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## ABSTRACT

Over the last three decades, the Arctic and the Arctic Council (AC) have experienced profound changes. Since its establishment in 1996, the AC has evolved significantly in reach and stature; it has expanded its portfolio of projects and instruments, and it has also substantially enhanced its administrative capacities. So far, most studies on the AC have focused on exogenous sources of its change. In contrast, drawing from the general literature on international environmental regimes and gradual institutional change, this paper examines the endogenous factors and properties of the AC and the role they play in enabling or constraining the AC's institutional change. This reveals that the AC's setup provides ample space for change agents who, if able to identify windows of opportunity and exploit the inherent openness of the Council's rules, can establish new precedents that can ultimately influence the course of the AC's evolution. As such, the analysis draws our attention to previously understudied questions of agency and endogenous sources in the processes of institutional change of the AC. Moreover, as a case study on an informal institution, it is a source of insight and a contribution to the general literature on international environmental regimes, which to date has focused almost exclusively on hard-law and treaty-based institutions.

**Key words:** Arctic Council, institutional change, gradual change, agency, change agents, Arctic Council Chairmanship

## Introduction

Change is a pervasive feature of the world, in both its environmental and social realms. Change also characterises the Arctic, where the impacts of climate change over the past decades have led to transformations in the main characteristics of the region's physical environment and its biodiversity, and left profound marks on lifestyles and cultures of Arctic indigenous peoples.<sup>1</sup> The rapidly decreasing Arctic sea-ice and the economic opportunities opening with it have also had geopolitical repercussions and brought to the region many new non-Arctic actors. The Arctic Council (AC) – the intergovernmental high-level forum for promoting cooperation on sustainable development and environmental protection in the Arctic – has also experienced change. As a result, since 2006-2007, the AC has, over the course of the decade, moved from the peripheries of international relations closer to their centre, garnering unprecedented attention from officials of increasingly high levels both within Arctic states and among non-Arctic actors.

With the exception of a few scholars who have been covering the work of the AC since its early days,<sup>2</sup> scholarship on the AC has grown substantially since 2006-2007, devoting much attention to the change that has taken place within the AC and outside of it and focusing predominantly on external developments as drivers of the AC's unfolding.<sup>3</sup> Nevertheless, to grasp the entire evolution of the AC, it is

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1 ACIA, *Impacts of a Warming Arctic: Arctic Climate Impact Assessment* (Cambridge University Press 2004); Arctic Monitoring and Assessment Programme (AMAP), *Snow, Water, Ice and Permafrost in the Arctic (SWIPA) 2017* (AMAP 2017); AMAP, *Adaptation Actions for a Changing Arctic: Perspectives from the Barents Area* (AMAP 2017); AMAP, *Adaptation Actions for a Changing Arctic: Perspectives from the Baffin Bay/Davis Strait Region* (AMAP 2018).

2 Oran R Young, *Creating Regimes: Arctic Accords and International Governance* (Cornell University Press 1998); Olav Schram Stokke and Geir Hønneland (eds), *International Cooperation and Arctic Governance: Regime Effectiveness and Northern Region Building* (Routledge 2007); David VanderZwaag, Rob Huebert and Stacy Ferrara, 'Arctic Environmental Protection Strategy, Arctic Council and Multilateral Environmental Initiatives: Tinkering While the Arctic Marine Environment Totters' (2001) 30 *Denver Journal of International Law and Policy* 131; Oran R Young, 'The Structure of Arctic Cooperation: Solving Problems/Seizing Opportunities' (Fourth Conference of Parliamentarians of the Arctic Region, Rovaniemi, 27-29 August 2000); Timo Koivurova, 'The Limits of the Arctic Council' (2003) Project Day Session of the Fourth NRF <[www.rha.is/static/files/NRF/OpenAssemblies/Oulu2006/project-legal\\_koivurova.pdf](http://www.rha.is/static/files/NRF/OpenAssemblies/Oulu2006/project-legal_koivurova.pdf)> accessed 23 April 2019; Olav Schram Stokke, 'A Legal Regime for the Arctic? Interplay with the Law of the Sea Convention' (2007) 31 *Marine Policy* 402; Carina Keskitalo, *Negotiating the Arctic. The Construction of an International Region* (Routledge 2004); Annika E Nilsson, *A Changing Arctic Climate. Science and Policy in the Arctic Climate Impact Assessment* (Linköping, Linköping University 2007).

3 Page Wilson, 'Society, Steward or Security Actor? Three Visions of the Arctic Council' (2016) 51 *Cooperation and Conflict* 55; Terry Fenge, 'The Arctic Council: Past, Present, and Future Prospects with Canada in the Chair from 2013 to 2015' (2013) 37 *The Northern Review* 7; Olav Schram Stokke, 'Regime Interplay in Arctic Shipping Governance: Explaining Regional Niche Selection' (2013) 13 *International Environmental Agreements: Politics, Law and Economics* 65; Alison Ronson, 'Political Climate Change: The Evolving Role of the Arctic Council' (2011) 33 *Northern Review* 95; Thomas S

worth beginning the examination from the time when the Council's provisions were agreed on paper in the Declaration on the Establishment of the Arctic Council<sup>4</sup> and moved from there to practice, also in light of the fact that many of the practices coined in those days prevail to this day.

Institutional change and dynamics matter for the effectiveness, performance, and character of regimes. They might also result in changes outside of a direct regime's issue area and contribute to broader developments within international society.<sup>5</sup> There is wide recognition that understanding institutional dynamics and change is important for efforts to solve problems associated with human-environment relations, and this might be even more so in the increasingly complex, interconnected, and quickly evolving landscape of international environmental governance.<sup>6</sup>

What is interesting about the AC from the perspective of general studies of institutional change and dynamics is that to date, the literature on this subject has focused primarily on cases of hard-law and treaty-based institutions, often considered a cornerstone of international environmental governance.<sup>7</sup> Against this background, a study of the Council, a soft-law arrangement based on a political declaration, might offer us – next to deepened comprehension of the institution itself – new insights that could also more broadly contribute to our comprehension of the process of institutional change.

This article aims to answer two primary questions. First, what are the changes that have taken place in the AC over time? Second, how can we explain those changes? As regards the latter, the focus is particularly on the Council's endogenous institutional arrangements that enable or constrain its change and that have thus far received hardly any attention in studies on the AC. In shedding light on them, the contribution complements existing works, which have predominantly highlighted external events and exogenous drivers of the AC's development. It is important to note, though, that in doing so the study does not provide a full explanation of change in the AC. Given that in virtually every case, complex causality is a salient feature of the institutional landscape and 'inquiries regarding combinations of interactive

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Axworthy, Timo Koivurova and Waliul Hasanat (eds), *The Arctic Council: Its Place in the Future of Arctic Governance* (Munk-Gordon Arctic Security Program 2012).

4 Declaration on the Establishment of the Arctic Council (signed 19 September 1996) (1996) (Ottawa Declaration).

5 Oran R Young, *Governance in World Affairs* (Cornell University Press 1999).

6 Oran R Young, *Institutional Dynamics: Emergent Patterns in International Environmental Governance* (MIT Press 2010).

7 Olav Schram Stokke, *Disaggregating International Regimes. A New Approach to Evaluation and Comparison* (MIT Press 2012); Olav Schram Stokke and David Vidas (eds), *Governing the Antarctic. The Effectiveness and Legitimacy of the Antarctic Treaty System* (Cambridge University Press 1996); Oran R Young (ed), *The Effectiveness of International Environmental Regimes. Causal Connections and Behavioral Mechanisms* (MIT Press 1999); Helmut Breitmeier, Oran R Young and Michael Zürn, *Analyzing International Environmental Regimes. From Case Study to Database* (MIT Press 2006).

drivers will be needed to develop satisfactory explanations of what happens in specific cases,<sup>8</sup> the emphasis in this study on endogenous factors is an important step in the research process, fills an important gap in existing scholarship on the AC, and paves the way for future studies that could examine the abovementioned interactions of drivers of both kinds.

To answer the two main questions, the article proceeds as follows. The first part builds on the general literature on institutional change and dynamics and provides a brief overview of the main concepts related to these, including differentiation between various sources, types, and forms of change. The second part then focuses on changes that have come about in the AC since the body was established in 1996. However, instead of following a chronological order, the changes are grouped into those related to AC working groups (WGs); secretariats of the AC and its WGs; task forces and expert groups; observers; and AC guidelines and strategies. Separately included are changes regarding social practices within the Council that also affect the dynamics and operation of the AC.

Subsequently, the third part of the article moves to the analysis of changes in the AC. First, it proposes a classification of those changes. While this is done to introduce more clarity for analytical purposes, it also reveals that the vocabulary developed and used in the general literature does not exactly fit institutions like the AC and might deserve further elaboration in the future. Second, this part focuses on institutional properties and attributes of the AC and how they enable, constrain, and affect the kind of changes that we have seen unfolding in practice. In this way, the analysis complements the accounts of the AC that have so far emphasised the role of external events and exogenous factors in its development. Third, it exposes the ample space provided by the AC's setup for change agents, and it sheds light on the role of those agents in the process of the Council's change. The line of inquiry adopted here sensitises us to considering a wider variety of sources and factors at play in the process of institutional change in the case of the Council, and subsequently using them to examine the ways in which internal and external forces and factors interact with each other to yield the observed results.

While it is beyond the scope of this paper and analysis to answer questions about the impact of change on the effectiveness or performance of the AC, what becomes clear is the extent to which the Council is malleable and open to shaping by change agents, in particular in times of new developments that call into question past modes of action and open up space for actors to interpret existing rules in new ways. This finding points to the need for further research on the role of individual Arctic states in the evolution of the AC. This is an area that has not received much systematic scholarly attention until recently and that could provide interesting insights into our

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8 Young (n 6) 15.

understanding of how the Council might be developing through the second round of its Chairmanships and beyond.

The empirical data used for the inquiry in this paper comes from the analysis of documents of the AC – reports of Senior Arctic Officials (SAOs) and the Ministerial Declarations from 1998-2019 – as well as from a series of interviews carried out with individuals involved with the Council in various capacities (Chairs of SAOs, members of the AC Chairmanship teams, representatives of Permanent Participants and members of WGs) and over varying periods of time.

## **Institutional Change in Theory**

### **Classifying Institutional Change**

When it comes to change, the AC and its evolution are no different from other institutional arrangements. All social institutions, including international environmental institutions/regimes, are dynamic and experience change on a regular basis. Some of those changes can be subtle and gradual, while others can be instantaneous and transformational. In principle, international environmental institutions, once created, set into motion highly dynamic social practices, which evolve with time and where rules in use often differ quite notably from those prescribed in their constitutive documents.<sup>9</sup> As noted, institutional change and dynamics typically have consequences for a regime's character, effectiveness, and performance. They can also lead to changes outside of the regime's issue area and influence even broader developments within international society.

Research into institutional change and dynamics is the latest addition to the scholarship on international (environmental) regimes.<sup>10</sup> While the field remains less developed than analyses of regime formation and subsequent studies of regime effectiveness, it offers a more systematic organisation of our thinking about types, forms, sources, patterns, and effects of institutional change.<sup>11</sup> As much as the overall classification it provides is much broader, the dimensions that are of particular interest to examine in the case of the AC are distinctions between types and forms of change.

First, with respect to types of change, it is useful to distinguish between changes in the constitutive attributes of a regime and changes that alter its operating rules while leaving its constitutive basis unchanged. In brief, the constitutive attributes of a regime are those that define its essential character. They include aspects such as the framing of the problems to be addressed, membership of a regime, and its

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9 Young (n 5).

10 Young (n 6).

11 Young (n 5).

functional scope and geographic domain. Consequently, changes to any of those elements are considered constitutive and typically present a fundamental difference in the operation of a regime. In contrast, changes in operational elements, when considered individually, do not carry so much weight when it comes to the functioning of a regime. They can also take a much greater variety of forms and can relate to, for instance, the regime's agreed regulatory provisions, funding sources, or procedural mechanisms. Nonetheless, though they are less fundamental in character than their constitutive counterparts, changes in operational attributes should not be disregarded because, when accumulated, they too can produce far-reaching consequences.<sup>12</sup>

Second, it is helpful to consider the form of change – in other words, how or in what manner institutional change comes about. While the general literature proposes many ways of differentiation, from the perspective of the present study the most important differentiation is between formal and informal changes in institutional arrangements. Even though much attention is typically dedicated to formal changes, informal changes that arise within institutions through customs and practice oftentimes have profound consequences for the actual operation of a regime. It is worth noting here that whereas constitutive changes are generally formal, changes in operational elements of an institution can result from both formal and informal processes.<sup>13</sup>

Finally, it is important to underline that the above classification has been proposed on the basis of cases studying hard-law, treaty-based, and predominantly regulatory regimes, which so far have been at the centre of the literature on international environmental institutions. Thus, as is illustrated below, presented distinctions match the case of the AC, a soft-law arrangement based on a political declaration of eight Arctic states, to varying degrees. At the same time, the study of the AC presents us with an opportunity to apply theories developed with another universe of cases in mind to a different type of institution – an exercise that can help us expand our understanding of international environmental institutions and their change.

### *Sources of Change, Gradual Change, and Change Agents*

Institutional change can have many sources and most often arises from the interactions of many factors.<sup>14</sup> In terms of their classification, again, it is useful to distinguish between exogenous and endogenous factors and forces of change. Exogenous factors are those that affect the operation of an institution from outside. Accordingly, they encompass a broad spectrum of conditions, among them characteristics of the problem addressed by a regime; taking up new substantive issues as a matter of priority and as a result of external developments; the nature and (in)stability of

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12 *ibid.*

13 *ibid.*

14 Young (n 6).

the broader political and economic setting; technological innovations; the rise of new actors in the issue area; shifting discourses; and significant changes in relevant biophysical systems.<sup>15</sup>

In contrast to exogenous forces, endogenous factors are related to attributes of institutions themselves and include issues such as the legal foundation of an institution; the nature of its relevant decisions; decision-making procedures; funding mechanisms; and provisions for monitoring, reporting, and verification, among others. As argued by scholars studying gradual institutional change, institutions not only change in response to exogenous shocks or developments, but also 'evolve and shift in more subtle ways across time'.<sup>16</sup> What follows is that the basic properties of institutions must be defined in such a way as to provide some dynamic element that would permit such change. In other words, these scholars propose that the basic properties of institutions contain within them possibilities for change, and that those possibilities exist within the space between the prescribed rules and their implementation, emanating from a degree of openness in the interpretation of those rules. Furthermore, they argue that institutional change often occurs precisely when problems of rule interpretation open up space for actors to implement existing rules in new ways, frequently in relation to new developments, where existing institutions may be called to accommodate to a new reality – as in the case of the Arctic and the AC. In turn, a specific mode of change that emerges is affected by the characteristics of existing institutional rules and properties of the institution itself, including the existence and number of veto points within the system (they afford defenders of the status quo strong or weak veto possibilities vis-à-vis proposed modifications), and the previously mentioned degree of openness in the interpretation of prescribed rules.<sup>17</sup>

Given that institutional rules can never be precise and specific enough to cover all possible real-world situations, it is important to note that the ambiguities they contain provide critical openings for creativity and agency, where change agents might exploit the inherent openness of rules to establish new precedents for action that can ultimately transform an institution. Addressing the issue of institutional change raises important questions, such as who the agents behind such change are, what their motives are, and what determines the outcome or impact of their initiatives. According to Mahoney and Thelen, it is political context and specific institutional form that shape the types of change agents that are likely to emerge and the kinds

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15 Furthermore, in case of exogenous forces, it is useful to differentiate between proximate and underlying causes of change. In reflecting on observed institutional dynamics we should also not underestimate the importance of shifts in the underlying structures of power, interests, and ideas in international society: Young (n 6). This point is, however, beyond the scope of this study and paper.

16 James Mahoney and Kathleen Thelen (eds), *Explaining Institutional Change. Ambiguity, Agency and Power* (Cambridge University Press 2010).

17 *ibid.*



of strategies these agents are likely to pursue in order to effect change.<sup>18</sup> Although the inquiry of these scholars focused predominantly on regulatory settings where issues of compliance are particularly salient, their arguments merit evaluation also in other contexts and through the analyses of other cases. Important for future studies on institutional change and change agents, Mahoney and Thelen note and underline that institutional change does not necessarily come from actors with transformational motives, and that actors' short-term behaviours should not automatically be equated with their long-term goals and strategies. Moreover, Mahoney and Thelen stress that in their actions, actors face not only structural but also cognitive limits. Even if arrangements and compromises negotiated at a given moment seem to adequately accommodate occurring and arising situations, actors experience severe information limitations and cannot anticipate – particularly in very rapidly changing contexts – all possible future situations in which adopted solutions could be reinterpreted and reused. Finally, one should also stay mindful that change agents rarely work alone. Whether we understand change agents as states or individuals,<sup>19</sup> most often they act in concert with other institutional actors, and typically the outcome of their initiatives depends vitally on the coalitions they are able to forge or that arise unexpectedly in the course of negotiations.<sup>20</sup> Yet, the composition of those coalitions is unstable and may be altered depending on the issue or proposal in question.

As much as the above questions are prominent and deserve closer scrutiny from international relations scholars interested in institutional change, what matters from the perspective of the present examination and our current state of knowledge about the AC is the role of change agents in institutions such as the AC, in the broader context of the Arctic region's very rapid transformation. It is particularly in such complex settings that the role of change agents appears to be pronounced, where those able to identify and exploit windows of opportunity can influence the course of discussions. This might occur, for example, by promoting new ways of thinking about the problem, orchestrating deals, or bringing to bear the structural power of states or non-state actors on specific issues,<sup>21</sup> thereby affecting the long-term trajectory of institutional development. Conceivably, more permissive – rather than more constrictive – institutional structures provide even more leeway for such change agents.

Before moving to the examination of the properties of the AC, the next section provides an overview of changes through which the AC has gone since its inception.

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18 *ibid.*

19 For insights regarding the role of individuals as leaders in the formation of international institutions see: Oran R Young, 'Political Leadership and Regime Formation: On the Development of Institutions in International Society' (1991) 45 *International Organization* 281.

20 Mahoney and Thelen (n 16) 29.

21 Oran R Young and Gail Osherenko (eds), *Polar Politics. Creating International Environmental Regimes* (Cornell University Press 1993); Young (n 19).

## The Arctic Council in Change

### Working Groups

In the Ottawa Declaration, the Arctic states decided that a newly formed AC would oversee and coordinate four environmental programmes established under the Arctic Environmental Protection Strategy (AEPS) signed in 1991. Those were the Arctic Monitoring and Assessment Program (AMAP), Conservation of Arctic Flora and Fauna (CAFF), Emergency Prevention, Preparedness and Response (EPPR), and Protection of the Arctic Marine Environment (PAME) programmes, and ministers agreed that they would be integrated into the AC by the time of the final Ministerial Meeting of the AEPS in Alta in 1997. At the same time, ministers tasked a new forum with creating a sustainable development programme and preparing and adopting rules of procedures for its meetings and work to come.<sup>22</sup>

After intensive discussions and negotiations,<sup>23</sup> the AC Rules of Procedure were finally agreed in 1998 at the first Ministerial Meeting of the AC in Iqaluit, Canada. At the same meeting, Arctic ministers also approved the AC's programme of sustainable development and established the fifth working group of the Council, the Sustainable Development Working Group (SDWG), to be 'comprised of SAOs and Permanent Participants, or their designated representatives'.<sup>24</sup> As a result, for nearly a decade the SDWG was a body of SAOs, who would convene first as the SDWG and then as SAOs.<sup>25</sup>

With respect to Permanent Participants,<sup>26</sup> the Ottawa Declaration originally listed only three organisations in this category: the Inuit Circumpolar Council

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22 Ottawa Declaration (n 4).

23 In the period between 1996-1998 Senior Arctic Officials met nine times, in comparison with an average four to five meetings during each two-year chairmanship. Arctic Council, 'Report of Senior Arctic Officials to the Arctic Council' (Iqaluit, Canada, 17 September 1998).

24 Arctic Council, 'Iqaluit Declaration on the Occasion of the First Ministerial Meeting of the Arctic Council' (Iqaluit, Canada, 17-18 September 1998).

25 This has also been one of the reasons why SDWG meetings have so often been held back to back with SAOs meetings. The practice of SAOs attending the SDWG started to change during the first Icelandic Chairmanship (2002-2004), when a few Arctic states began sending 'SAO alternates' to the SDWG meetings. By the time of the Norwegian Chairmanship (2006-2009), only Sweden was still sending its SAO to SDWG meetings. Sweden finally joined the others in sending someone other than the SAO to SDWG meetings during the first Danish Chairmanship (2009-2011) (email from Canadian and former AC official to author, 22 February 2019).

26 The category of Permanent Participants was created to provide for the active participation of and full consultation with the Arctic indigenous representatives within the Arctic Council: Ottawa Declaration (n 4). The inclusion of representatives of indigenous peoples' organizations is one of the most characteristic, innovative and largely unprecedented features of the organized circumpolar collaboration. Arctic Governance Project (ed), 'Arctic Governance in an Era of Transformative Change: Critical Questions, Governance Principles, Ways Forward' (2010) <<http://arcticgovernance.custompublish.com/arctic-governance-in-an-era-of-transformative-change-critical-questions-governance-principles-ways-forward.4774756-156783.html>> accessed 23 April 2019.

(ICC); the Saami Council; and the Association of Indigenous Minorities of the North, Siberia and the Far East of the Russian Federation (RAIPON). At the same time, it opened the status to other Arctic organisations of indigenous peoples, upon their fulfilling a number of criteria and under the condition that the number of Permanent Participants should at any time be less than the number of AC Members.<sup>27</sup> Thus, at the Ministerial Meeting in Iqaluit in 1998, the Aleut International Association (AIA) was admitted as the fourth Permanent Participant, and two years later, at the Ministerial Meeting in 2000 in Barrow, Alaska, the Arctic Athabaskan Council (AAC) and Gwich'in Council International (GCI) were also granted this status.

It was also in Barrow that the seeds were planted for what a few years later would become the sixth WG of the AC. In 2000, Arctic ministers adopted the Arctic Council Action Plan to Eliminate Pollution of the Arctic (ACAP) as a basis for 'developing and implementing actions under the Council's auspices with respect to pollution prevention and remediation.'<sup>28</sup> Whereas the ACAP was initially meant to translate into action recommendations flowing from work carried out by the AMAP, after several years in operation it was approved as a self-standing WG at the Ministerial Meeting in Salekhard in 2006, and its name was changed to 'Arctic Contaminants Action Program' (ACAP, acronym retained).<sup>29</sup>

Thus, one could well argue that the structure of the Council in terms of WGs as presently known was not fully established until 2006. Indeed, it took nearly a decade to operationalise and move the provisions of the Ottawa Declaration from paper to practice; this process was also a response to learning and experience brought by the Council's own action and activities.

### **AC Secretariats**

It was also at the Salekhard Ministerial Meeting in 2006 that another change, albeit interim at that time, came into fruition: a joint interim AC secretariat was established in Tromsø, Norway for the consecutive Norwegian, Danish, and

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27 Accordingly, the organization should have the majority Arctic indigenous constituency representing either a single indigenous people resident in more than one Arctic State, or more than one Arctic indigenous people resident in a single Arctic state. The determination whether an organization meets that criterion has been left to discretion and decision of the Arctic Council.

28 In order to provide a mechanism to supervise the implementation of the action plan, ministers established on an interim basis the ACAP Steering Committee that would operate as a subsidiary body of the Arctic Council, report to SAOs and be composed of representatives of Arctic states and Permanent Participants, 'with the active involvement of the chairs of the Council's working groups and the Council's observers'. Arctic Council, 'Barrow Declaration on the Occasion of the Second Ministerial Meeting of the Arctic Council' (Barrow, Alaska, United States, 13 October 2000).

29 Arctic Council, 'Salekhard Declaration on the Occasion of the Tenth Anniversary of the Arctic Council the Fifth AC Ministerial Meeting' (Salekhard, Russia, 26 October 2006).

Swedish AC Chairmanships from 2006 to 2012.<sup>30</sup> The establishment of that secretariat presented an important difference in comparison with the earlier practice, in which the Host Country was responsible for providing a secretariat for a given two-year period.<sup>31</sup> That arrangement was a result of the negotiations that led to the Ottawa Declaration, where the United States insisted on keeping the newly formed institution at a low profile and without any attributes resembling an international organisation, including a lack of permanent secretariat and no stable budget/resources of its own.<sup>32</sup>

Furthermore, the secretariats of several of the AC WGs rotated regularly among Arctic states. The notable exception was AMAP, whose secretariat was hosted in Oslo and funded by Norway since 1991,<sup>33</sup> and PAME and CAFF which had their secretariats hosted by Iceland since 1999-2000, although their funding was more precarious. Likewise, the Indigenous Peoples' Secretariat (IPS) continued its work under the framework of the AC, hosted by Denmark and located in Copenhagen.<sup>34</sup> The other WGs and programmes did not have their own secretariats.

The proposal for a joint interim AC secretariat for the term of three Scandinavian Chairmanships came from Norway, which offered to host it in Tromsø and cover most of the costs related to its operation. The arrangement was accepted by Arctic states as part of the programme of Norway's Chairmanship of the AC and the common objectives adopted by Denmark, Norway, and Sweden for their time at the helm of the AC (2006-2012).<sup>35</sup> Whereas an establishment of

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30 During the Norwegian chairmanship the time of the ministerial meeting was moved from fall to spring, which resulted in a longer term for Norway until 2009 and consequently pushed forward all the consecutive chairmanships by one year.

31 The original Rules of Procedure from 1998 called the Arctic State 'which chairs the Arctic Council during the particular period in question' the Host Country. The name was changed to 'Chairmanship' only in the revised AC Rules of Procedure in 2013. Arctic Council, 'Arctic Council Rules of Procedure as Adopted by the Arctic Council at the First Arctic Council Ministerial Meeting' (Iqaluit, Canada, 17-18 September 1998); Arctic Council, 'Arctic Council Rules of Procedure. Revised by the Arctic Council at the Eight Arctic Council Ministerial Meeting' (Kiruna, Sweden, 15 May 2013).

32 David Scrivener, 'Arctic Environmental Cooperation in Transition' (1999) 35 *Polar Record* 51; Douglas C Nord, *The Changing Arctic. Creating a Framework for Consensus Building and Governance within the Arctic Council* (Palgrave Macmillan 2016).

33 Since the Ministerial Meeting in Alta, the AMAP secretariat has been organized as a foundation under Norwegian law: SAO Report (n 23).

34 The IPS was established in 1994 under the AEPS and continued its operation under the AC after 1996. The role of the IPS has been to facilitate contributions from the Permanent Participants to the cooperation of the Arctic states and to assist the Permanent Participants in performing their communications tasks in particular.

35 Norwegian Ministry of Foreign Affairs, 'Programme for the Norwegian chairmanship of the Arctic Council 2006-2008' (2006) <[http://library.arcticportal.org/319/1/AC\\_Programme\\_2006-2008.pdf](http://library.arcticportal.org/319/1/AC_Programme_2006-2008.pdf)> accessed 23 April 2019; Arctic Council, 'Common objectives and priorities for the Norwegian, Danish, Swedish chairmanships of the Arctic Council (2006-2012)' <[https://oaarchive.arctic-council.org/bitstream/handle/11374/2103/MMRU05\\_2006\\_SALEKHARD\\_11\\_Common-Objectives-for-2006-2012-Scandinavian-Chairmanships.pdf?sequence=1&isAllowed=y](https://oaarchive.arctic-council.org/bitstream/handle/11374/2103/MMRU05_2006_SALEKHARD_11_Common-Objectives-for-2006-2012-Scandinavian-Chairmanships.pdf?sequence=1&isAllowed=y)> accessed 23 April 2019.

a permanent secretariat would have almost certainly been too controversial at that time for some Arctic states, Norway hoped that over a period of six years a semi-permanent structure would prove its value to all AC Members and actors, and could be turned into a standing body. The decision to take that step came in 2011 at the Ministerial Meeting in Nuuk, Greenland, where Arctic ministers agreed to the establishment of a permanent AC secretariat (ACS) in Tromsø, Norway, 'to strengthen the capacity of the Arctic Council to respond to the challenges and opportunities facing the Arctic'.<sup>36</sup> The ACS was to be operational no later than the beginning of the Canadian Chairmanship in 2013, and in January 2013 the Norwegian Minister of Foreign Affairs and the ACS Director signed the Host Country Agreement outlining the legal status of the ACS.<sup>37</sup> It was also during the Swedish Chairmanship (2011-2013) that Permanent Participants decided to relocate the IPS from Copenhagen to Tromsø, and in 2015 at the Ministerial Meeting in Iqaluit, Canada, it was decided that the IPS would be hosted by the ACS.<sup>38</sup> As a result, the IPS became a part of the ACS on 1 January 2016.<sup>39</sup> Likewise, in 2015 ministers approved a proposal for the ACS to begin serving as the executive secretariat for the EPPR and ACAP working groups to make their work more effective, ensure their representation, and promote their work.<sup>40</sup> The last change related to the arrangements with the AC secretariats came in 2016, when the Norwegian Ministry of Climate and Environment decided to move the AMAP secretariat office from Oslo to Tromsø, to a building where the ACS would also be relocated. This decision took effect in April 2018.<sup>41</sup>

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36 Arctic Council, 'Nuuk Declaration on the occasion of the Seventh Ministerial Meeting of the Arctic Council' (Nuuk, Greenland, 12 May 2011). The establishment of a permanent secretariat was partly a response to criticism over the lack of institutional memory and organizational routines (including the not always smooth transition between Chairmanships) and partly it was an attempt to adapt to an increased international interest in the region. Timo Koivurova, Paula Kankaanpää and Adam Stepien, 'Innovative Environmental Protection: Lessons from the Arctic' [2015] *Journal of Environmental Law* 1.

37 The ACS Terms of Reference were first approved by the Arctic Council Deputy Ministers in 2012 and together with the financial rules, roles and responsibilities of the ACS director and the first ACS budget were adopted by Arctic ministers at the meeting in Kiruna in 2013. Arctic Council, 'Kiruna Declaration on the occasion of the Eighth Ministerial Meeting of the Arctic Council' (Kiruna, Sweden, 15 May 2013).

38 Arctic Council, 'Iqaluit Declaration 2015 on the occasion of the Ninth Ministerial Meeting of the Arctic Council' (Iqaluit, Canada, 24 April 2015).

39 Whereas the IPS has a separate budget for its operations and its own work plan, that plan is based upon the ACS Terms of Reference.

40 The proposal was originally included in the SAOs Report from April 2015 and further incorporated in the biennial work plan for the ACS for 2016-2017. Arctic Council, 'Senior Arctic Officials' Report to Ministers' (Iqaluit, Canada, 24 April 2015).

41 As noted in the minutes of the AMAP meeting in Nov-Dec 2016, 'the decision to move the Oslo office of the Secretariat [of AMAP] (...) is a Norwegian political decision based on Norwegian Arctic policy and rural policy. The intention is to strengthen the position of Tromsø as an important Arctic city.' AMAP, 'Minutes of the 30th Meeting of the AMAP Working Group' (Helsinki, Finland, 28 November-1 December 2016). In the discussion of that presentation, heads of delegation (HoDs) underlined that one

Hence, more than 20 years after its inception, not only does the AC have a standing secretariat, an arrangement inconceivable at the time of the negotiations of the Ottawa Declaration, but the secretariats of its working groups are no longer dispersed and rotating among all Arctic states. Instead, today, five secretariats – the ACS, the IPS, and the secretariats of the AMAP, the ACAP, and the EPPR – are concentrated in Tromsø, Norway; the secretariats of the CAFF and the PAME are located in Akureyri, Iceland; and only the SDWG secretariat does not yet have a fully permanent arrangement, partly because its Chairmanship follows the rotation cycle of the Chairmanships of the entire Council.<sup>42</sup>

### **Task Forces and Expert Groups**

The AC Rules of Procedure from 1998 provided that the AC could establish working groups, task forces, and other subsidiary bodies to carry out programmes and activities under the direction and guidance of SAOs.<sup>43</sup> The composition and mandate of those bodies had to be agreed by the Arctic states in a Ministerial Meeting, but it was not until the end of the Norwegian Chairmanship in Tromsø in 2009 that they used that provision to establish the first AC task forces. The Task Force on Short-Lived Climate Forcers was mandated to identify existing and new measures to reduce emissions coming from those forcers (specifically, black carbon and methane), and the Task Force on Search and Rescue was established to develop what would become the first circumpolar legally binding agreement negotiated under the auspices of the AC, the Agreement on Cooperation on Aeronautical and Maritime Search and Rescue in the Arctic (Arctic SAR Agreement).<sup>44</sup>

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of the strengths of AMAP has been and should continue to be the scientific integrity and independence of the working group. As such, the HoDs stressed that care must be taken to ensure that the proximity of the location of the AMAP secretariat to the ACS offices does not give an appearance of compromising the scientific independence and integrity of AMAP.

42 While the practice has its roots in the beginnings of the SDWG, today it is also included in the Arctic Council Working Groups Operating Guidelines: Arctic Council, 'Working Group Common Operating Guidelines' (2018). At the same time, at the Ministerial Meeting in Rovaniemi, Finland in May 2019 Canada announced its willingness to fund a permanent secretariat of the SDWG: Arctic Council, 'Address by Foreign Affairs Minister at the Arctic Council Ministerial Meeting, Rovaniemi, Finland, May 2019' <[https://oaarchive.arctic-council.org/bitstream/handle/11374/2417/2019\\_Rovaniemi\\_Ministerial\\_Statement\\_by\\_Canada.pdf?sequence=1&isAllowed=y](https://oaarchive.arctic-council.org/bitstream/handle/11374/2417/2019_Rovaniemi_Ministerial_Statement_by_Canada.pdf?sequence=1&isAllowed=y)> accessed 5 August 2019.

43 Arctic Council, 'Arctic Council Rules of Procedure as Adopted by the Arctic Council at the First Arctic Council Ministerial Meeting' (n 31).

44 Agreement on Cooperation on Aeronautical and Maritime Search and Rescue in the Arctic (signed in Nuuk on 12 May 2011, entered into force 19 January 2013) (2011) 50 ILM 1119. Arctic Council, 'Tromsø Declaration on the occasion of the Sixth Ministerial Meeting of the Arctic Council' (Tromsø, Norway, 29 April 2009).

Since then, the establishment of time-bound and issue-specific task forces has become a regular practice within the AC, and each Ministerial Meeting has seen the inception of new subsidiary bodies and the extension of the temporal mandates of existing bodies. Among others, at the Ministerial Meeting in Nuuk in 2011, Arctic ministers established a task force to make the necessary arrangements to set up the ACS,<sup>45</sup> an expert group on Arctic ecosystem-based management (EBM), and a task force to develop a legally binding instrument on Arctic marine oil pollution preparedness and response.<sup>46</sup> In 2013, Arctic ministers created four task forces: to facilitate the creation of a circumpolar business forum, ‘to develop arrangements on actions to achieve enhanced black carbon and methane emission reductions in the Arctic’, to develop an AC action plan on oil pollution prevention, and ‘to work towards an arrangement on improved scientific research cooperation among the eight Arctic States.’<sup>47</sup> This last task force had its mandate extended in 2015 to enable negotiation of a legally binding instrument on scientific cooperation. At the same meeting in Iqaluit, Arctic ministers established a task force on means and mechanisms of enhancing Arctic marine cooperation and two other expert groups: one responsible for reporting on the implementation of the concurrently adopted Framework for Action on Enhanced Black Carbon and Methane Emissions, and another to develop a circumpolar infrastructure assessment.<sup>48</sup> Finally, at the Ministerial Meeting in Fairbanks, Alaska in 2017, ministers approved the formation of the Task Force on Improved Connectivity in the Arctic (TFICA) and renewed the mandate of the Task Force on Arctic Marine Cooperation, which completed its work by the end of the second Finnish Chairmanship in 2019.<sup>49</sup>

The increased and regular use of task forces and, though to a lesser extent, expert groups, has been among the most important structural innovations in the AC.<sup>50</sup> To date, three of the task forces have served as platforms to develop legally binding agreements among the eight Arctic states: the Arctic SAR Agreement signed in Nuuk in 2011, the Agreement on Cooperation on Marine Oil Pollution Preparedness and Response in the Arctic (MOSPA) concluded in 2013 in Kiruna,

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45 Task Force for Institutional Issues (TFII).

46 Arctic Council, Nuuk Declaration (n 36). This eventually became: Agreement on Cooperation on Marine Oil Pollution, Preparedness and Response in the Arctic (adopted in Kiruna 15 May 2013, entered into force 25 March 2016) (Arctic MOSPA).

47 Arctic Council, Kiruna Declaration (n 37).

48 Arctic Council, Iqaluit Declaration (n 38).

49 Arctic Council, ‘Fairbanks Declaration on the occasion of the Tenth Ministerial Meeting of the Arctic Council’ (Fairbanks, Alaska, United States, 11 May 2017).

50 Terry Fenge and Bernard Funston, ‘The Practice and Promise of the Arctic Council. Independent Report Commissioned by Greenpeace’ (2015).

and the Agreement on Enhancing International Arctic Scientific Cooperation signed in 2017 in Fairbanks.<sup>51</sup>

During the Canadian Chairmanship (2013-2015), the task force on the circumpolar business forum helped to catalyse the formation of the Arctic Economic Council (AEC) – the first among a series of satellite bodies created with the facilitation of the AC.<sup>52</sup> However, other task forces did not bring equally tangible results, and some of them raised confusion about the overlapping mandates and the duplication of efforts between those ad hoc created bodies and the regular working groups – for instance, with the Task Force on Short-Lived Climate Forces and the AMAP, which had already had an internal expert group working on methane and black carbon. While the two bodies were ultimately able to find complementary modes of work,<sup>53</sup> the arrangement took several years to work out and fuelled concerns about competition over already limited AC human and financial resources.<sup>54</sup> Even if the mandate and term of task forces are always limited, nowadays the AC has – in addition to its six working groups – from two to five additional subsidiary bodies at any given time. Together, the task forces and expert groups can be credited with the adoption of a broader range of approaches and instruments used by the Council,

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51 Arctic SAR Agreement (n 44); Arctic MOSPA (n 46); Agreement on Enhancing International Arctic Scientific Cooperation (signed in Fairbanks on 11 May 2017, entered into force on 23 May 2018); all documents at <<http://www.arctic-council.org/index.php/en/our-work/agreements>> accessed 15 January 2019. For more information on the agreements as well as on the concept of the Arctic Council System clarifying the relationship between them and the AC, see Erik J Molenaar, 'Current and Prospective Roles of the Arctic Council System within the Context of the Law of the Sea', in Thomas S Axworthy, Timo Koivurova and Waliul Hasanat (eds), *The Arctic Council: Its Place in the Future of Arctic Governance* (Munk-Gordon Arctic Security Program 2012) 139-189; Erik J Molenaar, 'The Arctic, the Arctic Council, and the Law of the Sea' in Robert Beckman, Tore Henriksen, Kristine Dalaker Kraabel, Erik J Molenaar and J Ashley Roach (eds), *Governance of Arctic Shipping. Balancing Rights and Interests of Arctic States and User States* (Brill/Nijhoff 2017) 24-67.

52 Next to the AEC, they include the Arctic Offshore Regulators Forum (AORF) and the Arctic Coast Guard Forum (ACGF) formed, respectively, in April 2015 and October 2015. While all those bodies operate independently from the Arctic Council, their composition to a large degree resembles that of the AC (eg in the case of the AEC each Arctic state and Permanent Participant organization can name up to three business representatives) and their chairmanships go in tandem with the rotation cycle of the Arctic Council. All of them also intend to provide information to the AC, serving as the synthesis of Arctic business perspectives for consideration by the Arctic Council (AEC), tapping into the work of the EPPR working group of the AC (ACGF), and complementing AC work in the field of offshore petroleum safety (AORF).

53 Among others, thanks to overlapping membership of several individuals who – as national experts – have been nominated to work on both of them: personal communication from Danish expert and official to author, 14 February 2019.

54 Supreme Audit Institutions of Denmark, Norway, The Russian Federation, Sweden and the United States of America, 'The Arctic Council: Perspectives on a Changing Arctic, the Council's Work, and Key Challenges. A Joint Memorandum of a Multilateral Audit on the Arctic States' National Authorities' Work with the Arctic Council' (2015) <<https://oarchive.arctic-council.org/handle/11374/1527>> accessed 23 April 2019.



such as the framework for action on black carbon and methane emissions and legally binding agreements that pertain to areas of the AC's work.<sup>55</sup>

### Observers

Observers to the Arctic Council have been among the most studied and analysed aspects of the AC's setup and have received unparalleled attention both from practitioners and media alike.<sup>56</sup> The increasing number of Observers has also been one of the most visible changes within the Council over the last decade.

There were fourteen Observers present at the ceremony of the signing of the Ottawa Declaration in 1996, and the Declaration accorded that status to non-Arctic states, global and regional inter-governmental and inter-parliamentary organizations, and non-governmental organizations that the Council determines can contribute to its work.<sup>57</sup> In Annex 2 to the AC Rules of Procedure adopted in 1998, nine states and organisations were listed that had been granted observer status based upon their previous accreditation as Observers to the AEPS.<sup>58</sup> Furthermore, the 1998 Rules of Procedure provided for two categories of Observers: those whose status would continue for the entire Chairmanship period ('for such time as consensus exists at the Ministerial meeting' – accordingly, it had to be renewed every two years) and those to whom the status would be granted ad hoc for specific meetings.<sup>59</sup> As such, in addition to the actors listed in the Annex 2, three more organisations were accorded Observer status at the Ministerial Meeting in Iqaluit in 1998,<sup>60</sup> 12 (including France) were accredited as Observers at the Ministerial Meeting in Barrow in 2000 (in addition to the nine listed in Annex 2),<sup>61</sup> and at the Ministerial Meeting in Inari in 2002, the AC already had 23 Observer states and organisations.<sup>62</sup> At the Ministerial Meeting in Reykjavik in 2004 that number

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55 Sabaa A Khan, 'The Global Commons through a Regional Lens: The Arctic Council on Short-Lived Climate Pollutants' (2017) 6 *Transnational Environmental Law* 131.

56 Piotr Graczyk, 'Observers in the Arctic Council - Evolution and Prospects' (2011) 3 *Yearbook of Polar Law* 575; Piotr Graczyk and Timo Koivurova, 'A New Era in the Arctic Council's External Relations? Broader Consequences of the Nuuk Observer Rules for Arctic Governance' (2014) 50 *Polar Record* 225; James Graff, 'Fight for the Top of the World' *Time* (1 October 2007) <<http://content.time.com/time/magazine/article/0,9171,1663848,00.html>> accessed 23 April 2019; Molenaar (2017) (n 51) 24-67.

57 Ottawa Declaration (n 4).

58 Those were: Federal Republic of Germany, the Kingdom of the Netherlands, Poland, United Kingdom, Nordic Council, Northern Forum, United Nations Economic Commission for Europe (UNECE), United Nations Environment Programme (UNEP), and International Arctic Science Committee (IASC). Arctic Council, 'Arctic Council Rules of Procedure as adopted by the Arctic Council at the First Arctic Council Ministerial Meeting' (n 31).

59 *ibid.*

60 The World Wide Fund for Nature (WWF), Standing Committee of Parliamentarians of the Arctic Region (SCPAR) and International Union for Circumpolar Health (IUCH). Arctic Council, Iqaluit Declaration (n 24).

61 Arctic Council, Barrow Declaration (n 28).

62 Arctic Council, 'Inari Declaration on the occasion of the Third Ministerial Meeting of the Arctic

went up to 25,<sup>63</sup> and in 2006 Spain was the sixth state to gain Observer status at the Ministerial Meeting in Salekhard.<sup>64</sup> Concurrently, the Salekhard Declaration of the AC was the last one that specifically listed all accredited Observers. During the Norwegian Chairmanship (2006-2009), interest in the work of the Council grew significantly, and several of the SAOs meetings in that period received the largest number of participants to date. The number of Observer applications from non-Arctic entities grew rapidly as well, including submissions from China, Italy, Japan, the Republic of Korea, and the European Union.<sup>65</sup> In response, Arctic states decided to review the accredited Observers to the Council as well as the role of Observers in the AC in general, before taking any further decisions on granting the status to new states or organisations. The review and consultation process continued under the Danish Chairmanship of the Council (2009-2011), and at their meeting in Nuuk in 2011 Arctic ministers adopted rules clarifying the role and criteria for observers to the AC.<sup>66</sup> At the same meeting, it was also decided that the AC would publish an observer manual to guide the Council's working groups and task forces in relation to meeting logistics and the role played in the AC's subsidiary bodies by Observers – another decision in the series of measures aimed at harmonising work throughout the Council and adopted by SAOs during the Swedish Chairmanship of the AC (2011-2013).<sup>67</sup> With the Observer review process finally completed, the Arctic ministers gathered in Kiruna in 2013 accepted, for the first time since 2006, six new states as Observers to the Council (China, India, Italy, Japan, Republic of Korea and Singapore) but deferred a decision on the European Union.<sup>68</sup> At the Ministerial Meeting in Fairbanks, Alaska in 2017, ministers admitted as Observers Switzerland and six other international organisations.<sup>69</sup>

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Council' (2002).

63 Arctic Council, 'Reykjavik Declaration on the occasion of the Fourth Ministerial Meeting of the Arctic Council' (Reykjavik, Iceland, 24 November 2004).

64 Arctic Council, Salekhard Declaration (n 29).

65 Arctic Council, 'Senior Arctic Officials (SAO) Report to Ministers' (Tromsø, Norway, April 2009).

66 Arctic Council, Nuuk Declaration (n 36).

67 The manual was elaborated by the Task Force for Institutional Issues (TFII) charged also with implementing the decision to set up a standing AC Secretariat. While it reflects the provisions on observers in the Arctic Council's founding documents, including the Ottawa Declaration, it complements the Rules of Procedure and guides the participation of Observers at meetings of subsidiary bodies of the Arctic Council. In October 2015, in recognition of Observers' contributions to the work of the Council and to enhance their further commitment and participation in the working group, task forces and expert group meetings, SAOs approved the addendum to the Observer Manual for subsidiary bodies. The Manual was updated again in 2016: 'Arctic Council, 'Arctic Council Observer Manual for Subsidiary Bodies' (2016) <<https://oarchive.arctic-council.org/handle/11374/939>> accessed 23 April 2019.

68 Arctic Council, Kiruna Declaration (n 37).

69 Arctic Council, Fairbanks Declaration (n 49). In addition, during its AC Chairmanship (2015-2017) the United States led and carried out a review of the Observers accredited to the Council between 1996 and 1998.

Thus, in contrast to the nine original entities listed in the first AC Rules of Procedure, the AC today has 39 Observers, among them 13 states and 26 international governmental and non-governmental organisations, plus the European Union, which participates as a *de facto* Observer to the Council. There is also consensus that the AC emerged stronger from the tumultuous period of 2007-2011, when a rapid surge of interest in the Arctic and the Council put significant pressures on the institution and on Arctic states.<sup>70</sup>

Not only did the Council eventually clarify the rules pertaining to its Observers, but over the past four years it has also put great emphasis on increased engagement with holders of this status. Among other practices serving that purpose, there have been breakfast meetings organised by the Chair of SAOs for all Observers, as well as occasional invitations of selected Observers to give statements at SAO meetings. Moreover, during its second time at the helm of the AC, the United States began the practice of special 'Observer sessions', which are organised in conjunction with SAO meetings and where all Observers are invited to present their views on a given issue.<sup>71</sup> Finally, in contrast to some earlier incidents, today Observers fully – to the extent foreseen by the Rules of Procedure – contribute to and are involved in the work of AC task forces and expert groups. In addition, they participate in instruments such as the framework on black carbon, and they host AC project meetings, as in the case of the Arctic Migratory Birds Initiative.<sup>72</sup> Though some criticism remains regarding the extent to which the AC utilises the potential represented by its Observers,<sup>73</sup> it is fair to state that the Council has done well in becoming more inclusive of their voices and perspectives.

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70 One of the challenges to the Arctic Council came from several Arctic states themselves, when in May 2008 the representatives of the so-called Arctic Five - Canada, Denmark (Greenland), Norway, Russia and the United States met in Ilulissat, Greenland to reassert their exclusive legal sovereign rights and obligations as coastal states of the Arctic Ocean: 'The Ilulissat Declaration' (Arctic Ocean Conference, Ilulissat, Greenland, 27-29 May 2008). Despite their assertions that the meeting's format was justified in the light of surging interest in the Arctic Ocean, the excluded Members of the Arctic Council – Iceland, Finland and Sweden – and the Permanent Participants vocally expressed their disapproval of the new forum. They argued that it was impeding existing formats and patterns of circumpolar collaboration and excluding long-term partners and Arctic indigenous peoples from the table. As a result, the Ilulissat meeting not only raised some tension among Arctic actors and states, but it also temporarily cast doubts about the Arctic Council as a preeminent forum for matters pertaining to the Arctic: Torbjørn Pedersen, 'Debates over the Role of the Arctic Council' (2012) 43 *Ocean Development & International Law* 146. In order to avoid frictions from the past, in May 2018 Denmark, together with Greenland, invited to Ilulissat, Greenland representatives of all eight Arctic states and the AC Permanent Participants to celebrate the 10<sup>th</sup> anniversary of the declaration from 2008.

71 Arctic Council, 'Senior Arctic Officials' Report to Ministers' (Fairbanks, Alaska, USA, 11 May 2017).

72 Conservation of Arctic Flora and Fauna, 'Arctic Migratory Birds Initiative' <<https://www.caff.is/arctic-migratory-birds-initiative-ambi>> accessed 23 April 2019.

73 Diddy RM Hitchins, 'Non-Arctic State Observers of the Arctic Council: Perspectives and Views' in Douglas C Nord (ed), *Leadership for the North. The Influence and Impact of Arctic Council Chairs* (Springer 2019).

## Guidelines

For more than a decade, the Ottawa Declaration and the 1998 Rules of Procedure were the only rules that regulated the mode of work within the AC. Working groups had their individual ways of operating, including the possibility to approve their own Observers, and they established their own practices under broad guidance from SAOs.<sup>74</sup> Once again, the gradual change in this respect began to emerge during the Norwegian Chairmanship, in a period when a series of external developments and events brought the Arctic region and the AC into the limelight, such as the record-low sea-ice extent and the planting of the Russian flag on the seabed of the geographic North Pole in 2007.<sup>75</sup> Among the measures decided by ministers at their meeting in Tromsø in 2009 to improve the effectiveness and efficiency of the work of the AC was the development of 'guidelines for engagement in outreach activities and an AC communication and outreach plan.'<sup>76</sup> Accordingly, two years later, in 2011, the Communication and Outreach Guidelines were adopted, and during the Swedish Chairmanship, the first Strategic Communications Plan for the AC was approved by Arctic deputy ministers at their meeting in May 2012.<sup>77</sup> It was the first in a series of documents harmonising work across the AC and clarifying the roles and responsibilities of various actors within the Council's structure.

As noted earlier, one of the most significant changes in the AC structures was the establishment of the ACS in early 2013. Not only did this require a separate Host Country Agreement, but the ACS work plan, responsibilities of ACS staff, a budget, and financial terms also needed to be agreed by all Arctic states. These were eventually approved as part of the SAO report to ministers before their meeting in Kiruna in 2013.<sup>78</sup> Most importantly, it was the creation of the ACS and the elaboration of Rules for Observers that required the adoption of revised Rules of Procedure of the AC, where inclusion of provisions pertaining to both was the most significant difference from the 1998 Rules of Procedure. The previously mentioned Observer Manual further clarified the arrangements on participation of Observers in the activities and work of the AC, including the fact that the AC subsidiary bodies would no longer be authorised to accredit their own Observers: instead,

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74 Fenge and Funston (n 50); David P Stone, *The Changing Arctic Environment. The Arctic Messenger* (Cambridge University Press 2015).

75 United States Geological Survey 'Circum-Arctic Resource Appraisal: Estimates of Undiscovered Oil and Gas North of the Arctic Circle' (2008) <<https://pubs.usgs.gov/fs/2008/3049/>> accessed 23 April 2019; Graff (n 56); Borgerson (n 3); Oran R Young, 'Whither the Arctic? Conflict or Cooperation in the Circumpolar North' (2009) 45 *Polar Record* 73.

76 Arctic Council, Tromsø Declaration (n 44).

77 Arctic Council, 'Arctic Council Rules of Procedure. Revised by the Arctic Council at the Eight Arctic Council Ministerial Meeting' (n 31).

78 Ibid; Arctic Council, 'Senior Arctic Officials' Report to Ministers' (Kiruna, Sweden, 15 May 2019).

they would all need to be accredited to the AC proper by means of a Ministerial decision.<sup>79</sup>

It was the United States that, during its second AC Chairmanship (2015-2017), focused much attention and effort on further harmonising and streamlining work both within the Council and in the AC's relations with the external world and partners. Toward that goal, at the SAO meeting in March 2016 the AC adopted new communications and outreach guidelines that address the roles and responsibilities of the Chairmanship, Arctic States, Permanent Participants, subsidiary bodies, and the ACS. In October 2016 SAOs approved the updated communications strategy, adding a section on governing principles and providing a new arrangement of key messages, target audiences, and communication channels.<sup>80</sup> In December 2016, SAOs introduced the Working Group Common Operating Guidelines 'to provide a consistent set of procedures for the six WGs.'<sup>81</sup> These Guidelines were aimed at enhancing the coordination among WGs, as these were used to organise their work more independently and had their individual guidelines. A similar document was developed with respect to external bodies, and in March 2016 SAOs approved the AC's 'Guidelines for relationships with outside bodies' to direct how relationships at different levels in the AC would be organised vis-à-vis these bodies.<sup>82</sup> Finally, at the end of the United States' Chairmanship in 2015, Arctic ministers instructed SAOs to develop a strategic plan for the AC and to present it for approval at the Ministerial Meeting in May 2019 in Rovaniemi, Finland. This did not come to fruition, however, as the negotiations over the final text of both the strategic plan and the Ministerial Declaration broke down as a result of the refusal by the United States to accept any reference to climate change in a Ministerial Declaration. In the end, the 2019 Rovaniemi Ministerial Meeting culminated in the adoption of a one-page Joint Ministerial Statement and a Statement by the Chair that builds on the draft Ministerial Declaration.<sup>83</sup>

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79 Arctic Council, Observer Manual (n 67).

80 Arctic Council (n 71).

81 Arctic Council, Working Group Common Operating Guidelines (n 42).

82 Guidelines for relationships with external bodies. Moreover, in the Fairbanks Ministerial Declaration, SAOs were instructed 'to explore the possibility of establishing formal cooperation mechanisms, such as memoranda of understanding, with those intergovernmental organizations that could contribute to the work of the Arctic Council, and submit relevant proposals on the potential structure and content of any such mechanisms to Ministers in 2019.' Arctic Council, Fairbanks Declaration (n 49).

83 Arctic Council, 'Rovaniemi Joint Ministerial Statement 2019 on the occasion of the Eleventh Ministerial Meeting of the Arctic Council' (Rovaniemi, Finland, 7 May 2019); Arctic Council, 'Statement by the Chair. Minister for Foreign Affairs of Finland, Timo Soini on the occasion of the Eleventh Ministerial Meeting of the Arctic Council' (Rovaniemi, Finland, 6-7 May 2019). On the strategic plan, see David Balton and Fran Ulmer, *A Strategic Plan for the Arctic Council: Recommendations for Moving Forward* (Harvard Kennedy School/Woodrow Wilson International Center for Scholars 2019).

In sum, over its 20 years in operation, the Council has not only evolved when it comes to its structure, but has also developed a far more comprehensive and unifying set of strategies and guiding documents that clarify the responsibilities of various actors within the Council and steer their work in the AC's relations with the outside world. In addition to the Ottawa Declaration and the amended Rules of Procedure, the AC today has its communications strategy, and the unified operating guidelines for its subsidiary bodies and relations with external entities.

All those documents and developments taken jointly represent a much more harmonised structure than in the earlier days. Furthermore, they provide much stronger top-down steering from the SAOs who oversee the overall functioning of the Council and, as officials from Arctic states' ministries of foreign affairs, they guide the work carried out in the AC working groups primarily from the perspective of the foreign policies of Arctic countries.

### **Other Changes in the AC**

In addition to changes listed in the previous sections and reflected in the Council's official documents and materials, the Council has also evolved significantly in terms of its operating practices. Many of those who have been involved in the AC for more than 10 years confirm that the Council today operates differently than it did in its first decade.<sup>84</sup>

Similar to several of the other changes described above, social practices in the AC began to shift during the Norwegian Chairmanship of 2006-2009. It was during that time that the Arctic states and Permanent Participants started to hold 'executive' closed meetings among themselves, without the participation of representatives from working groups and Observers.<sup>85</sup> The direct reason for those meetings at that time was the quickly increasing number of applications for Observer status and how to deal with them, as well as reasons related to the rapid surge of interest in the AC and its work. While the executive meetings provided a venue for SAOs and Permanent Participants to discuss sensitive issues in a closed setting before the open plenary SAO sessions, they also ultimately led to gradual change in the character of the regular meetings of SAOs. In consequence, at present, SAOs meetings serve first and foremost as platforms to present updates about projects and other relevant information, rather than spaces for public debate and decision-making.

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84 Jennifer Spence, 'Is a Melting Arctic Making the Arctic Council Too Cool? Exploring the Limits of the Effectiveness of a Boundary Organization' (2017) 34 *Review of Policy Research* 790.

85 Strictly speaking, such closed meetings also took place during the first Icelandic chairmanship (2002-2004) and in particular in the last year of the ACIA, where the process of negotiating recommendations flowing from scientific results of the report proved to be a very sensitive, tumultuous issue that took significant time and efforts to be resolved. While there were proposals to continue such smaller meetings under the Russian chairmanship, since the agenda of the Council did not include at that time any contentious issues, there was no need to keep those separate arrangements and they were discontinued.

To bring more political attention and weight to the AC, Norway sought to install deputy ministers' meetings to take place intersessionally between the biennial Ministerial Meetings.<sup>86</sup> However, the practice did not pass the test of time, and while the meetings continued throughout all Scandinavian Chairmanships, they were abandoned during the second Canadian term at the helm of the Council (2013-2015) and have not re-emerged since then.<sup>87</sup>

The need for additional meetings exclusively among representatives of Arctic states and indigenous peoples' organisations was largely caused by the outburst of interest of the outside world in the previously marginalised North. What is interesting from the perspective of observing change in the AC is how in earlier days Arctic states actually sought to draw the world's attention to the Arctic. This evolution is well reflected in texts of Ministerial Declarations. During the first decade, nearly all discussed the 'close collaboration of Arctic countries in international fora on environmental and sustainable development matters of importance to the Arctic' (Barrow 2000 and Inari 2002), welcomed 'the increased visibility of the Arctic Council in the international arena' (Reykjavik 2004<sup>88</sup>), emphasised 'the importance of continued outreach efforts by the AC with the aim of communicating issues of importance to the Arctic to the global community and other regional actors' (Reykjavik 2004<sup>89</sup>), and welcomed 'the increased visibility of the Arctic issues and their global importance in the international arena' (Salekhard 2006).

However, the Ministerial Meeting in Salekhard on the AC's 10<sup>th</sup> anniversary in 2006 was the last one where the growing awareness of Arctic matters was received with enthusiasm.<sup>90</sup> Consequently, the tone of the 2009 Ministerial Declaration was significantly different as well. Instead of the earlier enthusiasm, Arctic countries merely 'acknowledged ... the increasing international interest in the work of the Council' and felt compelled to underline 'the leadership of the Arctic Council on Arctic challenges and opportunities' in light of 'human induced global climate change ... , one of the greatest challenges facing the Arctic.'<sup>91</sup> The 2006 Salekhard

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86 Arctic Council, Tromsø Declaration (n 44).

87 At the same time there were several additional, separate ministerial meetings: an Arctic Environment Ministers Meeting in June 2010 and an Arctic Health Ministers meeting in February 2011 organized during the Swedish Chairmanship. Also, the United States organized during its term at the helm of the Council two high-level events: Conference on Global Leadership in the Arctic (GLACIER) and the White House Arctic Science Ministerial meeting. In October 2018 Finland convened an Arctic Environment Ministers Meeting.

88 Arctic Council, Reykjavik Declaration (n 63).

89 *ibid.*

90 Still in 2006 the SAO report to Ministers encouraged the Chairman of the Senior Arctic Officials to 'continue, in that capacity, outreach efforts of the Arctic Council aimed at the international community, regional organizations and academic research communities with the aim of increasing awareness of the work of the Arctic Council and exploring possibilities for cooperation.' Arctic Council, 'Report of Senior Arctic Officials to Ministers at the Fifth Arctic Council Ministerial Meeting' (Salekhard, 26 October 2006).

91 Arctic Council, Tromsø Declaration (n 44).

Declaration was also the last one to explicitly note the European Union and welcome ‘with appreciation’ its efforts with the Northern Dimension programme (which had been acknowledged since the early 2000s). Conversely, the 2009 Tromsø Declaration was the last Ministerial Declaration of the AC that welcomed the increased cooperation between the AC and other regional bodies, such as the Nordic Council of Ministers (NCM), the Barents-Euro Arctic Council (BEAC), and the Council of the Baltic Sea States (CBSS).<sup>92</sup> None of those elements were repeated in later Ministerial Declarations. Instead, it was for the first time in Nuuk in 2011 that Arctic ministers felt pressured to begin the declaration by ‘[r]ecognizing the importance of maintaining peace, stability, and constructive cooperation in the Arctic’,<sup>93</sup> a phrase that has remained in their joint declarations ever since.<sup>94</sup>

It is not only Ministerial Declarations that have been reflective of the change of attitudes of Arctic states toward circumpolar collaboration: reports of the SAOs have also transformed substantially over time. From the onset, SAO reports toward the end of each Chairmanship included summaries of completed projects, activities, matters of importance to the Council, and work plans of the working groups for the next two-year period. Importantly, they contained recommendations from SAOs to Arctic ministers, pointing explicitly to actions to be taken, measures to be adopted, and issues worth stressing. Similar to other practices, that practice began to change during the Scandinavian Chairmanships as well, and the SAO report to ministers in Tromsø was the last one to encompass more detailed and specific recommendations.<sup>95</sup> In their report to the 2011 Nuuk Ministerial Meeting, SAOs limited their recommendations almost exclusively to acknowledging the activities of the working groups during the past Chairmanship period and approving their work plans for the coming two years.<sup>96</sup> Since the 2013 Kiruna Ministerial Meeting, SAO reports no longer contain any recommendations to Arctic ministers, thus arguably leaving much more discretion and space to SAOs for direct negotiations of texts of declarations right before the Ministerial Meetings.<sup>97</sup> As several of the last of these meetings have proven, those negotiations can be contentious and protracted, and it is not until the last moment that a compromise is found or worked out. For

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92 *ibid.*

93 Arctic Council, Nuuk Declaration (n 36).

94 It is worth noting that the phrase was used for the first time in relation to media-hyped speculations about all sorts of potential conflict in the opening Arctic Ocean, and to stress the rule of law and existing extensive legal framework applicable to the Arctic. It did not mean the potential conflict among Arctic states themselves, a possibility that has become debated by some in the aftermath of the Russian annexation of Crimea in 2014.

95 Arctic Council, Senior Arctic Officials (SAO) Report to Ministers, Tromsø, 2009 (n 65).

96 Arctic Council, ‘Senior Arctic Officials (SAO) Report to Ministers’ (Nuuk, Greenland, May 2011).

97 Arctic Council, Senior Arctic Officials’ Report to Ministers, Iqaluit, 2015 (n 40); Senior Arctic Officials’ Report to Ministers, Fairbanks, 2017 (n 71); Senior Arctic Officials’ Report to Ministers, Kiruna, 2013 (n 78).



instance, this was the case in Nuuk in 2011 with the final decision on the location of the AC standing secretariat, in Kiruna in 2013 with the issue of admitting new Observers to the Council, and in 2017 in Fairbanks, where the significant shift of the Trump administration over climate change policy led to extensive discussions on mentioning the Paris Agreement (on climate change) and the United Nations Sustainable Development Goals in the Ministerial Declaration. In 2019, reaching agreement among the Arctic states proved for the first time impossible when the United States refused to sign a declaration including references to anthropogenic climate change. This forced the Chair – Finnish Minister for Foreign Affairs Soini – to convert what was to be a consensus document into a Statement by the Chair that reflected the disagreement among the Arctic states on this key issue.

As SAO reports started to contain fewer and eventually no recommendations to ministers, various assessment reports of the Council, its landmark products,<sup>98</sup> simultaneously began to provide more specific policy advice and suggestions for actions across various areas of the AC's activities. Whereas the importance of the ACIA to the evolution of the Council's substantive agenda is 'difficult to overstate',<sup>99</sup> the Arctic Marine Shipping Assessment (AMSA) delivered by PAME in 2009 was the first report to come out with clear policy recommendations and a set of extensive follow-up activities that over time contributed to the report's influence and strengthening of relevant national and international regulations.<sup>100</sup> More recently, the CAFF's 2013 Arctic Biodiversity Assessment also included 17 specific recommendations for dealing with the key findings of the report, and in 2015 the CAFF published a detailed, long-term implementation plan for those recommendations.<sup>101</sup>

Another observable change in the AC has been the strengthening over time of the capacity-enhancement side of the Council's activities, most notably in areas of management of Arctic contaminants as well as search and rescue and oil-spill preparedness.<sup>102</sup> With respect to the former, the enhancement has been particularly visible with the ACAP, whose projects have facilitated, among others, the

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98 Paula Kankaanpää and Oran R Young, 'The Effectiveness of the Arctic Council' (2012) 31 *Polar Research* 1.

99 Fenge (n 3) 19.

100 Stokke, *Regime Interplay* (n 3).

101 CAFF, *Arctic Biodiversity Assessment. Status and Trends in Arctic Biodiversity* (Conservation of Arctic Flora and Fauna 2013); CAFF, *Actions for Arctic Biodiversity, 2013 - 2021: Implementing the Recommendations of the Arctic Biodiversity Assessment* (Conservation of Arctic Flora and Fauna 2015); Christian Prip, 'The Arctic Council and Biodiversity – Need for a Stronger Management Framework?' (2016) 2 *Nordic Environmental Law Journal* 37.

102 Stokke, *Regime Interplay* (n 3); Olav Schram Stokke, 'Interplay Management, Niche Selection, and Arctic Environmental Governance', in *Managing Institutional Complexity: Regime Interplay and Global Environmental Change* (MIT Press 2011).

inventorying and destruction of several stocks of pesticides in Russia.<sup>103</sup> Even if the success of ACAP initiatives has not been so clear concerning other contaminants, its activities have provided resources and enabled technological transfers to offer practical help in addressing issues such as toxic waste management. Lately, the working group has also focused more attention on energy-related matters – for example, by mapping substitution solutions for diesel power plants in Arctic and Northwest Russia and, in that capacity, supporting the work of the Expert Group on Black Carbon and Methane tasked with assessing the implementation of the AC’s Framework for Action on Black Carbon and Methane from 2015.<sup>104</sup>

Likewise, the two first treaties negotiated under the auspices of the AC (the Arctic SAR Agreement and the MOSPA), have been important steps in strengthening the capacity-enhancement role of the AC. However, while among broader Arctic audiences the agreements were welcomed and praised primarily as signs of the increasing decision-making capacity of the AC, experts drew a careful distinction between the actual creation of new norms and the enhancement of capacities. They have pointed out that whereas the Arctic SAR Agreement concerns the provision of maritime infrastructure, it does not concurrently create new maritime rules, as it does not regulate transport itself.<sup>105</sup> This interpretation of the function of the agreements is further supported by the series of exercises that have taken place since 2011 related to their implementation. Those exercises have been carried out jointly by all Arctic states and strongly facilitated by the EPPR, signifying a marked difference in the AC in comparison to the earlier times, when emergency training and capacity enhancement were viewed as the least effective areas of circumpolar collaboration in the AC.<sup>106</sup>

Regarding thematic areas, the focus of work and debates in the AC has evolved substantially over the last two decades as well.<sup>107</sup> While the Council was created in part to broaden the scope of the environmentally focused AEPS to include issues of sustainable development in the North, for the first decade the bulk of its work was still dedicated to environmental protection. It was over the course of time and in relation to numerous external developments that the AC gradually shifted its

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103 Stokke (n 3).

104 ‘Arctic Contaminants Action Program’ <<https://arctic-council.org/index.php/en/acap-home>> accessed 23 April 2019.

105 Stokke, Regime Interplay (n 3); Shih Ming Kao, Nathaniel S Pearre and Jeremy Firestone, ‘Adoption of the Arctic Search and Rescue Agreement: A Shift of the Arctic Regime toward a Hard Law Basis?’ (2012) 36 *Marine Policy* 832.

106 Kankaanpää and Young (n 96). In fact, the EPPR’s mandate was broadened specifically to include SAR into the WG’s activities and operations (see Molenaar (2017) (n 51) 56.

107 Spence (n 84); Dorothea Wehrmann, ‘Shaping Changing Circumpolar Agendas: The Identification and Significance of “Emerging Issues” Addressed in the Arctic Council’ [2016] *Arctic Yearbook* <[https://arcticyearbook.com/images/yearbook/2016/Scholarly\\_Papers/5.Wehrmann.pdf](https://arcticyearbook.com/images/yearbook/2016/Scholarly_Papers/5.Wehrmann.pdf)> accessed 23 April 2019.

attention more toward sustainable economic development in the region, and in 2013 Arctic ministers eventually declared that economic cooperation would be on the top of their agenda.<sup>108</sup>

Similarly, the view of the role and position of the AC has evolved – not only among non-Arctic actors but also among Arctic states themselves. As the comparison of the Ministerial Declarations shows, the Council has moved from being a ‘high level forum to provide a means for promoting cooperation, coordination and interaction among the Arctic States’ (Ottawa Declaration), ‘a unique partnership among Governments and organizations representing indigenous peoples and communities in the Arctic’<sup>109</sup> (Inari 2002), and ‘an important forum for increased mutual understanding and cooperation in the circumpolar area’ (Salekhard 2006), to becoming the leader on Arctic challenges and opportunities (Tromsø 2009) and ‘in taking concrete action to respond to [those] new challenges and opportunities’ (Kiruna 2013).<sup>110</sup> Finally, a year after its 20<sup>th</sup> anniversary, in the Fairbanks Declaration the Council named itself ‘the preeminent intergovernmental forum for the Arctic Region.’<sup>111</sup> In parallel to all those developments, the ranks of ministers grew accordingly, and while the Ministerial Meeting in Nuuk in 2011 was the first attended by the sitting United States Secretary of State, the Ministerial Meeting in 2017 was the first one where all Arctic states were represented exclusively by their ministers of foreign affairs, giving evidence to the status of the event which would have been difficult to conceive when the Council was founded in 1996.

From the perspective of the analysis in this article, it is important to underline that the changes reviewed in this section – the introduction of executive SAO meetings, a change in the character of plenary SAO sessions, the disappearance of recommendations from SAO reports to ministers, the inclusion of more specific policy recommendations in assessment reports, the expansion of the capacity-enhancement side of Council activities, the views on the role of the Council, and the advancement in ranks of the representatives attending Ministerial Meetings

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108 Arctic Council, ‘Vision for the Arctic’ (Kiruna, Sweden, 15 May 2013).

109 ‘[and] an international voice for the circumpolar region, reflecting the ongoing dialogue involving national Governments, indigenous peoples, regional authorities, scientific experts, and civil society.’ Arctic Council, Inari Declaration (n 62).

110 The ministers asserted in the 2011 Nuuk Declaration that ‘the Arctic Council should continue to work towards solutions to address emerging challenges in the Arctic utilizing a wide range of approaches’. Their statement referred to the adoption of the first legally-binding agreement – the Arctic SAR Agreement – negotiated under the auspices of the Arctic Council. Arctic Council, Nuuk Declaration (n 36).

111 The Fairbanks Declaration also affirmed the commitment to further strengthen the Arctic Council and its activities. At the same time, it is interesting to note the difference between the SAO report to the ministers meeting in Fairbanks and the actual declaration. The former speaks of the AC as the ‘premier’ forum and the ministerial declaration describes the Council as ‘preeminent’. Without providing a conclusive explanation for this choice of vocabulary, the point nonetheless confirms the observation of negotiations of the ministerial texts going on until the last moments.

– should not be considered any less consequential or of lesser importance in the process of the evolution of the Council. On the contrary, as studies of domestic and international institutions show, small, gradual changes can and often do add up to what become transformational processes.<sup>112</sup> Building on the previously introduced general literature, the next part of this article seeks to clarify and systematise changes that have occurred in the AC since its establishment and to highlight the space for actions of change agents in the process.

First, however, it must be reiterated that the focus of this article is strictly on changes that have occurred in the AC and within its structures. As such, there is no mention here of broader changes and developments, in relation to Arctic states themselves<sup>113</sup> or to the biophysical state of the Arctic environment, shifting geopolitical constellations, changes in energy landscapes, or to transformations in global markets and policy settings. All those factors and forces have had indisputable effects on the AC and its work, but they are not the focus of this study, which centres instead exclusively on the endogenous elements of the Council, pointing to their role in the AC's overall change and evolution.

## Classifying Changes in the Arctic Council

Since its establishment in 1996, the AC has not gone through any constitutive change that would alter its provisions included in the Ottawa Declaration. As John English put it: in 1996 in Ottawa the Arctic states eventually agreed on 'what the Council was *not* to be'<sup>114</sup>, rather than what it would be; however, the declaration did list the most basic elements of the future body, including its membership composed of eight Arctic states, decision-making based on the principle of consensus, and the Chairmanship rotating among AC Members. The Declaration also provided for the categories of Permanent Participants and Observers, and it established a broad mandate for the AC with regard to environmental protection and sustainable development in the Arctic. It assumed continuation of the pre-existing AMAP, CAFF, EPPR, and PAME programmes, as well as the IPS. It stipulated the forum's regular meetings and set down a regular review of the priorities and financing of the AC's programmes and associated structures. Finally, it instructed the AC, as its first order of business, to adopt Rules of Procedure, which occurred in 1998.<sup>115</sup> When we look at the Council today, we see that all those elements remain intact and that

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112 Young, *Governance* (n 5); Mahoney and Thelen (n 16).

113 Among the more visible things that have changed over the course of the last 10-15 years when it comes to Arctic states themselves, as well as several non-Arctic countries, is the emergence of their Arctic strategies and policy frameworks.

114 John English, *Ice and Water: Politics, Peoples, and the Arctic Council* (Penguin Group 2013) 235.

115 Ottawa Declaration (n 4).

all the changes that have taken place in the AC since its creation have come about within the format set up by Arctic states in the mid-1990s. Thus, all the alterations and developments discussed in the previous section – related to AC working groups, secretariats, task forces and expert groups, Observers, and new guidelines – can be classified as operational: following and serving operationalisation, and specifying the general provisions adopted in the Ottawa Declaration.

With respect to the form of change, however, applying the key distinctions between formal and informal changes identified in general literature proves to be less straightforward. As previously mentioned, the terminology in the literature has been designed with other kinds of institutions in mind, where the AC, with its foundation based on political declaration instead of a legally binding instrument, does not exactly fit. As such, strictly speaking, all changes described in the AC can be considered informal, as they pertain to an institution that is not rooted in a formal treaty or legal agreement. Nevertheless, as we seek to advance our understanding of the Council and move beyond descriptive and less systematic forms of examining it, it is useful to draw a distinction between changes that could be considered formal and those that could be more accurately labelled as informal within the AC. Toward that goal, I propose to consider formal those developments in the AC that require the approval of ministers of all eight Arctic states and as such have been explicitly recorded in the Ministerial Declarations. Those include, accordingly, the formation of the working groups (SDWG and ACAP), the establishment of temporary task forces and expert groups, the inception of the ACS,<sup>116</sup> the admission of new Observers to the Council, and the adoption of new rules, guidelines, and communications plans. Informal, in turn, would be the numerous changes in the social practices of the Council that have not necessarily found their reflection in the AC official documents – such as the introduction of SAO executive meetings, the disappearance of recommendations from SAOs to ministers in their biennial reports, and the attendance of the AC meetings by higher-ranking representatives than in the past. Furthermore, even if it does not exactly fit the proposed criterion of being excluded from the Ministerial Declarations, I suggest labelling as informal those changes related to how Arctic states see the role of the Council (from high-level to preminent intergovernmental forum and leader on Arctic challenges and opportunities), the increasing focus on economic development in the region, and

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116 Concerning the secretariats of the AC and its working groups, the establishment of the standing ACS has been a formal change in the strictest sense, since it required a separate agreement to be signed between the Host Country, Norway, and the director of the ACS to found an entity that could operate under Norwegian law and provide agreed services to the Council. In turn, arrangements pertaining to the secretariats of the Working Groups have always been listed in SAO reports or their annexes, mentioned in the AC ministerial declarations and approved as such. The only exception to this has been the case of moving the AMAP secretariat from Oslo to Tromsø, where the decision was taken by the Norwegian ministry and announced to AMAP WG members via the members of the board of AMAP.

the abandonment of references to cooperation with other regional organisations such as the Barents Euro-Arctic Council, the Council of Baltic Sea States and the Nordic Council of Ministers. I consider these informal since, rather than taking the form of creating new bodies or sets of regulations, they encompass developments that have been unfolding more incrementally. As noted by Mahoney and Thelen, ‘these sorts of gradual or piecemeal changes often only “show up” or “register” as change if we consider a somewhat longer time frame than is characteristic in much of the literature.’<sup>117</sup> In the case of the AC, they reveal themselves only when we compare the Ministerial Declarations issued throughout the entire existence of the Council, instead of focusing solely on single documents or the most recent ones. At the same time, as previously stated, the categorisation of those changes as informal should by no means be understood as according them any less weight or importance. On the contrary, many of them can have far-reaching consequences on the functioning and effectiveness of the Council, for instance regarding the Council’s knowledge-generation function and its role as a regional boundary organisation.<sup>118</sup> Furthermore, it should be remembered that ‘[i]n the nature of things, classification systems are neither right nor wrong, neither correct nor incorrect. They are merely more or less useful for the analytic tasks that their creators have in mind, ... [where] the alternative is an analytic effort lacking in structure and thus condemned to incoherence.’<sup>119</sup>

### **Examining Change in the Arctic Council through its Properties**

The consideration of types, forms and classification of changes in the AC serves a twofold purpose. First, it allows us to nest the study of the Council within the general literature on international environmental regimes to draw from it as well as potentially contribute to its advancement. Second, it draws our attention to the AC itself, and its architecture and properties as potential sources and factors influencing the kinds of change that we have observed with the Council’s evolution. In that sense, the analysis here supplements the accounts of the AC presented to date: as much as they have considered and scrutinised changes in the Council, they have focused predominantly on the external events and exogenous developments as primary sources of the AC’s institutional change and dynamics. But if we shift our perspective, what are the properties of the AC and how do they permit and constrain its change? At the heart of a cluster of endogenous features that enable, structure, and characterise change within the AC are the legal status of the AC, its decision-making rules, its mandate, and its membership criteria.

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117 Mahoney and Thelen (n 16) 2.

118 Spence (n 84).

119 Young, *Governance* (n 5) 135-136.

First, one of the most often underlined attributes of the AC is that it is a soft-law body established by a political declaration, rather than a treaty. As such, the creation of the Council was a reflection of a political – but not legal – commitment of eight Arctic states to a more comprehensive structure for cooperation in the Arctic region.<sup>120</sup> What follows is that the AC is a forum without legal personality (and thus not an international organisation as the term is understood under international law), that it cannot adopt legally binding decisions or instruments, and that it is not geared toward legally binding regulation of states' behaviour.<sup>121</sup> Yet, although its lack of legally binding authority and regulatory capacities has been among the most often vocalised criticisms of the Council and, according to some, a deficiency that should be corrected, the AC has proven its value and usefulness beyond what most of those present at its inception anticipated.<sup>122</sup> More importantly from the perspective of the present analysis, the lack of a legally binding foundation and a more sophisticated structure has provided the AC with flexibility that has proved conducive over the AC's lifetime to navigating between various – local, national, and international – levels of decision-making. It has also enabled the AC's growth and evolution, a process which, I claim, has been affected by the Council's exclusive mode of making decisions (ie by consensus) and its realisation in practice.

Second, establishing the AC as a forum without legal personality and ensuring that all its decisions would be taken by consensus of the Arctic states was an objective of the United States when the Ottawa Declaration was negotiated.<sup>123</sup> As noted by one of the participants in those negotiations, while allowing states to raise and address important and sometimes controversial issues, '[a] body that requires consensus will, by definition, only make announcements in its name which are acceptable to each state, assuring that no state will be out-voted or embarrassed.'<sup>124</sup> Moreover, by providing that the Council acts solely through consensus, its Members are not only certain that 'there is no limitation on their ability to act in their national interest, as there is no requirement that any particular issue or type of cooperation be handled through the Council', but also that their participation (and thus payment) in any of the AC's programmes or activities cannot be required or called upon.<sup>125</sup>

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120 ET Bloom, 'Establishment of the Arctic Council' (1999) 93 *American Journal of International Law* 712.

121 *ibid.*

122 Paula Kankaanpää and Oran R Young (n 96); Timo Koivurova, Paula Kankaanpää and Adam Stepien (n 36); Heather Exner-Pirot, 'The Arctic Council, a Victory for Soft Law & Soft Security' [2016] *The UArctic Magazine Shared Voices. Special Issue. Arctic Council at 20* 34.

123 Bloom (n 120).

124 *ibid.*

125 'Even though a traditional international organization can create internal procedures which require consensus decision making or otherwise limit the ability of the organization to require payments over the objection of a state, a powerful presumption exists with respect to informal organizations that payments will not be required of recalcitrant states. In these situations, the mechanisms to enforce contributions do

The requirement for consensus is typically considered a relatively high, albeit common, bar for decision-making in international institutions, and it has been viewed as such in the AC. However, consensus decision-making should not be confused with decision-making by unanimity. Whereas unanimity requires that each party must explicitly and formally approve a measure or decision, consensus refers to situations in which one or more of the parties are content to go along or abstain, rather than actively blocking the will of the majority.<sup>126</sup> What this means in practice for the AC is that various activities and initiatives are allowed to proceed as long as none of the Arctic states<sup>127</sup> feel strongly enough about the idea to explicitly oppose it.<sup>128</sup> As a result, since they do not require the active participation or financial support of Arctic states to which they are not priority, the portfolio of the AC's activities has grown steadily<sup>129</sup> without coordination or mechanisms to prioritise the Council's work. The same principle applies to AC task forces and expert groups. Since all Arctic countries can be confident that the Council will not take a decision at any level with which they disagree, they can approve various new subsidiary bodies – task forces and expert groups – even if not all share the same interest in the issue areas handled by those bodies. Furthermore, it could be claimed that decision-making based on consensus, not unanimity, creates a space that is more open and susceptible to establishing new precedents, which can ultimately change or transform an institution, as has proven to be the case with the establishment of task forces that, even if their mandates are time-bound, can be considered a semi-permanent element of the AC's architecture today. This space gives an incentive to agency and change agents who, by being able to identify and exploit windows of opportunity that arise, can occasionally influence the course of discussions and at times even long-lasting developments in the AC.

The third attribute of the AC that, I argue, makes the institution malleable, is its very broad mandate and objectives. On the basis of the Ottawa Declaration, the Council is empowered to deal with 'common Arctic issues, in particular issues of sustainable development and environmental protection in the Arctic,'<sup>130</sup> where 'common issues' can, in principle, relate to any facet of international policy, with the exception of 'matters related to military security' that are specifically excluded from

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not exist and there is no purpose to use, for example, voting procedures to attempt to require payment.' (ibid 721).

126 Breitmeier, Young and Zürn (n 7).

127 Or, in practice also Permanent Participants. See (n 101).

128 As several interviewees indicated, having on board Russia and the United States has been a key factor in the AC's discussions about projects or measures and assuring at least the tacit agreement of those two countries has been vital to moving things forward in the Council.

129 Today the six working groups have at any time about 80 ongoing projects: Supreme Audit Institutions of Denmark, Norway, The Russian Federation, Sweden and the United States (n 54).

130 Ottawa Declaration (n 4).



the mandate of the forum.<sup>131</sup> Even if in practice the AC has been dedicated to the general objectives of environmental protection and sustainable development, both of these areas are difficult to operationalise and – as the case of sustainable development has shown – even to conceptualise.<sup>132</sup> Whereas some scholars have noted that the eventual division of environmental protection and sustainable development into two equal pillars was based on a category error in the first place,<sup>133</sup> the openness for interpretation of the concept of sustainable development has provided the Council with a wide framework within which various projects could be pursued and various elements could be emphasised by various actors.<sup>134</sup> The most notable change in this respect has been a shift of focus toward matters of economic development in the discussions of the Council since 2007-2008, and in particular in the last few years.<sup>135</sup> As all previously mentioned changes, this one has occurred within the framework provided by the Ottawa Declaration and without any need to alter its provisions, despite there being important consequences for the Council's work. This has also been a reflection of the shifting interests of Arctic states in the region.

At the same time, the very broad mandate and objectives of the AC do not mean that any issue, with the explicit exception of military issues, could be freely included into the AC's agenda. Even if this could be possible in theory, the fact that the

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131 *ibid.* See also Koivurova, Kankaanpää and Stepien (n 36). However, as noted by Durfee and Johnstone, since this is only a declaration and not a treaty, there is nothing formally to stop the Arctic states from considering whatever they wish in the forum of the AC: Mary Durfee and Rachael Lorna Johnstone, *Arctic Governance in a Changing World* (Rowman & Littlefield 2019).

132 In fact, it was the disagreement over the meaning of the concept of sustainable development during the negotiations of the Ottawa Declaration that hampered efforts to establish a coherent program for a newly established body. As a result of this discord, it was decided at the 1998 Iqaluit Ministerial Meeting that the Sustainable Development Program would comprise of a series of specific projects, a practice that has largely prevailed for twenty years. Monica Tennberg, *The Arctic Council. A Study in Governmentality* (University of Lapland 1998). The SDWG had its first Strategic Framework developed and approved only in 2017.

133 The point relates to the mainstream conceptualizations of sustainable development, which – rather than being put on a par with – encompasses environmental protection alongside economic development and the protection of social and cultural values: Oran R Young, 'The Arctic Council at Twenty: How to Remain Effective in a Rapidly Changing Environment' (2016) 6 UC Irvine Law Review 99.

134 The dynamic element of an institution that permits its change may come exactly in a form of specific language and terms used to describe the mandate and functions of this institution. These terms can be, in turn, more or less susceptible to 'evolutionary interpretation.' Even if an institution is established by a political, rather than a legally binding instrument, there are rules and principles in legal scholarship that apply to such interpretative exercises and that could be possibly applied in future inquiries to the AC as well – I would like to thank one of the anonymous reviewers for this comment. At the same time, it needs to be noted that the debate on the concept of soft law is far from settled within the legal scholarly community and not all scholars agree on the appropriateness of considering in legal terms the arrangements explicitly designed as *non-legally* binding: Dinah L Shelton, 'Introduction: Law, Non-Law and the Problem of 'Soft Law' in Dinah L Shelton (ed), *Commitment and Compliance: The Role of Non-Binding Norms in the International Legal System* (OUP 2000).

135 Wehrmann (n 107).

agenda of the Council needs to be approved – as all other matters – by consensus of the eight Arctic states means that any issues which prove to be too contentious to any of the Arctic countries are practically excluded from the AC's deliberations.<sup>136</sup>

The question arises whether all the features and endogenous factors within the AC make a forum susceptible to change. While, as shown, the AC's legal basis, decision-making, and mandate all make it a highly flexible structure, one attribute remains beyond discussion: the Council's membership. The Members of the AC, eight Arctic states, are explicitly listed in the Ottawa Declaration and any change in that composition would require consensus among all of them – a situation difficult, if not impossible, to conceive. It is worth noting that, strictly speaking, any Ministerial Declaration could bring such a change, as any of them carries the same weight as the Ottawa Declaration. Yet, even if motivations in pursuing Arctic cooperation differ among Arctic states, they all draw benefits from its current setup and have nothing to gain from changing it. Indeed, all eight Arctic countries have vital interests in maintaining the present structure of the Council and elevating its international standing by keeping its door open to non-regional actors while simultaneously retaining their full control of the Council's proceedings. At the same time, while 'the Arctic Eight share many goals, which are primarily designed to maintain their privileged status in the Arctic region, ... they also hold different views on stakeholding and governance issues.'<sup>137</sup> In light of this, and given how flexible and susceptible to shaping the Council's structure has proven to be, it might be worth paying greater attention to agency and change agents in studies on the AC's change and evolution, an aspect that, so far, has not received much consideration in the field.

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136 Among others, one of the issues that has not been discussed in the Council is fisheries management, an issue that both Norway and Iceland hold strong views about: Valur Ingimundarson, 'Managing a Contested Region: The Arctic Council and the Politics of Arctic Governance' (2014) 4 *Polar Journal* 183. Interestingly, one could claim that it was the lack of agreement to consider Arctic fisheries issues within the AC's remit that led to these issues being addressed by other fora and consequently to, first, the 2015 Oslo Declaration on fisheries in the Central Arctic Ocean signed by the five central Arctic Ocean coastal states and then, to the 2018 agreement on unregulated fishing in the Central Arctic Ocean adopted in the so called A5 + 5 format: Arctic Five – Canada, Denmark (Greenland and the Faroe Islands), Norway, Russia, the United States – and five major distant fishing powers – China, Iceland, Japan, South Korea and the European Union: Agreement to Prevent Unregulated High Seas Fisheries in the Central Arctic Ocean (signed in Ilulissat, Greenland on 3 October 2018) <[https://eur-lex.europa.eu/resource.html?uri=cellar:2554f475-6e25-11e8-9483-01aa75ed71a1.0001.02/DOC\\_2&format=PDF](https://eur-lex.europa.eu/resource.html?uri=cellar:2554f475-6e25-11e8-9483-01aa75ed71a1.0001.02/DOC_2&format=PDF)> accessed 5 August 2018. Moreover, with respect to inclusion of potentially contentious issues on the AC agenda, even if there were situations, where any of AC's activities or projects could affect asymmetrical interests of some Arctic states, as was the case for instance with AMAP 'Oil and Gas Guidelines', again the rule of consensus served to avoid the adoption of any strong recommendations that would affect the vital interests of any particular state.

137 Ingimundarson (n 136) 2.

## Opening Up Space for Agency in the Arctic Council

So far, as previously asserted, most examinations of the institutional change of the Council have focused on exogenous shocks and external developments as sources of this change, while much less attention has been paid to its endogenous drivers. However, the present analysis has shown their importance and the role they play in explicating the changes within the AC. More specifically, the systematic probe of the Council's properties has revealed that the AC's setup provides ample space for change actors who, if able to identify attractive openings and exploit the inherent openness of the Council's rules to establish new precedents, can ultimately influence and shape the course of the AC's evolution. Hence, we should start paying more explicit attention to agency and change agents in the Council, in particular when we recall that their role tends to be particularly pronounced in complex settings – those that arise often in relation to new developments and consequently call for creative extensions of existing rules and institutions to accommodate the new reality.

Among others, an interesting case worth further inquiry here could be the AC Chairmanship of Norway. This was not only the longest one (2006-2009) but also one during which numerous influential changes were introduced to the practices of the Council, such as the launch of the first task forces and executive SAO meetings, and the establishment of a joint interim AC secretariat. It is beyond dispute that many of them had to do with external events that could not have been anticipated at the outset of Norway's term at the helm of the AC (eg the media hype following the planting of the Russian flag on the Geographic North Pole's seabed in August 2007, the dramatic sea-ice loss in September of the same year, and the United States Geological Survey's publication on the energy reserves in the region in 2008, and the resulting exponential growth of interest in the AC). However, it is also true that those developments took place during the Chairmanship of the country that, in contrast to many other Arctic states, already at that time was strongly oriented toward the Arctic and exploring the business potential of the High North. It was in 2003, even before the completion of the ACIA, that a committee appointed by the Norwegian government published the report 'Northwards!', which drew attention to the energy and sea route development potential in the Arctic and contributed to building the sustained attention of Norwegian officials to the region.<sup>138</sup> Consequently, by the time Norway assumed the Chairmanship of the AC in 2006, its interest in the Arctic was well grounded and the High North was established as the top priority for the Norwegian government. As much as it is beyond the point to speculate about Norway's precise influence on long-term developments in the Council, it is

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138 Norgesoffentligetretninger, *Mot nord! Utfordringer og muligheter i nordområdene* (NOU 2003:32) <<https://www.regjeringen.no/no/dokumenter/nou-2003-32/id149022/>> accessed 23 April 2019.

nevertheless worth noting the broader context of domestic politics of the country chairing the AC and how that country's interests and preferences might manifest themselves and shape the Council's trajectory. Among the more consequential steps for the AC taken during Norway's term was the establishment of the joint interim AC secretariat in Tromsø, the arrangement intended by its originators to become a permanent one, and its effective implementation in a step by step, 'through facts on the ground',<sup>139</sup> manner. The move corresponded with the broader Norwegian Arctic and rural policies seeking to strengthen and promote the position of Tromsø as a vital Arctic hub, thus illustrating how advancements in the Council might be related to supporting the realisation of a country's own agenda.

Furthermore, even though the Chairmanship might be better equipped to exert influence over the Council's evolution, the interests and role of other Arctic countries should not be underestimated in the process and are in need of more careful examination as well. In particular, while the stakes in the region are growing, it is worth noting that Arctic states are not a monolithic bloc and, as much as they present a coalition in support of the continuation of the AC's setup, they also disagree on many particular issues and belong to various different groups that might shape their positions on given matters (ie Arctic Five vis-à-vis Arctic Eight, Nordic countries vis-à-vis Canada, Russia, and the United States, etc). How the AC evolves in the future will ultimately be a result of negotiations and compromises among those groups with varying interests and views. Certainly, the attributes of the AC – its legal basis, mandate, and decision-making based on consensus – facilitate the Council's evolution. They create a setting in which an Arctic state that can skilfully exploit them and frame matters in a manner ultimately acceptable to all AC members, can shape future directions of the Council's institutional change.

Simultaneously, we need to remember that two primary features of the AC – its soft-law nature and decision-making based on consensus – are fairly common in global governance, and thus hardly capable of explaining distinctive and progressive outcomes such as those observed in the case of the AC. This point, toward the end of this analysis, turns our attention to the next steps in research on institutional change of the Council and the observation made at the beginning of this article: that it is only through the linkage and the inquiry of interactions of endogenous and exogenous drivers that we can provide fully satisfactory explanations of the processes of change of the AC. In doing this, we need to stay wary as well that the permissiveness of the AC's structure allows not only for progressive contributions that strengthen the operation of the Council, but also for regressive ones that could be, for instance, driven strongly by domestic considerations and thus less oriented toward a circumpolar perspective. The AC setup permits flexibility for both types

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139 Personal communication from Norwegian MFA official to author, 1 February 2019.

of agency, and both should be equally considered.<sup>140</sup> To that end, it is of primary importance that in studying questions of agency, we do not automatically conflate the impact of change agents on institutional evolution with the success of their initiatives, as 'such reasoning effectively precludes the development of propositions dealing with the relationship between the activities of leaders on the one hand and the outcomes of institutional bargaining on the other.'<sup>141</sup> To avoid falling prey to post hoc reasoning in thinking about the role of change agents in the AC, we need to determine a set of characteristics and behaviours that could be identified separately and without reference to the outcomes of specific initiatives of change agents.<sup>142</sup> Only then will we be able to properly examine the role of change agents in the institutional evolution of the AC, as of any other international institutions.

## Conclusions

The AC is no exception to other social institutions and, as all other international regimes, it is dynamic and evolving. Over the past two decades, like the Arctic region itself, the AC has gone through numerous changes and moved from the peripheries of international relations closer to its centre. Given that institutional change bears potential consequences not only for the character, performance, and effectiveness of a regime, but also beyond that regime's direct issue areas, understanding it becomes more and more important to our comprehension of the increasingly complex and quickly evolving landscape of international environmental governance.

The change within the AC has not escaped the notice of scholars and practitioners dealing with questions of Arctic governance. Thus far, however, their attention has been primarily directed toward external events and exogenous drivers of the Council's development, leaving the endogenous sources and many nuanced changes within the AC mostly uncovered. To address this gap, this paper aimed to answer two main research questions: what changes have occurred in the AC over time, and how can we explain those changes? With respect to the former, analysis showed that it took nearly a decade to operationalise the provisions of the Ottawa Declaration and that the structure of the Council as it is presently known – with the six Permanent Participants and six working groups – was not fully established until 2006. Moreover, the Council today differs in many aspects from the inauspicious body founded in 1996. Not only have its administrative capacities and efficiency been enhanced with the creation of the standing ACS, which serves as the secretariat of the ACAP and EPPR working groups as well, but most of the secretariats of the working groups

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140 I would like to express my thanks to one of my reviewers for this insightful remark.

141 Young, *Political Leadership* (n 19) 286.

142 *ibid.*

and the IPS are no longer dispersed among Arctic states and are instead centralised in a single location, in Tromsø, Norway. With respect to its subsidiary bodies, the AC today maintains – in addition to its six regular working groups – from two to five task forces and expert groups at any given moment, which is one of the most significant structural changes to the Council. Moreover, it has 39 Observers, in contrast to the original nine in 1998, and a unifying set of strategies and guiding documents that clarify the responsibilities of various actors within the AC and steer their relations with the outside world. In addition, there have been numerous less formal, but equally consequential, changes in terms of social practices within the AC. Those include, among others, a shift toward issues related to economic development, the introduction of the executive meetings of SAOs, attendance of the Council's meetings by higher-ranking representatives and diplomats, and the disappearance of direct recommendations from the SAO reports to ministers which, arguably, leaves more space for direct negotiations of AC Ministerial Declarations by foreign ministry representatives. Concurrently, more specific policy recommendations have started to be included in the Council's various assessment reports, and more extensive follow-up activities have also been carried out with respect to some of those recommendations, even if the overall record of the implementation of AC guidelines has not been too favourable. Finally, the AC has expanded the capacity-enhancement side of its work, most notably in areas covered by the ACAP and by the first two legally binding treaties negotiated under the auspices of the Council – search and rescue and oil-spill preparedness. Taken jointly, all these developments represent the evolution of the AC into the centrepiece of Arctic governance – a body whose portfolio has over time significantly expanded, whose structure has grown, and whose procedures have been decisively streamlined, providing much stronger top-down steering from the SAOs and thus, respectively, the Arctic states' ministries of foreign affairs. It is a much more coherent and high-profile body than it used to be, with a much higher level of interest and dedication paid to it by its Members and Observers alike.

Regarding the second question on explaining those changes, the focus in this paper has been explicitly on the role of endogenous factors and properties of the AC in enabling or constraining its evolution. What the presented analysis revealed is that the AC's constitutive features – its lack of legal foundation, its decision-making based on consensus, its very broad mandate open to multiple interpretations, and its strictly defined and limited membership – create ample space and a highly malleable setting susceptible to the influence, both positive and negative, of agents seeking to instigate a gradual change and ultimately steer the trajectory of developments within the Council. So far, the efforts to understand the Council's change have been dominated by a focus on exogenous forces and factors, while very little attention has been paid to the endogenous elements and the role of change agents in the process. In shedding light on these, the account offered here sensitises us to a wider array of factors in explaining the evolution of the AC. Furthermore, it fills an important gap

in existing scholarship on the AC and paves the way for future studies to examine the linkages and interactions of drivers of both kinds – the ultimate step in the explication of institutional change. Thus, none of the above should be read as encouragement for a reduced analysis of institutional change and dynamics or for replacing focus on external forces with a fixation on endogenous factors to explain the evolution of the AC. On the contrary, as in effectively every case, a combination of factors is needed to develop adequate explanations of what happens in specific instances. If there is a point in differentiating among a variety of sources of institutional change, it is to comprehend the range of forces of work, which then serves as a basis for examining the ways in which combinations of forces interact with each other and produce a change observed in given circumstances.<sup>143</sup> Thus, combining perspectives and overcoming dichotomies is a key to understanding the causes and nature of institutional change.<sup>144</sup> By including structure and agency, endogenous and exogenous forces and factors, and – in future research – the interactions between them, we will be better equipped to understand the causal chains of change and to provide convincing arguments regarding how, when, and why a particular change has occurred and what it truly means.<sup>145</sup> At the same time, we should be mindful that institutional change is not an end-point, but an event in a chain of events that can itself be a driver for future change and developments – another argument to reinforce our efforts in the systematic analysis of change in the AC. In undertaking these efforts, we can not only contribute to our comprehension of the AC, but also expand our knowledge regarding international environmental regimes more broadly. Given that to date, most of this knowledge has been developed on cases of treaty-based and hard-law institutions, the study of informal arrangements like the Arctic Council can be a source of new and important insights.

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143 Young, *Institutional Dynamics* (n 6).

144 Jeroen Van Der Heijden, 'A Short History of Studying Incremental Institutional Change: Does "Explaining Institutional Change" Provide Any New Explanations?' (2010) 4 *Regulation & Governance* 230.

145 G Capano and M Howlett, 'The Determinants of Policy Change: Advancing the Debate' (2009) 11 *Journal of Comparative Policy Analysis* 1.