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Malgorzata Smieszek

Informal International Regimes.

A Case Study of the Arctic Council

LAPIN YLIOPISTO
UNIVERSITY OF LAPLAND

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MALGORZATA SMIESZEK

Informal International Regimes. A Case Study of the Arctic Council

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To my parents.

Abstract

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Institutions—understood as sets of rights, rules, principles, and decision-making procedures that give rise to social practices, assign roles to the participants in these processes, and guide interactions among the participants—are prominent features of governance systems at all levels of social organizations. Regimes constitute a subset of institutions specialized to address functionally defined topics and/or spatially defined areas and this dissertation studies the Arctic Council (AC) as a case of a regime relevant to the Arctic.

The AC is a high-level forum established in 1996 by eight Arctic states to promote and facilitate circumpolar collaboration on issues of environmental protection and sustainable development in the Arctic. Since the AC's inception, the Arctic has gone through a profound transformation resulting from the combined forces of climate change and globalization, tightening the links between the region and the outside world, and drawing interests of various actors worldwide. In similar fashion, the AC has undergone a transition from a low-profile regional institution known to only but a few, to an acclaimed primary forum for circumpolar and global cooperation on issues pertaining to the Arctic.

Despite regularly raised criticisms of its soft-law foundation and the lack of regulatory powers, throughout its twenty years in operation, the AC has provided numerous valuable contributions to Arctic governance. In order to shed light on the experience of the council, I examined its effectiveness, performance, and institutional change and dynamics through the lens of regime theory. Findings from this part of my study are described in detail in four peer-reviewed articles that constitute the second part of this thesis.

What the in-depth examination of the AC revealed are a number of features that set it apart from the previously examined universe of cases of international regimes established through the means of international treaties and legally-binding instruments. Hence, on the basis of the case study of the AC I formulate a concept of *informal international regimes* to designate a subset of international regimes that

are concluded by states through the means of non-legally binding instruments. In naming these regimes 'informal', rather than 'soft-law', I deliberately seek to steer away from discussions in which legally-binding norms are by default considered superior to non-legally binding ones; discussions, which focus primarily on questions of compliance and enforcement of international norms, view regimes chiefly in terms of their regulatory functions, and are mostly preoccupied with enhancing soft-law mechanisms via legally binding means. In moving away from the term soft law, I emphasize the need to consider informal international regimes in their own right, rather than, as they are frequently viewed, an "underdeveloped" form of collaboration that might evolve into hard law and legally-binding commitments in the future.

Drawing from the observations of the AC I propose a series of initial hypotheses about informal international regimes to be tested through subsequent research and studies. I argue that informal international regimes have a number of features that may make them increasingly important in meeting needs for governance under conditions of rapid, non-linear and compound changes arising today and in the foreseeable future.

Keywords: Arctic Council, Arctic, governance, effectiveness, international environmental regimes, informal international regimes

Tiivistelmä

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Instituutiot voidaan nähdä oikeuksia, sääntöjä, periaatteita ja päätöksentekoa koskevien menettelytapojen koosteena, jotka määrittävät osapuolten rooleja ja ohjaavat heidän välistä vuorovaikutustaan. Instituutiot ovat tärkeitä hallintojärjestelmien muotoja kaikilla yhteiskuntien järjestäytymisen tasoilla. Tietyt institutionalisoituneet hallintomuodot ovat erikoistuneet vastaamaan toiminnallisesti tai maantieteellisesti määriteltyihin aloihin. Tämä väitös tutkii Arktista neuvostoa arktisuuden suhteen relevanttina hallinnon muotona.

Arktinen neuvosto on korkean tason foorumi, jonka kahdeksan arktista maata perustivat 1996 edistämään ja käsittelemään sirkumpolaarista yhteistyötä arktisen alueen ympäristönsuojelun ja kestävän kehityksen aloilla. Neuvoston perustamisen jälkeen arktisella alueella on tapahtunut perustavan laatuinen murros, jonka vaikuttavina voimina ovat olleet ilmastonmuutos ja globalisaatio yhdessä. Ne ovat tiivistäneet arktisen alueen ja muun maailman yhteyksiä ja herättäneet erilaisten toimijoiden intressejä maailmanlaajuisesti. Vastaavaan tapaan Arktinen neuvosto on käynyt läpi muutoksen matalan profiilin alueellisesta ja harvojen tuntemasta instituutiosta tunnustetuksi ja ensisijaiseksi foorumiksi arktista aluetta koskevissa sirkumpolaarisissa ja globaaleissa kysymyksissä.

Kaksikymmenvuotisen olemassaolonsa aikana Arktinen neuvosto on tuottanut paljon arktisen hallinnon kannalta arvokkaita panoksia huolimatta siitä, että sen toiminta on luonteeltaan ei-sitovaa (*soft law*) ja että neuvostoa on toistuvasti kritisoitu osapuolia sitovan toimivallan puutteesta. Voidakseni valaista neuvoston työtä koskevia kokemuksia olen tutkinut hallintoteorian valossa Arktisen neuvoston tehokkuutta, suorituskykyä, institutionaalisia muutoksia ja dynamiikkaa. Tutkimukseni tämän osan tulokset on selostettu yksityiskohtaisesti neljässä vertaisarvioidussa artikkelissa, jotka muodostavat väitöskirjani toisen osan.

Useat aiemmin tutkituista kansainvälisen hallinnon muodoista on perustettu kansainvälisten sopimusten ja laillisesti sitovien instrumenttien kautta. Arktisen neuvoston syvällinen tarkastelu paljastaa piirteitä, jotka erottavat sen edellä

mainituista. Näin ollen olen Arktista neuvostoa koskevan työni pohjalta olen muodostanut epävirallisen kansainvälisen hallinnon (*informal international regimes)* käsitteen määrittämään sitä kansainvälisten hallintojärjestelmien alaryhmää, johon valtiot ovat päätyneet ei-velvoittavien instrumenttien kautta. Nimeämällä nämä hallintorakenteet epävirallisiksi sen sijaan että käyttäisin pehmeän lain käsitettä haluan hakeutua poispäin keskusteluista, joissa laillisesti sitovia normeja lähtökohtaisesti pidetään parempina kuin ei-sitovia. Nämä viralliset regiimit keskittyvät ennen muuta kansainvälisten normien noudattamiseen ja toimeenpanoon, joissa hallinto nähdään ensisijaisesti säätelevien toimintojen kautta ja joissa enimmältään keskitytään pehmeän lain mekanismien vahvistamiseen laillisesti sitovien keinojen kautta. Liikkumalla poispäin pehmeän lain käsitteestä korostan tarvetta käsitellä epävirallisia kansainvälisiä hallinnon muotoja omana itsenään sen sijaan että ne nähtäisiin, kuten useasti tapahtuu, ”alikehittyneinä” yhteistoiminnan muotoina, jotka saattavat tulevaisuudessa kehittyä velvoittavaksi laiksi ja laillisesti sitoviksi sitoumuksiksi.

Arktista neuvostoa koskevien havaintojen pohjalta ehdotan alustavia hypoteeseja, jotka koskevat epävirallisia kansainvälisiä hallintomuotoja ja joita tulee testata myöhemmissä tutkimuksissa. Väitteeni mukaan epävirallisten kansainvälisten hallintomuotojen piirteistö voi antaa niille kasvavaa merkitystä hallinnon tarpeisiin vastaamiseksi tilanteissa, joita nyt ja tulevaisuudessa leimaavat nopeat, ei-säännönmukaiset ja monitahoiset muutokset.

Avainsanat: Arktinen neuvosto, arktinen, hallinto, tehokkuus, kansainväliset ympäristöhallinnot, epäviralliset kansainväliset hallinnot

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Article 2: Malgorzata Smieszek (2019). Evaluating Institutional Effectiveness: The Case of the Arctic Council. *The Polar Journal* 9 (1), pp. 3-26
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List of Acronyms

AEC	Arctic Economic Council
AEPS	Arctic Environmental Protection Strategy
AC	Arctic Council
ACAP	Arctic Contaminants Action Program
ACIA	Arctic Climate Impact Assessment
ACS	Arctic Council Secretariat
AHDR	Arctic Human Development Report
AMAP	Arctic Monitoring and Assessment Program
AMSA	Arctic Marine Shipping Assessment
BEAR	Barents Euro-Arctic Region
CAFF	Conservation of Arctic Flora and Fauna
CBSS	Council of the Baltic Sea States
EA-EG	Ecosystem-Based Management Expert Group of PAME Working Group
EPPR	Emergency, Prevention, Preparedness and Response Working Group
IASC	International Arctic Science Committee
ICC	Inuit Circumpolar Council
ICES	International Council for the Exploration of the Sea
IDGEC	Institutional Dimensions of Global Environmental Change
IFRC	International Federation of Red Cross and Red Crescent Societies
IHDP	International Human Dimensions Program on Global Environmental Change
IMO	International Maritime Organization
MEAs	Multilateral environmental agreements
MFA	Ministry of Foreign Affairs
OECD	Organisation for Economic Co-operation and Development
PAME	Protection of Arctic Marine Environment Working Group
POPs	Persistent organic pollutants
PP	Permanent Participant
SAO	Senior Arctic Official
SAR	Search and Rescue
SDWG	Sustainable Development Working Group
TFAMC	Task Force on Arctic Marine Cooperation
UN	United Nations
USGS	United States Geological Survey
WWF	World Wide Fund for Nature

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Many times over the course of work on this dissertation, I was dreaming of a moment when I will finally have an opportunity to record the debts of gratitude I have incurred in carrying out the doctoral research reported in this thesis. Today, writing these words feels like taking a look back at the journey of the past six years and everyone who joined and generously supported me in it.

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As anyone involved with the Arctic Council knows, quite often attending its meetings does not feel like work at all, it is more like seeing very good friends and the "Arctic Council family". I have been fortunate to become part of it and, while I regret that it is not possible to thank everyone by name, I am grateful to Gunn-Britt Retter, Jim Gamble, Jannie Staffansson, Patti Bruns, Tom Fries, Soffia Guðmundsdóttir, Tom Barry, Marie-Anne Coninsx, and David Balton who all shared with me their knowledge, experience, and many moments of laughter as well. Special thanks go to the team of Finland's Chairmanship of the Arctic Council for having me involved in some of their work. Never have I dreamt that six years after moving to Finland to work on Arctic issues, I would be a master of ceremony at the farewell reception of the Finnish Chairmanship of the Council, the institution I have spent years seeking to understand. Finally, I am most indebted to all indigenous representatives in the Arctic Council for sharing their wisdom and for everything I learnt from them.

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Last and most importantly, this dissertation is dedicated to my parents, in memory of my Mom, Barbara Śmieszek, and with gratitude that words cannot express to my Dad, Józef Śmieszek, for always being my greatest supporter and for encouraging me to follow my dreams, even when curiosity took me further from home. Wherever I go, you are always with me and I can never thank you enough.

Rovaniemi, 11 November 2019
Gosia

1. INTRODUCTION

The White Rabbit put on his spectacles.
'Where shall I begin, please your Majesty?' he asked.
'Begin at the beginning,' the King said gravely,
'and go on till you come to the end: then stop.'

Lewis Carroll, Alice's Adventures in Wonderland, Chapter 12

1.1. General Introduction

1.1.1. Institutional dimensions of global environmental change

Institutions—understood as sets of rights, rules, principles, and decision-making procedures that give rise to social practices, assign roles to the participants in these processes, and guide interactions among the participants—are prominent features of governance systems at all levels of social organizations (Young, 2008, 2017b). Accordingly, institutions also feature prominently in human-environmental relations, both as causes of and solutions to major changes in bio-geophysical systems, as well as to the effects of those changes on human welfare (North, 1990; Young, 2002). Regimes constitute a subset of institutions specialized in addressing functionally defined topics and/or spatially defined areas (Young, 2017b). Whereas there is a wide consensus that regimes matter, the ways in which they matter, the extent to which they matter, and the conditions under which they matter vary widely across the universe of existing cases (Young, 2004). The main drivers in the study of international regimes have therefore been, first and foremost, an interest in understanding the ways in which these arrangements affect the course of world affairs, and how, as governance mechanisms, they can steer the collective behaviour of societies towards desirable outcomes and away from undesirable ones.

A field that has generated much interest in questions of governance is international environmental politics, which in the decades following World War II has seen the unprecedented institutionalization and growth of functionally specific regimes. These are mostly centred around a great number of multilateral environmental agreements (MEAs) and their respective organizational arrangements (secretariats and conferences of the parties; Kanie, 2018; Young, 1997). International law has played a preeminent role in the structuring of international affairs in the post-WWII system, and inter-state treaties have become one of the most prevalent forms of response to challenges of maintaining order, resolving conflicts, and assuring the sustainable use of natural resources (Reinicke & Witte, 2000; D. L. Shelton, 2000). The focus on states as central actors in world politics has been also characteristic of

regime theory, particularly in its early decades (Stokke, 2012). Although the concept of regimes has not precluded consideration of the interests and roles of various non-state and sub-state actors, the tendency of much regime analysis has been to focus predominantly on institutions that are governmental and intergovernmental in nature (Breitmeier, Young, & Zürn, 2006; Young, 2008). Regime scholars initially centred their attention on questions of regime formation; later, upon overcoming the incredulity and scepticism of realist-oriented academics, they turned towards examining issues of regime effectiveness, institutional change and dynamics, and institutional interplay, among others.

Concurrently, globalization—the emergence of new actors and of "agency beyond the state"— has led scholars to focus their inquiry on matters pertaining to global environmental governance. It is within this movement that research on transnational environmental regimes has arisen as part of the examination of new forms of international cooperation resulting from the increased participation of non-state actors in transnational and global affairs. Respectively, whereas in the case of international regimes, states are the generators of "principles, norms, rules, and decision-making procedures around which the expectations of actors converge in a given issue area" (Krasner, 1983: 2), in the case of transnational regimes it is non-governmental actors who give rise to relevant social practices. What follows is that the rules and norms of transnational regimes, oftentimes coined in a form of business codes of conduct or certification schemes (Pattberg, 2012), are not legally binding, unlike the outputs of many international regimes—at least those that have been the main objects of scholarly attention. As a review of regime literature reveals, virtually all international regimes analyzed thus far have their bases in legally-binding treaties or conventions. While this assertion alone is unsurprising, given that multilateral environmental agreements are the cornerstone of global environmental governance, it also points to an important gap in existing scholarship: the unexamined territory of cases of international regimes based on non-legally binding instruments such as political declarations, joint communiqués, memoranda of understanding, and more. One such regime, the Arctic Council (AC), is the focus of this dissertation and it was the in-depth exploration of the AC as an innovative governance mechanism that ultimately led me to formulate the idea of informal international regimes and their potential contributions to governance in times of change.

1.1.2. Governing a planet in flux

The scale and character of a multitude of changes observed in today's world are nothing short of a fundamental transformation of the Earth's system. Not only are humans and their biophysical environment more closely connected than ever before, but humanity has evolved to become a force of geological order, a major driver of changes across scales and levels, able to influence global geophysical systems and dominate ecosystems on a global scale (Steffen, Sanderson, Tyson,

Jäger, & Matson, 2004). Biodiversity—the diversity within species, between species, and of ecosystems—is presently declining at least tens to hundreds of times more rapidly than at any time in human history (IPBES, 2019). On May 13, 2019, as reported by the Scripps Institution of Oceanography, the concentration of CO_2 in the atmosphere reached over 415 parts per million (ppm), the highest level since before the evolution of homo sapiens (Scripps Institution of Oceanography, 2019). Climate change driven by human activities serves as perhaps the most prominent example of the influence of humans on the Earth's system as well as an illustration of challenges that transcend the boundaries and capacities of any state and any single actor. Accelerating globalization continues to exacerbate cross-border environmental problems, making it effectively impossible to shield spatially delimited areas from the impact of forces operating at larger scales and to address emerging issues in isolation (Young, 2017b). As noted by international relations and legal scholars, the complexity of the new global environment has outpaced traditional methods of international law-making and raised doubts about their continued utility (Chinkin, 2000; Reinicke & Witte, 2000), demanding responses and mechanisms adequate to meet arising governance needs, many of which go beyond typical regulatory functions (Young, 2017a).

In many ways, the Arctic serves as a microcosm of the developments that have unfolded in the global arena since World War II. Prior to the late 1980s, the region was heavily militarized and divided into two armed camps, and the Arctic agenda was dominated by the core issues of the Cold War, with classical security issues at the territory's forefront (Osherenko & Young, 1989; Young, 2012a). The collapse of the Soviet Union led, as elsewhere in the world, to a sharp reorientation of Arctic regional affairs and fostered a variety of initiatives aimed at circumpolar, rather than global, collaboration (Keskitalo, 2004; Young, 2009a). By the beginning of the 21st century, the pronounced impacts of climate change observable in the rapidly declining Arctic sea ice—combined with the forces of globalization visible in the expected extraction of northern energy resources and the growth of commercial shipping—made the Arctic a region of intense interest on a worldwide scale. As if through a lens, we observe today in the Arctic a mosaic of diverse state and non-state actors, their interests, interactions, and the tightening links between them. These actors include great powers, small states, indigenous peoples, environmental groups, and large multinational and private corporations, as well as a multitude of non-Arctic states, including emerging powers that seek to reassert their positions in a region of increasing global significance.

As both the observed and projected annual average warming in the Arctic continues to be more than twice the global mean (AMAP, 2017c), the region remains at the forefront of global climate change. At the same time, the Arctic has long been at the front line of experimentation with new forms of innovative responses to complex and challenging problems of governance (Arctic Governance Project,

2010), and the AC has taken a prime position in a wide network of cooperative arrangements and international mechanisms pertaining to the Arctic. As earlier studies of the AC have asserted, throughout its 20 years in operation, the council has made important contributions to Arctic governance. Among these are increasing the prominence of the concerns of Arctic indigenous peoples, producing influential scientific assessments, providing a venue for negotiations for the first circumpolar legally binding agreements, and promoting peace in the region, which previously served as one of the main theatres of the Cold War.

Nevertheless, as the articles included in this dissertation show, there are many aspects of the AC that remain understudied. Moreover, even if the AC represents an unambiguous case of a regime as the term is used in broader international relations literature, only a few studies of the AC have thus far adopted regimes' perspective in seeking to deepen our understanding of the council. As the research presented in this thesis demonstrates, the application of this theory may not only advance our comprehension of the AC, but the case study of the AC may also contribute to our broader body of knowledge about international institutions. The potential for such contribution is arguably even greater due to a number of characteristics that the AC exhibits and that set it apart from the previously examined universe of cases of international regimes. Finally, given that the council is the central institution in the institutional landscape of the region that serves as the world's climate "messenger" (Stone, 2015), I believe its case presents the potential to inform our thinking about innovative institutional ways of addressing the paramount challenges of the climate-altered world.

As such, the overall aim of work presented in this dissertation is twofold. First, the study aims to shed light on the experience of the Arctic Council by examining it in a systematic manner through the lens of regime theory. Second, it poses a question whether the experience of the AC can, in reverse, contribute insights that may be of more general relevance to our understanding of regimes and international institutions. The realization of both objectives is supported by the research method and materials described in the section 1.3. Before it, the next section first tells the story of my own interest in the Arctic and of the evolution of work laid out in this thesis.

1.2. Research Process

The work presented in this thesis reflects the evolution of my interest in Arctic issues and a journey through the questions I posed at various stages of my work and which, despite my efforts, I was unable to answer in a full and satisfying manner. Each such question, however, served as an important signpost on my research pathway and pointed to apparent gaps in our knowledge as well as to directions for my own

inquiry. I therefore believe it merits space here to explain how my approach to my research topic evolved and how, building from one step to the next, it led to the results presented in the conclusions of this dissertation.

My work on Arctic issues formally began in May 2013 when I joined the EU-funded project "Strategic Environmental Impact Assessment of the Development of the Arctic" (Stępień, Koivurova, & Kankaanpää, 2014), where I was a co-author of one of the project's main reports, "Assessments in Policy-Making: Case Studies from the Arctic Council" (Kankaanpää & Smieszek, 2014). Although I was invited to join the group because of my strong background in European Union studies, and my original focus in Arctic affairs concerned the role of the European Union in the region, the project shifted my interests towards the mechanisms and intricacies of the science-policy interface, and towards the AC, the forum exemplifying that interface, which around that time was making worldwide headlines with its ministerial meeting in Kiruna, Sweden and with China, India and other Asian countries "at the council's doors".

My interest in science-policy interlinkages continued from there, and in 2014 I joined as a fellow the International Arctic Science Committee (IASC), a major non-governmental, international scientific organization committed to the promotion, facilitation, and advancement of Arctic science. Involvement with IASC not only offered me tremendous opportunity to engage with scientists across a wide social-natural science spectrum but also proved vital to my own research in ways I could not have dreamt of (let alone anticipated) when I applied to the fellowship programme. As a member of IASC's delegation, I was able to attend as an officially accredited observer to the AC more than a dozen council meetings spanning the United States and Finland's chairmanships of the AC, and across all levels of the council's structures and organization. This included meetings of various working groups, expert groups, and task forces, and two ministerial meetings in 2017 and 2019. My attendance at these meetings provided me with the unique opportunity to observe the internal dynamics of the council in its various forms and sensitized me to great diversity within the AC—a factor that later proved important to my own query.

I have been exposed to work of the AC in other ways as well. Among them was my participation in the two so-called Warsaw Format Meetings organized by Poland to facilitate discussions between state observers to the AC and the council's sitting chairmanship. The first meeting I attended took place in March 2015 during Canadian AC chairmanship and the second in April 2016, during the U.S.'s time at the helm of the council. Both gatherings, as well as the observable differences in how the two countries approached their chairing roles, drew my attention to the role of chairmanship in the council, a topic that at that time was relatively underresearched and which led to my first publication on the subject, included in this thesis.

In the meantime, in January 2016 I began work on the research project "Finland's Arctic Council chairmanship in times of increasing uncertainty" for Finland's

Ministry for Foreign Affairs (MFA). The project was conducted via a consortium formed by the Arctic Centre at the University of Lapland (where I work); the Finnish Institute of International Affairs (FIIA), and the Marine Research Centre of the Finnish Environment Institute (SYKE). Its aim was to provide the MFA and government officials responsible for Arctic affairs with relevant, updated, and trustworthy information regarding the political and economic situation in the Arctic region. Although I contributed to the project largely from my earlier experience with and knowledge of the council, participation in it once more provided me with an opportunity to observe the AC from a close distance and sometimes in ways not accessible to many other researchers.

Throughout this period of time, my main question with respect to the AC concerned its effectiveness and, in particular, drawing from my continued science-policy interest, how the organization of science-policy interface of the council impacts upon its effectiveness. The overarching research question I initially posed to myself was, 'How has change, if any, in the science-policy interface of the AC affected the council's effectiveness?'. As it turned out, however, the answer to this question was anything but straightforward, and the quest to address it brought my inquiry and this dissertation to the resolution, which I did not see until late in the process.

First, when it comes to the relationship between science and policy in the AC, observing the council's various working groups and constellations made me increasingly aware of the difficulty of drawing general conclusions about the council from a study of only one or a few of its subsidiary bodies. Whereas the council is organized virtually in the same manner at all of its various levels—meaning it includes representatives of eight Arctic states, six organizations of permanent participants, a chair, secretarial support and, in the majority of cases, observers to the AC—each unit simultaneously has its own specifications, its own expert groups and networks of collaborators, and its own priorities and modes of work. Moreover, only half of the council's groups are science-oriented; the other half focuses mostly on small-scale, practical projects executed in various parts of the Arctic. The realization of this fact made me conscious that if there has been, as I had assumed, any change in the council throughout its existence, the implications of this change may have differed widely for various AC bodies. To give an example, if increasing political stakes in the Arctic could mean, as has been reported by some of the council's participants, a more constrained role for science compared to the AC's earlier days, the growing political attention could simultaneously bring other benefits and a more conducive environment for the work of other working groups. In brief, it was not easy to devise statements that could apply across the diversity of the council.

Neither was it straightforward to determine the effectiveness of the AC, a point that immediately arose when I began reflecting on the impacts of change on the AC's effectiveness. While the term 'effectiveness' is intuitively simple, it quickly

became apparent that, as in broader international relations literature, various Arctic scholars and practitioners define it in multiple ways, frequently without specifying the exact meaning they assign to the concept and consequently speaking more past one other than with one other. To address this point, I turned to the voluminous literature on international environmental institutions and their effectiveness, and through application of insights from a general regime theory I sought to bring more clarity into a debate on the contested effectiveness and performance of the council.

Regime theory and, more broadly, scholarship on global environmental governance have been formative to my thinking about Arctic affairs in general and the AC in particular. The pioneering works of Oran R. Young on cooperation and conflict in the Arctic, and on the AC and the Barents Euro-Arctic Council, directed my research interests and helped me to view Arctic institutions as materializations of a wider phenomenon that has been studied extensively by the broader scholarly community outside of circumpolar/northern affairs. At the same time, apart from Young's and a few other authors' works, I did not see much systematic application of regime theory to the Arctic institutional landscape, which in my view presented an important gap worth exploring, with potential contributions both to our understanding of Arctic institutions and the region's governance and to the theory itself. I address this in the second article included in this thesis, "Evaluating Institutional Effectiveness: The Case of the Arctic Council".

Whereas the aim of the study was to draw up a basic framework through which future assessments of the AC's effectiveness could be grounded in the general literature on international regimes, the paper also highlighted the potential of new, non-legally binding instruments at the council's disposal for increasing the AC's effectiveness and filling gaps between larger global regulatory arrangements. Their adoption, however, was not met with enthusiasm near that which accompanied the signing of the first legally-binding agreements negotiated under the auspices of the AC—a fact that again turned my attention towards the question of changes occurring in the council and, more importantly, their promoted direction.

Institutional change can arise both intentionally and unintentionally, and deliberate institutional reforms are only one among many mechanisms that transform the structures, functions, and operations of international institutions. The AC has been subjected to proposals for reforms practically since its establishment, and criticism of the council, coupled with ideas for improving its results, has been among the steadiest and most discernible threads in the rapidly growing literature dedicated to the AC. The systematization and evaluation of those proposals became the core of my third article, "Do the Cures Match the Problem? Reforming the Arctic Council". The article revealed that certain ideas to improve the effectiveness and efficiency of the AC—such as the strengthening of its legal arsenal and equipping the council with more regulatory instruments—have been promoted virtually since the body's inception and irrespective of rapid change transforming the region's

socio-environmental setting. This finding, in turn, highlighted the prevalence of thinking—also in the Arctic context—that considers hard law superior to soft law, focuses predominantly on regulatory tasks, and concentrates largely on questions of rule implementation and compliance, despite recognized contributions of the AC in other areas. Interestingly, the focus on legally-binding regimes frequently tasked with regulatory functions has also been characteristic of empirical studies of regime theory at large. While the concept of a regime is by no means constrained to formal arrangements based on treaties and conventions, the collection of case studies carried out by the scholarly community has been largely confined to them, with only a few exceptions. Viewed from this perspective, against a broader picture of theory and studies of regimes, the AC presented an interesting outlier—an important observation that stirred my thinking and ultimately directed the course of my further work.

The fact that the AC does not uniformly fit into the vocabulary adopted by regime literature is even more apparent in the last article included in this thesis, "Steady as She Goes? Structure, Change Agents and the Evolution of the Arctic Council", in which I analyzed change within the council from the body's establishment to the present day. In so doing, I adopted a standpoint distinct from most studies of the AC, which sought sources of the AC's evolution in exogenous factors and external developments. In order to complement that outlook, I concentrated explicitly on the endogenous factors and properties of the AC and examined their role in enabling or constraining the council's institutional change. Among other findings, I determined that many distinctions proposed in the general literature on regimes and institutional change do not correspond to the types of change that the AC experienced—a conclusion that is perhaps unsurprising given that these categorizations were developed with a different universe of cases in mind. Nonetheless, in terms of my own inquiry, this finding was important, as it confirmed earlier indications that the AC may indeed represent a case divergent from others; this would indicate a category, or subcategory, of regimes that has not been explicitly addressed and that, as I argue here, may be worth examination in its own right. I designate this category as *informal international regimes*. While I elaborate on this in the second-to-last chapter of the first part of this thesis, in brief, I view a category of *informal international regimes* as arrangements concluded *by states* by means of *non-legally binding instruments* such as political declarations, memoranda of understanding, joint communiqués, and so forth to govern spatially and/or functionally delineated areas. In naming these regimes 'informal', rather than 'soft-law', I deliberately seek to steer away from discussions in which legally-binding norms are by default considered superior to non-legally binding ones; discussions, which focus primarily on questions of compliance and enforcement of international norms, which view regimes chiefly in terms of their regulatory functions, and which are mostly preoccupied with enhancing soft-law mechanisms via legally binding

means. I consider informal international regimes a subset of the overall universe of international regimes, and in describing them, I see a major theoretical contribution of this dissertation.

1.3. Research Approach

1.3.1. Case study method

The research method adopted in this thesis is a single case study of the AC used "as the opportunity to shed empirical light on some theoretical concepts or principles" (Yin, 2018: 38), specifically the concept of regimes (see George & Bennett, 2005). Overall, the study is based on an inductive approach: it began with a general aim and, as it progressed, remained open to new relations and understandings, allowing for analytic generalization and, eventually, for proposing a new concept towards the end of the research process.

A case study approach relies on multiple sources of evidence and allows for a multitude of methods to be used in collecting and analyzing information. The use of several data sources is advantageous in that it allows for the triangulation and testing of ideas generated through one part of the study in relation to those unveiled by a different method or data source (Yin, 2018). This study generally used three major lines of investigation, even if not all of them were used in each of the articles included in this thesis. All of the applied methods were qualitative. They included document analysis, interviews, and observations. In addition, a literature review of regime theory and of scholarship on various aspects related to international environmental institutions served as a backbone to this work, complemented in the case of individual articles by studies of formal leadership in international cooperation (Article 1) and gradual institutional change (Article 4).

Concurrently, it is important to mention one of the major common concerns raised with regard to case study as a research strategy, which is that they provide little basis for scientific generalization. The frequently posed question in this context concerns the extent to which cases selected for inquiry are representative of some larger universe or population. A brief answer offered by the proponents of this method of examination is that case studies are generalizable to theoretical propositions, and not to populations or universes. In this sense, the case study does not represent a "sample", and the goal of an investigator is to expand theories, aiming at analytic generalization (Yin, 2018). It is in this current that this study situates itself.

1.3.1.1. Document analysis

The primary sources used for document analysis comprised official documentation of the AC: AC ministerial declarations (1996–2017), AC rules of procedure and the council's various operating guidelines, reports of Senior Arctic Officials (SAOs)

to ministers (1996–2017), selected scientific reports and reports of the AC working groups to SAOs, as well as minutes from selected meetings of the working groups. The inclusion of documents from various levels of the council's organization and covering the entire council's existence allowed me to follow not only the evolution of the AC from the moment of its inception, but also, to some extent, to trace how views on the AC and on Arctic developments evolved among AC participants over time. All primary source materials used in this dissertation are included in the reference lists of the four articles.

1.3.1.2. Observation

As previously mentioned, in the course of my work I attended more than a dozen meetings of the AC at the various levels of AC organization. Participation in these meetings allowed me to observe how the AC operates in practice and gave me first-hand knowledge of council's processes, and the field observations I made there were an important source of my understanding of the council. The meetings included: five meetings of the Sustainable Development Working Group (SDWG), four plenary meetings of SAOs, one meeting of the Protection of Arctic Marine Environment (PAME) working group, one meeting of the Arctic Monitoring and Assessment Program (AMAP) working group, one meeting of the Task Force on Arctic Marine Cooperation (TFAMC), one meeting of the Ecosystem-Based Management Expert Group (EA-EG) of the PAME working group, and two AC ministerial meetings. The AC events I attended specifically included:

- Sustainable Development Working Group (SDWG):
  - 11–12 March 2016, Barrow, Alaska, United States
  - 1–2 October 2016, Orono, Maine, United States
  - 21–22 September 2017, Inari, Finland
  - 19–20 March 2018, Levi, Finland
  - 5–6 February 2019, Kemi, Finland
- Senior Arctic Officials (SAOs) plenary meetings:
  - 15–17 March 2016, Fairbanks, Alaska, United States
  - 4–6 October 2016, Portland, Maine, United States
  - 24–26 October 2017, Oulu, Finland
  - 22–23 March 2018, Levi, Finland
- Arctic Monitoring and Assessment Program (AMAP) working group:
  - November/December 2016, Helsinki, Finland
- Protection of Arctic Marine Environment (PAME) working group:
  - 19–21 September 2016, Portland, Maine, United States
- Ecosystem-Based Management Expert Group (EA-EG) of PAME working group:
  - 18 September 2016, Portland, Maine, United States

- Task Force on Arctic Marine Cooperation (TFAMC):
  - 22–23 September 2016, Portland, Maine, United States
- AC Ministerial meetings:
  - 10–11 May 2017, Fairbanks, Alaska, United States
  - 6–7 May 2019, Rovaniemi, Finland

It is important to note that I attended all of these meetings as an officially accredited observer to the AC as part of the IASC. Accordingly, my role in these meetings was strictly defined and regulated by the AC rules of procedure (Arctic Council, 2013a) as they pertain to observers to the council. In the few instances in which I took the floor during the meetings, it was solely in relation to my involvement with IASC, and the points I made were related exclusively to IASC-relevant initiatives, activities, or projects, with no connection to my own research focus.

It is nonetheless justifiable to question the extent to which my participation in the meetings and the resultant interference with the object of my inquiry could find reflection in and possibly bias the results of my research, given my dual role as both an active participant in the process and an independent investigator interested in the functioning of the AC. In addressing this point, it is worth emphasizing two conditions that, I am strongly convinced, preserve the integrity of my work. The first condition relates to the already mentioned AC rules of procedure and, specifically, the role that these rules assign to observers to the council. As stipulated by Article 38 of the council's revised rules of procedure from 2013: "The primary role of Observers is to *observe* the work of the Arctic Council' (Arctic Council, 2013a; emphasis added by this author). Secondly, to keep to a minimum any reflection or potential impact of my participation in the AC meetings on the results of my study, I deliberately excluded from its scope—to the extent possible—the examination of the role of observers to the council and whenever needed, I referred to works of other authors on this topic.

Regardless of the level of formality of the meetings, there is a social component to them that provided me with opportunities for informal discussions with various participants of the AC community. These discussions were very helpful in improving my comprehension of the council. It was also during these conversations that I informed my interlocutors about my research project on the AC. Notwithstanding, seeing that my official role in the AC meetings was as an accredited AC observer, I did not use any of the observations made there as a direct material or source of information in my research articles.

In addition to official meetings of the AC, I also attended official conferences of AMAP working group in Helsinki, Finland (29 November 2016) and in Reston, VA, United States (24–27 April 2017), as well as the second Arctic Biodiversity Congress of the Conservation of Arctic Flora and Fauna (CAFF) working group in Rovaniemi, Finland (9–11 November 2018). Furthermore, during the course of

my work on this dissertation, in conjunction with my work as a researcher at the Arctic Centre at the University of Lapland, I participated in a plethora of other Arctic conferences and events, among them the Arctic Environmental Ministers' meeting in Rovaniemi, Finland (11–12 October 2018); the Arctic Circle Assembly in Reykjavik, Iceland (annually from 2013–2018); the Arctic Frontiers conference in Tromsø, Norway (2013, 2016, 2018, 2019); and the Rovaniemi Arctic Spirit conference in Rovaniemi, Finland (2015, 2017), as well as numerous other seminars and venues. Besides the opportunity to observe presentations and discussions of various Arctic actors and stakeholders, the above listed events also provided me in some instances with venues for conducting interviews with the AC and other individuals.

1.3.1.3. Interviews

Interviews served as sources of data for two out of four articles included in this dissertation: "The Role of Arctic Council Chairmanship" and "Steady as She Goes? Structure, Change Agents, and the Evolution of the Arctic Council". The purpose of the interviews was to gather information that was not included in or elaborated upon in written documents and to collect information on the participants' own views on events and developments related to the council. Between March 2015 and February/March 2019, I conducted a total of 17 interviews with persons directly involved in various capacities with the AC over various periods of the council's operation. Among the interviewees were chairs of SAOs, SAOs, executive secretaries and members of the working groups, permanent participants and observers, and officials from the Arctic states' ministries of foreign affairs. All of the interviews were semi-structured and lasted between 30–80 minutes. Most were conducted via telephone or Skype upon earlier arrangement with interviewees, and five of the interviews were conducted in person in Reykjavik, Iceland; Rovaniemi, Finland; Oslo, Norway; and Warsaw, Poland. All of the interviews were recorded in my handwriting, and in all cases the interviewees wished to remain anonymous.

Fig. 1 Breakdown of interviewees

Type of organization	**Number of participants**
Chairs of Senior Arctic Officials	5
Senior Arctic Officials	3
Arctic Council Working Groups	4
Permanent Participants	2
Ministry of Foreign Affairs' officials	2
Observers	1

1.4. Structure of the Thesis

This thesis consists of two parts: a synthesis and four peer-reviewed research articles. The synthesis provides an overall background to my doctoral inquiry. It includes relevant theoretical frameworks, presents the Arctic as a complex system, and offers an introduction to a case of the AC—both with respect to the history of the institution as well as the voluminous scholarship dedicated to it. Moreover, the synthesis provides an overview of the main findings from the four research articles that constitute the second part of this thesis. Finally, and most importantly, building from these findings, towards the end of this first part, I put forward the concept of informal international regimes.

1.4.1. Synthesis

The synthesis has the following structure:

Chapter 1, "Introduction", offers an overview of the work presented in this dissertation as well as of my own academic quest to better understand the AC. It describes the materials and research methods I used and outlines the relevance as well as limitations of this study.

Chapter 2 provides a concise review of regime theory from its beginnings in the 1970s and 1980s to the present day. In doing so, it sets the theoretical stage for this thesis. It covers, among other topics, initial disputes around the concept of regimes; the large variety of existing regimes; and studies of regime formation, effectiveness, and institutional interplay. It concludes with a presentation of transnational environmental regimes and the evolution of scholarly interest in themes of global environmental governance and governance architecture.

Chapter 3 is an introduction to the Arctic region. Brief by necessity, it sketches out primarily those features of the Arctic that, together with the unparalleled scale and pace of change transforming the region, make it a complex system necessitating fitting and flexible forms of response. Understanding of the main features of the Arctic socio-ecological environment as well as the dynamics and processes of the region's unrelenting change is vital to contextualization of the work presented in this thesis, which ultimately poses a question about the adequacy of past modes of thinking and encourages more careful examination of a wider range of governance arrangements at our disposal, including those based on non-legally binding instruments.

Chapter 4 takes a bird's-eye view of Arctic governance and a closer look at the main circumpolar cooperation forum and the focus of this thesis—the AC. Repetitive by default, with some information also included in the articles in the second part of this dissertation, the chapter is nonetheless central to this work, as in addition to highlighting some of the AC's major contributions and accomplishments, it points to its underexplored potential in informing our thinking about governance

mechanisms suitable to times of transformation, increasing connectivity, and prevailing uncertainty.

Chapter 5 provides an overview of four research articles included in the second part of this dissertation: their topics, methods, and key findings.

Chapter 6 turns towards international law and specifically to discussions pertaining to the concept of soft law. It should be emphasised that by no means is the presented overview of these discussions exhaustive, nor does it provide detailed coverage of the long and convoluted debates over the term within the legal scholarly community. Instead, Chapter 6 outlines some of the main points from those discussions, as well as the general pros and cons of international non-legally binding norms, instruments, and arrangements. In doing so, it sets the stage for Chapter 7 and the presentation of the concept of informal international regimes.

In Chapter 7, drawing from the analysis of the AC, I formulate a series of observations about informal international regimes, mostly by noting their key differences from formal, legally-binding arrangements. As these observations are inferred from a single case of the AC, I put them forward more as hypotheses for future research and examination rather than statements with any far-reaching generalizability at this stage of this work. At the same time, at the end of this chapter I list arguments, which I believe grant much relevance to the pursuit of and increased interest in the study of informal international regimes.

The dissertation closes with conclusions summing up findings from the presented work, including the main theoretical contribution drawn from this in-depth examination of the AC: the concept of informal international regimes.

1.4.2. Articles

The second part of this dissertation contains four distinct articles, each with one particular topic related to the case of the AC. Two of the articles have been published and two have been vetted for publication in peer-reviewed international journals prior to inclusion in this thesis. The articles are included here in their final, accepted manuscript versions and reproduced with permission of the publishers. Since all of the articles were published in different journals, each follows the respective publisher's guidelines concerning the required citation style. With this single exception for citation style, all of the articles are, for the reader's convenience, incorporated here in the same format as the rest of the thesis.

Although I am a co-author of Article 1, I am the sole author of Articles 2,3, and 4. Since each article stands as a separate research publication, a certain degree of overlap between them has been unavoidable, especially concerning basic information on the AC's mandate and structure and an overview of its history. Nevertheless, each article deals with separate research questions and provides new insights into our understanding of the AC. The combined findings from these four articles served, in turn, as a basis for my further work and a formulation of

the previously mentioned concept of informal international regimes presented in Part 1 of this thesis.

1.5. Relevance and Limitations of the Study

The relevance of the research presented in this thesis can be considered on two levels: first, with respect to specific research findings related to the AC and second, with regard to a more overarching theoretical contribution proposed on the basis of those individual insights. Concerning the former, the conclusions of each of the articles advance our understanding of the council as far as the role of AC chairmanships and the AC's effectiveness, reforms, and institutional changes are concerned. Considering the steadily rising interest in the council and its work, each of these areas is of significant importance to the functioning of the AC; thus, my hope is that the presented results may at least partially inform discussions about the AC's future trajectory and development.

Regarding theoretical contribution, the study of the AC allowed for the formulation of the concept of informal international regimes as a previously unexamined subset of the universe of cases concerning international regimes. In this sense, the work presented here illustrates one of the characteristics of medium-range theories, including regime theory—through working back and forth between evidence from real world politics and the more abstract levels of international relations deliberations, this thesis seeks to explore ideas that have the potential to produce insights that would not only be of considerable importance in theoretical terms but simultaneously have far-reaching practical and policy-relevant implications, helping decision-makers to effectively navigate the increasingly complex landscape of international environmental politics and governance (Young, 2017b). As the list of arguments included in Chapter 6 shows, I believe there are compelling grounds that grant relevance to a more systematic inquiry of informal, non-legally binding arrangements among more than 200 states with various legal traditions, capacities, and expressions of statehood.

At the same time, it is equally important to note limitations of this study that stem both from its research method and its overall approach. As mentioned earlier, with respect to the former, the case study method, in particular with a single unit of inquiry, has obvious constraints when it comes to offering any general claims extending beyond the specific case in question. As I am well aware of this, I present all of the statements pertaining to a subset of informal international regimes as hypotheses for further testing and examination. Seeing that the AC represents a case of a regime dealing with issues of environmental protection and sustainable development, testing those observations in cases of other environmental informal regimes would be a natural starting point, which could be followed by extending

the inquiry into other issue areas of international politics, for instance trade—as is also suggested by findings drawn from studies of formal international regimes. My hope is that the conceptualization presented in this work will invite further research on informal international regimes. Ultimately, the arguments I have put forward in this dissertation can be best evaluated only through the analysis of other concrete cases of informal arrangements. Conversely, it will be through the application of these arguments to real life that the concept of informal international regimes and its propositions can be corroborated, further refined, and elaborated.

There is another limitation, concerning the overall approach I adopted in my work, that is worth noting. In brief, it concerns the situation of this study within the overarching rationalist framework, particularly apparent in Article 1 and its direct references to the rational design of international institutions (Koremenos, Lipson, & Snidal, 2001), but also throughout most of this thesis. While there is nothing ill-suited in this decision, and quite a few studies of environmental governance have relied essentially on one research approach, deliberately choosing between rationalist and constructivist perspectives (Underdal, 2008), such a choice obviously also has certain ramifications. In regard to the rational design of international institutions, I find particularly perceptive the remarks of Wendt, who wrote that "[p]erhaps even more important than knowledge about what works is knowledge about what is right and wrong. After all, institutions are created to advance certain values, and so we cannot design anything until we know what values we should pursue" (Wendt, 2001: 422). Even if, as he notes, a division of labour between positive and normative theory has its merits and is frequently useful, he also postulates a need to broaden our conception of social science to integrate positive and normative concerns in both its everyday applications and its theoretical deliberations.[1] As much as this is an issue that extends far beyond the scope of this thesis, I find that the consideration of values and ends we seek to promote through international cooperation is fundamentally important to the inquiry on informal international regimes, and I hope that research that might follow would ultimately pursue this more integrative approach.

1 The interesting advances along those lines could be observed within the Earth System Governance project and research agenda (Biermann, 2014).

2. REGIMES AND GLOBAL ENVIRONMENTAL GOVERNANCE

"It is man's earth now.
One wonders what obligations may accompany this infinite possession."

Fairchild Osborn, Our Plundered Planet (1948)

As the major contribution of this thesis lies in the field of international relations, and more specifically regime theory, the aim of this chapter is to present a brief overview of the history of thinking related to environmental regimes and its evolution toward global environmental governance.

2.1. Foundations of Regime Theory

Regime theory was launched in the 1970s and gained momentum during the 1980s. It came about partly as a reaction to the formalism of mainstream work on international organizations (Breitmeier et al., 2006), partly as a response to the intellectual challenge posed by the study of collective-action problems, and in part as a response to the political challenge associated with an apparent decline in the ability of the United States to function as a dominant actor in international society (Keohane, 1984; Young, 1999). While at first the concept of the regime was "a handy device for organizing a mass of observations about working arrangements in a stateless social system (that is, international society)" (Young, 1989: Preface), regime theory soon developed into a vibrant research field and has since then grown into a major movement among analysts focused on international relations (Breitmeier et al., 2006).

As an offshoot of the literature on interdependence (Ruggie, 1975; Keohane & Nye, 1977; Young, 1980 in: Stokke, 2012), regime theory addresses and seeks to solve a central research puzzle that can be posed as follows: "how is it possible for utility-maximizing actors to cooperate effectively under conditions of interactive decision making where there are incentives to cheat but no central political authority of the sort we would think of as a government?" (Young, 1999: 189), consequently highlighting and centering around the idea of "governance without government" (Young, 1997).

2.2. Governance – From Institutions to Regimes

In the most ordinary sense of the word, governance refers to the various means used to shape and steer society towards desirable outcomes, and away from undesirable ones (Young, 2008, 2012b, 2017b). Governance arises as a matter of public concern whenever the members of a social group find that they are interdependent (Young, 1997: 3). It involves the establishment and operation of social institutions – in other words, sets of rules, decision-making procedures, and programmatic activities that serve to define social practices and to guide the interactions of those participating in these practices in order to grapple with collective problems (North, 1990; Young, 1994). As much as institutions play a wide variety of roles and are necessary factors for the supply of governance, they are also not the only ones. Belief systems, norms, culture, and a sense of community serve, alongside institutions, as mechanisms guiding the behaviour of actors towards collectively desirable outcomes. Often, they also serve as the fabric by means of which institutions are interwoven and the sociocultural environment whose character conditions the performance of institutions (Young, 2008: 15). In this sense, regimes represent the institutions embedded in the overarching institutional arrangements that determine the identity of the major actors and configure the deep structure of the broader social environment (Breitmeier et al., 2006).

2.3. Wrangles about Defining 'Regime'

Social institutions arise in many settings and address a wide range of issues. In order to distinguish these from the more fundamental framework structures of international society, the term *regime* was introduced to refer to arrangements created in response to the demand for governance in specific functionally or spatially defined areas.

In defining regimes, a widely accepted starting point is Krasner's (1983b: 2) conceptualization of regimes as "sets of implicit or explicit principles, norms, rules, and decision-making procedures around which actors' expectations converge in a given area". The concept was, however, initially subjected to debate, primarily with respect to ways of identifying and specifying international regimes. Whereas the so-called "thinliners" argue in favour of operational clarity and claimed that international regimes are to be identified on the basis of *explicit rules and procedures*, the "thickliners" insist on including also state practices and *observed behaviours*, from which relevant rules, norms, and principles can be inferred (Stokke, 2012).[2] The two

2 For major accounts of the evolution of regime theory throughout the 1980s and 1990s, see Krasner, 1983a; Rittberger, 1993.

approaches involve important epistemological differences and consequently invite different methodologies for describing and analyzing regimes.

Overall, regime theory has proven to be an umbrella broad enough to encompass both sets of preferences and to accommodate a wide range of theoretical perspectives, from positivists to constructivists (Breitmeier et al., 2006: 2). What they all shared is issue specificity and – originally – state centrism (Stokke, 2012). Furthermore, they all draw a clear distinction between regimes treated as *institutions* and *organizations* understood as material entities possessing offices, budgets, personnel, and often legal personality (Young, 1999: 7). Put simply, if "regimes provide the rules of the game, organizations typically emerge as actors pursuing their objectives under the terms of these rules" (Breitmeier et al., 2006: 4). The key issue in making this distinction concerns the role that social institutions, in contrast to organizations or governments, can play in the onset and impact as well as in the alleviating and resolving of collective-action problems (Young, 1997). Treating regimes as social institutions naturally places regime theory within the overarching milieu of "new institutionalism" (Young, 2008; Young, King, & Schroeder, 2008).

2.4. The Variety of Regimes

Regimes can and do vary along many dimensions, first and foremost, with respect to their geographic coverage, membership, and functional scope. They vary too in terms of their decision-making procedures, revenue sources, and their degree of formalization, which extends from legally binding instruments to various forms of "soft law" foundations (Young, 1999). Regimes can perform numerous tasks: regulatory, procedural, programmatic, and generative, or various combinations thereof. Even if there is a pronounced tendency to think of regimes primarily in regulatory terms, other tasks often play a substantive role in leading to the creation of regimes and in their operation (Young, 2011a). Likewise, for the most part, the formal or official members of regimes are states and states have accordingly been central actors in the analysis of regimes (Baldwin, 1993; Keohane & Martin, in: Stokke, 2012). There is, however, nothing out of the ordinary about regimes which have principal members that are not states – the emergence and advances of new actors beyond central governments have been recognized and noted by regime scholars (Pattberg, 2012).

The regime-theoretic approach has been applied to a wide range of issue areas, from human rights through arms control to trade and monetary concerns. The field, however, where the theory has taken root with particular vigour is international environmental politics. While the ranks of international regimes have, in general, grown in the decades following the close of World War II, it was environmental issues that triggered some of the most innovative approaches to and experiments

with new forms of governance (Von Moltke, 1997). "Whereas the Cold War bred an intense desire to protect and preserve existing institutions in other issue areas, the concurrently emerging environmental agenda prompted a growing awareness of the need for new arrangements that would foster sustainable human/environment relations" (Young, 1997: 2). The result has been the institutionalization of international environmental policy-making and the growth of functionally specific regimes to deal with an array of matters, such as marine pollution, fisheries management, migratory and endangered species, and ozone depletion. Accordingly, the term *environmental and resource regimes* has been adopted to refer to institutions that address issues relating to natural resources and the environment, both as regards managing human uses of renewable and nonrenewable resources and managing anthropogenic pollutants and human actions affecting biophysical systems (Young, 2008, 2017b).

2.5. Studies of Regimes Formation

Hundreds of multilateral environmental agreements (MEAs) have been signed over the last decades. Even if the varying methodologies used for counting MEAs result in different numbers, the proliferation of such agreements has become a key characteristic of the existing environmental governance system (Kanie, 2018). To offer an indication of the scale of this phenomenon: the Ecolex project sponsored by the United Nations Environment Program, the Food and Agriculture Organization of the United Nations, and the International Union for Conservation of Nature recognizes a total of 519 environmental treaties (ibid.), other research has identified more than 500 MEAs registered with the United Nations, and it is estimated that in the 1990s some 20 to 30 multilateral and bilateral agreements were signed per year (Mitchell, 2003).

The focus of the research community has closely mirrored these political developments. During the 1980s and early in the 1990s, analysts focused primarily on the previously mentioned conceptual questions relating to the definition and identification of individual regimes, and they directed attention to issues pertaining to the formation of international regimes, seeking to explain the conditions in which efforts to form regimes designed to deal with specific problems succeed or fail (Haas, 1990; Hasenclever, Mayer, & Rittberger, 1997; Krasner, 1983a; Litfin, 1994; Ostrom, 1990; Young & Osherenko, 1993). In the 1990s, there was a shift to studies of regime effectiveness and performance that resulted in a voluminous literature on the subject. The interest in these aspects arose partly in response to those who considered regimes to be merely "epiphenomena" and deprived them of any causal significance (Mearsheimer, 1994; Strange, 1983), partly perhaps because, around that time, "a significant number of MEAs [had] existed long enough to

warrant investigation as to whether they have made a difference" (Steinar, 2013: 307). Several large-scale international study projects examined numerous cases of environmental regimes, focusing on various aspects relating to regimes – their functions (Haas, Keohane, & Levy, 1993); the behavioural mechanisms through which regimes influence actors' behaviour (Young, Levy, and Osherenko), 1999); the classification of problem types addressed by a regime as malign or benign (Miles et al., 2002); and methodological challenges and analytic obstacles in examining regimes' effectiveness (Underdal & Young, 2004). Other works included Levy, Young, & Zürn (1995); Stokke & Vidas (1996); Brown Weiss & Jacobson (1998), Young et al. (2008), and most recently, Stokke (2012), who proposes a novel, disaggregated approach to examining the effectiveness of the Barents Sea fisheries regime. While the lion's share of these employed qualitative methods, primarily through in-depth case studies, scholars have also created the International Regimes Database that allows for the adoption of a quantitative approach to analyzing and comparing international regimes (Breitmeier, Underdal, & Young, 2011; Breitmeier et al., 2006).

2.6. The Effectiveness of Regimes

Studies of the effectiveness of international regimes largely evolved from viewing them in terms of compliance and in terms of the implementation of international commitments in domestic laws to comprehending effectiveness as the extent to which regimes channel actors' behaviours to eliminate or ameliorate the problem that led to their formation (Young, 1999) – a definition that can be designated a political approach to regime effectiveness (Young et al., 1999). As highlighted by Young and colleagues (1999), because regimes are not actors in their own rights, they affect the content of collective outcomes in international society via various causal pathways and mechanisms that can be captured in three general categories of cognition, obligation, and utility maximization (Stokke, 2001, 2007b). Since efforts to evaluate regimes' effectiveness have been fraught with methodological challenges, in order to facilitate their measuring, the distinction was introduced between the outputs, outcomes, and impacts of a regime (Young, 2004). Accordingly, the study of outputs focuses on regimes' rules and regulations, their ratification, and other formal steps of implementation, and as such is often engaged in by legal scholars. The study of outcomes in turn deals with measurable changes in the behaviour of regime members and those subject to their jurisdiction; while the study of impacts considers the consequences of a regime as these are defined in terms of change in the biophysical environment itself and the actual extent to which the regime has been able to alleviate the problem it was set up to deal with (Underdal, 2004). Concurrently, it is vital to recognize that the further we move along this chain, the

more challenging it becomes to separate the signal of regime effects from the "noise" arising from the impact of a wide range of other sources that are in operation at the same time as a regime (Young, 2001); thus, assessing the effectiveness of a regime becomes increasingly demanding.

Whereas some scholars proposed a single comprehensive measure to assess regimes' effectiveness, ranging between the non-regime counterfactual and the collective optimum (Helm & Sprinz, 2000; Hovi, Sprinz, & Underdal, 2003; Underdal, 2002b), others have expressed doubts about the suitability of such an approach. They pointed to, *inter alia*, paramount difficulties in establishing the causality in relation to a regime and the observed effects, and even greater pitfalls in determining the proportion of factors, such as economic, political, and technological forces, in accounting for the observed change (Young, 2001, 2003). What all experts agree on, however, and what became clear from the evidence produced by empirical studies, is that - against the scepticism of realism-oriented pundits (Mearsheimer, 1994; Strange, 1983) – regimes do matter, and they make a positive difference, even if they usually fall short of providing functionally optimal solutions (Underdal, 2002a). Likewise, there is also consensus among scholars that, in accounting for the regime's performance, both institutional and non-institutional factors play a role (Steinar, 2013: 316).

2.7. Institutional Interplay

Whereas studies of regimes' effectiveness have focused on the effects of individual institutions within their respective governance domains, studies of institutional interaction focus on the relationships among institutions, and the effects institutions have on one another (Oberthür & Gehring, 2011; Stokke & Oberthür, 2011), which is part of the broader consequences that international institutions may have beyond their own domains (Underdal & Young, 2004). The question of institutional linkages arises again in relation to environmental concerns. The rise of institutional interplay[3] as a research subject has to do with the growing density of the international institutional landscape in general, and with the rapidly increasing number of MEAs in particular. While few scholars initially expressed concern that "treaty congestion" (Brown Weiss, 1993: 679) could reduce the effectiveness of international environmental governance, later empirical studies reveal a more

3 The terms "institutional interaction" and "institutional interplay" have been often used interchangeably (Stokke & Oberthür, 2011). When it comes to classification of institutional interaction, we distinguish between a horizontal interaction, which occurs among institutions located at the same level of social organization or at the same point on the administrative scale, and a vertical interaction, which addresses the influence of institutions across different levels of social organization or administration (Oberthür & Stokke, 2011; Young, 2002; Young et al., 2008).

nuanced picture (Andresen, 2013) and point out that, in general, synergy, rather than disruption or negative effects of institutional interplay, prevails in international environmental governance (Gehring & Oberthür, 2006 in: Oberthür & Gehring, 2011). Interestingly, the studies also show that "positive effects of institutional interaction are commonly 'consumed' without further action", irrespective of the potential for further improvement that may exist and that may be worth exploring (Oberthür & Gehring, 2011: 32). In order to reap such benefits, relevant actors or group of actors would need to engage in *interplay management* – conscious efforts undertaken in whatever form or forum to address and improve institutional interaction and its effects (Stokke, 2001; Stokke & Oberthür, 2011). Interplay management, together with inquiries into institutional complexes – sets of institutions that co-govern a particular issue area – and into institutional change and dynamics have been among the latest additions to the literature on institutional dimensions of global environmental change (Young, 2010).[4]

2.8. Towards Global Environmental Governance and a Governance Architecture

In parallel with advances related to regime interplay, regimes clusters, and regime complexes, there is a growing body of research on *global governance,* highlighting – in contrast to traditional intergovernmental perspectives – the emergence of new actors and "agency beyond the state", new mechanisms of transnational rule-setting and implementation, new types of horizontal and vertical fragmentation and interlinkages in world politics (Biermann & Pattberg, 2012b), and cascading effects of regime shifts (Rocha, Peterson, Bodin, & Levin, 2018). Among the newly examined actors have been science and expert networks, global corporations and intergovernmental bureaucracies. With respect to mechanisms, there is the recognition that the increased participation of non-state actors has given rise to new forms of governance, such as *transnational environmental regimes.* The core difference between the transnational and international regimes is that in case of the former the non-governmental actors are the ones who generate the "principles, norms, rules, and decision-making procedures around which the expectations of actors converge in a given issue area" (Krasner, 1983b: 2). It follows that the norms

4 A great part of research on international environmental institutions arose from the project on the Institutional Dimensions of Global Environmental Change (IDGEC), which was one of the four core projects of the UN-affiliated International Human Dimensions Programme on Global Environmental Change (IHDP). The IDGEC launched in 1999 and ended in 2007. Upon its finalization, the results of the project as well as identified directions for future research, combined with the findings of the Global Governance Project that operated approximately throughout the same time period, fed into the Earth System Governance Project that is now the core project of the IHDP (Young, 2002; Young et al., 2008).

and rules of transnational environmental regimes are by default not legally binding, which opens an interesting path of inquiry into the effectiveness and performance of non-legally binding regimes in international society. Research on these largely follows the structure of the debate pertaining to international interstate regimes that had been examined earlier (Pattberg, 2012).

In focusing on non-state actors, the work on transnational environmental regimes complements the earlier regime literature that is predominantly dedicated to intergovernmental forms of cooperation among states. In doing so, it addresses one of the major criticisms of regime analysis which points to the theory's predominantly state-centric approach and consequential focus on order and stability in world affairs (Stokke, 1997; Young, 1999). The original state-centrism of the theory was, in turn, dictated by the strong policy-oriented ambition of its creators, where generating policy advice and informing decision-makers in their efforts to address challenges related to governing human–environment relations was always front and centre of research on regimes and the institutional dimensions of global environmental change (Haas et al., 1993; Stokke, 1997; Young et al., 2008).

Along with the increasing scale of the challenge of managing human–environment relations, much of interest of scholarly community has turned towards addressing questions of the governance of complex systems (Young, 2017b), earth system governance, and issues of governance architecture (Biermann, 2008, 2014). The recognition of the existence of compound linkages and interplay among institutions has shifted the debate towards the need to understand the overall institutional framework of governance, "the entire interlocking web of widely shared principles, institutions, and practices that shape decisions by stakeholders at all levels in this field" (Biermann & Pattberg, 2012a: 274), that runs through all, or through a large number, of institutions and governance mechanisms. The study of an architecture defined in this manner has been recognized as central to all other dimensions of earth system governance as it is the architecture that describes the framework for the actions of agents, sets the rules for the accountability of those who govern, shapes the allocative outcomes, and determines the degree of adaptability of the overall system (Biermann, 2014: 81).

Yet, while interest has turned towards examining the earth governance system in its entirety, towards addressing its deficiencies and improving its functionality, there is much still to be learned from additional research on the individual components and regimes within that system, where understanding the operations of hundreds of existing regimes and their interlinkages is ever more important (Biermann, 2008; Young, 2008). In other words, keeping in mind and advancing our comprehension of the larger system does not free us from the need to analyze smaller units of governance architecture, from examining their characteristics, specific roles, contributions, and patterns of change and dynamics. As this dissertation and the in-depth case study of the Arctic Council reveals, there is much to be learnt from the existing arrangements

that could inform our thinking on the range of mechanisms at our disposal vis-à-vis challenges related to the governance of complex systems. In many ways, the Arctic region – which is described in the next section – serves as a vivid illustration of the challenges and developments reflective of the rest of the globe.

3. THE ARCTIC

"As goes the Arctic, so goes the world."

—Sheila-Watt Cloutier, Inuk leader and author

In several aspects, polar regions previously served as an arena for studies and advances in regime theory. The 1998 Science Plan of the Institutional Dimensions of Global Environmental Change (IDGEC) laid out three research foci for institutional research – causality, performance, and design; put forward three analytical themes – the problems of fit, interplay, and scale; and, in terms of physical location, suggested concentrating on Southeast Asia and the polar regions (Biermann, 2008). While much of scholarly attention has been dedicated to studying the Antarctic and the Antarctic Treaty System (Stokke & Vidas, 1996b), the Arctic has also served as a case in several studies on various aspects related to international regimes (Stokke, 2011, 2013b; Stokke & Hønneland, 2007; Young, 1998, 2012c).

The Arctic, unlike the opposite pole, is not the subject of a uniform legal regime, or even a precise, internationally agreed legal definition (Oppenheimer & Israel, 2014). The Arctic is often delimited by the latitude of the Arctic Circle (66°32'N), which approximates the southern boundary of the midnight sun, and encompasses land territories of Canada, Denmark, Finland, Iceland, Norway, Sweden, the Russian Federation, and the United States (AMAP, 1998). There are, however, other definitions that set the Arctic's boundaries elsewhere, depending on what is being studied (Osherenko & Young, 1989). On land, the tree line is the effective southern boundary of the Arctic. At sea, the boundary is approximately the maximum extent of sea ice (Conservation of Arctic Flora and Fauna (CAFF), 2013). The Arctic can be also defined according to sociological criteria, looking at shared human factors. In all instances, the Arctic encompasses an area of around 40 million square kilometres or about 8% of the surface of the Earth, with a human population of approximately four million, 10% of whom are indigenous, even if the relative shares of indigenous and non-indigenous populations in each circumpolar region differ significantly (Arctic Human Development Report, 2004). The Arctic spans a wide range of ecosystems and, as a whole, is a very diverse region with important differences in natural conditions and economic activities (AMAP, 2017b, 2017a; AHDR, 2004; Glomsrød, Duhaime, & Aslaksen, 2017; Hoel, 2015).

Even if the Arctic has relatively low biodiversity, it is home to more than twenty-one thousand known species of highly cold-adapted mammals, birds, fish, and plants (CAFF, 2013). Similarly, even though the Arctic Ocean is not known for extensive fisheries per se, the sub-Arctic and northern portions of adjacent seas have among

the largest fisheries in the world (Fluharty, 2012; Hoel & Vilhjamsson, 2005). As such, Arctic biological diversity, next to its intrinsic worth and irreplaceable cultural, scientific, and spiritual value, also provides innumerable services to people. At present, it is under increasing pressure from multiple stressors, such as industrial development, pollution, local disturbances, and invasive alien species, the impact of all of them exacerbated by climate change, which is by far the most serious threat to the region's biodiversity (Conservation of Arctic Flora and Fauna (CAFF), 2013) and is the fundamental driver of Arctic transformation (ACIA, 2004).

As result of human-induced climate change, the Arctic has been warming more than twice as rapidly as the world as a whole for the past 50 years and, today, driven by quickly rising temperatures, it is shifting to a new state, with a warmer, wetter, and more variable environment (AMAP, 2017c). Among identified shifts in the Arctic – large, relatively abrupt, and mostly irreversible changes in the structure and function of social-ecological systems – are the accelerating loss of Arctic sea ice, the Greenland ice-sheet collapse, the greening of the Arctic, and thermohaline circulation, all of which may have very substantial impacts on countries and communities worldwide (Arctic Council, 2016; Sommerkorn & Hassol, 2009; Young, 2012b).

As dramatic as they are in biophysical terms, the recession of Arctic sea ice and the consequent opening of the Arctic Ocean and its subjacent areas has triggered interest on the part of private actors and non-Arctic states attracted by prospects of commercial shipping through Arctic waters, access to the region's oil and energy resources, and the potential for industrial fisheries and for ship-based tourism (Howard, in Young, 2012b). The shorter distances offered by Arctic sea routes make them attractive alternatives to the southern routes, and according to the United States Geological Survey (USGS), the Arctic may hold approximately 30% of the world's undiscovered gas and 13% of the world's undiscovered oil reserves (United States Geological Survey, 2008). Yet, whether, in what form, and at what scale developments in these fields occur, or will occur, is primarily dictated by global economic forces, resulting in increasing globalization of the previously fairly self-contained region with a distinct policy agenda. The Arctic today is increasingly affected by outside environmental, economic, and geopolitical developments, while the impact of Arctic climate change is increasingly felt throughout the mid-latitudes, further tightening the connections between the region and the wider world (Heininen & Southcott, 2010; Keil & Knecht, 2017; National Research Council, 2014; Overland et al., 2015; Stone, 2015; Young, 2012a).

The unprecedented transformational character and pace of change in the Arctic have resulted in high levels of uncertainty about both the causes and consequences of developments unfolding in the region, making forecasts or projections even over the next 5–10 years challenging and ambiguous (AMAP, 2017b; Corell, Kim, Kim, & Young, 2017). Among the few things that can be stated with certainty is that the drivers of many changes in the Arctic, including climate change, pollution, and

demand for the region's resources, originate in the lower latitudes and come from non-Arctic actors, making it essential to include them in a governance equation aimed at addressing challenges ahead of the North. This, in turn, precludes dealing with the Arctic, as in the early days of circumpolar collaboration, as a region separate from global matters.[5] Rather, present developments and the overall state of affairs put a premium on fora and solutions that are able to account for the rights of Arctic rightsholders, stakeholders, and various groups with interests in the circumpolar North. In many respects, the Arctic – much like the rest of the planet – exhibits the characteristics of a complex system. Advancing globalization makes it impossible to isolate regional occurrences from the interplay of forces operating in the world at large. The linkages among the various components of the Arctic's large and dynamic socioecological system effectively preclude dealing with issues arising in isolation from one another. Finally, the phenomenon of teleconnections, where forces operating in one part of the Earth's system can trigger unintended consequences in distant parts of the system – such as the effect of Arctic warming on weather patterns in the mid-latitudes – all point to the need to view Arctic governance in terms of the governance of a complex system (Young, 2012b, 2017b).

In attending to such circumstances, cooperation is key.

5 According to Oran Young, the Arctic in the last three decades has experienced two fundamental state changes, each of them having major consequences for Arctic policymaking and governance in more broader terms. The first change, 'a delinking or decoupling shift', took place in the late 1980s/early 1990s and was closely linked to the waning of Cold War and the collapse of the Soviet Union. It resulted in the launch of numerous formalized structures of collaboration, was marked by a strong focus on Arctic-specific matters and allowed for the gradual development of 'the idea of the Arctic as a distinctive region with a policy agenda of its own'. At the same time this process brought also a disconnection between Arctic governance and the governance unfolding on a global scale. The second state change, 'a linking change', began in the Arctic in the early 2000s and continues until today. As illustrated in this section, it has been to a large extent driven by processes of global environmental change and globalization – in other words, a mix of forces of environmental and socioeconomic character (Young, 2009a, 2009b).

4. ARCTIC GOVERNANCE

"If you want to go fast, go alone. If you want to go far, go together."
African proverb

4.1. The Overview of Arctic Governance

Where there is governance, there is usually also cooperation (Durfee & Johnstone, 2019: 5). The Arctic has a long history of ingenious local, bilateral, transnational, and international forms of collaboration as well as responses to the demands of governance in the region. Historically, Arctic lands have been populated by indigenous peoples who used their maritime and terrestrial resources in a sustainable manner and developed systems of social practices, many of which prevail to this day (Arctic Governance Project, 2010; Shadian, 2014). The Treaty Concerning the Archipelago of Spitsbergen, concluded in 1920 and still in force today, represents a case of sovereignty innovation, in terms of which Norwegian sovereignty over the islands is recognized in return for granting all parties equal access to the archipelago's natural resources, facilitating scientific research, and establishing an equitable administrative system, in terms of which any party to the treaty can send its nationals to the islands for peaceful purposes (Byers, 2013; Durfee & Johnstone, 2019).

While the Cold War turned the Arctic into a theatre of military operations between the Soviet Union and the United States and its allies, cooperative developments have begun to take place in the region on a smaller scale since 1950s. In 1956, the Nordic Sami Council was established to promote the rights of Sami people in Finland, Norway, and Sweden, and set a precedent for formalized indigenous cross-border collaboration in the North. In 1973, five Arctic Ocean coastal states, Canada, Denmark, Norway, the Soviet Union, and the United States, signed the Agreement on the Conservation of Polar Bears, which was not only the first multilateral cooperative arrangement during the Cold War, but has since then been furthered by several management agreements between the United States and Canadian indigenous governments, and by the agreement on the conservation and management of the Alaska-Chukotka polar bear population signed by the United States and Russia in 2000 (Byers, 2013; Durfee & Johnstone, 2019; Oppenheimer & Israel, 2014). In another demonstration of cooperation across the Cold War divide, in 1975, Norway and the Soviet Union signed the first in a series of bilateral agreements that formed the basis of the Barents Sea fisheries regime (Stokke, 2012; Stokke, Anderson, & Mirovitskaya, 1999). Furthermore, as an expression of Inuit activism and unity, the Inuit Circumpolar Conference (later Council) (ICC) was

founded in 1977 to represent the Inuit of Canada, Alaska, Greenland, and – since 1989 – of the now former Soviet Union (Keskitalo, 2004), laying the ground for what would become one of the most innovative features of circumpolar collaboration, the high-level engagement of indigenous representatives in the Arctic Council (English, 2013; Wilson Rowe, 2018; Young, 2016b).

While the above examples illustrate that cooperation in the Arctic is not new, its scope has increased exponentially since the end of the Cold War, sparked by the seminal "Arctic zone of peace" speech of Mikhail Gorbachev, the then General Secretary of the Communist Party of the Soviet Union, delivered in Murmansk in October 1987. The speech commenced a period of "cooperative Olympics in the Arctic" (Hønneland & Stokke, 2007), which resulted in the formation of several bodies of paramount importance to collaboration on northern affairs, including the International Arctic Science Committee (IASC), the Arctic Environmental Protection Strategy (AEPS), the Council of the Baltic Sea States (CBSS), and the Barents Euro-Arctic Region (BEAR) (Rogne, Rachold, Hacquebord, & Corell, 2015; Smieszek, 2017a; Stokke & Hønneland, 2007). The emergence of these arrangements, which involved not only states, but also non-state actors and sub-national units, and reflected various forms of interstate and international engagement, led concurrently to the emergence of the Arctic as a distinct region in international society (Keskitalo, 2004; Young, 2000).

As noted by Rowe (2018: 8-9), the "compelling political nature of the Arctic – its indigenous sovereignties meeting state governance, management of a rapidly changing physical environment, and of intersecting national boundaries and transnational ecosystems, resources, and legal regimes" has attracted a good deal of scholarly attention, with contributions to research on cross-boundary relations in the Arctic coming from many different angles and fields of social science. Academic production on the theme of Arctic governance has significantly expanded, especially over the last decade (Pelaudeix, 2015). The field is very diverse with respect to the analytical frameworks adopted, levels of governance examined, and issue areas selected. It has dealt with, among others, questions pertaining to the governance of sub-state units and territories (Loukacheva, 2007); developing the policies and strategies of Arctic states (Arnaudo, 2010; A. J. Bailes & Heininen, 2012; Griffiths, Huebert, & Lackenbauer, 2011; Hønneland, 2016; Wilson Rowe, 2013; Zysk, 2015); the approaches of non-Arctic actors, including Asian countries (Corell et al., 2017; Timo Koivurova et al., 2019; Lunde, Yang, & Stensdal, 2016; Shibata, Zou, Sellheim, & Scopelliti, 2019) and the European Union (Keil & Raspotnik, 2014; Liu, Kirk, & Henriksen, 2017; Raspotnik, 2018; Stepien, Koivurova, & Kankaanpää, 2015; Wegge, 2012); indigenous Arctic governance, and the claims and rights of Arctic indigenous peoples (Cambou, 2018; Fondahl & Irlbacher-Fox, 2009; Shadian, 2014). There is a voluminous literature on international law and frameworks relevant to the Arctic (Eichbaum, 2013; Haftendorn, 2013; E.J.

Molenaar, 2012; Erik J. Molenaar, 2017; Stokke, 2013a, 2015; Young, 2012c) and to its marine areas (Baker & Yeager, 2015; Franckx, 2010; Hoel, 2009a, 2009b, 2014; Koivurova & Molenaar, 2010; PAME, 2013; Rothwell, 1996; Young, 2011b, 2016a). Likewise, much attention has been paid to maritime boundaries within the region (Byers, 2013; Franckx, 1993; McDorman & Schofield, 2015); as well as to regulations and developments related to Arctic shipping (Arctic Council, 2009; Beckman, Henriksen, Kraabel, Molenaar, & Roach, 2017; Moe & Stokke, 2019; Rothwell, 2018); Arctic oil and gas, with particular focus on offshore extraction (Basse & Pelaudeix, 2017; Humrich, 2013; Johnstone, 2015; Keil, 2014; Offerdal, 2007); Arctic security (Kraska, 2013; Tamnes & Offerdal, 2016); Arctic climate governance (Duyck, 2015; Hasanat, 2012; Hoel, 2007; Koivurova, Keskitalo, & Bankes, 2009; Shapovalova, 2016); Arctic fisheries (Harsem & Hoel, 2012; Pan & Huntington, 2016; Stokke, 2017; Weidemann, 2014), and seals regimes (Cambou, 2013; Sellheim, 2014, 2015).

Amidst all these discussions the Arctic Council, "the foremost of the Arctic-specific international institutions" (Stokke, 2015: 331), has garnered a particularly high level of attention. In the years since 1996, when the Arctic Council was established by means of the Declaration on the Establishment of the Arctic Council (*Declaration on the Establishment of the Arctic Council*, 1996, hereafter the Ottawa Declaration), the scope and reach of the AC has expanded significantly, far exceeding the expectations of those who negotiated its provisions and observed its convoluted beginnings (English, 2013; Kankaanpää & Young, 2012; Koivurova, 2009; Young, 1998).

As the evolution, performance, and role that the Arctic Council plays, are central to the focus of this dissertation and to the elaboration of the concept of informal international regimes, it is important here to present an overview of the council's history from its beginnings to the present day. At the same time, it needs to be noted that parts of the content of the section below are also included in the articles in this dissertation. Thus, there is a certain degree of unavoidable overlap between them.[6]

4.2. The History and Structure of the Arctic Council

In order to grasp the history of the Arctic Council, it is important to begin with its direct predecessor, the first circumpolar cooperative initiative launched by Finland towards the end of the 1980s. The previously mentioned Murmansk speech of Mikhail Gorbachev, in which he called for making the Arctic a zone of peace through, among others things, collaboration to protect its natural environment, induced Finland to convene a meeting of all eight Arctic states in 1989 to discuss

6 The Article 4, in particular, focuses on the changes that have taken place in the Council since its inception. Accordingly, it also provides their most detailed account that is not included in this part.

the prospects for such cooperation – an initiative that, after two years of intensive diplomatic efforts, led to the signing of the Declaration on the Protection of Arctic Environment and the Arctic Environmental Protection Strategy (AEPS) in 1991 in Rovaniemi, Finland. The strategy aimed to develop environmental monitoring in the region, deepen scientific understanding of pollution in the Arctic, and continuously assess threats to fragile northern ecosystems (AEPS, 1991). In order to achieve those objectives, the strategy established four working groups: the Arctic Monitoring and Assessment Programme (AMAP), Conservation of Arctic Flora and Fauna (CAFF), Emergency, Preparedness, Prevention and Response (EPPR) and Protection of Arctic Marine Environment (PAME). Each working group was tasked with realizing its individual mandate and was given substantial autonomy to develop and conduct its programmatic activities (Nilson, 1997; Young, 1998). The AEPS promptly began to operationalize itself and to work on its first projects and assessments, including the major 1997/1998 deliverable, which not only provided critical information on Arctic pollution issues, but also established a lasting precedent for assessments that would consequently become the hallmark of the AEPS and later the Arctic Council (AMAP, 1998; Kankaanpää & Young, 2012; Stone, 2015).

The limited focus of the AEPS on selected environmental issues was criticized from the onset for insufficient inclusion and consideration of the human dimension of the Arctic within its activities. Canada in particular, because of its large indigenous population and the high profile of northern issues on its domestic political agenda, was an active proponent of establishing a new multilateral decision-making organization with wide-ranging authority that would also attend to other matters such as sustainable development in the North (Smieszek, 2019). Not all Arctic parties, however, shared this view and the Unites States in particular fiercely opposed the creation of any new international organization. The US made its consent for a new body contingent upon setting up the council as a purely consultative forum with few mutual obligations (Scrivener 1999: 55). Ultimately, the United States agreed to the formation of an institution small in scale, without legal personality, a permanent budget, chair or secretariat – a minimalist version of what had been earlier envisaged (Bloom, 1999; English, 2013; Scrivener, 1999). The Arctic Council was established on 19 September 1996 as a high-level forum to promote "cooperation, coordination and interaction among the Arctic states, with the involvement of the Arctic indigenous communities and other Arctic inhabitants on common Arctic issues, in particular issues of sustainable development and environmental protection in the Arctic" (*Declaration on the Establishment of the Arctic Council*, 1996). Like its predecessor, the AEPS, it was adopted by means of a declaration, rather than as a treaty, thus reflecting the political – but not a legal – commitment of eight Arctic states to circumpolar collaboration (Bloom, 1999).

In addition to the category of members of the Arctic Council – reserved exclusively for Canada, the Kingdom of Denmark, Finland, Iceland, Norway, the

Russian Federation, Sweden, and the United States – the Ottawa Declaration provided for the categories of permanent participants (PPs) and observers. The former has been an innovative and largely unprecedented arrangement in terms of which organizations that represent either one people living in many Arctic states or many indigenous peoples living in one Arctic state must, as PPs, be fully consulted by AC member states before consensual decision-making (*Declaration on the Establishment of the Arctic Council*, 1996). The rules stipulate that, at all times, the number of PPs must be smaller than the number of AC members, and today the Council has six PPs. The latter category, observers, is reserved for non-Arctic states, global and regional intergovernmental and interparliamentary organizations, and non-governmental organizations "that the Council determines can contribute to its work" (*Declaration on the Establishment of the Arctic Council*, 1996). In accordance with the Arctic Council's rules of procedure, the primary role of observers is to observe the work of the Arctic Council, and they are expected to contribute and engage predominantly at the level of the Arctic Council's working groups (Arctic Council, 2013a). Originally, there were 14 observers present at the signing ceremony of the declaration in Ottawa in 1996, and nine were originally listed in the annex to the AC's first rules of procedure in 1998 (Arctic Council, 1998). Today, there are 39 observers to the council, representing a varied group of actors, including states such as China, India, and Japan, and organizations such as the International Council for the Exploration of the Sea (ICES), the International Maritime Organization (IMO), World Wide Fund for Nature (WWF), the University of the Arctic (UArctic), and the International Federation of Red Cross and Red Crescent Societies (IFRC). In addition, the group includes also the EU, which, despite the lack of formal title, is recognized as a de facto observer to the AC. All decisions of the Arctic Council and its subsidiary bodies are taken by consensus among all eight Arctic Council member states (*Declaration on the Establishment of the Arctic Council*, 1996).

When the Arctic Council was formed, it subsumed the four working groups of the AEPS, complemented by the Sustainable Development Working Group (SDWG), created in 1998, and later by a sixth working group, the Arctic Contaminants Action Program (ACAP) established in 2006. While the Ottawa Declaration marked a shift in focus for Arctic cooperation from environmental protection alone toward a broader concept of sustainable development, there was nevertheless considerable disagreement among the Arctic states over the meaning and definition of the concept of sustainable development (Keskitalo, 2004; Tennberg, 1999). As a result, instead of adopting a comprehensive programme of action, it was decided at the AC ministerial meeting in Iqaluit, Canada, in 1998 that the sustainable development programme would be comprised of a series of specific projects (Bloom, 1999).[7]

7 Only in 2017 the Sustainable Development Working Group of the Arctic Council had its first Strategic Framework developed and approved (Smieszek, 2019).

It was also in Iqaluit that the Arctic states adopted, after two years of protracted negotiations, the AC rules of procedure (Arctic Council, 1998).

During much of its first decade in operation, while the Arctic remained largely on the sidelines of the mainstream foreign and national politics in most Arctic countries (Smieszek & Koivurova, 2017), the council operated mostly as a science rather than as a policy forum. The bulk of the council's work revolved around the conducting of scientific assessments of the state of and change in the Arctic environment and human development in the region, including the Arctic Climate Impact Assessment (ACIA) (ACIA, 2004), the Arctic Human Development Report (AHDR) (Arctic Human Development Report, 2004), reports on persistent organic pollutants (POPs), and the Arctic Marine Shipping Assessment (AMSA) (Arctic Council, 2009). It was the seminal ACIA that, when it was released, established the Arctic as a prime location of global climate change, one which is likely to warm twice as fast as the rest of the planet, with profound consequences for humans and ecosystems in the region and beyond. Accordingly, the ACIA contributed to shifting the image of the Arctic from a "frozen desert" to the one of "Arctic in change" (Fenge, 2013; Koivurova, 2009; Stone, 2015), a trend that was further intensified by a series of events that received unparalleled attention from the media, the public, and government decision-makers worldwide. These events included the widely reported planting of the Russian flag on the seafloor at the North Pole in August 2007 and a record decrease in the extent of the Arctic sea-ice in September of the same year (NSIDC, 2007). Furthermore, as previously mentioned, in 2008, the USGS published estimates which stated that the Arctic may hold up to 30% of the world's undiscovered oil and gas reserves (United States Geological Survey, 2008). This was followed by the announcement that the Arctic Ocean could become ice-free in summer as early as between 2030 and 2100 (NSIDC, 2009). The world's attention was further drawn to the North by a media frenzy regarding possible geopolitical tensions, alleged emerging conflicts over Arctic resources, and prospects of new economic opportunities in the increasingly accessible Arctic Ocean (Borgerson, 2008; Graff, 2007; Young, 2009b, 2009c).

All of these events combined translated into much greater interest in Arctic affairs expressed by an increasing number of non-Arctic actors. Many of them submitted their applications for observer status within the council, some also raised questions about the adequacy of the existing Arctic governance structures vis-à-vis challenges faced by the region (European Parliament, 2008; Graczyk & Koivurova, 2014; Koivurova, 2009). One of the challenges to the AC in fact originated with several Arctic states, when, in May 2008, representatives of Canada, Denmark (Greenland), Norway, Russia, and the United States (the so-called Arctic Five) met in Ilulissat, Greenland, to reassert their exclusive legal sovereign rights and obligations as coastal states of the Arctic (Ilulissat Declaration, 2008). Whereas the intention of Arctic Ocean coastal states was to stymie debate about the need for a new comprehensive international legal regime to govern the Arctic Ocean, the excluded members of

the Arctic Council – Iceland, Finland, and Sweden – and the PPs argued against a new forum as one that would impede existing formats and patterns of circumpolar collaboration and exclude long-term partners and Arctic indigenous peoples from discussions. As a consequence, the Ilulissat meeting not only raised tensions among Arctic actors and states, but it also cast temporary doubt on the Arctic Council as a preeminent forum for matters pertaining to the Arctic (Pedersen, 2012).

With these concerns as background, the Arctic Council, which, until its 10th anniversary in 2006, was used to operating away from the limelight and on the peripheries of the world's international relations, set out on a path of internal reforms and adjustments to face the challenges of rapid Arctic transformation. As mentioned above, all these reforms and other changes in the AC are discussed in greater detail in the Article 4 in this dissertation, therefore I list them here briefly only as an overview.

Among the first efforts undertaken by the AC was the adjustment of its rules concerning the admission, role, and functions of observers. The AC agreed to the new and more specific criteria for observers in 2011, incorporated them into the revised rules of procedure adopted by the Arctic ministers at their meeting in Kiruna in 2013 (Arctic Council, 2011, 2013a, 2013b), and admitted new states and organizations as observers at the ministerial meetings in 2013, 2017, and in 2019 (Arctic Council, 2013b, 2017). In 2011 too, the Arctic ministers decided at their meeting in Nuuk, Greenland, to establish a standing Arctic Council Secretariat (ACS). This was accomplished in Tromsø, Norway, in 2013 (Arctic Council, 2011, 2013b). Finally, the AC ministerial meeting in 2011 became a milestone in the council's history when Arctic ministers signed there the first legally binding circumpolar agreement negotiated under the auspices of the Arctic Council, the Agreement on Cooperation on Aeronautical and Maritime Search and Rescue in the Arctic (the SAR Agreement).[8] The SAR Agreement was followed by the

8 To many such was the significance of the SAR Agreement that it marked a new phase in the Council's development. As previously mentioned, there are various conceptions of how developments in the Arctic and in the AC could be divided on the timeline (see fn.5). To complement the account offered by Young with respect to the Arctic region itself, in Conley's geopolitical perspective, two significant shifts that the Arctic has experienced in the most recent history were both centred upon Russia. While the first one came, like to Young, with the collapse of the USSR, the second geopolitical shift occurred with a return of geopolitical tensions that followed Russia's annexation of Crimea in March 2014 (Conley & Melino, 2016). In turn, regarding the formalized Arctic cooperation, its earlier accounts habitually emphasized its phase by phase development, with the first phase commenced with the Arctic Environmental Protection Strategy in 1991, the second marked by foundation of the Council in 1996, and with the promoted – but not materialized - third, where the soft-law basis of the AC would be replaced with a hard-law instrument and the Council would turn into a full-fledged international organization (Graczyk & Koivurova, 2015). In contrast, Rottem proposes a division of the Council's history according to the AC's main areas of focus in the given period: Arctic pollution from 1996 to the mid-2000s, climate change in the early 2000s, and finally, 'in recent years' responding to the growing interest and potential for activity in the region (Rottem, 2015).

second one, the Agreement on Cooperation on Marine Oil Pollution, Preparedness and Response in the Arctic (the Oil Spills Agreement)[9], signed at the ministerial meeting in Kiruna, Sweden, in 2013. A third agreement, on enhancing international scientific cooperation in the region, was concluded at the AC ministerial meeting in Fairbanks, Alaska, in May 2017. Since the Arctic Council has no independent legal personality, none of these agreements are in reality "Arctic Council's agreements", and the council served mainly as a catalyst for their launch and a forum for their negotiation. Nonetheless, despite this and the fact that the agreements are more capacity-enhancement rather than norm-making mechanisms, their signing was met with much enthusiasm and anticipation in relation to the council moving from a policy-shaping to become a policy-making body (Kao, Pearre, & Firestone, 2012; Smieszek, 2019; Stokke, 2013b).

All the legally-binding agreements came from the work of Arctic Council task forces, a new element that was added for the first time to the institutional architecture of the AC in 2009 and which, since then, has become its quasi-permanent element. Each task force has a specific mandate and aims to deliver concrete results within an assigned time frame. In addition to the task forces serving as vehicles for the negotiation of the aforementioned agreements, the Task Force to Facilitate the Circumpolar Business Forum laid the ground for the establishment of the Arctic Economic Council (AEC), the first in a series of specialized satellite bodies that have their roots in the AC and are expected to complement its work, yet operate independently from it. The grouping includes today the AEC, the Arctic Offshore Regulators Forum, and the Arctic Coast Guard Forum (see Molenaar, 2017).

The Arctic Council celebrated its twentieth anniversary in 2016. Over the course of its twenty-year lifetime, it had undergone a transition from a low-profile regional institution known to only but a few, to an acclaimed primary forum for circumpolar and global cooperation on issues pertaining to the Arctic (Koivurova & Smieszek, 2016; Smieszek, 2019; Young, 2016b). It has significantly expanded its activities, structures and has become "a hub for a wide range of forms of circumpolar collaboration, from scientific and monitoring to political, legal, economic and to some extent security issues" (Graczyk & Koivurova, 2015). At the same time, as the AC ministerial meeting in May 2019 in Rovaniemi, Finland, showed, the Arctic Council is no longer shielded, as it was the case in the past, from geopolitical tensions and global high politics, much like the Arctic and Arctic governance can be no longer viewed in separation from forces operating at a global scale. I argue that all these

9 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) 50 ILM 1119 (2011) (SAR Agreement); Agreement on Cooperation on Marine Oil Pollution, Preparedness and Response in the Arctic (signed in Kiruna on 15 May 2013) <www.arctic-council.org/eppr> accessed 15 January 2017 (Oil Spills Agreement).

developments render an in-depth inquiry into the AC, including drawing systematic insights from the council's experiences and filling in the gaps in our comprehension of the body, of paramount importance not only to our understanding of the shifting landscape of Arctic governance (Young, 2016c), but also of, more broadly, global environmental governance.

4.3. Overview of Scholarship on the Arctic Council

The central role of the Arctic Council in the Arctic institutional landscape has been well reflected in the prolific scholarship on the AC (Axworthy, Koivurova, & Hasanat, 2012; Fenge, 2013; Fenge & Funston, 2015; Heininen, Exner-Pirot, & Plouffe, 2016; Nord, 2016a; Rottem, 2016; Tennberg, 1999; UArctic, 2016) and its various aspects: scientific assessments of the council (Nilsson, 2007, 2012; Smieszek, Stepien, & Kankaanpää, 2016); the council's contributions to international regulatory mechanisms (Brigham, 2014; Downie & Fenge, 2003; Khan, 2017; Prip, 2016; Selin, 2014, 2017; Selin & Selin, 2008; Shapovalova, 2016; Stone, 2015); the role of indigenous peoples and the PPs in the AC (Dorough, 2019; Gamble & Shadian, 2017; Koivurova & Heinämäki, 2006; Sellheim, 2019); and the role of the AC observers (Graczyk, 2011, 2012; Graczyk & Koivurova, 2014; Graczyk, Smieszek, & Koivurova, 2016; Knecht, 2017b, 2017a; Smieszek & Kankaanpää, 2015), including non-state actors (Burke & Bondaroff, 2019; Wehrmann, 2017). Moreover, much attention has been paid to the various roles of the Arctic Council (Bailes, 2013; Nilsson, 2012; Spence, 2017; Wilson, 2016); the AC's role in environmental and marine governance, including ecosystem-based management (Hoel, 2015; E.J. Molenaar, 2012; Stokke, 2011, 2013b; Young, 2016a); and to new circumpolar agreements negotiated under the auspices of the council (Kao et al., 2012; Rottem, 2015; Smieszek, 2017b). Finally, a question of leadership in the AC has received some treatment (Exner-Pirot, 2011; Nord, 2016b, 2019; Smieszek & Kankaanpää, 2015), as have lessons flowing from the history of Arctic collaborative efforts (Koivurova, Kankaanpaa, & Stepien, 2015; Koivurova, 2012; Stenlund, 2002).

Among Arctic pundits and practitioners, there is a broad consensus that the Arctic Council's accomplishments and contributions had far exceeded what anyone present at its beginnings in 1996 could have expected from a body void of many features of a traditional international organization: it was founded on the basis of a very general political declaration and without the support of a permanent secretariat or a stable budget (Kankaanpää & Young, 2012; Smieszek, 2019). Established as "a high-level forum", throughout its existence, the council has managed to find for itself a niche among other international institutions and has gradually become the primary body for discussing matters pertaining to the Arctic. Thanks to its ingenious participatory

arrangement, where organizations of indigenous peoples sit as PPs alongside Arctic state officials, it has become an important mechanism for increasing the prominence of the concerns of the Arctic's indigenous peoples (Koivurova & Heinämäki, 2006; Sellheim, 2019). A relatively clear spatial definition of the problems within the council and its acting within a predefined group of states have contributed to building an "Arctic identity" and have paved the way for recognition of the Arctic as a distinct region in the international political consciousness (Graczyk & Koivurova, 2015; Keskitalo, 2007; Keskitalo, 2004). Moreover, the AC's work has resulted in "probably the most significant accomplishment in Arctic environmental cooperation: a substantial expansion of our knowledge about the Arctic environment, including natural and anthropogenic processes" (Graczyk & Koivurova, 2015: 312). It has also enabled the identification of major risks to the inhabitants of the region and the forms of responses for addressing those risks. The council has provided critical input into negotiations and the implementation of international conventions, such as the Stockholm Convention on Persistent Organic Pollutants (2001) and the Minamata Convention on Mercury (2013; Downie & Fenge, 2003), and, in recent years, has itself offered a negotiating space for several legally binding circumpolar agreements. It has catalyzed the formation of new regional entities such as the AEC, the Arctic Offshore Regulators Forum, and the Arctic Coast Guard Forum. Finally, in providing for regular meetings of Arctic scientists, civil servants, and high-level officials, the AC has favoured building continuity of circumpolar cooperation, fostered good relations, and ensured mutual confidence-building among Arctic states, ultimately promoting peace in the region, which previously had served as one of the main theatres of the Cold War (Graczyk & Koivurova, 2015; Article 2).

Nonetheless, despite these contributions, the council's power to influence and "make a difference" in Arctic relations has been frequently disparaged and, as illustrated in the Article 3 of this thesis, virtually from the outset, the AC has been subject to reform proposals, both from within and from outside its circles, aimed at improving is performance, enhancing its efficiency and effectiveness. Among the major points of criticism has been the soft-law nature of the AC as of a high-level intergovernmental forum, rather than a traditional international organization, and the resultant non-legally binding status of its outputs and recommendations. In words of Durfee and Johnstone (2019: 77), "[t]he Arctic Council is disproportionately influential for what is structurally no more than a roundtable for discussion with no lawmaking powers or compliance mechanisms".

It is this disproportionate influence that triggered this inquiry and an in-depth case study of the Arctic Council in the first place. With the progress of my research, it became apparent, however, that the council's performance is not its only aspect worthy of closer examination – the AC also exhibits other characteristics which set it apart from the previously considered universe of cases of international regimes. As previously asserted, much like the Arctic region itself, over the last 25 years, the Arctic

Council has served as an example of innovation in modes of governance (Arctic Governance Project, 2010) – an example that I found underresearched and of much relevance not only to the region, but also with possible lessons for other governance issue or spatial areas. The experience of unparalleled Arctic transformation and the prevailing uncertainty about the trajectory of future developments present us simultaneously with a challenge and an opportunity to focus our efforts on new ways of thinking about the governance mechanisms at our disposal, as well as the means of enhancing them (Nilsson & Koivurova, 2016; Young, 2012b). While inquiry along these lines might call into question some of the prevailing assumptions about the nature of international system and its main actors, it is equally important that such research both draws from and contributes to the existing body of knowledge on the institutional dimensions of global environmental change and global environmental governance. Accordingly, it was the quest to understand the Arctic Council through the lens of regime theory that resulted in the findings presented in brief in the next section and elaborated in detail in Articles 2–4 in this dissertation. These findings serve, in turn, as a basis for putting forward the concept of informal international regimes outlined towards the end of this synthesis.

5. OVERVIEW OF THE ARTICLES

5.1. Article 1: Role of the Arctic Council Chairmanship

The first article concerns the role of the chairmanship in the AC. Chronologically written and published much earlier than the subsequent articles, the paper focuses on the structural aspect of the council that at the time of its writing had received little scholarly attention and remained largely understudied in writings on the AC and Arctic governance. With the exception of articles by Nord, who focused exclusively on the Swedish chairmanship of the AC (Nord, 2013), few other authors who dealt with the subject did so in separation from theoretical underpinnings related to the role of chairs in international negotiations and bargaining (Exner-Pirot, 2011; Fenge, 2013; Spence, 2013, 2015), a gap that I found to be worth exploring. Accordingly, the article had a twofold purpose: first, to examine the institutional arrangements as well as specific provisions pertaining to the chairmanship and the chair of the AC, and second, to analyze these provisions and resulting practice in light of the general literature on the subject.

The scant attention offered to the question of chairmanship has by no means been limited to the context of the AC. The scholars who focused on the subject found their work situated largely within the rational approach to the design of international institutions, in line with which "states use international institutions to further their own goals" (Koremenos, Lipson, & Snidal, 2001: 762) and where design features of specific institutions are a "result of rational, purposive interactions among states and other international actors to solve specific problems" (ibid.). To this end, the position of chair is a functional response to problems relating to collective action and bargaining in a multilateral context: potential failures of agenda, negotiation, and representation. Through tasks typically conferred upon the chairmanship—namely agenda management, brokerage, and representation—states seek to address difficulties of overcrowded or shifting agendas and the inability of parties to identify underlying areas of agreement, as well as handle relations with non-members and represent the institution vis-à-vis third parties. Although the chair is usually expected to conduct assigned functions with a view to promoting collective gains, the office of the chair, once vested with the power of process control, thus offers a platform for influencing outcomes of the process (Tallberg, 2010: 245). As a result, despite the procedural character of most of the chair competences, the political importance of the chair should not be underestimated; the conduct of the chairmanship, particularly in a rotating system, presents states with a manoeuvring

space that they can use to their own advantage and in pursuit of their national interests. This space, however, does not come without constraints, and among the parameters affecting the chair's performance are the international environment of an institution, the nature of the issue under consideration, institution-specific features, and, finally, the chair's personal skills.

It was against this background that, upon reviewing the origins and negotiations that led to the final agreement on the AC's institutional set-up, I examined the specific tasks and responsibilities conferred upon the chair of the AC by the council's rules of procedure, both in its original version as well as the one revised and adopted in 2013. In brief, I found that the most noticeable example of the AC chair's discretion is the customary practice of presenting by the chairing country a program of objectives for its AC tenure—providing directions for the AC in two-year time spans and playing much of the agenda-setting role typically conferred to chairs in international organizations. In light of the culture of dialogue and the practice of round-table discussions within the AC and its subsidiary bodies, the brokerage function turned out to be of lesser importance, much like the representation function of the AC in other international fora, where the AC cannot represent its member states in international negotiations and any statements it delivers must be approved by consensus of all council members.

As the article was written in 2015, one of the most pressing questions pertaining at that time to circumpolar collaboration in general, and to the AC in particular, concerned the impacts of external events—and more specifically of Russia's annexation of Crimea in March 2014—on the council's work and operation. Since the AC is a consensus-based body, the endorsement of its actions by all Arctic states is essential to its continued functioning. In light of the increasing uncertainty as well as the periodical conditions of animosity in international collaboration, I argued that identifying underlying areas of agreement and finding common ways to further cooperation might become issues of greater significance, thus potentially increasing the importance of the AC chair in brokerage among various Arctic actors. It was also in this context that I found worth noting and further exploring the role and potential of individuals—the SAO chairs—as the entrepreneurial leaders in the chairmanship process.

Viewed from the overall perspective of my inquiry/investigation, the findings from this first article laid the grounds for my future work on the structure, change agents, and evolution of the AC, a topic to which I returned in the fourth article included in this thesis.

5.2. Article 2: Evaluating Institutional Effectiveness: The Case of the Arctic Council

While my research interest revolved around questions of the effectiveness of the AC, the article "Evaluating Institutional Effectiveness: The Case of the Arctic Council" stemmed from the disconnection I observed between the majority of the literature on the AC's effectiveness and the general literature on the subject of effectiveness of international environmental regimes. Not only did I find this observation puzzling, but I also considered a lack of systematic and transparent inquiry into the effectiveness of the council a factor inhibiting our accumulation of knowledge about what 'makes the AC work'. Moreover, I argued that the prevailing disengagement of most of the AC accounts from the general literature on international regimes prevents us, on the one hand, from drawing from the insights of this literature, while, on the other hand, inhibiting an opportunity to contribute with the case study of the AC to the broader body of knowledge about international environmental institutions.

To address this matter, I devised a basic framework through which future studies of the AC could be better grounded in the general literature on international environmental regimes and their effectiveness, benefitting both our comprehension of the AC and the broader field of regime inquiry. Treating the AC as an institution or regime as these terms are used in the broader literature on international relations allowed me to tap into that field and make use of the scholarship on regime effectiveness to structure our thinking about the council. Cognizant of a variety of existing definitions of institutional effectiveness, I explicitly chose the political conceptualization of the term that is concerned with the extent to which an institution or regime contributes to solving or mitigating the problems that led to its creation. What characterizes this approach is its focus on observable changes in the behaviour of actors that can be convincingly attributed to the operation of a regime and that are responsible for the improved environment.

Based on the findings and the broader discussion of effectiveness in the international environmental regime literature, I put forward a framework of five elements of importance for the council's analysis. They included: definitions and natures of problems addressed by the council, operationalization of a yardstick to gauge the effectiveness of the AC, a question of institutional interplay, causal mechanisms behind the council's influence, and finally, consideration of the council's soft-law basis. While four of the factors explicitly referred to those identified in the general literature on international regimes, the last one specifically addressed an aspect that has often been raised in discussions about the council's (in)effectiveness: the AC's lack of strong legal foundation. It was through the adoption of these factors from the general literature that the article devised a framework and laid the ground for a better foundation for future studies of the AC's effectiveness within a broader field of scholarly inquiry on international regimes.

Even though the article did not aim at an actual evaluation of the effectiveness of the council and did not carry out such an assessment, the preliminary analysis revealed, among other findings, the AC's potential for increased normative impact over Arctic states and other actors with interests in the region that could stem from the AC's newly developed non-binding framework on black carbon and methane, rather than, as often repeated by observers of Arctic affairs, from the recent legally binding agreements negotiated under the auspices of the council. Interestingly—and importantly for my own further inquiry—the point questioned the prevalence of a line of reasoning that perceives regulations and legally binding norms stemming from the AC as the ultimate and most functional solutions to Arctic challenges. Moreover, it raised an important question about the AC's own evolution and direction of change in light of the rapidly and profoundly changing character of the socio-ecological setting in which it operates, as well as underlined the importance of renewed interest in the effectiveness of soft-law instruments in the international context. In general, these observations not only signalled areas that merit closer attention in our future research on the council, but also demonstrated the value of systematic application of insights from the general literature to our thinking about the AC.

While the application of the central ideas of the broader literature on institutional effectiveness served primarily to structure and illuminate our understanding of issues that should be addressed when examining the effectiveness of the AC, it simultaneously raised several questions not yet fully answered in the international relations literature on the effectiveness of international environmental regimes that are worthy, in my assessment, of closer examination. These questions concerned the interplay between binding and nonbinding norms and instruments in regional and global governance, a deepened understanding of the cognitive causal mechanism, and the relationship between institutional dynamics and effectiveness. In addressing them, I argued that a continued, deepened inquiry of the AC regime may prove helpful not only to enhancing our comprehension of the AC but may also be of significant value to our broader knowledge of international relations.

5.3. Article 3: Do the Cures Match the Problem? Reforming the Arctic Council

Building from the second article and one of questions that arose from it—concerning the direction of the AC's change and evolution—the aim of the third paper was the evaluation of the reform proposals that have been presented to the AC thus far. Despite the council's numerous valuable contributions to Arctic governance, throughout its history the AC has been subject to criticism and reform proposals floated by academic, non-governmental, and practitioner communities alike. While

the question of reforming the council to increase its effectiveness and improve its fit with the biophysical and social setting in which it operates has always been relevant, I consider it even more so today, in light of the forces and processes that are fundamentally transforming the Arctic region. Not only climate change and globalization but also the proliferation of mechanisms and institutions relevant to Arctic governance call, in my view, for continuous evaluation and consideration of the form and role of the council in this constantly changing landscape. Therefore, in order to inform the ongoing debate about the AC's reform, I took stock of the proposals presented to the council and for the analytic purposes grouped them into three clusters: legal reforms, organizational reforms, and functional reforms. Next, I examined each cluster of reform proposals in terms of their applicability and usefulness to the AC, with a special emphasis on their suitability given the prevailing conditions in the Arctic and their potential to enhance the effectiveness of the AC. As before, I understood this effectiveness as the extent to which the council, as an institution, is able to solve or alleviate the problems that led to its creation.

From the analysis conducted in the article, a few conclusions emerged. First, the council is not well-suited to serve a legally binding regulatory function, and instead of spending energy on legal hardening of states' commitments, it would benefit more from enhancing reporting and review procedures of existing soft norms and guidelines. Second, changes to streamline the council's work and structure, set forth largely in line with the logic of national administrations and bureaucracies, should be viewed more as measures aimed to increase the AC's efficiency, not necessarily its effectiveness. Whereas enhancing efficiency is of unquestionable importance to a forum with a constantly tenuous financial basis, I argue that the two concepts—efficiency and effectiveness—should not be conflated and confused. Finally, in terms of functional reform proposals contextualized to Arctic political, environmental, and legal realities, while they have ranked the highest in terms of their potential to tailor the council's role to the setting in which it operates and to the fluid nature of circumstances in the region and beyond, in my assessment they seemed to have occasionally fallen short due to their insufficient level of detail—a deficiency that, if addressed, could conceivably enhance them even further.

What the completed analysis revealed most of all was that certain ideas for strengthening the council, like providing it with a treaty foundation or streamlining its workflows, have been systematically promoted from the AC's establishment, irrespective of changes in the international and Arctic natural environments. Whereas the paper's discussion of the three categories of reform served to elucidate their applicability to the case of the AC and their adequacy from the perspective of the challenges facing the Arctic, not as a broader critique of the major schools of thought behind them, it indicated that the ideas put forward by various authors often stem predominantly from their general thinking about what constitutes an effective means of international collaboration and addressing environmental

problems, rather than from a consideration of the specific conditions of the Arctic and the AC. I found this to be an important inference, given the fundamental changes occurring in both Arctic and global socio-environmental settings that call into question the usefulness of past modes of thinking and forms of international cooperation. I concluded that the need to be aware of that tendency, and to pay careful attention to how well prescribed measures match the nature of the issues to be addressed, is the primary lesson one should take from this examination of past proposals for the reform of the AC.

5.4. Article 4: Steady as She Goes? Structure, Change Agents and the Evolution of the Arctic Council

In the final article, I turned my attention to the institutional change that the AC has experienced since its formation in 1996. As before, I sought to inform our understanding of the AC with the findings from the general literature on international environmental regimes, also complemented in this case with insights flowing from broader studies of gradual institutional change (Mahoney & Thelen, 2010).

The fact that the AC since its establishment has evolved significantly in reach and stature has not escaped the attention of scholars and practitioners. Most of the accounts dedicated to the council's evolution have focused, however, on developments that have taken place in the council between 2007 and 2009, and on the exogenous sources of the AC's change. In order to complement that outlook and deepen our comprehension of the AC, I sought in the article to answer two primary questions: first, what are the changes that have taken place in the AC since its inception? Second, how can we explain those changes? It is important to note that in the latter inquiry, I concentrated specifically on the council's endogenous properties that enable or constrain its change and that thus far, in my assessment, have received little treatment in studies of the AC. Cognizant of the fact that complex causality is the salient feature in virtually every case of institutional change, and that institutional change always arises from combinations of various interactive drivers, the aim of this article did not go as far as to offer a provision of a full explication of the AC's change. Instead, I considered the presented research an important step in a process aimed at understanding the council's evolution, filling a significant gap in the existing scholarship on the council and paving the way for future studies to investigate the abovementioned interactions of both endogenous and exogenous drivers.

With respect to changes that have taken place in the council, there has been a multitude of them. Among others, the study showed that, contrary to commonly held perceptions, it took nearly a decade to operationalize the provisions of the

Ottawa Declaration and that the structure of the council as presently known—with six permanent participants and six working groups—was not fully established until 2006. Moreover, the council's administrative capacities have been much enhanced thanks to the establishment in 2013 of the Arctic Council Secretariat, which today also serves as the secretariat of the ACAP and EPPR working groups and is located in Tromsø, Norway, along with most of the secretariats of the working groups and the Indigenous Peoples' Secretariat, which are no longer dispersed among Arctic states and are instead centralised in a single location. With respect to its subsidiary bodies, the AC currently maintains—in addition to its six regular working groups—from two to five task forces and expert groups at any moment, one of the most significant of the structural changes to the council. Finally, 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 to changes in the council's structure, I also found numerous less formal, yet no less consequential, changes in terms of social practices within the AC. These include, among others, a shift towards issues related to economic development, the introduction of executive meetings of SAOs, attendance of the council's meetings by higher-ranked officials and diplomats, and the elimination 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. More specific policy recommendations have also begun to be included in the council's various assessment reports, and there have also been more extensive follow-up activities carried out with respect to some of these recommendations, even if the overall record of the implementation of AC guidelines has not been especially favourable. Finally, the AC has expanded the capacity-enhancement side of its work, most notably in areas covered by ACAP as well as by the first two legally-binding treaties negotiated under the auspices of the council—search and rescue and oil-spill preparedness. In sum, all of these developments taken jointly represent an AC that is viewed today as the centrepiece of Arctic governance, whose portfolio has 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, Arctic states' ministries of foreign affairs. It is a much more coherent and high-profile body than before, with a much higher level of interest and dedication paid to it by its members and observers alike.

When it comes to the second question on explaining these changes, the analysis presented in the article revealed that the AC's constitutive features—a lack of legal foundation, decision-making based on consensus, an open to multiple interpretations' mandate as well as a strictly defined and limited membership—create a very malleable setting susceptible to the influence, both positive and negative, of agents seeking to instigate gradual change and ultimately steer the trajectory of developments

within the council. As such, the analysis drew our attention to previously understudied questions of agency and endogenous sources in the processes of institutional change of the AC.

Finally, and importantly from the perspective of my overall in-depth case study of the AC, the examination presented in the article and an effort to analyze and classify changes observed in the AC revealed that the application of distinctions from the general literature on international environmental regimes to the council is far from straightforward, and that the council oftentimes does not precisely fit the proposed categories. Whereas this observation is not in itself particularly revelatory, seeing that the terminology we find in the literature has been designed primarily with cases of hard law and treaty-based institutions in mind, it showed the potential that a study of the council—a soft-law arrangement based on a political declaration—might offer in terms of expanding our understanding of international environmental institutions and changes within them. As a result, the conclusions from the article served as an important building block in my further elaboration of the concept of informal international regimes—the culmination of my inquiry into the AC presented in this thesis.

Before moving there, the following chapter provides an overview of discussions related to soft law and its role in international cooperation.

6. SOFT LAW AND INTERNATIONAL COOPERATION

"The only thing that is constant is change."
Heraclitus

The increasing use and rise in prominence of international soft law is reflective of many developments that have taken place in the international arena in the last 70 years. This chapter provides a brief overview of major issues related to the concept of soft law, starting from its emergence and contested nature, through the benefits it offers, to the arguments presented by its critics. As such discussions are ongoing and far from decisive, the aim of this chapter is not to cover them at length and in detail. Rather, they serve as a point of departure to explain the preferred use of the term *informal* – rather than soft law regimes – even if both terms refer, in principle, to the same form of arrangements. The last section of this chapter presents the rationale for this choice, before the concept of international informal regimes is elaborated in the next chapter.

6.1. The Emergence of Soft Law

Change is a pervasive feature of all social institutions. It has become a commonplace to note that, since World War II, the entire international system has undergone profound transformation. From a relatively small community of predominantly Western states, the global arena has evolved to today comprise more than four times the number of states that existed at the beginning of the 20th century. From only 70 internationally recognized states in 1949, it now consists of more than 200 states, 192 of them with UN membership (Compagnon, Chan, & Mert, 2012). Concurrently, we have observed the emergence of new non-state actors taking the stage and playing increasingly important international roles: intergovernmental organizations, non-governmental organizations, transnational corporations, international bureaucracies, professional associations, and others. Their emergence is reflection of other broader developments, among others, increasing economic interdependence among countries, a rise of a global environmental agenda, and a growing awareness of the multiplicity of problems that require international solutions. All these have been further intensified by the phenomenon of globalization which represents a fundamental transformation of the international system "with lasting implications for the public and private sectors alike, including changes in the nature of the legal processes and structures that shape the relationships and interactions among states" (Reinicke & Witte, 2000: 75).

An ever-growing number of transnational problems and an increasing diversity of international actors have outpaced traditional methods of law-making. New circumstances require diversified forms and levels of rule-making and have accordingly been addressed by international organizations, specialized agencies, programmes, and even private bodies, which have engaged in articulating and issuing regulations, declarations, guidelines, and codes of conduct for state and non-state actors alike, giving consequently rise to what has become known as "soft law" (Chinkin, 2000). As a result of these developments, the relative simplicity of traditional international law has given way to more complex forms, processes, instruments, and norms that began to act "as a bridge between the formalities of law-making and the needs of international life" (Chinkin, 2000: 42).

The discussion on questions pertaining to soft law has largely taken place within the legal scholarly community, where, up to the present, the concept has remained subject to debate, including voices that argue for its redundancy and outrightly reject the notion of making law through non-binding instruments. In words of one of those critics, "within the binary mode, law can be more or less specific, more or less exact, ... more or less serious, more or less far-reaching; the only thing it cannot be is more or less binding." (Klabbers, in Chinkin, 2000: 24). This opposition, nonetheless, has not prevented the acknowledgement of a prominent role for soft law in the ordering of international affairs and in the international normative system. Important scholarship on matters of compliance with non-binding norms followed (D. L. Shelton, 2000).

6.2. Varieties of Soft Law

With respect to the forms and categorization of soft law, it has been recognized that soft law appears in virtually an "infinite variety" of forms (Baxter, in Chinkin, 2000: 25). Accordingly, there are various ways of categorizing international instruments within the term. Among others, instruments are regarded as soft law when they are articulated in non-binding form according to traditional modes of law-making; contain vague and imprecise terms; originate in bodies lacking international law-making authority; or are directed at non-state actors (Chinkin, 2000). Soft law can be also classified according to its relationship with hard law. As such, soft law can, for instance, serve as evidence for the existence of hard law obligations. Elaborative soft law provides guidance to the interpretation, elaboration, and application of hard law. Soft law can also be viewed as emergent hard law in situations in which it represents a first step in the process of the subsequent hardening and evolution towards legally binding norms. Overall, this approach is, however, problematic in that, rather than defining soft law in its own terms, it considers it via the means of its distinction from hard law. Moreover, and importantly from the perspective of this thesis, scholars

admit that such treatment of soft law is reflective of the widespread conviction among lawyers and foreign policy officials who assume that the transformation into hard obligation is desirable and that "unless there are good reasons for using an informal instrument, a treaty is usually to be preferred" (Aust, 1986: 792). Accordingly, in their view, soft law is typically considered an "underdeveloped" form, merely a stop, or a developmental stage on the way towards legally binding commitments.[10] Rather than conceiving of soft law as creating "a crucial framework for conversation, in which states in turn may alter their conception of their interests and even identity" (Raustiala & Slaughter, 2002: 552), "the professional instinct of lawyers [is] ... to negotiate seemingly 'binding' agreements as soon as possible" (Toope, 2000: 98).

The discussion on this matter looks quite different in international relations community. First, the matter of the legal basis and a subsequent distinction between legally binding and non-binding rules has never been considered key among IR scholars for the ordering of international affairs. Part of reason for this situation arguably has to do with the beginnings of the debate on international institutions, in which proponents of the realist approach generally held institutions to be void of any influence or causal significance vis-à-vis states, irrespective of those institutions' legal foundations. As illustrated in the second chapter of this thesis, international regime scholars took an opposite stance and, through their work, significantly advanced our understanding of the important roles and contributions of international institutions to international society. What both groups agree on is that the notion of "bindingness" in the context of public international law is elusive at best, and faulty at worst. Where most international legal community has advocated the position that legally-binding instruments represent *law* and as such carry particular obligations and imply special norms of conduct, the IR community has pointed out that any simple analogy of international treaties or conventions with domestic contracts is mistaken due to the ultimate lack of equivalent enforcement mechanisms in the anarchic community of sovereign states (Young, 1999). "For that reason, it is misleading to understand treaties (as international lawyers typically do) in purely formal, legal terms, as instruments that somehow bind states to their promises" (Lipson, 1991: 305) as there is not much that the language of formal obligation in the treaties can do in practice to make countries fulfil their commitments if they no longer see them as serving their interests.[11] What sustains treaties in practice is that, at any given moment, each party believes it gains more from sustaining the agreement than from violating or terminating it (Lipson, 1991).

10 At the same time, it is worth pointing out that there are legal scholars who disagree with such view and claim that "[e]ven if soft law does not harden up, (...) [it] performs important functions, and, given the structure of the international system, we could barely operate without it" (Reisman, 1988: 376).

11 The commonplace conception of lawmaking in domestic political systems, the enactment of legislation by highly specialized and routinized political institutions, is utterly inappropriate for an inquiry about lawmaking in a much more complex and varied international political system (Reisman, 1988: 373).

This does not mean that political scientists do not differentiate between various instruments or do not assign any particular value to international treaties. On the contrary, they too recognize the greater weight attached to the treaty form by both state and non-state actors alike. In their eyes, however, this weight has more to with signaling the gravity of the underlying promises by enshrining them in a treaty form, which results in increasing the reputational costs for those who breach them. "Put simply, *treaties are a conventional way of raising credibility of promises by staking national reputation on adherence"* (Lipson, 1991: 310).

6.3. Pros and Cons of Soft law

Both IR analysts and foreign policy practitioners recognize that informal, soft law instruments offer many advantages and qualities highly valued and sought after in the international community. They argue that states choose to order their relations through treaties and other legally binding arrangements to solve specific problems, and they recur to softer forms when these offer superior institutional solutions (Abbott & Snidal, 2000). According to Lipson (1991), states choose informal agreements when they want to avoid formal and visible pledges; when they wish to avoid ratification; when they seek to preserve their ability to renegotiate or modify an agreement as circumstances change or it fails to meet its goals; or when they need to reach agreements quickly. In addition to speed, simplicity, flexibility, and privacy – "all common diplomatic requirements" (Lipson, 1991) – soft law may be preferred to hard law for other reasons too, including significant changes in the overarching setting of international cooperation. Among others, the growth of international institutions and the accompanying increasing bureaucratization of relations among countries can be such factors. As, in general, international institutions lack powers to adopt legally binding instruments, they only have recourse to soft law. In turn, they provide incentives for states to comply with adopted norms by assisting them with their implementation, monitoring, and their evaluating of their performance (D. L. Shelton, 2000).

States might choose soft law out of respect for hard law, in cases in which they feel they cannot necessarily meet the requirements of a norm.[12] Soft-law instruments may serve as devices to persuade states to join the cooperative arrangements; they can be also regarded as a sign of the "growing strength and maturity of the international system" (ibid.), in which the on-going collaboration and stability of existing structures create a setting in which there is no need to govern all of its

12 Once more the perspectives on that matter differ between international law and international relations community. In the counterargument to the above presented claim, IR scholars note that states "may [also] sign treaties cynically, knowing that they can violate them cheaply" (Lipson, 1991: 308).

elements by means of legally-binding norms. Moreover, in particular circumstances, legally binding norms may be even an inappropriate form of response, such as when the issue or the effective means of addressing it are not yet clearly identified or when an agreement reached in terms of hard law would effectively result in the adoption of watered down and less progressive norms. Finally, soft law offers the distinct advantage of allowing for more active participation by non-state actors who are increasingly vital not only to the development of international norms, but also to their implementation and the achievement of their prescribed goals (D. L. Shelton, 2000).

None of the above means that informal arrangements come without a cost. On the contrary, because informal agreements do not in general require a domestic ratification process, they may suffer from a lack of formal and visible national commitment – both in eyes of participants in the negotiations as well as in those of the third parties. Informal agreements are also frequently viewed as less effective in binding national policy across sectors and various branches of government and administration, and they typically generate lower levels of interest and support from public and private actors alike. As a result, they can be more difficult to sustain during the implementation stage and are more easily abandoned (Lipson, 1991).

The adoption of treaties and other legally binding measures also, however, comes at a price. Both legal and international relations scholars concede that treaty-making is usually a slow, costly process, typically neither sufficiently flexible nor effective in accommodating public policy demands. Moreover, because the provisions of treaties stem from carefully negotiated consensus, often they more reflect the lowest common denominator among parties, rather than the scale of response required to appropriately address the international challenges that are being faced. Furthermore, treaties typically classify states rigidly as either parties or non-parties to the treaty, which "does not favor regime development, let alone success, because it excludes *a priori* those that are financially or technically unable to comply and those who disagree with the obligations" (Reinicke & Witte, 2000: 88). Finally, the prospects and possibilities of compliance with treaties might be increasingly hampered under conditions of globalization, where many states might be effectively unable to comply with the adopted norms, in particular when the objects of regulation are highly mobile and have effects transnationally, as is the case with financial markets and environmental pollution (Reinicke & Witte, 2000). As noted by Chayes and Chayes (1995: 14), "[t]he problem is even more acute in contemporary regulatory treaties. Such treaties are formally among states, and the obligations are cast as state obligations (...). [T]he real object of the treaty, however, is not to affect state behavior but to regulate the activities of individuals and private entities".

6.4. Making States Behave

The question of "making states behave" underpins many discussions pertaining to soft law and has been central to debates on compliance with non-legally binding normative techniques. There are nevertheless also those for whom considerations of soft law in terms of compliance are "particularly awkward and incoherent" (Bilder, 2000: 72) and, rather than helping us understand the mechanisms of international collaboration, they risk obscuring the role that non-binding norms play within it. In the view of these experts, compliance analysis is more suited to a discussion of imposed norms, rather than those that have been reached consensually among sovereign states negotiating in the international setting (Bilder, 2000: 66). According to Bilder (2000: 68), foreign policy officials generally see "international norms not simply as instruments for creating commitments and obligations, but rather as multi-purpose policy tools that may be used to accomplish broader objectives", including communicating foreign policy objectives, encouraging further collaboration, laying the ground for future bargaining, and developing more elaborate norms. Likewise, what cannot be excluded is that, in consenting to a given norm, states might seek to achieve primarily internal or propaganda objectives, without actual intent to follow and implement the norm in practice (Lipson, 1991). For these reasons, rather than focusing on instances of compliance with or breach of individual norms, officials typically see such norms as only "one stone in the arch" (Bilder, 2000: 67) among the complex components defining the overall pattern of foreign affairs interest, a pattern that is constantly changing as dynamic external and internal factors play upon it. Moreover, rather than preserving the integrity of the norm itself, most often officials are primarily concerned with preserving the integrity of the state's foreign position as a whole, both domestically and externally, with respect to other states and the other international partners involved (ibid.). Accordingly, rather than paying attention to the considerations that produced consent to a given norm in the past, officials tend to focus on the present and future contexts in which the norm needs to be implemented.[13] For these reasons, some scholars argue that an emphasis on compliance with respect to non-legally binding norms and instruments is inappropriate, unhelpful, and "may point towards a backward-looking and essentially legalistic approach focusing on state 'misbehaviour', rather than towards a productive enquiry into devising and deploying better normative techniques and arrangements that facilitate more effective international dealings and cooperation" (Bilder, 2000: 72). They suggest that the use of the term soft *law* to describe norms and instruments that are not in

13 In words of Bilder, "concept of what the norm was really intended to do, of why each party participated in its formation, and what EACH then understood it as requiring may have an important bearing on how seriously officials feel they should take the obligations it appears to contain" (Bilder, 2000: 68).

a legal form and not intended to be legally binding is misleading as such norms are not "in any of the usual senses in which we use the word, law at all" (ibid.).

6.5. From Soft Law to Informal Regimes

In both legal and international relations scholarship terms, "soft law" and "informal" are typically used interchangeably and, as the section 6.2. showed, refer to a very wide spectrum of arrangements which, for a variety of reasons, are not considered legally binding. These reasons stem from, among others, the status of actors concluding them (state vs. non-state), the form in which the agreement is enshrined (treaty vs. declaration, memorandum of understanding, joint communiqué, etc.) as well as from several other criteria that have been subjected to long debates among scholars of international law and international relations.[14] Detailing those discussions is, however, beyond the scope and aim of this contribution. What matters more for the subsequent elaboration of the concept of informal regimes is the explanation why, with respect to this particular subset of international arrangements, I propose to use the term *informal*, rather than soft law, regimes.

As the previous sections have shown, debates pertaining to the notion of soft law remain heated and far from having reached decisive conclusions. This also applies to the voices of those who question even the appropriateness of using the term *law* in the case of norms and instruments not intended to be legally binding. These voices, however, seem to be in minority. What the overview of the literature reveals are two major threads that cut across the discussions and arguments outlined. First, the bulk of the literature on the topic of soft law focuses explicitly on the notion of and questions related to compliance, such as "do states comply with soft law; what factors compel states to comply; do these factors differ depending on whether law is hard or soft; [and] do states respond to soft law in ways that look like responses to hard law?" (D. L. Shelton, 2000: 3). Such emphasis has considerable merit and the question of keeping to the commitments undertaken in the anarchic international space is indisputably an important one. Moreover, it makes even more sense if we centre our attention explicitly on *law,* irrespective of whether we speak of its hard or soft materializations. Ultimately, law and compliance are conceptually linked not only because "law explicitly aims to produce compliance with its rules" (Raustiala & Slaughter, 2002: 538), but also because "consistent non-compliance with a law not only impugns the particular

14 For instance, according to Abbott and Snidal, "[t]he realm of "soft law" begins once legal arrangements are weakened along one or more of the dimensions of obligation, precision, and delegation (...) [and] [t]his softening can occur in varying degrees along each dimension and in different combinations across dimensions" (Abbott & Snidal, 2000b: 422).

norm, but undermines the rule of law generally" (D. L. Shelton, 2000: 9), making it a matter of yet greater overarching concern.

Second, possibly in connection with the focus on matters of compliance, in most discussions pertaining to soft law there is a marked propensity, as mentioned earlier, to consider it as an "underdeveloped" form, and a mere first step in the evolution towards legally binding commitments. While there have been exceptions to this line of reasoning, thinking of hard-law norms and instruments as superior to those rooted in soft law prevails and, I argue, influences our considerations of the desirable direction for improving the functioning and enhancing the effectiveness of existing informal institutions by implicitly suggesting and promoting their legal hardening. Consequently, by naming *informal*, rather than soft law, arrangements rooted in non-legally binding instruments, I seek to emphasize that those arrangements are not currently, as some would suggest, underdeveloped and, moreover, they are not likely to evolve into hard law arrangements any time soon.

For this reason, and because of the predominant concern in the scholarship on soft law with the question of compliance, I propose to use the term *informal*, rather than soft law, to denote the subset of international regimes highlighted in this thesis. Whereas, strictly speaking, both terms – informal and soft-law regimes – would refer to arrangements concluded by means of non-legally binding instruments, I argue that, in practice, use of the term *soft law* inclines our thinking towards matters of states' compliance with agreed norms, rather than towards the larger and more varied contributions and functions such regimes offer and serve. Moreover, as outlined in the second chapter of this thesis dedicated to the general literature on international regimes, there is a pronounced tendency to think of regimes primarily in regulatory terms, even if regimes can and frequently do also perform other important tasks, including procedural, programmatic, and generative ones (Young, 1999, 2011a). As much as the problem of compliance is prominent in the case of regulatory regimes, it is, however, much less pronounced when it comes to procedural, programmatic, and generative institutional arrangements (Young, 1999). As the arguments presented in the next chapter illustrate, there might be an increasing need to widen our spectrum of the promoted and desired functions of international collaborative efforts and move beyond the dominant focus on regulation.

Thus, for the above-listed reasons, I propose to refer to the subset of international regimes created by states through non-legally binding means as *informal regimes,* rather than soft law regimes. In doing so, I purposefully seek to steer away from discussions that strongly tilt toward matters of compliance and the enforcement of international norms, that consider regimes primarily in regulatory terms, and that, in viewing the soft-law character of norms as a defect that needs to be remedied, lean toward enhancing them using legally binding means.

7. INFORMAL INTERNATIONAL REGIMES

"It is the theory which decides what can be observed."

Albert Einstein in a conversation at a lecture of Werner Heisenberg, Berlin 1926

The in-depth case study of the AC presented in this thesis revealed several distinct features that set the AC apart from the previously examined universe of cases of international regimes. It is on the basis of these observations drawn from my examination of the AC that in this chapter I put forward a concept and a series of initial hypotheses about informal international regimes to be tested through future studies. As the final section of this chapter asserts, there are compelling arguments in favour of pursuing this line of inquiry and paying greater attention to scrutiny of informal international regimes.

7.1. Concept of Informal International Regimes

As mentioned previously, I propose to distinguish a subset of *informal international regimes* to denote arrangements that are concluded by states specifically by means of informal, non-legally binding agreements. Strictly speaking, informal regimes are a subset of international regimes, so "collections of rights, rules, principles, and decision-making procedures that give rise to social practices, assign roles to the participants in these processes, and guide interactions among the participants" (Young, 2017b: 27) generated by states to address functionally defined issues or spatially designated areas.[15] As this definition illustrates, the original formulation of a concept of regimes has never specified or constrained the basis of collaboration among states to solely formal, legally-binding instruments such as treaties or conventions. Neither has the concept precluded consideration of forms of cooperation among states that could derive from informal and non-legally binding agreements. This is, however, how the concept has been mostly applied in practice and in the empirical studies of the effectiveness of regimes that followed. As shown in the first part, there have been a multitude of inquiries dedicated to finding sources

15 While I use in the text a shorter form of informal regimes for convenience, in each instance I refer to informal *international* regimes, so those arrangements that are concluded by states and not by private actors. Accordingly, the term here does not relate to transnational regimes, even if these regimes too by the nature of their originators (non-governmental actors) and the consequent non-legally binding character of their outputs, can be considered informal.

of regimes' effectiveness (Underdal, 2002b), causal mechanisms behind their influence (Young et al., 1999), functions that regimes perform (Haas et al., 1993; Young, 1999), and exploring the dynamics of the science-politics interaction within regimes (Andresen, Skodvin, Underdal, & Wettestad, 2000). A more careful analysis of the selected cases reveals that virtually all international regimes considered in the literature have their basis in a legally-binding treaty or convention. Many studies have dealt with the protection of ozone layer (Parson, 1993, 2003; Wettestad, 2002b); many focused on acid rain and the Long-Range Transboundary Air Pollution (LRTAP) convention (Levy, 1993; Munton, Soroos, Nikitina, & Levy, 1999; Wettestad, 2002a); numerous examined land-based and oil pollution from ships at sea (Carlin, 2002; Mitchell, 1993; Mitchell, McConnell, Roginko, & Barrett, 1999; Skjærseth, 2002b, 2002a); and multiple analyzed management and conservation of marine resources (Andresen, 2002b, 2002a; Haas, 1990; Miles, 2002; Peterson, 1993; Stokke, 2012). In general, relatively few regimes have been explored, in comparison to the vast numbers that exist, even if we considered only those formed through the Multilateral Environmental Agreements (MEAs) (Kanie, 2018). As observed by Andresen, "[m]uch is known about some favoured regimes, but little or nothing about many others" (Andresen, 2013: 312) and in many instances criteria that were decisive for case selection could reduce possibilities for making claims generally applicable to the wider universe of international environmental regimes, let alone regimes dealing with other issue areas (Andresen & Wettestad, 2004). Importantly, it should be noted that this point, of limited universe of regime cases examined thus far, does not serve here as a critique of regime studies at large. On the contrary, the authors of the conduced studies were always clear and explicit about their adopted selection criteria, representativeness of chosen cases, and consequent possibilities and limitations of drawing generalizations from their inquiries.

Instead, the point of distinguishing a subset of informal international regimes is to draw our attention to features of regimes based on non-legally binding agreements that vary them from international regimes built upon treaties; features worth highlighting not only in order to expand our body of knowledge and comprehension of international institutions, but also to provide us with a clearer understanding of a toolbox of mechanisms at our disposal to address arising more complex demands of international collaboration and governance.

To reiterate, I propose to name this subset of regimes informal, instead of soft law, to steer away from a prevalent, in particular among legal scholars, line of thinking that tends to equate assessment of effects of soft law regimes with questions of compliance and enforcement, and which focuses predominantly on regulatory aspects and functions of international regimes. Moreover, in moving away from the term soft law, I emphasize the need to consider those arrangements in their own rights, rather than, as they are frequently viewed, an "underdeveloped" form of collaboration that might evolve into hard law and legally-binding commitments in

the future. In defining informal character of international agreements, rather than delving into detailed and often nuanced discussions concerning criteria that need to be met to consider specific norms legally binding (Chinkin, 2000), I adopt the approach proposed by Lipson who argued that "[a]greements may be considered informal, to a greater or lesser, if they lack the state's fullest and most authoritative imprimatur, which is given most clearly in treaty ratification" (Lipson, 1991: 296). At the same time, whereas Lipson encompasses in his considerations the entire spectrum of informal agreements, from written through oral to tacit arrangements, I speak here specifically of those informal, non-legally binding agreements which states conclude in a written form.

7.2. Distinctive Features of Informal International Regimes

More important than the specification of the basis upon which informal regimes are founded is yet the identification of their distinctive features, or key differences between them and formal regimes as the two are considered distinct subsets of the overall universe of international regimes. Drawing from the study of the AC as a case of an informal regime, I propose below a several hypotheses about international informal regimes to be examined more systematically in future studies of the broader class of international regimes. To the extent possible, I seek to group them around the questions and categories that have structured the debate and scholarship on international *formal* regimes, including causes and processes of regime formation, implementation, effectiveness, and regimes' change and dynamics.

First, informal international regimes can be adopted and put in place without any requirement for ratification on the part of their members. Consequently, they enter into life at the moment of their signing, without delays, sometimes significant, that occur in case of legally-binding agreements. Moreover, avoiding the requirement of ratification might be sometimes the only way to pursue and establish organized structures for international collaboration, especially in situations where the overtly polarized domestic political scene might effectively preclude reaching an agreement and sufficient support on any matters of substance. At the same time, as shown in the discussion about pros and cons of soft law, a lack of public debate surrounding ratification might conceal the depth of national support for informal agreement and, as a result, impede the process of their implementation by depriving them of visibility, sufficient consultation, and involvement of various policy sectors, stakeholders, branches of government and administration (Lipson, 1991). In words of Abbott and Snidal, "[h]ard legalizations reduces the post-agreement costs of managing and enforcing commitments, but adoption of a highly legalized agreement entails significant contracting costs (...), since the costs of violation are higher. Legal specialists must be consulted; bureaucratic reviews are often lengthy" (Abbott &

Snidal, 2000). As much as such approach prevails and might appear justified in cases of typical regulatory arrangements, it is less clear to what extent mobilization of state apparatus for the purposes of ratification and obtaining legislative authorization matters to putting in place and successful deployment of regimes performing other tasks.[16]

Second, informal regimes allow for much enhanced participation on the part of non-state actors. In case of the AC this is most clearly visible with the status of Permanent Participants, under which representatives of selected organizations of Arctic indigenous peoples have a strong voice in the council's discussions and activities. Should the AC be a traditional treaty-based organization such arrangement would be highly unlikely, if not impossible. As asserted by Koivurova and Heinämäki, where "international law seriously restricts indigenous peoples' opportunities to participate in the international law-making processes (...) of treaty, (...) soft law in fact provides indigenous peoples with a better opportunity for influential participation than is afforded to them by traditional methods" (Koivurova & Heinämäki, 2006: 101).[17] In other words, because the informal agreements are not covered by provisions of the 1969 Vienna Convention on the Law of Treaties, they allow for much greater flexibility and expansion of range of participants in the cooperation (Reinicke & Witte, 2000).

The enhanced participation of non-state actors in informal regimes matters twofold. First, in the Arctic as elsewhere, whereas nation states remain critical players in responding to variety of arising governance needs, numerous other actors play increasingly important roles in devising and implementing these responses. These actors include subnational units of governments, indigenous peoples' organizations, international and non-governmental organizations, and representations of business, to name a few (Arctic Governance Project, 2010). As the success and sustainability of governance efforts depend not only on recognizing the importance of those actors, but also on assigning them appropriate roles in the process, informal international regimes might offer one possible mechanism where, on the one hand, states retain their primary position, on the other hand, non-state actors can see their role much elevated compared to traditional treaty-based fora. This, in turn, could grant informal regimes with greater legitimacy understood as "the *persuasive force* of its norms, procedures, and role assignments (...), and *manifested* in a degree of positive

16 For the implications of differentiation between regimes' tasks for processes of regime formation and implementation see Young, 1999.

17 It should be noted here that the status of Permanent Participants provides indigenous peoples with much stronger position than that of a regular non-governmental organization. While this differentiation has important implications for broader discussion about rights and position of indigenous peoples in international negotiations, its detailed coverage lies beyond the scope of this dissertation. What matters from the perspective of this work is the fact that informal character of the AC allows for such ingenuine setup and enhanced involvement of non-state actors.

attitude to the regime" (Stokke & Vidas, 1996a: 23). As much as a relationship between legitimacy and the effectiveness of regimes is a complex one (ibid.), it is also recognized that treaty-based arrangements typically do not establish the degree of inclusiveness, support, and legitimacy to achieve acceptance and follow up by all, or even most of participants (Reinicke & Witte, 2000). While in "the twentieth century, legitimacy and accountability were mainly concerns of national governments and their decisions" (Biermann, 2014: 121), governance of complex systems in the era of Anthropocene might call for considering and establishing new forms of securing accountability and legitimacy, including through more deliberate use of informal international regimes.

Third, informal regimes do not require explicit decision rules, at least not to the same extent as legally-binding agreements and treaties do. It is important to note here that this inference stems less from the case of the AC itself, and more from a general reflection on the nature of informal international arrangements. To explain, not only the Ottawa Declaration provides explicitly that decisions of the AC are to be taken by consensus of members of the council, but also the AC's "relatively lengthy and detailed for an informal body which has no legal authority to bind its members" rules of procedure specify the operation of the council at all levels and how its activities are to be approved (Bloom, 1999: 718). In that sense it could be said that protracted negotiations, which led to the establishment of the AC were atypical for an informal regime, mostly because of an intransigent position taken by the United States that insisted on stripping a newly formed body of any resemblance to a traditional international organization, avoided accepting virtually any commitments towards a new institution, and "assured that there is no limitation on their ability to act in their national interest" (Bloom, 1999: 722). Accordingly, it could be well argued that a lengthy process behind the AC's inception had its roots precisely in the willingness of some parties to pursue a more ambitious legally-binding arrangement, and a hardline resistance of one state to agree to it; where a wrangle about procedural issues was in fact "a surrogate for debate on more fundamental questions of purpose and direction" (Scrivener, 1999: 57; see also English, 2013). While it is beyond the point to speculate how the negotiations would have proceeded, should Arctic states from the onset had discussed an informal agreement and whether in that situation it would have had been possible to include more substantial provisions into text of the Ottawa Declaration, it is worth to keep this question in mind for future research and other case studies.

Returning to the issue of decision rules, it can be stated that the AC's single decision-making rule which does not require voting of the council's members represents much simplified structure in comparison to formal agreements, which typically provide for comprehensive rules concerning regime's day-to-day operations, matters of substance, and procedures required for amendment of a convention or its protocols. As the realization of the consensus rule in practice

of the AC shown, regime's decision-making procedure can have important consequences for regime's ability to adjust agilely to sometimes rapidly changing circumstances. Moreover, in combination with other factors, it can create an ample space and a malleable setting for the influence – both positive and negative – of change agents seeking to instigate a gradual change and ultimately influence the trajectory of regime's development.

Fourth, by their nature and because of the establishment through means different than multilateral international agreement, informal international regimes do not have legal personality that would be distinct from that of their individual members, the capacity to bear rights and owe duties on their own account. What follows, informal international regimes are not subjects of international law in the way that international organizations are, they also cannot speak on behalf of their members in relations with outside states or in international organizations. Importantly, lack of legal personality does not prevent informal international regimes from being endowed with formal organizational structures, like it happened in case of the AC and its standing Secretariat opened in Tromsø, Norway in 2013. In fact, the Host Country Agreement signed by the Norwegian Minister of Foreign Affairs and the director of the AC Secretariat (ACS) regulates the status of the ACS under Norwegian law "as akin to the status of other diplomatic missions under the Vienna Convention on Diplomatic Relations" (Graczyk & Koivurova, 2015: 310). With more than ten members of staff[18], the Secretariat gradually turns into a centerpiece of the entire AC structure. Arguably, this feature of informal international regimes: their capacity to acquire structures such as secretariats, without necessarily turning the bases of multilateral cooperation into legally-binding agreements might be among their most interesting and worth further exploration characteristics. Secretariats in international politics, "a hierarchically organized group(s) of international civil servants with a given mandate, resources, identifiable boundaries, and a set of formal rules of procedures within the context of a policy area" (Biermann, 2009: 37) are typically discounted as actors in their own right because of the mundane character of their basic administrative tasks such as organizing meetings, distributing documents, and maintaining websites; little, if any, decision-making authority, and their expected political neutrality. At the same time, most secretariats are the only permanent (in the physical sense) bodies of the institutions they support, contrasted with capital-based delegates from member states send to attend periodic meetings. Accordingly, there is much to be said about an important role and influence of secretariats in international environmental politics, in managing institutional interplay and in facilitating regime overlap in global environmental governance (Jinnah, 2014). While the focus of anyhow limited inquiry has been thus far on secretariats supporting international treaties, insights drawn from those studies

18 For details on merger of the ACS and the Indigenous Peoples' Secretariat see Article 4.

could inform also thinking about informal international regimes and a role of their secretariats.

Fifth, informal international regimes have generally less access to material resources under their own control, the arrangement and constraint very well visible in the setup and functioning of the AC. Once more, it was the standing AC Secretariat that upon its establishment in 2013 became the first body within the AC to have a stable, specified budget ensured by all eight Arctic states (Arctic Council, 2012). Other than that, the AC has no programming budget, the secretariats of all six working groups are funded voluntarily by AC members states, and all AC projects and activities are sponsored by one or more Arctic states on a voluntary basis – one of the main, steadily repeated points of criticism against the organization of the council, which in the past led not once to some projects being halted or delayed because of the lack of secured financial support (Haavisto, 2001; Rottem, 2016; Supreme Audit Institutions of Denmark, Norway, The Russian Federation, 2015). Concurrently, it is important to note that resources required to maintain administrative apparatus of informal international regimes as well as to fund their principal activities appear modest compared with formal international regimes and their respective intergovernmental organizations (Young, 2016b).

Finally, compared to more formal international arrangements informal international regimes can be adjusted relatively easily, pointing to a much-desired characteristics of arrangements suitable to meet the demands of governance in the context of rapid, non-linear and compound changes. Even under regular circumstances, regimes can be occasionally challenged by changes in the nature of the problem they address, by parties to a regime, or by third parties, calling for response on a part of regimes' administrators (Young, 2010). As shown in the Article 4, the case study of the AC is particularly instructive in terms of adjustments that an informal international regime can go through in order to reflect and adapt to changes in its broader biophysical and socioeconomic settings, without a need to introduce changes to its constitutive arrangements. As such, not only the informal status did not prevent the council from acquiring the organizational support in a form of the AC Secretariat, but it was also no obstacle to turning the council into a temporary venue for negotiations of legally-binding agreements concluded among eight Arctic states and signed in conjunction with the AC Ministerial meetings. Moreover, it has become a common practice within the council to establish time-bounded task forces mandated to address specific issues of special interest to the AC and Arctic states. Finally, the AC has recently expanded a range of tools at its disposal by adopting in 2015 a novel Framework for Action on Enhanced Black Carbon and Methane Emissions Reductions, which applies not only to Arctic states but also encourages greater involvement of non-Arctic states observers to the council. While it is too early to speak conclusively about the effectiveness of the framework in terms of its impact on emissions of short-lived climate pollutants,

its potential for filling important gaps in the overarching, global regulatory mechanisms is certainly worth noting – as is the council's observed ability to adjust agilely to quickly changing conditions.

The above presented list is neither exhaustive nor conclusive. As stated at the beginning of this chapter, those are several hypotheses which I have drawn from my observations and an in-depth inquiry of the AC. In order to validate them, more studies are needed, both from environmental as well as other issue areas. At the same time, a list of relevant and interesting questions pertaining to informal international regimes is much longer. Among others, it would be worth exploring empirically whether participants are willing to make deeper commitments when they are not legally binding. Moreover, are informal regimes well-suited to handle tasks that go beyond regulatory tasks? Do informal regimes connect with different units within member state governments than formal regimes? Does the absence of legally binding commitments lead to less effort on the part of member states? How should we systematically think about the performance of informal international regimes? What is a role of formal leadership in informal regimes? Do informal regimes receive less material support from member states than formal regimes? Are informal regimes able to adjust more quickly and effectively to changing circumstances than formal regimes? Overall, can we identify conditions under which informal regimes may produce better results as governance mechanisms than formal regime and vice versa? In other words, under what circumstances do informal regimes "fit" some situations better than formal regimes? In light of these questions, a series of hypotheses presented in this chapter could be, ideally, considered a mere beginning of a more systematic debate and examination of informal international regimes. The next section provides a rationale for such inquiry.

7.3. Broader Context and Relevance of Research on Informal International Regimes

As the previous section showed, informal international regimes have a number of features that may make them increasingly important in meeting needs for governance under conditions arising today and in the foreseeable future. This section presents several reasons why examination of informal international regimes in their own right, rather than as a suboptimal or developmental stage on a way to formal, legally-binding arrangements, appears relevant and worth pursuing in today's context of increasingly globalized and connected socio-ecological systems.

First, as mentioned earlier, advancing globalization made the international law-making through traditional means of treaties and custom less appropriate and frequently insufficient to shape and steer relationships of the variety of actors central to today's international society, many of them of non-state and sub-state character.

Despite improvements that have been made in hard-law making, treaty law still typically falls short of offering "process openness" and the degree of inclusiveness and legitimacy needed to achieve acceptance and compliance by all participants relevant to addressing issues on global agenda (Reinicke & Witte, 2000).

Second, in many issue areas, despite undertaken commitments states as central actors are no longer able to effectively fulfil obligations of treaties they conclude, in instances when the real object of regulations are, indirectly, activities of private entities and individuals. Seeing that this lack of capacity is not limited to developing countries, but affects also industrialized economies, it renders valid consideration of forms of international cooperation that could be more conducive and open to integration of non-state actors and to enhancing legitimacy of transnational law- and policy-making processes.

Third, given a structure of today's global system, the sheer number of more than 200 states creates a setting for international negotiations, in which reaching any legally-binding agreement, let alone a one that would be ambitious enough to meet the scale of observed global environmental problems, is increasingly challenging, arduous and time-consuming process, without mentioning time needed for ratification and entry into force of such agreement, as well as complexities of managing a regime having more than several dozen voting members.

Fourth, while the global governance discourse appears to assume the universality of the Westphalian state, which is in fact Western and, more specifically, the Organisation for Economic Co-operation and Development (OECD) model of statehood, this assumption obscures the fact that contemporary statehood is more diverse than ever, with significant variations in power resources, degrees of statehood effectiveness and the exposure to the effects of globalization (Compagnon et al., 2012). Consequently, where in theory all sovereign states enjoy equal rights and prerogatives in the international arena, developing and the least-developed countries tend to lack the capacity and influence that industrialized countries enjoy in the negotiation processes, making concluded agreements ultimately less fair, legitimate and less effective, thus providing additional rationale for seeking other, more adequate forms of organizing international cooperation.

Fifth, growing diversity in the geopolitical and economic circumstances among states and the emergence of non-Western powers means that common interests can no longer be assumed and, whilst the current international legal system is built on the western model, "the priority accorded to law and legal sanction by western societies is not universal" (Chinkin, 2000: 25), and not unequivocally shared and supported by all states in the international arena.

Sixth, in light of changes in the real world that are nonlinear, sometimes abrupt, and often irreversible, there is much to be said about the agility, a need to avoid locking in and being able to adjust respective institutions quickly enough. At the same time, the adaptability versus stability of governance systems is one of the core

dilemmas of global governance: the simultaneous need to create institutions that can adapt to rapid changes and the need for predictable, stable expectations for actors, "in short, the tension between adaptability, stability, and credibility of governance" (Biermann, 2014: 180).

For all the above-mentioned reasons, I believe that informal international regimes – their formation, implementation, performance, and dynamics – merit more attention and dedicated research focus. While they are certainly not panacea to solve all complex policy challenges arising on the international agenda, they might represent, as the case of the Arctic Council shows, a novel, important, and so far largely unexamined governance tool at our hands.

8. CONCLUSIONS

"The Earth is Faster Now."

Part of a book title "The Earth Is Faster Now: Indigenous Observations of Arctic Environmental Change" edited by Igor Krupnik and Dyanna Jolly

In many ways, the Arctic serves as a microcosm of developments unfolding in the global arena. During the past 30 years, the region has gone through a profound transformation driven by forces of climate change and globalization, and, with the observed and projected annual average warming more than twice the global mean, the Arctic remains at the forefront of global climate change. As if through a lens, we observe in the Arctic the characteristics of complex systems, where forces operating in one part of the Earth system can trigger unintended consequences in its other distant parts; where various components of Arctic socioecological system are linked in ways that effectively preclude dealing with them in separation from one another; and where the region is increasingly tightly connected with the rest of the world through both bio-geophysical and economic and geopolitical links. In the same vein, we observe today in the Arctic a mosaic of diverse state and non-state actors with stakes and interests in the region: great powers, small states, indigenous peoples, environmental groups, large multinational corporations, as well as a multitude of non-Arctic states, including emerging powers that seek to reassert their positions in an area of increasing global significance. In light of the above and the related paramount challenges faced by the region, it can be said that the Arctic has emerged as a governance barometer, an area indicative of the growing need for innovation in governance systems in the world ultimately altered through processes of climate change and globalization. At the same time, the Arctic has long been at the forefront of experimentation with new forms of innovative responses to complex and challenging problems of governance. In a wide network of cooperative arrangements and international mechanisms pertaining to the Arctic, the Arctic Council, the high-level forum established by eight Arctic states in 1996, has taken a prime position.

Over the course of its twenty-year lifetime, the council has provided numerous valuable contributions to Arctic governance: it has become an important mechanism for increasing recognition of the concerns of the Arctic's indigenous peoples and the main generator of knowledge on changes within the circumpolar North. It also paved the way for recognition of the Arctic as a distinct region in the international political consciousness, provided critical input to international conventions, and

served to promote peace in the region, which previously served as one of the main theatres of the Cold War. Concurrently, throughout its history the AC has been subject to criticism and reform proposals from academic, non-governmental and practitioner communities alike, many of whom concentrated on the council's lack of legal foundation and its lack of regulatory powers.

Against this background, the purpose of this thesis was twofold. First, through the examination of the AC through the lens of regime theory, it sought to shed light on the experience of the council and deepen, in particular, our understanding with respect to the AC's effectiveness, performance, institutional change and dynamics, and the role of chairmanship in the AC's evolution. Second, the study posed a question whether the case study of the Arctic Council can, in reverse, contribute insights that may be of relevance to our comprehension of regimes and international institutions more broadly.

What the study revealed was a series of features exhibited by the AC that distinguish it from the previously examined universe of cases of international regimes established through the means of international treaties and legally-binding instruments. Even if the original formulation of a concept of regimes has never specified or constrained the basis of collaboration among states to solely formal, legally-binding mechanisms such as treaties or conventions, this is, nonetheless, how the concept has been mostly applied in practice and in the empirical studies of international regimes. Thus, to distinguish from this formal subset of international regimes, on the basis of the case study of the AC I put forward a concept of *informal international regimes* to designate a subset of international regimes that are concluded by states through the means of non-legally binding instruments. The choice of the name of this category was deliberate in that, in naming these regimes 'informal', rather than 'soft-law', my intention was to steer away from the line of reasoning which considers legally-binding norms by default superior to non-legally binding ones, which focuses primarily on questions of compliance and enforcement of international norms, views regimes chiefly in terms of their regulatory functions, and is mostly preoccupied with enhancing soft-law mechanisms via legally binding means. In moving away from the term soft law, I emphasize the need to consider informal international regimes in their own right, rather than, as they are frequently viewed, an "underdeveloped" form of collaboration that might evolve into hard law and legally-binding commitments in the future.

On the basis of the observations drawn from the examination of the AC, I proposed a series of research questions and hypotheses about informal international regimes to be examined and addressed more systematically through future studies of the broader class of international regimes.

Among other things, informal international regimes allow for enhanced participation on the part of non-state actors and, compared to more formal international arrangements, they can be adjusted relatively easily, reflecting a number

of features that may make informal regimes increasingly important in meeting needs for governance under conditions of rapid, non-linear and compound changes arising today and in the foreseeable future. In consideration of these issues, it is important to remember that high levels of uncertainty – such as those that characterize present times – tend to alter normal utilitarian calculations (Young, 2013) and may also increase the receptivity of those engaged in decision-making to considerations of mechanisms other than prevailing regulatory, legally-binding arrangements. While these are undoubtedly of much importance, the change observed and experienced in the Arctic and worldwide demands that we think in new ways about governance that will allow for multiple paths and inclusion of a broad range of actors. Viewed from this perspective, the Arctic and the Arctic Council can significantly inform our thinking about governance in an era of change, where informal international regimes present one promising path to pursue.

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