current environmental and climate change effects, economic opportunities, security risks, risks associated the acceleration of global warming, and the increased competitive and cooperative involvement of political actors. Some of these issues can be solved by a determination of sovereignty over territory. There are also issues within sovereign territories that remain unresolved. Responsible governance of the Arctic will provide access to opportunities while minimizing risks or negative externalities. Given the high stakes involved, state and non-state actors must develop and implement policies contributing their assets, efforts and capabilities towards a responsible international management of the Arctic. This report will outline specific policy recommendations that can be implemented by major stakeholders and international organizations. In addition, it will recommend effective environmental measures and the enhancement of existing mandates of Arctic organizations in order to provide administration and regulation of the region.

The environmental effects of climate change have been recently accepted as a reality on an international level. In some areas of the world, these effects are not felt significantly at the present time. In the Polar Regions, the impacts of climate change include an increase in temperature and the breaking off of ice shelves. The difference in the effects of climate change are primarily due to the Antarctic being a landmass, whereas the Arctic region is strongly affected by the presence of the Arctic Ocean. Additionally, effects of climate change have a direct effect on human populations. While Antarctica has no permanent population, there are approximately four million people living above the Arctic Circle. The presence of this population in the Arctic allows for the inclusion of additional categories of climate change effects. The impacts of a warming Arctic include: changes in biodiversity, coastal erosion, loss of infrastructure, compromised freshwater sources, decreasing predictability of the environment, relocation of communities and food insecurity. These are all issues that are projected to affect other areas of the world as global warming continues to impact the environment. The Arctic may indicate how individuals, local communities, governments and the international community deal with issues brought up by climate change in the next decades.

The Arctic Climate Impact Assessment, published in 2004, was used to familiarize the authors with the impacts of global warming in the Arctic region. The first

chapter of this report deals extensively with the environmental and climate changes currently affecting the Arctic and their impacts on ecosystems and human populations.

Although the impacts of climate change are often discussed in negative terms, climate change is also creating opportunities in the Arctic. The melting of the Arctic ice pack is allowing for increased navigation and accessibility to natural resources of the Arctic Ocean. It is currently estimated that 25% of the remaining hydrocarbon resources in the world are beneath the Arctic seabed, including oil and natural gas, as well as mineral deposits. There is a possibility for an increase in the harvesting of Arctic fisheries. The traversing of the Northwest Passage and the Northern Sea Route is more feasible due to the decrease in the extent of the ice pack in summer and decreased buildup of multi-year ice. The projections indicate that the Arctic Ocean could experience an ice-free summer in the next five to fifty years. The opening of the passages would have a significant effect on global trade patterns, connecting previously distant markets and affecting the prices of goods by shortening shipping routes. There are a number of risks associated with navigation, the environment and security that come with these new opportunities in the Arctic.

On a local scale there is the potential for oil spills, the need for search and rescue, hostile accessibility, disruption of wildlife, increased pollutants and greenhouse gases affecting the Arctic atmosphere and health of local populations. Environmental risks include effects on ecosystems, wildlife, the acceleration of Arctic warming, as well as adverse affects on local human populations dependant on their environment. And, security risks could be increased due to accessibility. The opening of the waters and lack of states' capabilities (ships, infrastructure) to deal with Arctic law enforcement and military needs create a risk for increased drug-smuggling activity, terrorist activity, and invasion by hostile states. Increased accessibility effectively opens a new, often long and undeveloped border for several of the major actors in the north. The governments of Arctic nations are ill equipped to address risks associated with accessibility to their northern shores.

On a global scale environmental risks include effects on ecosystems, wildlife, the acceleration of global warming, as well as adverse affects on local human populations dependant on their environment. Development of the Arctic (e.g. exploitation of natural

resources and shipping) may contribute to positive feedback loops of atmospheric warming in the Arctic, accelerating the melting of continental ice shelves, and resulting in rising sea levels worldwide. In terms of security, as states pursue economic opportunities, they heighten their claims and investment in the Arctic. The protocols for interaction between state representatives in the Arctic are relatively unpracticed. There is no encompassing agreed-upon system for management of resources, navigation, military and law-keeping security measures, and the territorial boundaries of sovereignty are not set. The conjunction of increased stakes with unclear boundaries and protocols for interaction compounds the risk of international conflict arising in the Arctic. These types of conflicts include political or/and diplomatic disputes leading to deterioration in international relations or, at a worst-case scenario, armed conflict. Considering the significant political (state) actors involved in the region, an unchecked conflict sparked in the Arctic has the potential to spill over and involve other nations and groups through treaties and other international pressures.

The capabilities of Arctic nations and the international community to address these risks may be outside of the scope of this report. More specifically, there are limitations to the knowledge the authors of the report could access related to information on states' capabilities, policies, budgets and plans relating to security. The authors of this report were limited to conducting analysis based upon articulated policies and transparent security measures of Arctic nations.

While there are local and international laws, systems, protocols and norms for interaction, these are constantly being reinterpreted and reassessed. There are local and regional evolutions of ideas, laws, knowledge, discourses and effective management schemes. The Arctic region provides a great opportunity for innovative thought and implementation of a wide range of social, political and economic frameworks. Developments in the Arctic in the recent past and the coming future will create precedence that may be relevant to other regions in the world. Ideas, legal precedence, or knowledge gained from experience in the Arctic will be disseminated and scrutinized, and possibly implemented by the international community elsewhere.