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Editor's Note

Kamrul Hossain

This year, 2022, marks the tenth anniversary of Current Developments in Arctic Law (CDAL). Over the years, laws and policies on the Arctic have seen crucial advancements in response to the region's novel challenges. These range from the impacts of climate change and other environmental concerns to the impending shift in Arctic governance with the geopolitical reframing of the region under the sway of great power politics. The Russian invasion of Ukraine in late February has paused Arctic cooperation and split the eight Arctic countries on the Arctic Council in two – the Arctic-7 on one side and Russia on the other. Many Arctic scholars see this rift as the end of Arctic exceptionalism, with no return to the present model of cooperation. CDAL, celebrating its 10th anniversary, – thanks go to the volume's contributors – to address this special and timely theme in the present volume, Arctic governance: crafting a new normal? The wide selection of contributions touches upon a range of perspectives linked to Arctic governance and the region's framework for cooperation now that Russia, formally the current Chair of the Arctic Council, is being boycotted by the other seven members of the Council.

The volume's contributions broach novel issues prompted by Russia's invasion as

well as other changes in the law and policy dynamics applicable to the Arctic. Articles responding to the special theme make up approximately half of the volume, although the others in many instances also refer to the new shift in Arctic governance. Among the contributions is an analysis of the legitimacy of the decisions of the Arctic-7 within the framework of the Arctic Council now that cooperation with Russia is on hold. The founding document of the Council – the Ottawa Declaration – explicitly states that decision-making in the Council is based on consensus, and that military perspectives fall outside the Council's mandate. Keeping this particular topic as a point of reference, contributions highlight diverse perspectives on the Arctic governance framework as we face a "new normal". Russia's viewpoint is among those covered, culled from sources such as media reports, official statements and scholarly opinions. In this context, several contributions analyze the (re)militarization strategies of the Arctic states, a development signaling no return to "Arctic exceptionalism". Indeed, it appears that the Arctic Ocean region, including its exclusive economic zones, will become an arena hosting military exercises, exacerbating tensions leading to military conflicts and replacing the Arctic as a "zone of peace".

Many of the volume's contributions take up concrete legal and policy perspectives while addressing the intrinsic value of Arctic cooperation for future generations. For example, one article addresses a shift in the formulation of Arctic law. Specifically, it argues how the Arctic, in the face of climate change, has adopted an anticipatory approach leading to a transformative governance, highlighting the role of science in the making of law. In the area of policy assessments, contributions include an analysis of the European Union's Arctic policy in terms of the so-called convention theory; Chinese policy and its engagement in the South China Sea and the Central Arctic Ocean; the first polar strategy adopted by France in 2022, and the current state of its Arctic policy; India and its presence and role in the Central Arctic Ocean region; and a perspective paper with an interdisciplinary angle emphasizing what the future Arctic research agenda might include if it is to get us closer to the goal of a green transition.

CDAL is an annual publication of the University of the Arctic's Thematic Network on Arctic Law (Network). The Network comprises approximately 160 scholars interested in Arctic law and policy issues, representing law, political science, international relations, anthropology and geography, among other disciplines. Network members are affiliated with educational and research institutions across the Arctic and sub-Arctic regions. From this year on, CDAL has also become a part of the remit of the UArctic Chair in Arctic Legal Research and Education (the Chair). Both the Network and the Chair

form venues for numerous academic and outreach activities linked to developments in Arctic law and policy. This work includes handling research and Network interests, organizing sessions at Arctic-related international events and arranging guest lectures in institutions that are part of the Network. The Network and the Chair, in collaboration with the Northern Institute for Environmental and Minority Law at the Arctic Centre, co-host the annual Polar Law Symposium and facilitate the publication of the Yearbook of Polar Law. The Network and the Chair jointly organized a panel session at the 15th Polar Law Symposium held in October 2022 in Reykjavik, Iceland, to celebrate the 10th anniversary of CDAL. The panel, under the title "Arctic Law is an academic discipline", attracted four distinguished speakers – three professors and a young research scholar – who shed light on the need for Arctic and Polar research as a more inclusive academic discipline on a global scale. Picking up on this theme, the volume features a short reflection paper on the discipline of global polar law as well as a report prepared by young scholars from the Kobe University Polar Cooperation Research Centre. The report suggests expanding Arctic research beyond the Arctic, to Japan for instance, and building career opportunities for young researchers working on Arctic-related issues in Japan.

The contributions in this volume have not been peer-reviewed, and the opinions expressed in the papers are those of the individual authors. I sincerely hope that the articles interest many of you – our readers. I am grateful to all the contributors for their

insightful thoughts and deliberations, which bring this tenth volume of CDAL one step further in disseminating knowledge on the state of the Arctic world. I also sincerely acknowledge the role of my colleague Cedric Pfeiler in re-designing the cover page and formatting the publication.

Without his help, this volume would not have the attractive presentation we may now enjoy.

Kamrul Hossain

December 10, 2022

The 2022-First Polar Strategy and the current state of the French Arctic Policy

Julie Auffret-Cariou

Following the 2022 IPCC report underlying once again the rate of climate change and the ongoing war in Ukraine paralyzing state cooperation, the Arctic seems to be increasingly strategic. France has been present in the region since the second half of the XVIIth century (Henrat, 1984), and even more so from 1947 with the *French Polar Expeditions* led by Paul-Emile Victor (Rubinsky, 2016). Nonetheless, 2022 marks a renewed focus with its first official Polar strategy, following a call from the then-Prime Minister to establish "*our commitment in Antarctica and our action in the Arctic*". In this strategy for the upcoming decade, France recognizes the predominance of the Arctic states' sovereignty while advocating for a multilateral approach to face global challenges such as climate change and the development of research (Gouvernement, 2022).

This new stance on the Arctic, and more generally on the Polar regions, shows the French will to position itself as a more involved actor acknowledging the need for a coordinated policy in a region of growing interest. Compared to other European states, Arctic such as Denmark or Finland, and non-Arctic, such as Germany or Italy,

France is rather late in the establishment of an Arctic strategy (Pelaudeix & Rodon, 2013). However, even if no official policy was yet implemented, France already had eyes for the Arctic. In 2009, Michel Rocard, who played a big role in the Madrid Protocol, known as the Protocol on Environmental Protection to the Antarctic Treaty, was appointed to a new ambassador's function for international negotiations in the Arctic and Antarctica. France then provided in 2016 a roadmap for the Arctic – for once, separately from Antarctica – which already advised for a more serious involvement (Ministère de l'Europe et des Affaires étrangères, 2016). Yet, the real strength of France in the region has never been political but rather scientific.

Indeed, France has used its dynamic Arctic research to establish itself as a credible actor while having no territorial possession, with the exception of the subarctic archipelago of Saint-Pierre-et-Miquelon used as an outpost for oceanographic expeditions. France ranks 11th in terms of publication on the Arctic and 4th in term of field-weighted citation during the period 2006-2015 (Aksnes et al., 2016). To encompass this research in the Polar

regions, France benefits from a dedicated research institute, the *Institut Polaire Emile Victor* (IPEV), which possesses two bases in Svalbard. The Jean Corbel base built in 1963 and the Charles Rabot base in 1999 both merged in the Germano-French station AWIPEV in 2003. France also hinted at an interest in the establishment of a long-term installation in Greenland and of a floating research base with the Tara Ocean Foundation, to support its ageing infrastructures (Gouvernement, 2022).

However, if research has been France's venture in the Arctic, it has been plagued by a long-term lack of funding which this new strategy – as well as several previous reports – advises to revise to stay credible on the international stage. In 2019, the IPEV has received 18 million euros for its action in the polar regions while Italy allocated 20 million euros for the same missions and Germany, 50 million euros (Assemblée nationale, 2019). The director of the IPEV himself stated that the research survival of France was a "*miracle*". Moreover, the private sector's participation in research is very limited, the opening of a foundation focused on the Arctic is proposed as an additional way to gather more funds and launch a new dynamic.

The two poles are understood as sharing similarities, they are asymmetrical and different in nature but both are territories of exception, leading to the implementation of this joint Polar strategy. Previous misconceptions and assimilations

of the two regions probably explain former claims for an Arctic that "*does not belong to anyone*", such as in 2019 with the Defense Ministry's note on the Arctic (Ministère des Armées, 2019). However, this new strategy – as did already the 2016-roadmap – recognizes the differences that exist especially in the region's structure – the Arctic being an ocean surrounded by states while Antarctica, a continent surrounded by an ocean. The name of the strategy, "*Balancing the extremes*", reflects this idea of differences and similarities.

While France made a territorial claim over a portion of Antarctica (Adélie Land), several islands located in the Southern Ocean form integral part of France's territory. Those possessions made France an active actor in research but also politics with its involvement in the Antarctic Treaty System. This position in Antarctica is an asset as it allows the country to define itself as a Polar power, another way to justify its presence in the Arctic. The concept of Polar power remains quite vague and rather self-appointed. It rests on the state's history of explorers in the regions, some territorial claims or proximity (Saint-Pierre-et-Miquelon in the Arctic) but mostly on the dynamism of its research on polar topics (Gaymard, 2020). This idea, though France has rejected this term, could be linked to the near-Arctic approach.

However, tackling the two poles at once, and due to France's closer link to Antarctica, led to create a disbalance

between them. Indeed, the Arctic research is suffering from a lack of interest compared to the Southern pole, posing a challenge especially when France's involvement in the Arctic is specifically based on this aspect. In 2019 and 2020, on the 92 French ongoing projects in the poles, only 30 were based on the Arctic and 90% of the public actors' funding to the poles went to the South (Gouvernement, 2022).

“The rebalancing should be achieved by a threefold increase of the funds already allocated for the Arctic, in order not to threaten France's role in the South pole's research.”

Thus, the 2022 strategy calls for an increase of the projects and funding in the Arctic, without impacting the budget allocated for Antarctica. The rebalancing should be achieved by a threefold increase of the funds already allocated for the Arctic, in order not to threaten France's role in the South pole's research. There are also calls for a better collaboration between French institutions with a clear policy aiming at giving an axis for the Arctic presence to become more efficient and organized both in terms of funds attributed to research and in terms of the different administrations' strategy. This enhanced coordination in the administration is planned to take place through the creation of an inter-ministerial group gathering all the public actors involved in the Arctic. In research, this

would be implemented through a larger attribution of funds as well as a better repartition and organization, especially between the IPEV and the French Southern and Antarctic Lands that both coordinate scientific operations in Antarctica, sometimes overlapping.

In the international context of climate change and since the 2009 Grenelle Environment Forum, France's position in the Arctic is fundamentally built around the question of the environment. Indeed, the country recognizes the extreme rapidity of climate change and its impact on the environment as well as on the populations in the Arctic. It stresses as well the consequences those changes have on the rest of the world, and how the entire planet, and not only the Arctic states, induced those changes. Thus, France, though recognizing the primacy of the eight Arctic states due to their sovereignty, advocates for a multilateral approach in the governance of the region. To do so, France is trying to be more active politically within Arctic forums.

From the 1990's, France joined different Arctic institutions as an observer member such as the Barents-Euro-Atlantic Council in 1990, the Council of the Baltic Sea States in 1999, and the Arctic Council in 2000 (Pelaudeix & Rodon, 2013). However, to weight more in the region, France has increased its role in those organizations including the Arctic Council with a presence in the six working groups. Its

presence could nonetheless be more proactive and coordinated as promoted by the new strategy. Moreover, France supports a new vision of the observer status that would play a greater role in the Council, once again with the idea that, facing climate change, collective decisions and actions should be implemented. In parallel, France is also reinforcing its bilateral cooperation with Arctic states with a form of North Pole – South Pole reasoning, possibly embodied by a system of exchange of services with Arctic States not present in Antarctica such as Sweden or Canada. Such exchanges could allow France – the only G7 states not to possess one – to conduct research with the help of an icebreaker when operational needs are not seen worth the investment (Gouvernement, 2022).

France, as a European Union member, is also involved in the 2021-European Union joint communication for the region (Gadal, 2016). This dual role is not seen as a paradox but rather as an opportunity to be more visible and present. Thus, France, in parallel to the call for more involvement on the national level, calls for more participation on the supranational one with an increased role of the EU in the Arctic and an increased role of France within the EU policy. The EU has mainly a role of provider of funds for the Arctic research and projects, on which France could rest for an increase of its research budget, especially through the Horizon Europe program. On a more political note, France supports the

EU's admission as an observer in the Arctic Council, which has been delayed after its 2008 communication concerning the ban of seal products' imports (European Commission, 2008). Interestingly, on the question of governance, the 2019-note appears similar to this EU publication than to the French 2016-roadmap. Furthermore, the EU is a space to find partners, such as the deep cooperation built through the AWIPEV base with Germany. Moreover, the French presidency of the Council of the EU appears to be the chance for France to take a renewed role in the European Arctic policy, which notably promotes numerous actions to take against climate change and the degradation of the Arctic environment (European Commission et al., 2021). France reaffirmed its support towards those different measures such as the ban on the exploitation of fossil resources or the creation of Marine Protected Areas in the Arctic.

However, the protection of the environment always competes with economic interests, if this new strategy remains quite vague about those interests, the 2016-roadmap had underlined that the French interests – though existing – were in truth quite limited due to the difficulty and cost of Arctic activities. In term of economy, France is particularly concerned with fisheries, advocating for a moratorium especially when resources gradually move towards the North. A French tourism company also recently acquired an ice-breaker to expand its activity in the North.

However, CMA-CGM, the third container transportation company in the world, has announced it will not use the Arctic maritime routes for now nor in the future. Finally, France, which calls for responsible natural resources' exploitation in the region, has key interests when it comes to heavy fuel oils extraction with ENGIE in Norway, CGG doing seismic surveys of the region or Total's gas extraction in the Russian Federation – the company nonetheless announced in 2012 giving up oil extraction in the region due to the high risk of oil spill.

“the protection of the environment always competes with economic interests, if this new strategy remains quite vague about those interests, the 2016-roadmap had underlined that the French interests – though existing – were in truth quite limited due to the difficulty and cost of Arctic activities. In term of economy, France is particularly concerned with fisheries, advocating for a moratorium especially when resources gradually move towards the North.”

France's involvement in the extraction natural resources, through its companies or banks such as BNP Paribas or Crédit Agricole, respectively the 7th and 13th most involved commercial banks in Arctic expansionism (Ileri et al., 2021), underlines the difficulty to successfully combine economic prospect and climate change. Moreover, it highlights the ambiguity of the environmental discourse with the banks having an Arctic policy for instance.

The French government discourse can be questioned as well. Indeed, in 2021, Total became part of a large-scale gas project in the Russian Arctic called Arctic LNG2, a project that the French government announced it would fund up to 700 million euros through public aids, despite its numerous claims to protect the Arctic and its resources. Following an important public mobilization, the government backed out and all French banks also announced they would not support the project (Alvarez, 2021). Despite Total founding financing elsewhere, this event shows the public opinion's involvement in the protection of the Arctic as well as the lack of political influence in the field when opposed to economic prospect.

This LNG2 project like the cooperation in the Arctic is now in jeopardy due to the war in Ukraine and the exclusion, or retreat of Russia from the diverse institutions of the region. Additionally, it led to the suspension of an international Arctic conference, the 4th ministerial meeting on the Arctic Sciences, supposed to be held in France in the beginning of 2023 following an agreement with Russia. In order not to lose this opportunity of international recognition, the organization of another international conference on the poles in 2023 that would gather public and private actors is in discussion, but would need political support. The exchanges and cooperation with Russia are seen fundamental within the regional organizations as well as on a bilateral level,

but its continuation is dependent of the future of the war. This new instability threatens the collaboration in various domains, including research. Thus, France claimed being open for any complementary, alternative or new forms of cooperation to preserve this Arctic exceptionalism.

The war increased the tensions within the Arctic region, until then rather stable, and France as an EU, NATO, and UNSC member as well as a maritime power believes it has a role to play. In 2013, for the first time, the Arctic was mentioned in the French White Paper on Defense and National Security as a potential area of tensions, and again in 2017 with its Strategic Review (Ministère de la Défense, 2013; Ministère des Armées, 2017). To be ready for the escalation of tensions, more likely since February, the French Army, especially the Marine, has been exercising in the region, through international actions such as the Trident Juncture with NATO in 2017, or through bilateral action with Canada notably (Vullierme, 2018). Moreover, France, though advocating for a peaceful use of the region, supports the military development of some of the actors such as Denmark – the French company Nexter furnished 15 Caesar 8x8 artillery system to the country in 2021 and will provide an additional four in 2023 (Nexter, 2019). Through the military preparation of its forces and its collaboration with other actors, France is putting forwards that it is

a country that still matters in international politics.

“In 2013, for the first time, the Arctic was mentioned in the French White Paper on Defense and National Security as a potential area of tensions, and again in 2017 with its Strategic Review”

2022 marks a new turn in the French approach of the Arctic as it offers the first strategy applied to the region, though it covers Antarctica as well. France aims at expanding its influence in the region through its research capacity and its fight against climate change. Nevertheless, France still has steps ahead in order to appear as a major actor on the Arctic stage. Despite the limited support to research in the Arctic and the controversial one to economic projects in the Arctic, France is nonetheless gradually increasing its presence in different forms in the Arctic to remain part of the discussion. The new strategy is a way to reorient and give a new breath to France’s position in the region but, as many of its points such as the urgent need for funds were already demands of the 2016-roadmap, the translation of this strategy into real action remains to be witnessed.

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Arctic Governance Research and the Green Transition: A Perspective on Interdisciplinary Work

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Abstract: *In June 2022, the Strategic Research Council (SRC) of the Academy of Finland proposed to the Finnish Government the need for "Just Green Transition" as the 2023 theme of strategic research programmes. In it, arises interest on adapting to societal changes in an ecologically sustainable manner, with purpose of shaping long-term developments in Finland and elsewhere, through evidence-informed decision-making and sound engagement with several actors and sectors in society. The ongoing proposal forwarded to the Finnish Government warrants further sight to mark the tenth anniversary of Current Developments in Arctic Law (CDAL). This paper builds on the above proposal, in perspective, to ponder on a*

new normal, as to what connotations interdisciplinary lines of thinking about the green transition add to Arctic Governance. Using contributions from Researchers in varied disciplines living and working in the Arctic, this paper explores policy arrangements and related strategic elements, linked to sustaining the natural environment, with attention to Finland and the European Arctic. It concludes reflecting future implications of interdisciplinary work for research on Arctic Governance.

Keywords: Arctic Governance Research, Interdisciplinary Work, UArctic Network, Just Green Transition, European Arctic, Law and the Social Sciences

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1 Introduction

To better understand what significance interdisciplinary work adds to the link between Arctic Governance Research and the Just Green Transition, it is worth revisiting some developments leading to the European Green Deal and recent additions to the Deal. The subsequent paragraphs will highlight the papers' specific objectives deliberating the future of research considering the proposal for "Just Green Transition" as the/a theme for strategic research in 2023. In so doing, this paper presents a joint authorship contribution, interdisciplinary in perspective, and to commemorate the tenth anniversary of the Current Developments in Arctic Law (CDAL) within the University of the Arctic (UARctic). Our hope is that the contributions here resonate in debates among researchers and scholars of Arctic Governance and Arctic Law, as well as, for those seeking new perspectives on interdisciplinary work and its role in studies about the Just Green Transition.

1.1 The European Green Deal: developments in perspective

Early on, November 2019, the European Parliament acknowledged the climate emergency requesting the European Commission to adjust its proposals consistent with a 1.5 °C target to limit global warming and ensure a significant reduction in the emission of greenhouse gases (European Parliament 2022). The above notice on climate change is certainly

not the first, when we think of much earlier emphasis on other issues as conserving global biological diversity. The biological aspect came to light with policy arrangements as the World Conservation Strategy (WCS) in 1981 when four leading conservation agencies (the United Nations Environmental Programme, the International Union for the Conservation of Nature and Natural Resources, the Food and Agricultural Organisation of the United Nations, and the International Union for Conservation of Nature and Natural Resources) came together at a press conference in Washington. They had a common goal demonstrating how essential the conservation of living resources is for sustainable development (Mackinnon et al. 1986).

Also, the Convention on Biological Diversity, an international legal instrument, that was opened for signature in 1992 at the Earth Summit in Rio de Janeiro, entered into force in 1993 after receiving 168 signatures. This convention pinpoints the need for sustainability, fairness, and equitability in sharing benefits that arise from utilizing genetic resources, ecosystems, and species (Penchev 2022). Its underlining protocols as the Nagoya Protocol (adopted in 2010 and entered into force in 2014) and Cartagena Protocol serve as legally binding treaties and supplementary agreements to the Convention on Biological Diversity. Matters of negotiating climate change mitigation, adding to the existing agreements on

biological conservation, to advancing the implementation of the above Convention, has been the work of the Conference of Parties (COP). Later came the Paris Agreement—a legally binding international treaty on climate change adopted in 2015 at COP 21 in Paris by 196 Parties (UNFCCC 2022). Its goal, often described as a landmark in climate change practices that are multilateral involves most of the nations (as adopted by 196 parties at COP 21) on a common cause of limiting global warming to 1.5 degrees Celsius by committing to undertake ambitious efforts towards a climate neutral world.

In response and upon a European Parliamentary request, the European Commission developed the European Green Deal, a roadmap for Europe, including the European Arctic, becoming a climate-neutral continent by 2050. The EU's Climate Law creates a legally binding with a reduction target in emissions at 55% by 2030, thereby affirming the EU's position as leading the global fight on climate change. The law also provides grounds for EU nations to meet emission targets using policies and legislations (including national and inter-regional) that can bring about benefits such as: cleaner air, water and soil; reduced energy bill; improved public transport and more charging stations for e-cars; less waste; renovated homes; healthier food and better health for current and future generations, among other benefits (European Parliament 2022).

For the above transition to come by, it is worth examining knowledge on approaches shaping legal arrangements in response to global challenges – a practice that can equally benefit Arctic Governance Research. For instances, modulating (the practice of regulating, adjusting, and finding options) seems to be a typical example, i.e., adopting newer, flexible, transformative elements to combat the global ecological crisis. Even more obvious, when we think of the unfolding EU energy crisis of 2022, triggered by the global economic recovery from COVID-19 and later the dramatic inflation in gas and electricity (Homeyer et al. 2022). In this example, modulating involves periodic alterations to the European Green Deal. In this example, modulating involved periodic alterations to the European Green Deal and its provisions, a blueprint for transformational change with the commitment of 27 EU Member States (July 2021). This process followed with new proposals to halt deforestation and introduce innovative sustainable waste management (November 2021), towards decarbonising gas markets and reducing methane emissions (December 2021); to restoring Europe's ecosystems (June 2022) are some examples from the second half of 2021 (European Parliament 2022).

1.2 Interest in the European Arctic

Thus, marking the tenth anniversary of the Current Developments in Arctic Law (CDAL) within the University of the UArctic's Law Thematic Network, and, in light of/in line

with the Strategic Research Council's (SRC) proposal to the Finnish Government on "Just Green Transition" as a theme for strategic research in 2023 - there is a need to deliberate on the future of research within this context. The European Arctic, for this matter, continues to be a significant region with a growing global interest on decision-making among Arctic and non-Arctic actors. With the Arctic said to be warming four times faster than the global average (Rantanen et al. 2022), interdisciplinary work will be needed in Arctic Governance Research as developments of climate change go by with a growing interest among non-Arctic actors wishing to be involved in decision-making with regards to utilizing its rich genetic resources and species in both terrestrial and marine ecosystems. Thus, governing ecosystems will for a long-term be central in Arctic Governance and Arctic Law, especially for the northernmost regions of Finland, Sweden, and Norway that is home to the Indigenous Sámi people and several local groups that coincide with activities by stakeholders from elsewhere. For instance, access to natural resources is often contested through economic activities such as mining, hunting, reindeer herding, and tourism, that overlap with Indigenous lands and areas of spiritual importance (Ayonghe & Francisco 2021; Kirchner et al. 2022). The European Arctic also has a long history of environmental cooperation since the 1980s, when we think of the Arctic Environmental Protection Strategy (AEPS),

the Arctic Council (AC), and later, the Nordic Council of Ministers and the Barents Euro-Arctic Council—all vital for cooperation on sustainable development in the region. In the face of influential global actors' interests in the Arctic, such as in international climate policy (Kopra 2018), as well as EU policies (the 2016 EU Strategy for Low-Emission Mobility and the 2019 European Green Deal) applicable to the Arctic (Koivurova et al. 2021), there will be a growing interest in multidisciplinary work approaches capable to safeguarding the Arctic's natural environment.

1.3 Specific objectives

This paper shares the hope to inspire a debate among researchers of Arctic Governance on the modalities of applying interdisciplinary practices in Arctic Governance, and its meaningfulness for promoting knowledge on cleaner (environmentally friendly, safe, and sustainable) ways of living in the European Arctic. Our premise sets out with examples aligned with each author's disciplinary expertise, including consolidating interdisciplinary practice in research; towards holistic approaches to cross-border environmental governance; introducing greener policies on climate migration; understanding the link between climate change policy and strategic research; enabling inclusive governance of marine protected areas in the Arctic; exploring good practices for research ethics and heritage in Arctic Law. As observed in current-day policy

developments of adapting timelines to combat present and future challenges in the EU (European Parliament 2022), it is likely such way of modulating can be applied in Arctic Governance Research essential to the Just Green Transition. The authors of this paper therefore share the following objectives:

- (a) To develop a perspective on interdisciplinary work (and its modulating practice) and significance for Arctic Governance Research on the Just Green Transition.
- (b) To support the above objective with case examples using interdisciplinary topical issues in law and the social sciences, relevant for research on environmental sustainability in the Arctic.
- (c) To conclude with suggestions as to what present and future implications exist for Arctic Governance when incorporated with interdisciplinary work on the Just Green Transition?

2 The interdisciplinary approach: knowledge sharing

The use of interdisciplinary theories and approaches to studying society and the environment has been debated as a productive way of bridging across the social and natural sciences in the development of new tools and theoretical frameworks for environmental problem-solving (Janssen et al. 2006). Also, defined as “the synthesis of two or more disciplines,

establishing a new level of discourse and integration of knowledge” (Klein 1990). How will it be useful when adapted in the context of Arctic Governance Research linked to the Just Green Transition? Turning to an earlier publication, Raymond Miller’s (1982) work “Varieties of Interdisciplinary approaches in the social sciences: a 1981 overview”, shares thoughts on the practice of interdisciplinary approaches in academia. In Miller’s overview, he recalls the basis for creating the Social Science Research Council organized in the United States, 1920’s, that was aimed at providing a forum to promote integration across disciplines. One of its purposes was bridging gaps in the Social Sciences as the inadequacies of integrating several responsibilities in ways that could relate what he called the ‘analysis of parts’ to the ‘analysis of the whole’. The 1960s turmoil (tensions between global powers) made multidisciplinary work a need, with disciplines and sub-disciplines becoming more numerous in academia.

To Miller (1982), the discipline’s structure determines “what aspect of reality is studied, how it is understood, and the relative validity of the descriptive and explanatory statements derived therefrom” (p.4). In other words, disciplines do carry in them filter-interpreting principles. So, a given discipline carries a similar set of principles that direct the inquiries of that discipline. In this example, the Researcher observes specific facts out of a variety of possibilities. These facts, Miller defines as

organized by the "make-sense patterns" of the discipline that gives meaning to facts. Hence, interpretation of data also depends on principles of inquiry within a given discipline. In integrating interdisciplinary theories and approaches, it can be argued, it reveals benefits of working with several sets of principles and inquiries resulting to broader interpretations of facts.

On the example of the Just Green Transition and its connection to Arctic Governance Research, the Arctic, like other regions elsewhere, continues to experience novel changes that affect the natural environment. Arctic Governance Research and its contribution to combatting the global ecological crisis aided with relevant interdisciplinary theories and approaches would be valuable to reveal a wide range of information needed for sustaining the Arctic environment. In line with Miller (1982), applying interdisciplinary approaches enables keeping one's research together when involved in a holistic inquiry. Take the example on the interdisciplinary integration of the social-ecological network approach. Bodin et al. (2017) praised the works of David Bohan and Laura Dee for their studies demonstrating benefits of applying the interdisciplinary social-ecological network approach for studies on human-nature systems and ecosystem services. To Bohan and Dee, network approaches have greater chances of disclosing the interdependencies between the complex human and ecological changes that are

part of many environmental problems, providing a neutral and common ground for interdisciplinary integration. On the analytical side, the social-ecological network approach has been shown to empirically test hypotheses theoretically derived, thus providing practical insights about human-nature interactions and their social-ecological implications (Bodin and Tengö 2012; Guerrero et al. 2015). However, Bodin et al. (2017) cautioned against the possibility of interdisciplinary studies to make limited progress with imbalances across disciplines. This includes possibilities for delayed collaboration in research that involves working across the natural and social sciences with different epistemologies and research traditions.

A much more evident limitation concerns distinctions in the use and definition of "knowledges" between the Natural and Social Sciences vis-à-vis Scientific and Traditional. It would be hard to ignore the rapid changes in Arctic ecosystems and its knowledge-importance for combatting global climate change and other environmental problems. Arctic ecosystems are sensitive to chemical and biophysical changes brought by human activities and natural events but are also indicators of early warning for global greenhouse warming and what measures to take in response. As anthropologist, Pelliccioni (1998) puts it, "It affects the global climate directly through interactions between the atmosphere, ice cover and ocean, and through feedback processes"

(p.1). Knowledges about these changes in Arctic ecosystems, their identification, use, and exchange (through cross-disciplinary research, governance, policy implementation, multi-sectoral industrial activities, Indigenous livelihoods, and the everyday life of local residents in the Arctic), will remain crucial for efforts to combat ecological imbalances in the Arctic and elsewhere in the globe. Also, the growing complexity of not only knowledge about ecosystems but that of human systems comprised of multiple land users can be of risk in what Pelliccioni calls “knowledge confrontation” (on the biophysical, economic, social, cultural, and spiritual aspects of the environment). Nevertheless, other than the disciplines of Arctic Law and the Social Sciences

emphasized in this paper, there are lessons we can gather from earlier anthropological contributions that include holistic and cross-disciplinary inquiry on varied forms of knowledge (see: Pelliccioni 1998), that offer useful options for bridging current gaps in the use of distinct knowledges between ecological and human systems. Such as, adopting an interdisciplinary emphasis on what such knowledges convey regarding the ‘inter-relationships’ between components of the environment and their potential indicators for short and long-term solutions to environmental instabilities in the Arctic.

Comparing the above examples to our focus on Arctic Governance Research and the SRC proposal to theming Just Green

Table 1: Modulating in research: assumptions and possible outcomes

<i>Researchers’ goals</i>	<i>Possible assumptions</i>	<i>Possible outcomes (the example of Arctic Governance Research on the Just Green Transition)</i>
Identifying a given phenomenon impacting society	Higher chances for flexibility in action plans and implementation	Increase in the resilience-capacity to anticipate delicate societal challenges in the Arctic and respond accordingly
Bringing about clarity to different audiences about the phenomenon, making it meaningful or sensible to others	Enhances inclusive practices in decision-making and promotes knowledge-integration	Enhancing the agency displayed in legislative arrangements/ policies, making them more capable to combat environmental instabilities in the Arctic
Adjusting/planning in response to and consistent with circumstantial needs linked to the phenomenon in society	Facilitates changes or updating policies where (and when) needed	Creates greater space for debates and the generating of knowledge for long-term solutions on the ecological crisis
Finding alternative concepts applicable to diverse societal contexts that warrants short-term and/or long-term solutions	Brings about greater access to relevant information in society	Greater chances for co-producing knowledge and effort-sharing among various stakeholders towards greener ways of living
Evaluate/assess a given solution/plan/action for benefit of society and environment		Greater awareness in the public on urgent needs and possible solutions, inclusive of individual-based action against climate change

Source: Authors’ illustration example (2022)

Transition, worth mentioning, are the developments in 'research and science cooperation' that could play a central role to interdisciplinary work. The example of the UArctic Network, its sub-thematic networks, and institutions (UArctic 2022) that connect plenty of Universities and Research Institutions across Arctic States (including non-Arctic Member States). Through networking, researchers can benefit from cooperation across disciplines, and with various expertise and stakeholders for knowledge sharing. In such level of cooperation, are equally opportunities to advancing the frontiers of policy research in the Arctic as the complex nature of global environmental challenges often necessitate the need for cross-disciplinary inputs.

3 Modulating as a research practice

Modulating generally refers to the practice of regulating, adjusting to certain measures, such as an action or a process, making it suitable for a given situation, such as softening or toning down the amplitude or frequency of an occurrence. Its use in behavioural, policy, and social science research, is not new. For instance, Scherer et al. (2014) in their study likens modulating to an unfolding articulative process that shapes different perceptions and the embodied involvement of people made meaningful through varied ways of grasping experiences. Modulating is also used in the context of evaluating social policy in response to an existing crisis – taking into consideration, aspects as;

directing resources, making assessments, gathering public support to enhance social policy and bring about societal benefit (Simone et al. 2022). In the work of Johnson-Bailey (2003), modulating shares interest in the narrative methodology, expressing communication with purpose of easy understanding - that appeals to experiences that are cognitive, affective, and conative in nature. Putting this practice in the research context of Arctic Governance and the Just Green Transition necessitates identifying possible hypothetical assumptions and outcomes with an example (Table 1).

Table 1 illustrates assumptions and possible outcomes of modulating in research, such as, when applied in situations of using interdisciplinary work to advance the Just Green Transition through Arctic Governance Research. To develop a perspective on interdisciplinary work, and its significance for Arctic Governance Research on the Just Green Transition, the subsequent paragraphs will further deliberate on the matter with case discussions.

4 Case examples: the European Arctic

In this section, the authors, from disciplinary research areas of Law and the Social Sciences, discuss relevant topics in Arctic Governance and some considerations for research on the Just Green Transition.

4.1 Holistic cross-border environmental governance: the European Arctic

Environmental governance has to be holistic. This does not mean that localized, targeted protective governance action is not necessary (to the contrary), but it means that, in order to effectively protect the natural environment, it is not enough to look only at the situation in one place, disconnected from the rest of the region's environment. There are three fundamental aspects to the holistic approach in cross-border environmental governance in the European Arctic.

For this purpose of this part, the term European Arctic refers to the Arctic regions of Norway, Sweden, Finland, Iceland, and Greenland. While cross-border environmental governance is often perceived from a land-based perspective, the significance of marine spaces and of the marine environment for the Arctic makes it necessary to take marine governance into account as well when discussing cross-border environmental governance.

The first aspect of cross-border environmental governance in the European Arctic that is noteworthy is that the ecosystem approach is being utilized for cross-border environmental governance. Holism in cross-border environmental governance in the European Arctic can be inspired by experiences from marine environmental governance. This is the first dimension of holism: the ecosystem

approach that has been developed in marine environmental law can be transferred to the protection of the natural environment on land. In some cases, we see this already happening in Europe, including in the European Arctic. There is cooperation along borders, for example through the border rivers commissions at the borders of Finland and Sweden and of Finland and Norway, respectively. In the Finnish-Norwegian border area, we find protected areas on both sides of the border, like in the northernmost part of the Baltic Sea, where both Finland and Sweden have taken measures to protect the marine environment (Kirchner et al. 2022). The idea of the ecosystem approach is being transferred from marine environmental law to environmental protection on land already today. Indeed, this cooperation between the Nordic countries is hardly new and they have long served as role-models in this regard (although there remains, of course, some room for improvement).

The second noteworthy aspect is that the human dimension is increasingly recognized as playing a role in environmental protection. What the northern European States (apart from the Russian Federation) have in common is a clear commitment to human rights, democracy, and the rule of law. European Arctic States (Denmark, Iceland, Norway, Sweden, and Finland) are parties to the European Convention on Human Rights (ECHR 1950). The European Court of Human Rights (ECtHR) has long

emphasized the importance of the natural environment for human rights, particularly in the context of the right to a healthy environment. The Nordic countries have a particularly human rights-based approach to the protection of the natural environment, as is also evidenced by regional international treaties, such as the Espoo Convention (EspooConv 1991) that deals with environmental impact assessments, or the Aarhus Convention (AarhusConv 1998) that includes access to information and procedural rights. Beyond these treaties, the human dimension of environmental protection across borders can also be recognized through the improved implementation of Indigenous rights and the integration of concepts such as One Health in decision-making processes.

Such processes happen on different levels of government. Across the Nordic countries, relatively similar governance structures can be found. In addition to existing international and cross-border institutions, these (relative) similarities can facilitate cross-border cooperation. Such cooperation does not require identical governance structures but an ability to communicate across political and organizational divides. As the third dimension of cross-border environmental governance, in the European Arctic, similarities in the legal cultures and administrative structures, strengthened also by the important role the law of the European Union plays for the protection of

the natural environment, play an important practical role in cross-border cooperation for environmental protection.

The practice of environmental protection in our region is one of interdisciplinarity. These dimensions show that effective cross-border environmental governance in the European Arctic will have to transcend not only borders but also traditional structures of work and knowledge sharing. Effectiveness is not only an important aspect of European human rights law, but it should also have a place in the protection of the natural environment on which we all depend.

4.2 Climate migration: towards greener reforms?

Climate migration might be seen as a reflection of how climate change can affect people's freedom to choose their own ways of living. First time as a separate definition and problem within the EU, climate migration received attention in 2011 when in the European Parliament resolution of 5 July 2011 on increasing the impact of EU development policy, the authors mentioned climate migration as a phenomenon that some estimate will cause 200 million people to leave their homes by 2050 as conditions in their lands gradually worsen (European Parliament 2011). In that resolution, the authors applied that the European Union must contribute through its development policy to aiding and reducing the number of refugees by investing in technologies, human resources

and financial aid (European Parliament 2011). By investing in technology improvements that would help mitigate potential causes applying to climate migration, the European Parliament hoped to limit the number of climate refugees. Still, even in 2011, it was clear that climate change would not be halted. In 2016, the authors of the European Parliament resolution (2016/2814(RSP)) on the implementation of the Paris Agreement and the 2016 UN Climate Change Conference in Marrakesh, Morocco, reiterated the issue and emphasised that it should be addressed globally because climate migration is a global issue (European Parliament 2016). Finally, in 2022, climate migration was listed as one of the causes of global migration, as important as global instability, conflicts, and state fragility in the Resolution of the European Committee of the Regions on the contribution of local and regional authorities to the Conference on the Future of Europe (European Union 2022). So, from 2011 to 2022, climate migration's relevance grew from a phenomenon that might lead to issues in the future to an already recognised global issue and a catalyst of global migration.

Today, the term "climate migration" deserves recognition and regulation in the domestic legal systems of the Arctic states. This is often still missing, which leads to a domestic protection gap in addition to the already existing international protection gap. In general, climate migrants have the

right to seek asylum in the EU and Schengen Zone countries (including states of the European Arctic, except Russia), but their chances of meeting the international protection criteria are slim (Prokkola et. al. 2021). The protection gap in international law can be seen in the lack of regulation of matters of climate-induced cross-border displacement (Prokkola et. al. 2021). The 1951 Refugee Convention or other international agreements do not protect people displaced for climate and environment-related reasons. Only if other factors amount to persecution or life-threatening conditions upon forced return can the national immigration services issue protection (Prokkola et. al. 2021). Further, in the case "Ioane Teitiota v. New Zealand", from the Supreme Court of New Zealand (Supreme Court of New Zealand 2015), the Human Rights Committee provided new criteria for the assessment of threats from climate change. This case shows, among other things, that paying attention to the national adaptation plans and actual protection measures of states affected by climate and environmental changes is relevant. Therefore, it is possible to draw the conclusion that the growing number of cases highlighting the current protection gaps gives hope that the term "climate migration" will be used more actively in domestic regulation of climate adaptation measures and the international regulations on refugees' protection, providing a clean-based foundation for the regulation of this crucial issue.

4.3 Climate change policies, biodiversity preservation, and strategic research

Strategic research on Arctic Governance and efforts to promote the transition to greener ways of living presents useful options for climate change policies and reforms on preserving biodiversity that impact the everyday life of people in the Arctic. However, a retrospective analysis on how such policies transform over time to meet present and future needs of the Arctic environment would significantly benefit Arctic Governance Research. Examples could include international agreements and proposals, national reforms, strategic plans, as well as Voluntary Guidelines as the Akwé: Kon that matters for preserving sacred sites, lands and waters traditionally occupied or used by Indigenous and local communities in the Arctic and elsewhere.

The European Commission not so long-ago updated proposals of the European Green Deal in response to energy disruptions stressing EU Member States to increase their share of renewable energy consumed to 32% by 2030 (European Commission 2022). The Deal also shares proposals on the possibility for people to produce their own green energy. Finland, an EU Member State and the most forested country in Europe in terms of the proportional share of forest land, shares commitment to the Green Deal by means of a national climate change policy. This policy connects national reforms and strategies, international agreements and proposals, regional and municipal action plans. An

example, the Climate Change Act of 2015, aims at reducing the nation's greenhouse gas emissions by at least 80% by 2050 in comparison to levels in 1990 (Ministry of the Environment 2022a). The new Finnish Climate Change Act updated in 2022 targets emission reduction targets of -60% for 2030, -80% for 2040, and -95% by 2050 (Ministry of the Environment 2022a). Other components of the national climate change policy are those on energy and, the use and preservation of biodiversity. Examples include the 2008 National Climate and Energy Strategy (Kivimaa & Per 2011), the National Strategy for the Conservation and Sustainable Use of Biodiversity 2006-2016 (Heikkinen 2007), among others. Periodic developments surrounding these policy strategies and how they navigate the fair and equitable sharing of benefits arising from use of biodiversity and other genetic resources, would be an aspect to consider in Arctic Governance Research.

Finland and other European Arctic States do share commitments to international agreements as the 2015 Paris Agreement and the Convention on Biological Diversity that entered into force in 1993, on combatting climate change. However, the effectiveness of international agreements in the Arctic is often aided by cooperation between European Arctic States. Finland for example, participates in the Nordic Council of Ministers, the Arctic Council, and the Barents Euro-Arctic Council, on matters promoting sustainability the Arctic environment. Its Northernmost region,

Lapland, recently drew interest of the European Commission selecting the region as one of the 118 European regions supported by the European Commission in adapting to climate change through the EU's new Horizon Europe tool (The Regional Council of Lapland 2022). At the municipal level, the Regional Council of Lapland's Climate Change Strategy for 2030 revealed climate change as a threat to nature-based livelihoods, and the measures being taken to preserve the region's nature (Mettiäinen 2013). A more up-to-date publication recognizes the risks associated with the above threat, from extreme weather events, increased urban flooding, to forest damage, requiring ever more both policy and practical measures among various actors in the region, to reduce, prepare for, and adapt to the impacts of climate change (Ministry of the Environment 2022a). Reviews on the strategy illustrate Lapland as a carbon sink attributed to its forest and snow cover. Also, a region perceived as producing more energy than what it uses locally. By impact, this creates more possibilities for producing renewable energy. In this example among others, Arctic Governance Research can be useful to addressing questions about risks to the natural environment and what options exist for risk-reduction in the Arctic. As European Arctic States shift towards greener living, such as the transition to renewable energy, it's likely there will be a growing need for clarity on what kind of mutual relations exist between climate change policies and

strategic research practices in the Arctic. Thus, the Strategic Research Council's (SRC) proposal for Just Green Transition as the 2023 theme for research programmes, presents possibilities for which Arctic Governance Research can contribute to long-term progress in combating the global ecological crisis, especially in the Arctic.

4.4 Inclusive governance: marine protected areas in the Arctic

One cannot exclude the Arctic Ocean when studying and working in the Arctic. While Finland and Sweden are not Arctic Coastal States, they are Arctic States and are linked to the Arctic Ocean through river inflows (Niemi 2009) and their contribution to the Arctic blue economy through the export of minerals, as well as providing expertise and support for marine operations (Kotilainen and Colpaert 2014; Lipponen 2015).

Rapid and unprecedented changes in the Arctic Ocean are affecting global processes, opening the area up for economic activities, and affecting coastal communities that are using the ocean to support their livelihoods, including commercial fishing, transportation, mineral and hydrocarbon extraction, as well as traditional practices of hunting, fishing, herding, and gathering (Huntington et al. 2022). Thus, ecological, cultural and social sustainability of the Arctic is required.

Also, the European Green Deal, which is also of relevance for Finland as an EU

member, recognizes the importance of the ocean and the blue economy, including the Arctic Ocean. More importantly, it acknowledges that a green transition cannot be achieved without a blue transition (Taylor 2021). This counts especially for the Arctic, where a strong land-ocean interface is present. Thereby, an integral part of achieving a sustainable blue economy is to safeguard and preserve Arctic marine biodiversity, which also generally reflected in the United Nations (UN) Sustainable Development Goal (SDG) 14 (Lee et al. 2020; Wenhai et al. 2019). To achieve sustainable use of the ocean, especially the increasingly exposed Arctic Ocean and its ecosystem, a balance between the development of economic activities and the effective protection of the environment, under consideration of climate changes impacts, needs to be ensured.

A key tool with the potential to enhance ecosystem resilience to climate change and achieve the SDGs are Marine Protected Areas (MPAs) (Pendleton et al. 2018; Sacha et al. 2021). However, in reality, the level of Arctic MPAs is low, leaving vulnerable marine ecosystems unprotected (PAME 2022; Wenzel et al. 2016). In addition, the MPAs' ability to dynamically adapt to rapid climatic changes is lacking (Sacha et al. 2021; Stephanie et al. 2021), and the establishment of MPAs in areas beyond national jurisdiction (ABNJ) remains unregulated and unclear.

While efforts, on an international and regional scale, are increasingly related or established due to climate change impacts on the Arctic Ocean, they only marginally include climate change aspects and do not provide clear mechanisms that enable the adoption or use of management tools in a more adaptive way. These include the adoption of the Central Arctic Ocean Fisheries Agreement (CAOFA, 2021), the establishment of a non-legally binding Framework for a Pan-Arctic MPA Network by the Arctic Council (PAME 2022) as well as their research efforts related to the Arctic Ocean, and the negotiations on a new international legally binding instrument on the conservation of marine biological diversity beyond national jurisdiction (BBNJ) (UN 2022). Even though these instruments recognize ocean connectivity, the far-reaching impacts and consequences of changing ecosystems, and the need to utilize an ecosystem approach and protect marine biodiversity, uncertainties for the implementation of these frameworks remain. Thus, merely a basis for the effective conservation of marine biodiversity is provided.

Against this background, a strong legal framework that enables regional actors, such as the Arctic Council, for example, to establish dynamic and adaptive ocean management reflecting ecosystem changes, is needed in order to provide the effective conservation of marine ecosystems, which accommodate

ecosystem services and support a truly sustainable blue economy.

4.5 Research ethics and heritage in Arctic Law: Adapting good practices

The UNESCO Convention for the Safeguarding of the Intangible Cultural Heritage defines cultural heritage as a legacy that is inherited from the past and bestowed for the future, but it is also a process, elaborated in present communities. Global policies such, as the UN Sustainable Development Goals that form the most comprehensive agenda for development, put culture at the center. In this context, questions related to the protection, access and management of also Indigenous cultural heritage have emerged. Article 31 of The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) states that "Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage". This includes, for example, traditional knowledge and traditional cultural expressions. In the specific case of Sámi cultural heritage the ethical guidelines for responsible Sámi tourism define Sámi culture as including "among others, the Sámi language, Sámi cultural heritage, cultural expressions, Sámi art, traditional knowledge of the Sámi, the relationship of the Sámi with nature, traditional Sámi livelihoods and the modern ways of practicing them as well as other cultural customs and manifestations practiced by the Sámi as an Indigenous people" (Principles for Responsible and

Ethically Sustainable Sámi Tourism 2018, pp.4).

On the European Union level, there is no specific legislation relating to Sámi (as this is outside the competences of the EU) nor Indigenous cultural heritage. However, many issues related to cultural heritage fall within the scope of intellectual property rights (IPR), such as copyright, in the field of which the EU has currently 11 directives and 2 regulations in force. These harmonize the essential rights of authors, performers, producers and broadcasters. However, it has been noted that the Western framework of IPR's appears to be in many cases an insufficient legal regime to address the issues of Indigenous cultural heritage (see e.g., Ballardini – Härkönen – Kestilä 2021; Kestilä 2021).

One element of discussion about cultural heritage is, in addition to ways of managing and protecting said practices and materials, the question of research ethics. How can e.g., cultural heritage of Sámi people be researched, and that way also archived and preserved in an ethically sound manner? Currently, there are a number of ethical guidelines either in force or being developed in the Arctic. For example, the Sámi parliament in Norway has developed ethical guidelines for Sámi health research and research of Sámi human biological material (Sámi Parliament of Norway 2020). From the Sámi parliament of Sweden there is a policy document on traditional knowledge (Sámi Parliament of Sweden

2010). The Sámi parliament in Finland has developed a procedure for seeking the free, prior, and informed consent (FPIC) of the Sámi through the Sámi Parliament in Finland for research projects dealing with Sámi cultural heritage and traditional knowledge (Sámi Parliament of Finland 2019).

In 2018 there was a working group established in order to develop ethical guidelines for Sámi research in Finland. The working group mentions as its goal creating research ethical guidelines that will help researchers conduct sustainable research on the Sámi. The guidelines are drawn up in close cooperation with the research and Sámi communities. The participation of the Sámi communities already at the stage of drawing up the guidelines contributes to the realization of the Indigenous people's right to self-determination (University of Lapland 2022). The working group composes of the universities in Finland as well as representatives from Sámi institutions (ibid.).

Most of the ethical guidelines derive from a starting point that research has historically been rather exploitative and one-sided practice. Indigenous People are no longer objects but are increasingly seen as subjects and participants in the production of knowledge or materials. This has led to emergence of ethical guidelines globally as well. There are guidelines developed e.g. for the Aboriginal and

Torres Strait Islander peoples in Australia (AIATSIS Code of Ethics for Aboriginal and Torres Strait Islander Research 2020; Aboriginal Knowledge and Intellectual Property Protocol: Community Guide 2009), Maori in Aotearoa/New Zealand (Te Ara Tika Guidelines for Maori Research Ethics 2010) as well as First Nations, Inuit and Metis in Canada (see e.g. Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans 2018; Ethics in First Nations Research 2009).

While some variation is bound to exist, also central themes appear to emerge. These include, for example, principles of four R's: *responsibility, respect, reciprocity, and rights* or *respect, relevance, reciprocity and responsibility*. These serve often as a sort of guiding or general principles, although they may be not explicitly mentioned. These principles are in many cases concretised as more specific guidelines. They might have been manifested via principles such as *differences between knowledge-systems, benefit-sharing, questions about intellectual property rights, cultural sensitivity and free, prior and informed consent*. Similar observations have been made by Áslat Holmberg (2021) in the report drafted for the Sámi Council.

What can be gathered from these notions is that Indigenous peoples face globally similar challenges in terms of research ethics and use, as well as even appropriation, of cultural heritage elements. Indeed, comparison and analysis

of the existing guidelines can be a useful starting point when considering the guidelines for ethical guidelines concerning Sámi, the process which is already ongoing from this premise. Also ad hoc type of guidelines can benefit from this existing material. This type of work has been carried out in the project *Digital Access to Sámi Heritage Archives* (2022), where ethical guidelines were developed concerning use of the service that the project developed.

As was mentioned above, IPRs have sometimes been considered as inappropriate legal instruments in terms of protecting Indigenous cultural heritage. What ethical guidelines can possibly do in this regard, is to “close the gaps” within legislation. Ethical guidelines can be used to articulate the needs and wishes of Indigenous communities the cultural heritage elements are associated with. However, ethical guidelines are not binding in the similar sense as legislation and they cannot be easily enforced. Nevertheless, in many cases the ethical guidelines may be considered to have reached de facto binding status. For example, statements of Finnish National Board on Research Integrity (TENK) are usually followed and universities in Finland are committed to them. It is of primary importance that the work of developing ethical guidelines is done from the initiative and in cooperation with Sámi communities. Otherwise, there is a danger that the guidelines will only work as a cosmetic improvement.

5 Conclusion and outlook

To commemorate the tenth volume of *Current Development in Arctic Law (CDAL)* and the 'new normal' of Arctic Governance, this paper has put together some of the latest outputs of Arctic Governance Research – an up-to-date perspective with attention to interdisciplinary work and its importance to the Just Green Transition. It does so, with the authors sharing interest in objectives that target: (a) Interdisciplinary work, its related research approaches, and importance for Arctic Governance Research on the Just Green Transition; (b) Illustrating examples with topical issues from the disciplines of Law and the Social Sciences appropriate for Arctic Governance; and (c) suggestions as to what interdisciplinary work adds to the present and future of Arctic Governance Research on the Just Green Transition. The authors used case examples with topics ranging from traditional in-depth Arctic Governance Research topics such as nature conservation and indigenous issues to emerging 'Arctic' issues such as climate migration and the role of IPR in Arctic law among others. In them, are evidence of an Arctic shaped by diversity not only in genetic resources, but, in the interplay between numerous actors, sectors, and stakeholders. So too, are the challenges that emerge during this diversity – a context that can be addressed with the aid of interdisciplinary work.

Strengthening Arctic resilience would continue to be one of those essential needs

which interdisciplinary work could contribute to, in shaping the present and future Arctic Governance Research and the Just Green Transition. An example, to developing such resilience, can be the practice of inspiring debates among Researchers of Arctic Governance on the modalities of applying interdisciplinary practices in Arctic Governance. Also, paying attention to case examples that arise with diverse perspectives and what meaning they indicate for improvements in Arctic Governance and the Just Green Transition. The authors have illustrated in this paper, the practical value of promoting knowledge in new ways. Topical examples underlined here, from holistic cross-border environmental governance, greener reforms on climate migration, inclusive governance for marine protected areas in the Arctic, to incorporating good practices through research ethics and heritage in Arctic Law. These are only a drop of topics among several indicative of the Arctic's diversity and the need for further resilience building in the vastly transforming European Arctic. They, nevertheless, are examples of the Just Green Transition's effects useful to revealing where additional capacity building is needed to strengthen Arctic resilience.

Also, linked to interdisciplinary work, are the transformation processes, and what they imply for regional resilience under the scope of Arctic Governance and research on the Just Green Transition. Analysis of case examples in this paper show that the

multiple ongoing transition(s) in the Arctic and outside the region are not separated. Instead, transformation processes are increasingly interlinked, and further attention is needed to focus on the new normal of Arctic Governance Research. While the local and global paradigms are transforming, Arctic governance and research should be able to develop its most valuable traditions while openly aiming to integrate emerging sectors and the best lessons learned.

Conclusively, the Just Green Transition is among the critical knots that current-day policy developments should continue analysing. In the European Arctic, EU politics and regulations are key drivers setting clear timelines to combat present and future challenges. In this regard, top-down coordination coupled with bottom-up flexibility are essential to developing regional resilience. While it is crucial to maintain flexibility to avoid possible collateral damages following strictly structured joint decision-making, shared action would also play a role to maintain the resilience of Arctic societies and the natural environment. This paper showed that despite the global ecological crisis, analysing the vastly transforming local and global dimensions of the Arctic with the aid of interdisciplinary practice, does add to strengthening the 'new normal' of Arctic Governance. It does even better, enhancing this 'new normal' if current policy developments emphasize on the role of the Just Green Transition in the Arctic.

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Arctic law in the face of climate change – a turning point?

Anticipatory law-making and new modes of governance

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1 Introduction

Temperature rise due to climate change is progressing twice as fast in the Arctic as on the rest of the planet,¹ and the changes that follow as a consequence will directly impact the environment² and the people that inhabit it, both in the Arctic and worldwide. Next to direct and indirect negative impacts on ecosystems and

livelihoods (such as e.g. effects on access to and composition of food,³ community security,⁴ and overall wellbeing more generally)⁵ the effects of climate change on the Arctic also affect the rest of the globe, as the reduction of (sea) ice cover decreases the albedo effect, which

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¹ M. Meredith et al., "Polar Regions," in *IPCC Special Report on the Ocean and Cryosphere in a Changing Climate* ed. H.-O. Pörtner et al. (In press: Cambridge University press, 2019), 205; Rune Grand Gravers and Minghuai Wang, "Polar amplification in a coupled climate model with locked albedo," *Climate Dynamics* 33, no. 5 (2009/10/01 2009): 629, <https://doi.org/10.1007/s00382-009-0535-6>.

² Meredith et al., "Polar Regions," 205.

³ Meredith et al., "Polar Regions," 205; R. Bezner Kerr et al., "Food, Fibre and Other Ecosystem Products," in *Climate Change 2022: Impacts, Adaptation, and Vulnerability*, ed. H.-O. Pörtner et al., Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change (Cambridge: Cambridge University Press, 2022), 63.

⁴ K. Kristensen & L. Mortensgaard, "Dangerous ice: Exploring the scales of climate change macrosecuritization through the Greenland Ice Sheet", in Jacobsen et.al. (eds.) *Greenland in Arctic security: (de)securitization dynamics under climatic thaw and geopolitical freeze*, (Ann Arbor: University of Michigan Press. Forthcoming 2023).

⁵ Meredith et al., "Polar Regions," 259-60; Ashlee Cunsolo Willox et al., "Examining relationships between climate change and mental health in the Circumpolar North," *Regional Environmental Change* 15, no. 1 (2015/01/01 2015), <https://doi.org/10.1007/s10113-014-0630-z>; Frank Sejersen, "Mobility, climate change, and social dynamics in the Arctic: the creation of new horizons of expectation and the role of community," *Climate change and human mobility: global challenges to the social sciences*. Cambridge University Press, Cambridge, UK (2012).

reinforces global warming processes that affect other parts of the Earth.⁶

Despite the predominantly negative consequences of climate change, melting of (sea) ice and rising temperatures due to global warming may also give rise to certain opportunities, such as Arctic Shipping,⁷ or increased access to resources. The possibility of ice-free summers in the Central Arctic Ocean (CAO), for example, may generate opportunities to exploit (yet unknown) fish-stocks, which may be economically attractive to states in the Arctic and beyond. This is especially relevant against the backdrop of a general decline in fish stocks in the rest of the globe,⁸ considering the major role that blue foods play in the global economy.⁹ Yet, an unregulated exploitation of these fisheries comes with dangers, such as stock collapse¹⁰ and the possible irreversible

destruction of ecosystems that are yet unknown.

Faced with these unprecedented, yet pressing changes, a new approach to Arctic governance seems necessary. The term 'Anticipatory Governance' has gained traction in the discourse around planning for the effects of climate change and sustainability.¹¹ We argue that this way of thinking is also on the rise in Arctic governance, with the 2018 Agreement to Prevent Unregulated High Seas Fisheries in the Central Arctic Ocean (CAOF Agreement) being a recent example. Despite the advantages of and the need for the anticipatory approach, we argue that anticipation also calls for transformations of governance by including what can be conceptualized as 'thick governance' approaches in order to adequately cope with climate-change influenced futures in

⁶ For an explanation of the albedo effect, see T. M. Lenton et al., "Tipping elements in the Earth's climate system," *Proceedings of the National Academy of Sciences of the United States of America* 105, no. 6 (2008): 1788, <https://doi.org/10.1073/pnas.0705414105>.

⁷ Jackie Dawson, "Arctic shipping: Future prospects and ocean governance," in *The future of ocean governance and capacity development* (Brill Nijhoff, 2019).

⁸ Erik J Molenaar, 'Participation in the central arctic ocean fisheries agreement', *Emerging Legal Orders in the Arctic* (Routledge 2019) 133; Beth Baker, 'Scientists Move to Protect Central Arctic Fisheries' (2012) 62 *BioScience* 852, 852; Elizabeth Mendenhall and others, 'Climate change increases the risk of fisheries conflict' (2020) 117 *Marine Policy* 103954, 2.

⁹ Michelle Tigchelaar and others, 'The vital roles of blue foods in the global food system' (2022) 33 *Global Food Security* 100637, 2.

¹⁰ Rosemary Rayfuse, "Regulating fisheries in the Central Arctic Ocean: much ado about nothing?," in *Arctic Marine Resource Governance and Development* (Springer, 2018), 38-39.

¹¹ Ray Quay, "Anticipatory governance: A tool for climate change adaptation," *Journal of the American Planning Association* 76, no. 4 (2010): 498; Karlijn Muiderman et al., "Four approaches to anticipatory climate governance: Different conceptions of the future and implications for the present," *Wiley Interdisciplinary Reviews: Climate Change* 11, no. 6 (2020).

an equitable and just manner and enhance legitimacy and effectiveness of measures.

2 Anticipation as a concept

The concept 'anticipation' is used differently in different bodies of literature (e.g. resilience, physics, psychology) but almost always contains some form of action, in view of future changes. "While anticipation and expectation are closely related",¹² anticipation is different from expectation in the sense that it includes present action to change the course of the future, instead of a mere contemplation of future events.¹³ If undertaken by a group of people, the term collective anticipation refers to the joint effort of a community that is in realization that a change is about to happen, and tries to both prepare for future events, as well as change the course of events at the same time.¹⁴ Anticipatory governance involves "changing short-term decision making to a longer-term policy vision, including the notion of foresight."¹⁵ This can be done, by employing tactics of "precaution, preemption and

preparedness" in order to prepare for future disruptions.¹⁶

3 The CAOF Agreement as an example of anticipatory lawmaking and governance

The Central Arctic Ocean (CAO) is one of the areas that are currently ice-covered but likely free up more and more due to rising temperatures. This increases the likelihood of commercial fisheries in the future. Despite the fact that the ecosystem in the CAO is still largely unknown,¹⁷ *the possibility of a northwards migration of species into the CAO following ocean warming, as well as the possible discovery of local fish stocks in the future posed the risk of an unregulated CAO fisheries with possibly disastrous consequences for local ecosystems.*¹⁸

In short, the Agreement prohibits unregulated commercial fishing in the High Seas portion of the Central Arctic Ocean,

¹² Rebecca Bryant and Daniel M Knight, *The anthropology of the future* (Cambridge University Press, 2019), 22.

¹³ Bryant and Knight, *The anthropology of the future*, 22.

¹⁴ Bryant and Knight, *The anthropology of the future*, 42, 43.

¹⁵ Emily Boyd et al., "Anticipatory governance for social-ecological resilience," *Ambio* 44, no. 1 (2015): 153.

¹⁶ Ben Anderson, "Preemption, precaution, preparedness: Anticipatory action and future geographies," *Progress in human geography* 34, no. 6 (2010): 791.

¹⁷Pauline Snoeijs-Leijonmalm et al., "Review of the research knowledge and gaps on fish populations, fisheries and linked ecosystems in the Central Arctic Ocean (CAO)," (2020): 45..

¹⁸ Rosemary Rayfuse, "The role of law in the regulation of fishing activities in the Central Arctic Ocean," *Marine Policy* 110 (2019); Andrew J. Norris and Patrick McKinley, "The central Arctic Ocean-preventing another tragedy of the commons," *Polar Record* 53, no. 1 (2017).

through a precautionary approach,¹⁹ while setting up a Joint Program of Scientific Research and Monitoring,²⁰ in order to make science-based decisions about a possible commercial fisheries in the future.²¹ The parties to the Agreement also may only establish a commercial fisheries subject to (interim) conservation and management measures that are to be established under the terms of the Agreement as well as general applicable rules of international law.²²

The Agreement has been hailed for its progressiveness in terms of adaptive governance, stewardship,²³ and its reliance on science in decision-making.²⁴ Due to its future-oriented approach,²⁵ the Agreement is also one of the first examples of anticipatory lawmaking in the oceans. *In the absence of* scientific certainty about the existence and properties of possible

ecosystems and fish stocks in the CAO, the state parties followed a call by the scientific community,²⁶ to address the problem of unregulated fishing in the CAO *before* it emerges in the first place.²⁷ While the Agreement's provisions are only temporary, it nevertheless sets the tone for future science-based management and stewardship. The Agreement aims to contribute to a "long-term strategy to safeguard healthy marine ecosystems",²⁸ establishing modes of cooperation that may contribute to prevent future disputes about resources that may arise in the Arctic following climate change impacts.²⁹ All these elements match the definition of anticipation, as well as anticipatory governance. It needs to be noted that the Agreement is not able to preclude all disputes, and is only a first step taken towards fisheries management subjected to management and conservation

¹⁹ Agreement to Prevent Unregulated High Seas Fisheries in the Central Arctic Ocean (Ilulissat, Oct 3 2018, entered into force Jun 25 2021), Art. 2.

²⁰ Agreement to Prevent Unregulated High Seas Fisheries in the Central Arctic Ocean (Ilulissat, Oct 3 2018, entered into force Jun 25 2021), Art. 4.

²¹ Agreement to Prevent Unregulated High Seas Fisheries in the Central Arctic Ocean (Ilulissat, Oct 3 2018, entered into force Jun 25 2021), Art.5 (1) (b) & Art. 5 (1) (c).

²² Agreement to Prevent Unregulated High Seas Fisheries in the Central Arctic Ocean (Ilulissat, Oct 3 2018, entered into force Jun 25 2021), Art.3.

²³ Alexander N Vylegzhanin, Oran R Young, and Paul Arthur Berkman, "The Central Arctic Ocean Fisheries Agreement as an element in the evolving Arctic Ocean governance complex," *Marine Policy* 118 (2020): 9.

²⁴ Rayfuse, "The role of law in the regulation of fishing activities in the Central Arctic Ocean."

²⁵ Timo Koivurova, Pirjo Kleemola-Juntunen, and Stefan Kirchner, "Emergence of a New Ocean: How to React to the Massive Change?," in *The Palgrave Handbook of Arctic Policy and Politics* (Springer, 2020), 420.

²⁶ Norris and McKinley, "The central Arctic Ocean-preventing another tragedy of the commons," 47.

²⁷ Koivurova, Kleemola-Juntunen, and Kirchner, "Emergence of a New Ocean: How to React to the Massive Change?," 420.

²⁸ Agreement to Prevent Unregulated High Seas Fisheries in the Central Arctic Ocean (Ilulissat, Oct 3 2018, entered into force Jun 25 2021), Art. 2.

²⁹ Jessica Spijkers et al., "Exploring the future of fishery conflict through narrative scenarios," *One Earth* 4, no. 3 (2021).

measures. Nevertheless, the Agreement moves *away from a tradition of regulating after the damage to ecosystems has already materialized*,³⁰ towards a new anticipatory approach to manage Arctic resources.

4 Towards new governance modes in anticipation of coming changes

Despite the anticipatory approach in terms of the regulation of state actors in fishing in the CAO, comprehensive collective anticipation requires the inclusion of all actors that may be impacted by commercial fisheries in the future. Considering the fact that the impacts of climate change will disproportionately impact Arctic indigenous peoples,³¹ measures for equitable and just mechanisms are necessary.³² Thick values in governance, as well as thick governance

may be a possible solution to bring about more equity and justice.

Thick governance values "incorporate a rich portfolio of ethical values"³³ into governance approaches such as inclusiveness, accountability, capacity building, stakeholder accountability and transparency.³⁴ The implementation of these values in governance is key for "effective problem-solving and durable behavioral change within an institution"³⁵ and can enhance the respective institution's legitimacy.³⁶ Thick governance means that governing institutions have to nourish a ground for public participation and the inclusion of a variety of voices that have the space to unfold their interpretations of potential impact and change elaborately. If thick governance is pursued, it entails an engagement in different understandings of data, action, contexts and interpretations, and elaborate

³⁰ Rayfuse, "The role of law in the regulation of fishing activities in the Central Arctic Ocean," 4.

³¹ Elizabeth Kronk Warner and Randall Abate, "International and domestic law dimensions of climate justice for Arctic indigenous peoples," *Revue générale de droit* 43 (2013): 118; Yuko Osakada, "From Victims to Contributors: A Human Rights Approach to Climate Change for the Indigenous Peoples of the Arctic," *The Yearbook of Polar Law Online* 13, no. 1 (2022): 21; See also H.-O Pörtner et al., "Summary for Policymakers," in *Climate Change 2022: Impacts, Adaptation, and Vulnerability*, ed. H.-O Pörtner et al., Contribution of Working Group II to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change (Cambridge: Cambridge University Press, 2022), 12 stressing the severity of the impacts of ecosystem loss especially on indigenous peoples as a whole.

³² Even considering the argument that the possible impact of a high seas fishery on coastal Arctic Indigenous peoples and other residents is unclear.

³³ Tim Cadman, Charles Sampford, and Rowena Maguire, "Introduction: Governing the climate regime," in *Governing the Climate Change Regime* (Routledge, 2016), 16.

³⁴ Hugh Breakey, Tim Cadman, and Charles Sampford, "Governance values and institutional integrity," in *Governing the Climate Change Regime* (Routledge, 2016), 30.

³⁵ Bridget Lewis, "Enhancing good governance within the international climate regime through human rights principles," in *Governing the Climate Change Regime* (Routledge, 2016), 181.

³⁶ Breakey, Cadman, and Sampford, "Governance values and institutional integrity," 30.

and detailed inquiries are means to add thickness. Because such an open and inclusive engagement often entails epistemological and ontological discussions (i.e. Indigenous knowledge vs. scientific knowledge)³⁷ governmental practices become more surprising, difficult and time consuming. Thick governance approaches in anticipatory governing and lawmaking in an era of rapid environmental change is more than expanding the portfolio of ethical values; it is creating a space for committed exploration, newness and transformation.³⁸

In the Arctic, there is a long tradition of the integration of different voices and the setting up of hybrid government (co-management, trans-national institutions etc).³⁹ In some cases, the Indigenous voices have been not only integrated into but also driven policy-making.⁴⁰ This legacy of

bringing thickness into governance opens up the potential of pushing anticipatory governance into a more robust and flexible position. The CAOFA Agreement recognizes "the interests of Arctic residents, including indigenous peoples" in the preamble, and expressly stipulate the taking into account of Indigenous and local knowledge in the Joint Program of Scientific Research and Monitoring.⁴¹ However, Indigenous peoples and their representatives are not given their own vote or voice in the decision-making procedure of Article 6, and are only given the opportunity ("may") to participate in "committees or similar bodies" that can be established to further the Agreement's implementation.⁴² Thus, while some elements of participation are available, the Agreement presents more of what Breakey et al. call "thickish" governance values.⁴³ They are a step up from thin values that describe the "limited

³⁷ Frank Sejersen, *Rethinking Greenland and the Arctic in the Era of Climate Change: New Northern Horizons* (Routledge, 2015).

³⁸ Frank Sejersen, "Resilience, human agency and climate change adaptation strategies in the Arctic," in *The Question of Resilience. Social Responses to Climate Change* ed. Kirsten Hastrup (The Royal Danish Academy of Sciences and Letters, 2009).

³⁹ Henry P Huntington, *Wildlife Management and Subsistence Hunting in Alaska* (Belhaven Press, 1992); Fikret Berkes and Derek Armitage, "Co-management institutions, knowledge, and learning: Adapting to change in the Arctic," *Etudes/Inuit/Studies* 34, no. 1 (2010); Derek Armitage et al., "Co-management and the co-production of knowledge: Learning to adapt in Canada's Arctic," *Global Environmental Change* 21, no. 3 (2011); Paul Nadasdy, "Reevaluating the co-management success story," *Arctic* (2003): 368.

⁴⁰ See e.g. Annika E Nilsson, "Arctic climate change: North American actors in circumpolar knowledge production and policy making," *Changing Climates in North American Politics: Institutions, Policymaking, and Multilevel Governance* (2009): 209.

⁴¹ Agreement to Prevent Unregulated High Seas Fisheries in the Central Arctic Ocean (Ilulissat, Oct 3 2018, entered into force Jun 25 2021), Art. 4 (4) & Art. 5 (1) (b).

⁴² Agreement to Prevent Unregulated High Seas Fisheries in the Central Arctic Ocean (Ilulissat, Oct 3 2018, entered into force Jun 25 2021), Art. 4 (4) & Art. 5 (2).

⁴³ Breakey, Cadman, and Sampford, "Governance values and institutional integrity," 30.

and basic" element of governance values,⁴⁴ but not sufficient to depict thick values that are "the full gamut of social and moral qualities that can be demanded of an institution's mechanisms".⁴⁵ The lack of appropriate thick governance mechanisms within the Agreement, as well as a lack of space for thick governance approaches is problematic in the climate change context, as it leaves out an important group of individuals affected by the consequences of climate change, which, in the end, may hinder comprehensive anticipation and thus effective problem solving.

Due to its anticipatory approach, the CAOF Agreement is a good example for a (hopefully) new trend in Arctic governance, taking action now to positively impact the future, while preparing for adverse events. However, an anticipatory standpoint requires also further investigating new modes of governance and diverting from old pathways in order to ensure a just and equitable progression into Arctic futures determined by global warming.

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⁴⁴ Breakey, Cadman, and Sampford, "Governance values and institutional integrity," 26.

⁴⁵ Breakey, Cadman, and Sampford, "Governance values and institutional integrity," 28.

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The Future of Arctic Governance: Broken hopes for Arctic exceptionalism?

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1 Introduction

On 24 February 2022, the president of the Russian Federation (hereinafter “Russia”), Vladimir Putin, started a “special military operation”¹ in which Russian troops entered the territory of Ukraine. The reaction to this act by the international community was almost unanimous; a few regimes² supported the attack and a number remained “neutral”³ in relation to the conflict. The collective opinion of most states characterized Russia’s move as an act of aggression against Ukraine, a member of the United Nations and an independent state. In invading Ukraine, Russia is clearly in breach of the norms of the United Nations Charter under its Article 2(4),⁴ an unprecedented violation of international law. After the escalation of military operations, Russia entered into a

potentially long-lasting confrontation, primarily with the West, including the Arctic states. This in turn has led to heightened tensions between the West and Russia on political, diplomatic and economic fronts. Western nations located along the Arctic Circle found it increasingly challenging to maintain dialog, collaboration and joint projects with Russia. Despite the epicenter of military actions being located outside of the Arctic, it soon became clear that cooperation on Arctic matters would suffer serious consequences. Geographically, half of the Arctic belongs to Russia, and over the years Russia has been an active player in Arctic cooperation via the Arctic Council, a high-level intergovernmental forum of the Arctic nations. Interestingly, Russia is the current Chair of the Council and the next Ministerial Meeting – the highest-level

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¹ Transcription of the “Communication of the President of the Russian Federation”, official website of the President of the Russian Federation, 24 February 2022, available at <http://kremlin.ru/events/president/transcripts/67843>.

² Belarus – para. 10 of the Resolution deplores the involvement of Belarus in this unlawful use of force against Ukraine, and calls upon it to abide by its international obligations, available at <https://press.un.org/en/2022/sc14808.doc.htm>.

³ China, India and the UAE all abstained in voting on the Resolution, available at <https://press.un.org/en/2022/sc14808.doc.htm>

⁴ Resolution adopted by the General Assembly on 2 March 2022 ES-11/1. Aggression against Ukraine, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N22/293/36/PDF/N2229336.pdf?OpenElement>.

gathering of the Council – was to be held in Russia in 2023. With the invasion causing serious mistrust, the seven Western Arctic states – Canada, Denmark, Finland, Iceland, Norway, Sweden and the United States – suspended cooperation with Russia. Although the founding document of the Arctic Council, the Ottawa Declaration,⁵ explicitly excludes military security from its mandate, regional security has now become a salient concern in the present circumstances, leading as it has to the suspension of Arctic cooperation. Among the immediate consequences of the invasion one saw Finland and Sweden applying for NATO membership; if and when they are admitted, the reshaped Arctic security infrastructure – NATO vs. Russia – will pose an intractable challenge for continuing the present model of Arctic cooperation. In fact, this can be felt already: the perception of Arctic exceptionalism, much desired, has apparently been shattered, with no, or very little, hope of revival, at least in the foreseeable future. Against this background, the following article aims to sketch what might be a “new

normal” in Arctic governance vis-à-vis the broken hope of Arctic exceptionalism.

2 The position of the seven Arctic states regarding the “new normal” in Arctic governance

The invasion of Ukraine marked the beginning of an era of substantial policy changes in the Arctic and forced the seven Western Arctic states to reconsider their plans for mutual cooperation with Russia. For decades the Arctic was considered to be a peaceful region unaffected by geopolitical tensions, a status that came to be termed “exceptionalism”.⁶ However, the invasion of Ukraine is precipitating a “new normal” in Arctic cooperation, dashing hopes that the Arctic as an exceptional region might become a zone of peace. The fastest reaction to the invasion was the suspension by the seven Arctic states of any official meetings of the Arctic Council or its subsidiary bodies during the Russian Chairmanship until further notice.⁷ Since the Arctic Council is frequently considered the most progressive regional forum on Arctic issues, this also marked the end of any discussions of Arctic affairs for the time

⁵ Declaration on the Establishment of the Arctic Council, Article 1 (a)*, Ottawa, Canada, September 19, 1996, available at https://oaarchive.arctic-council.org/bitstream/handle/11374/85/EDOCS-1752-v2-ACMMCA00_Ottawa_1996_Founding_Declaration.PDF?sequence=5&isAllowed=y.

⁶ P. Whitney Lackenbauer and Ryan Dean, “Arctic Exceptionalisms” (Chapter 14) in *Kristina Spohr and Daniel S. Hamilton, Editors; Jason C. Moyer, Associate Editor, The Arctic and the World Order*, Paul H. Nitze School of Advanced International Studies, Johns Hopkins University, available at <https://transatlanticrelations.org/wp-content/uploads/2020/12/The-Arctic-and-World-Order-ch14.pdf>.

⁷ See the official website of the Arctic Council, available at <https://www.arctic-council.org/>.

being.⁸ Among the interests that have been affected are collaborative efforts on global climate change, biodiversity, energy, food, and water security,⁹ as well as issues related to Indigenous peoples and scientific cooperation.

Moreover, shortly after the beginning of the invasion, the Diplomatic Service of the European Union's suspended regional cooperation with Russia in the Arctic.¹⁰ It issued three joint statements regarding the Northern Dimension policy,¹¹ Barents Euro-Arctic cooperation,¹² and the Council of the Baltic Sea States,¹³ all of which highlighted the "special military operation" as an "unprovoked and unjustified

aggression".¹⁴ The EU has stated that full engagement in the Arctic was not a question of convenience, but a geopolitical necessity.¹⁵ In the framework of the Arctic Council, the other seven Arctic states unanimously expressed their opinion concerning the Russian invasion in Ukraine, with the opinion supported by the EU.

The collective position of the seven Arctic states shortly after the beginning of the invasion was to temporarily isolate Russia from joint Arctic governance and to focus on results that might be achieved without Russia's involvement.¹⁶ Of particular concern is how the Arctic Council's Strategic Plan for the period 2021 to 2030

⁸ Benjamin J. Sacks and Kristin Van Abel, August 22, 2022, "How the Russian Invasion of Ukraine May Impact the Arctic", *Los Angeles Times*, available at <https://www.rand.org/blog/2022/08/how-the-russian-invasion-of-ukraine-may-impact-the.html>.

⁹ Andreas Raspotnik, Adam Stępień and Timo Koivurova, "The European Union's Arctic Policy in the Light of Russia's War against Ukraine", 26 April, 2022, *The Arctic Institute*, available at <https://www.thearcticinstitute.org/european-union-arctic-policy-light-russia-war-against-ukraine/>. See also Žižek S., "From Cold War to Hot Peace", *Project Syndicate*, 25 March 2022, available at <https://www.project-syndicate.org/onpoint/hot-peace-putins-war-as-clash-of-civilization-by-slavoj-zizek-2022-03>.

¹⁰ See the official website of the European Union (External Action), available at https://www.eeas.europa.eu/eeas/eu-arctic_en#:~:text=The%20EU%27s%20updated%20Arctic%20policy,least%20Indigenous%20Peoples%2C%20and%20future.

¹¹ European Union website, The Diplomatic Service of the European Union, press release dated 08.03.2022, available at https://www.eeas.europa.eu/eeas/northern-dimension-policy-joint-statement-european-union-iceland-and-norway-suspending_en.

¹² European Union website, The Diplomatic Service of the European Union, press release dated 08.03.2022, available at https://www.eeas.europa.eu/eeas/northern-dimension-policy-joint-statement-european-union-iceland-and-norway-suspending_en.

¹³ European Union website, The Diplomatic Service of the European Union, press release dated 08.03.2022, available at https://www.eeas.europa.eu/eeas/russiabelarus-members-suspend-russia-and-belarus-council-baltic-sea-states_en.

¹⁴ Denmark, Finland and Sweden are members of the EU; Iceland and Norway belong to the European Economic Area (EEA).

¹⁵ European Commission, Questions and answers on the EU's Arctic Strategy, official website of the European Union, available at https://ec.europa.eu/commission/presscorner/detail/en/qanda_21_5164.

¹⁶ See Trine Jonassen, "An Arctic without Russia", *High North News*, 12 June 2022, available at <https://www.highnorthnews.com/en/arctic-without-russia> and Timo Koivurova, "The Arctic Council can continue without Russia", *Arctic Today*, available at <https://www.arctictoday.com/the-arctic-council-can-continue-without-russia/>.

can be implemented without Russia. Namely, the plan sets the goals of “strengthening the Arctic Council”¹⁷ through effective coordination and cooperation as well as improving its ability to efficiently respond to emerging challenges and opportunities in the Arctic.

Apart from the collective position stated above, each Arctic state has expressed its individual reactions and put forward ideas for how the Arctic will be governed in the future in the light of events in Ukraine. These positions are taken up below.

2.1 Norway

After the Crimean crisis in 2014, relations between Russia and Norway saw heightened tension but cooperation continued.¹⁸ In 2021 the Norwegian government announced on its official platform that it would “further develop bilateral cooperation with Russia in the north” in addition to “strengthening the foreign and security policy dialogue.”¹⁹ However, as a reaction to Russia’s invasion,

when voting for the Security Council’s resolution on the Ukrainian crisis in February 2022, the Norwegian representative added a remark saying “Norway will join its allies and partners in swift and concrete countermeasures, including the intensified sanctions.”²⁰ These words have had concrete consequences and heightened tensions between two neighbors. A number of developments are affecting Norway directly: Russia has recently positioned strategic forces in the Arctic²¹ next to the Norwegian border; it has expanded its civilian and military infrastructure²²; and it may even renew claims to Spitsbergen Island²³ (Norwegian territory with a right for other states to exercise certain

¹⁷ Arctic Council, Arctic Council Strategic Plan 2021 to 2030, goals 6 and 7.

¹⁸ See more in Norwegian Arctic Strategy 2021, at 19, available at https://www.regjeringen.no/globalassets/departementene/ud/vedlegg/nord/arctic_strategy.pdf.

¹⁹ Andreas Østhagen, “Relations with Russia in the North were already tense. Now it’s getting worse”, 25 February 2022, The Arctic Institute, available at <https://www.thearcticinstitute.org/relations-russia-north-tense-getting-worse/>.

²⁰ Security Council, 8979TH MEETING (PM), SC/14808, 25 FEBRUARY 2022, MONA JUUL’s speech as a representative of Norway, available at <https://press.un.org/en/2022/sc14808.doc.htm>.

²¹ See Andreas Østhagen, “For Norway, the risk of conflict in the Arctic has increased”, 20 October 2022, *The Arctic Institute*, available at <https://www.thearcticinstitute.org/norway-risk-conflict-arctic-increased/>.

²² Norwegian Arctic Strategy 2021, at 16, available at https://www.regjeringen.no/globalassets/departementene/ud/vedlegg/nord/arctic_strategy.pdf.

²³ See Gonzalo Vázquez, “High North, low tension: Norway’s challenge in the Arctic with Russia and China”, available at <https://www.unav.edu/web/global-affairs/norway%C2%B4s-challenge-in-the-arctic-with-russia-and-china>.

activities²⁴). Another source of tension is NATO's particular interest in the north.²⁵

2.2 Finland and Sweden

One of the promptest reactions of the Western countries to Russia's invasion of Ukraine was the sudden readiness of and active steps taken by Finland and Sweden to join NATO, despite popular opinion previously being opposed to the countries doing so.²⁶ Finland and Sweden joining would mean extension of the physical border that Russia shares with the NATO allies. What is more, it would give the alliance the possibility to conduct more exercises in the Arctic under its severe climatic conditions and to increase its permanent military presence²⁷ in the region. This in turn would change the Arctic from a region of low tension to one of high tension.

Finland and Sweden have customarily focused on developing closer security ties,

because the two "share a distaste for a full NATO membership"²⁸; this no longer appears to be a relevant position. The Finnish government issued a report on 11 October 2022 analyzing the impact of the Russian aggression on international cooperation in the Arctic. The document states that there will be "no return to the pre-war reality" in the implementation of Finland's Arctic policy strategy; the report nevertheless admits the possibility that many things may change in the following months.²⁹

With the expression of a strong desire to join NATO one may clearly observe how the position of both countries has changed after the Russian invasion. Finland and Sweden reconsidered their course of neutrality and opted to join the defense alliance to deter any potential aggression by Russia. The Russian Federation reacted to this immediately, pointing out "This is, of course, a very alarming tendency, the

²⁴ See Treaty between Norway, The United States of America, Denmark, France, Italy, Japan, the Netherlands, Great Britain and Ireland and the British overseas Dominions and Sweden concerning Spitsbergen, signed in Paris 9 February 1920, available at http://library.arcticportal.org/1909/1/The_Svalbard_Treaty_9ssFy.pdf.

²⁵ Op-ed article by NATO Secretary General Jens Stoltenberg, "NATO is stepping up in the High North to keep our people safe", 24 August 2022, available at https://www.nato.int/cps/en/natohq/opinions_206894.htm.

²⁶ Paul, Michael (2022), "Arctic repercussions of Russia's invasion: Council on pause, research on ice and Russia frozen out", SWP Comment, No. 39/2022, Stiftung Wissenschaft und Politik (SWP), Berlin, available at: <http://hdl.handle.net/10419/263350>

²⁷ After joining the North Atlantic Treaty, Sweden and Finland would become full members of NATO, whose Article 3 allows treaty members to "maintain and develop their individual and collective capacity to resist armed attack." See the text of the Treaty here: https://www.nato.int/cps/en/natolive/official_texts_17120.htm.

²⁸ Nima Khorrami, "Sweden's Arctic Strategy: An Overview", *The Arctic Institute*, available at <https://www.thearcticinstitute.org/sweden-arctic-strategy-overview/>.

²⁹ A report commissioned by the Prime Minister's Office and published on 11 October 2022, English summary, available at <https://www.arcticcentre.org/loader.aspx?id=dc19ee9b-6ede-4ffb-9611-0aa531bef0b7>.

transformation of the Arctic region into an international theater of military actions and that it is a matter of concern for Russia.”³⁰

2.3 Canada

Canada’s reactions were visible in its initiative to expand military defense measures in the Arctic. In summer 2022, it unveiled an ambitious \$4.9 billion continental defense program with Arctic dimensions to help detect and track military threats,³¹ and announced the purchase of F-35 fifth-generation fighters to replace its aging fleet of F-18s.³² Canada is also planning to allocate funds for “satellite-based radar” that can spot incoming bombers or missiles “over the horizon” and to deploy a network of sensors with “classified capabilities” to monitor Arctic air and sea approaches to the continent. Earlier, in March 2022, the country announced Arctic military exercises, the Noble Defender operation,³³

jointly with the United States and named the United States its premier partner in the Arctic.³⁴ This might be indirect evidence of Canada’s realization that more military capabilities have to be transferred into the Arctic territories and it has to prepare an adequate response to any threats to the region.

2.4 Iceland

Iceland appears to have reacted the least (individually) to the Russian invasion among all Arctic countries in terms of changing its own Arctic strategy³⁵ and taking any concrete responsive actions. However, even Iceland made its position clear, highlighting that “[t]he reality is that everything has changed, and ... the work within the Arctic Council will change given

³⁰ Ambassador-at-Large of the Russian Foreign Ministry, Chairman of the Committee of Senior Officials of the Arctic Council Nikolai Korchunov, 22 May 2022, available at <https://katehon.com/ru/news/mid-rf-arktika-prevrashchaetsya-v-internatsionalnyy-teatr-boevyh-deystviy>.

³¹ Legere Hope, “Canada to Invest Billions in Military Spending to Counter Russia, China Threat in Arctic”, 24 June, 2022, available at <https://www.visiontimes.com/2022/06/24/canada-to-invest-billions-in-military-spending-to-counter-russia-china-threat-inarctic.html>.

³² Pierre Leblanc, “In a Conflict, the Canadian Arctic Could be on Russia's Radar”, *The Maritime Executive*, 6 June 2022, available at <https://maritime-executive.com/editorials/in-a-conflict-the-canadian-arctic-could-be-on-russia-s-radar>.

³³ Leyland Gecco, “Canada and US announce Arctic military exercises amid Russia tensions”, *The Guardian*, 16 March 2022, available at <https://www.theguardian.com/world/2022/mar/16/canada-us-arctic-military-exercises-russia>.

³⁴ See STATEMENT ON CANADA’S ARCTIC FOREIGN POLICY, available at https://www.international.gc.ca/world-monde/assets/pdfs/canada_arctic_foreign_policy-eng.pdf.

³⁵ Iceland’s Policy on Matters Concerning the Arctic Region was issued in October 2021, and since that time has announced no change concerning Icelandic policy in the Arctic even in the light of the Russian aggression against Ukraine, available at https://www.government.is/library/01-Ministries/Ministry-for-Foreign-Affairs/PDF-skjol/Arctic%20Policy_WEB.pdf.

Russia's attack."³⁶ One of the main messages communicated by the Icelandic Minister for Foreign Affairs is that the North should continue to work together in the light of the new geopolitical situation.

2.5 Denmark

Denmark's Arctic strategy was drafted for the period from 2011 to 2021, and the country was working with the Faroe Islands and Greenland on a new strategy for 2021-2030³⁷ until work stopped due to elections in Greenland. While the Arctic strategy has not yet been released, a new strategy for foreign and security policy was issued in which the Arctic was mentioned as one of five priorities.³⁸ Significantly, the skepticism about involving NATO in the Arctic has been replaced by support, especially after warnings from the Danish intelligence

services about Russian cyber espionage³⁹ and recent undersea cable accidents near the Faroe Islands,⁴⁰ which might qualify as acts of sabotage. Given the great dependence of its two territories – Greenland and the Faroe Islands⁴¹ – on undersea cables and increased concerns over cable security, Denmark is strengthening its security policy. One recent measure it has taken in response to Russia's aggression⁴² is to join the EU's defense pact with the aim, among others, of defending its submarine cables in the Arctic.

2.6 United States

In October 2022, the United States issued a new National Strategy for the Arctic Region,⁴³ in which it reconsiders its interests in the Arctic in the light of the

³⁶ See quotations of Icelandic Foreign Minister Thórdís Kolbrún Reykjörd Gylfadóttir, available at <https://www.wilsoncenter.org/event/arctic-cooperation-shadow-russian-aggression-armchair-discussion-icelandic-foreign-minister>.

³⁷ See the official website of the Ministry of Foreign Affairs of Denmark, available at <https://um.dk/en/foreign-policy/the-arctic>.

³⁸ Dr. Andreas Østhagen & Peter Wilhelm Lund Linde, "Why Norway and the Kingdom of Denmark should work closer together vis-à-vis the United States on security in the Arctic", 6 July 2022, available at <https://www.wilsoncenter.org/blog-post/no-13-why-norway-and-kingdom-denmark-should-work-closer-together-vis-vis-united-states>.

³⁹ Marc Jacobsen, "Arctic Aspects in Denmark's New Foreign and Security Policy Strategy", *The Arctic Institute*, 8 February 2022, available at <https://www.thearcticinstitute.org/arctic-aspects-denmark-new-foreign-security-policy-strategy/>.

⁴⁰ "Fiber-optic Submarine Cable near Faroe and Shetland Islands Damaged; Mediterranean Cables also Cut", *High North news*, 24 October 2022, available at <https://www.highnorthnews.com/en/fiber-optic-submarine-cable-near-faroe-and-shetland-islands-damaged-mediterranean-cables-also-cut>.

⁴¹ Greenland is connected by the cable Greenland Connect to Iceland and the United States, while the Faroe Islands are linked by the SHEFA-2, FARICE-1 and CANTAT-3 cables to the United Kingdom, Iceland and Denmark, respectively.

⁴² "Denmark set to join EU defence pact in response to Russia's war in Ukraine", *South China Morning Post*, 2 June 2022, available at <https://www.scmp.com/news/world/europe/article/3180088/denmark-set-join-eu-defence-pact-response-russias-war-ukraine>.

⁴³ The United States National Strategy for the Arctic Region is available at <https://www.whitehouse.gov/wp-content/uploads/2022/10/National-Strategy-for-the-Arctic-Region.pdf>.

Russian invasion. Security is named Pillar 1 of the Strategy and the document asserts that the United States will exercise U.S. government presence in the Arctic to protect American interests. Moreover, the Strategy puts an emphasis on cooperation with the allies, other Arctic states, to promote the rule of international law and states that the United States “will enhance and exercise both [...] military and civilian capabilities in the Arctic as required to deter threats”.⁴⁴ Since the Russian invasion began, the United States has taken several steps towards implementing the Strategy: it has signed an agreement with Norway allowing the use of agreed areas in Norwegian territory for training and exercises, deployment of forces⁴⁵ and similar activities and has allocated \$20

million to set up an Arctic Security Cutter program office in 2023.⁴⁶

3 The Russia’s position on the future of Arctic governance

Development in the Arctic region was one of the Soviet Union’s internal priorities.⁴⁷ The Soviet era saw many scientific discoveries, infrastructural achievements and much social progress. After the fall of the Soviet Union, the Russian Federation paused development in the Arctic due the internal crisis of the 1990s. It restored the Arctic as one of its strategic objectives in the mid-2000s and again held itself out as the dominant Arctic state.⁴⁸

Since invading Ukraine, Russia has become more proactive and strengthened its military presence in the Arctic by committing increased resources and using internally available tools.⁴⁹ The decision of

⁴⁴ See page 8, section “Pillar 1—Security: Develop Capabilities for Expanded Arctic Activity” of the United States National Strategy for the Arctic Region.

⁴⁵ New Norway-USA Defense Agreement Allows Extensive US Authority in the North, 6 June 2022, *High North News*, available at <https://www.highnorthnews.com/en/new-norway-usa-defense-agreement-allows-extensive-us-authority-north>.

⁴⁶ Bryant Harris, “White House Arctic strategy calls for enhanced military presence”, 7 October 2022, *DefenseNews*, available at <https://www.defensenews.com/pentagon/2022/10/07/white-house-arctic-strategy-calls-for-enhanced-military-presence/>.

⁴⁷ For instance, the mining industry. See Gonzalo Vázquez, “High North, low tension: Norway’s challenge in the Arctic with Russia and China, 12 July 2022, Universidad de Navarra, available at <https://www.unav.edu/web/global-affairs/norway%C2%B4s-challenge-in-the-arctic-with-russia-and-china>.

⁴⁸ Sergey Sukhankin, “War in Ukraine dilutes Russia’s Arctic successes and damages future plans”, *North American and Arctic Defence and Security Network*, 25 July 2022, available at <https://www.naadsn.ca/wp-content/uploads/2022/07/22jul-Sukhankin-upload.pdf>, p. 2.

⁴⁹ See, for instance, the Order dated 1 August 2022 No. 2115-p signed by the Prime Minister of the Russian Federation M. Mishustin approving the development plan for the Northern Sea Route for the period up to 2035. It includes, among other objectives, implementation of projects at the oil fields “Vostok Oil”; implementation of the coal project “North Star”; organization of regular coastal flights over the waters of the Northern Sea Route; preparation of the list of critical products; requiring import substitution for Arctic investment projects; construction of facilities for the liquefied natural gas and gas

the other Arctic states to suspend the work of the Arctic Council prompted Russia to essentially shift its focus from international cooperation to domestic Arctic interests and to pursue its aims with respect to the region without external support.⁵⁰ One of the important events in elaborating the domestic Arctic strategy after the events of February 2022 was the meeting held by V. Putin on 13 April 2022 dealing with strategies of development for the Russian Arctic zone.⁵¹ Some statements formulated during this meeting are worth discussing in detail, and these are taken up below.

In the beginning of his speech, the president highlighted that implementation of large-scale investment projects in the Arctic has always been and remains a priority for Russia. All of the country's national security interests are represented in the Arctic, with these including resources, military-political concerns and

technology. The focus has recently shifted to identifying the threats and challenges in the Arctic posed by the so-called "unfriendly" states.⁵² The president highlighted various external restrictions and pressures from sanctions affecting projects in the Russian Arctic. He did not urge that projects be postponed but, on the contrary, that their implementation should be expedited. In his view, a fitting response to attempts to restrain Russian development would be to maximize the pace of efforts of current and future tasks.⁵³ The president mentioned that the actions of "unfriendly countries" have disrupted a number of transport and logistical chains and that some foreign companies have failed to fulfill their contractual obligations. However, he reiterated that Russia has all the resources it requires and, despite the imposed sanctions, can confidently continue with its own development and

condensate terminals "Morning" in the port of Sabetta; construction of a marine terminal at Cape Nagleinin in the seaport Pevek; building a fleet for liquefied natural gas production projects; construction of an additional 4 icebreakers; construction of 30 ships for a rescue fleet for the Northern Sea Route by 2030, and many more. In total, more than 150 actions are planned, available at <http://static.government.ru/media/files/StA6ySKbBceANLRA6V2sF6wbOKSyxNzw.pdf>.

⁵⁰ For example, Russia has ambitious plans to finish building the unique ice-resistant platform "NORTH POLE", a special-purpose ship with the functionality of a research center, by the end of 2022 (see <https://www.aari.ru/fleet/ledostoykaya-platforma-%C2%ABsevernnyy-polyus%C2%BB>). Moreover, domestic military exercises of the Northern Fleet were conducted in September 2022 in the area of the Northern Sea Route (see <https://rg.ru/2022/09/08/reg-szfo/korabli-severnogo-flota-v-arktike-vstupili-v-boj-s-uslovnym-protivnikom.html>). The Decree "On the Approval of the Naval Doctrine of the Russian Federation" was signed on 31 July 2022 specifying development of the Arctic zone as a strategic resource base (see <http://kremlin.ru/events/president/news/69084>), etc.

⁵¹ Official internet portal of the President of the Russian Federation, Meeting on the matters of Arctic zone development, available at <http://www.kremlin.ru/events/president/news/68188>.

⁵² The designation "unfriendly states" refers to those that have imposed sanctions on Russia. See the list available at https://m.gazeta.ru/infographics/infografika_nedruzhestvennye_strany.shtml.

⁵³ Official internet portal of the President of the Russian Federation, Meeting on the matters of Arctic zone development, available at <http://www.kremlin.ru/events/president/news/68188>.

projects in the Arctic.⁵⁴ Apart from these observations, the speech placed a clear focus on the involvement of extra-regional states and associations in cooperation in the Arctic.⁵⁵ He specifically mentioned the Russian priority of shifting collaboration to partnership with non-Arctic states such as China, Brazil and India rather than with northern neighbors.

There were also comments relating to the situation with the Arctic Council. Here the president recalled that the main theme of Russia's Chairmanship of the Arctic Council for the period 2021-2023 is the sustainable development of the region and joint action to combat climate change. He noted that no country in the world will be able to carry out this work alone, and it will be all the more impossible without Russia, which spans 58 percent of the Arctic coast. The Minister of Natural Resources and Ecology called upon neighbors in the Arctic region to realize their responsibility and return to working together.⁵⁶ The Russian Foreign Ministry Ambassador-at-Large, Senior

Arctic Official Nikolai Korchunov said that the temporary freeze would lead to soft security risks and challenges in the region. He also pointed out that the Arctic Council has always been a platform for depoliticized dialogue and that questions of military security are not included in the organization's terms of reference. As he stated, "[t]he founding and strategic documents of the Council clearly spell out the need to preserve the Arctic as a territory of peace, stability and constructive cooperation. And in this regard, it is important to protect this unique format of interaction from the introduction of extra-regional topics so that it does not become their hostage."⁵⁷

Since the beginning of invasion Russian researchers working for national research institutes have also given their views on how governance of the Arctic will develop and which problems and challenges may appear. The main external challenge mentioned is the embargo on the supply of Russian oil and gas. This will reduce the

⁵⁴ For instance, the "North Pole" a project to build a special vessel, unique and the first multifunctional ship in the world to conduct Arctic research; the project "Clean Arctic" (internal Russian project to clean Arctic territories) (see more at <https://cleanarctic.ru/>); the project "Arctic hectare", offering every Russian citizen the opportunity to receive one hectare of land for free in the Arctic to build a house or start economic activity on (see more at <https://www.kp.ru/putevoditel/dom/arkticheskij-gektar/>)

⁵⁵ Official internet portal of the President of the Russian Federation, Meeting on the matters of Arctic zone development, available at <http://www.kremlin.ru/events/president/news/68188>.

⁵⁶ Speech of A.A. Kozlov, Minister of Natural Resources and Ecology, Official internet portal of the President of the Russian Federation, Meeting on the matters of Arctic zone development, available at <http://www.kremlin.ru/events/president/news/68188>.

⁵⁷ Ambassador-at-Large of the Russian Foreign Ministry, Chairman of the Committee of Senior Officials of the Arctic Council Nikolai Korchunov, 22 of May 2022, available at <https://katehon.com/ru/news/mid-rf-arktika-prevrashchaetsya-v-internacionalnyy-teatr-boevyh-deystviy>.

quality of life of the permanent population of the Russian Arctic, cut investments – leading to an economic recession – and cause difficulties in implementing previously announced national projects.⁵⁸

Leaving aside official announcements and opinions of Russian scientists, it is worth looking at what Russia has done in practice in the Arctic after the beginning of the invasion. One of the alarming activities is a growing military presence in the north, marked by missiles, submarines and military exercises.⁵⁹ On the civilian side, the “Polar Express” submarine cable project keeps evolving slowly; the most recent milestone was completed in July 2022 when the Government of the Chukotka Autonomous Okrug and Morsvyazspuṭnik signed a cooperation agreement.⁶⁰ Polar Express is a fully state-owned project to lay the first transarctic submarine cable. All

collaboration, for instance a plan with the Finnish company Cinia to construct a joint cable, was already discontinued in 2021.⁶¹ This development places the construction of the first large-scale submarine cable in the Arctic squarely in Russia’s domain, bringing yet another potential source of tension to the Arctic. The project is encumbered by the prospect of potential sabotage, which would lead to an intentional crippling of critical infrastructure as a means of warfare. Recent cases of damage to the Nord Stream pipeline⁶² and probable cuts of undersea cables suggest such incidents might be repeated in the Arctic. The Arctic Council would have done well to think earlier about a strong legal framework for submarine cables in the Arctic, adequate responsibility and joint efforts to investigate such cases.⁶³ However, this no longer appears to be feasible, at least in the

⁵⁸ Lukin Y.F., “Arkticheskiye vysovy Rossii” (Arctic challenges for Russia), *Obschestvennyye process y javleniya* N 2(2), May 2022, available at <https://www.ru-society.com/jour/article/view/24>.

⁵⁹ Ethan Wong, “The Arctic This Week Take Five: Week of 19 September, 2022”, 23 September 2022, *The Arctic Institute*, available at <https://www.thearcticinstitute.org/arctic-week-take-five-week-19-september-2022/?cn-reloaded=1>.

⁶⁰ See official website of the Polar Express submarine cable, available at <https://xn--e1ahdckegffejda6k5a1a.xn--p1ai/>.

⁶¹ See more on the Polar Express submarine cable in Daria Shvets, “The Polar Express Submarine Cable: The First Transarctic Cable and Security Concerns in the Arctic”, 2021, *University of Lapland*, available at <https://lauda.ulapland.fi/bitstream/handle/10024/64902/The%20Polar%20Express%20Submarine%20Cable%20-The%20First%20Transarctic%20Cable%20and%20Security%20Concerns%20in%20the%20Arctic.pdf?sequence=1&isAllowed=y>.

⁶² Julian Borger, “Nord Stream attacks highlight vulnerability of undersea pipelines in west”, 29 September 2022, *The Guardian*, available at <https://www.theguardian.com/business/2022/sep/29/nord-stream-attacks-highlight-vulnerability-undersea-pipelines-west>.

⁶³ Daria Shvets, *The Polar Express Submarine Cable: The First Transarctic Cable and Security Concerns in the Arctic*, 2021, *University of Lapland*, available at <https://lauda.ulapland.fi/bitstream/handle/10024/64902/The%20Polar%20Express%20Submarine%20Cable%20-The%20First%20Transarctic%20Cable%20and%20Security%20Concerns%20in%20the%20Arctic.pdf?sequence=1&isAllowed=y>.

near future. Submarine cables located in the Arctic might become the next target as a critical element of infrastructure in the light of the Russian confrontation with Western countries and the United States.⁶⁴ Such a possibility has led some Russian experts to believe that the Arctic has become a territory marked by high military tension.⁶⁵

There are some tendencies that might be identified in the announcements made by Russia after February 2022. The first is a reorientation of Russia's Arctic development to cooperation with non-Arctic states. One is China, which calls itself a "near-Arctic state" and is expressly interested in Arctic issues. On the other hand, there are some states that did not think of the Arctic as a potential policy objective but may soon realize it might be beneficial.⁶⁶ Then again, some states might find it harmful for their reputations and further relations with the EU and the West to maintain business relations with the Russia. They might be afraid or reluctant to

cooperate with Russia. This is the case with South Korea, which canceled a contract to build several ships for transporting liquified natural gas to the Russian state-owned company Sovkomflot.⁶⁷

Second, it has become clear that Russia will work to make domestic industry connected to the Arctic as independent as possible of foreign actors. For this purpose, it would aim to build its own infrastructure without external involvement. The focus on international cooperation with Arctic states has shifted to internal policy. Russia's revised position on the Arctic after the invasion takes into account Western sanctions, and the country is looking for ways to continue with internal projects without international support. Russia counts on alternative initiatives and aims at establishing its own strong Arctic governance. Paralleling this effort, the other seven Arctic countries are discussing how to continue the Arctic Council's work

⁶⁴ John Naughton, "Vladimir Putin's latest frightening gambit lies at the bottom of the ocean", 1 October 2022, *The Guardian*, available at <https://www.theguardian.com/commentisfree/2022/oct/01/vladimir-putins-latest-frightening-gambit-lies-at-the-bottom-of-the-ocean>.

⁶⁵ Viktor Sokirko, "Opasnost conflict v Arktike perestala byt teoreticheskoy", *Gazeta.ru*, available at <https://www.gazeta.ru/army/2022/04/18/14749502.shtml> and Lukin Y.F., "Arkticheskiye vysovy Rossi" (Arctic challenges for Russia), *Obschestvennye process y yavleniya* N 2(2), May 2022, available at <https://www.ru-society.com/jour/article/view/24>, page 67.

⁶⁶ See, for instance, Prof. Kamrul Hossain's article "WHY SHOULD BANGLADESH SEEK AN OBSERVER SEAT ON THE ARCTIC COUNCIL?" providing arguments why Bangladesh is interested in Arctic affairs and why it should get observer status in the Arctic Council, available at <https://polarconnection.org/bangladesh-observer-arctic-council/>.

⁶⁷ Sergey Sukhankin, "War in Ukraine dilutes Russia's Arctic successes and damages future plans", *North American and Arctic Defence and Security Network*, 25 July 2022, available at <https://www.naadsn.ca/wp-content/uploads/2022/07/22jul-Sukhankin-upload.pdf>, p. 6.

without Russia.⁶⁸ Here they face the challenge of answering the question of how much the Arctic countries may progress without Russia's participation in the areas of environmental governance, maritime regulations, and climate change.

Third, the consequences of Russia's new policy in the Arctic will be noticed in many areas that have previously been ones of dialog and cooperation. Severing scientific cooperation will further worsen transfer of knowledge about the Arctic and increase the gap with Russian scientists. For example, the future of the Agreement to prevent Unregulated High Seas Fisheries in the Central Arctic Ocean⁶⁹ might be affected, bearing in mind that sustainable and regulated fishing may only be implemented and achieved by mutual efforts of all Arctic states. The same applies to the United Nations Convention on the Law of the Sea and the passage rights⁷⁰ through the Northern Sea Route, a large stretch of which arguably belongs to Russian internal waters. Russia's self-interpretation of international law may influence the implementation of these two

agreements and affect the rule of law in the Arctic.⁷¹ Another major concern is the effort to prevent climate change and how the dramatically changing Arctic climate will be addressed without Russian involvement. While all these concerns argue for maintaining the long-standing position of the Arctic as an exceptional region, it has become clear that the era of Arctic exceptionalism ended in February 2022. The Arctic has apparently become a region like any other in global great power politics, and governance of the Arctic is now predicated on a new security infrastructure with NATO on one side and Russia on the other.

4 Conclusion

The question of Arctic governance in the future and how the new normal might look is very multifaceted and dynamic. It entails various issues and dimensions since governance in the Arctic affects many spheres of activity. What appears to be clear today is that when Russia invaded Ukraine, a shield fell that had protected the region from broader geopolitics—a

⁶⁸ Nikolaj Skydsgaard; editing by Barbara Lewis, "Arctic Council to resume limited work excluding Russia", 8 June 2022, *Reuters*, available at <https://www.reuters.com/world/arctic-council-countries-resume-limited-work-excluding-russia-2022-06-08/>.

⁶⁹ Agreement to prevent unregulated high seas fisheries in the Central Arctic Ocean, ST/10788/2018/INIT, available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A22019A0315%2801%29>.

⁷⁰ United Nations Convention on the Law of the Sea, 1833 UNTS 397, 21 ILM 1261 (1982), available at https://treaties.un.org/pages/ViewDetailsIII.aspx?src=TREATY&mtdsg_no=XXI-6&chapter=21&Temp=mtdsg3&clang=_en.

⁷¹ See, for instance, the recent draft law discussed in the Russian State Duma on the requirement that foreign war ships request authorization 90 days in advance for passage through the Northern Sea Route in Russian internal waters, even though this right is foreseen in Part 2, Section 2, Article 8.1 of UNCLOS, available at <http://duma.gov.ru/news/55051/>.

privileged position it enjoyed for many decades.⁷² To be sure, some opinions suggest that the absence of an open conflict in the Arctic has not meant that the conflict potential of the Cold War disappeared. These voices would say it just took a little nap and is now coming back, replenished with new triggers,⁷³ as seen in the remilitarizing of the Arctic.

On the one hand, we are witnessing a blockade and isolation of Russia from discussing the Arctic matters. The Arctic states (excluding Russia) appear to be some of the most advanced and innovative economies in the world,⁷⁴ and certain sectors may succeed in developing even without Russia's involvement. Examples are social welfare of Indigenous peoples, Arctic-7 scientific cooperation and transportation. Russia's reaction to this isolation has been to increase its power in the Russian Arctic and shift its focus to domestic Arctic issues. However, the

ambitious plans Russia drafted before the invasion might also be jeopardized with the need for investments and the redirecting of financial resources to military actions in Ukraine rather than the High North.

On the other hand, and all Arctic states understand it very well, the Russian Federation territory is home to some one half of the Arctic's population and encompasses half of the region's coastline. It dominates Arctic energy production, shipping, fishing and other industries. The Russian Arctic also remains critical to addressing global environmental issues such as permafrost thawing and wildfire prevention.⁷⁵ For this reason, the EU has left the door open for "cooperation on Arctic matters with like-minded interlocutors, in relevant bodies and via suitable channels."⁷⁶

In anticipating what Arctic governance might look like in the future, one may assume that each of the Arctic states will

⁷² Abbie Tingstad, Stephanie Pezard, Benjamin J. Sacks, Scott R. Stephenson, "Putin's Actions in Ukraine Are Spilling North", *Rand corporation*, available at <https://www.rand.org/blog/2022/03/putins-actions-in-ukraine-are-spilling-north.html> and Sergey Sukhankin, "War in Ukraine dilutes Russia's Arctic successes and damages future plans", *North American and Arctic Defence and Security Network*, 25 July 2022, available at <https://www.naadsn.ca/wp-content/uploads/2022/07/22jul-Sukhankin-upload.pdf>, p. 1.

⁷³ K. Labetskaya, "Arctic as a military actions theatre", 29 May 2022, *Independent Newspaper*, available at https://www.ng.ru/dipkurer/2022-05-29/9_8447_arctic.html.

⁷⁴ Sergey Sukhankin, "War in Ukraine dilutes Russia's Arctic successes and damages future plans", *North American and Arctic Defence and Security Network*, 25 July 2022, available at <https://www.naadsn.ca/wp-content/uploads/2022/07/22jul-Sukhankin-upload.pdf>, p. 2.

⁷⁵ Daniel McVicar, "How the Russia-Ukraine War Challenges Arctic Governance", *Council on Foreign Relations*, available at <https://www.cfr.org/blog/how-russia-ukraine-war-challenges-arctic-governance>.

⁷⁶ See the official website of the European Union (External Action), available at https://www.eeas.europa.eu/eeas/eu-arctic_en#:~:text=The%20EU%27s%20updated%20Arctic%20policy,least%20Indigenous%20Peoples%2C%20and%20future

face a considerable dilemma in deciding how to act towards Russia in Arctic matters. On the one hand, many states have mutually beneficial links with Russia, in particular social ties in border regions and bilateral relations in areas such as science and energy.⁷⁷ On the other, geopolitical change does not go unnoticed: developments will force the Arctic states to adjust their policies and prepare an adequate response to the changing political environment in the region. Selective cooperation in some spheres, especially at a very local level, will still be possible, but at least in the short term there seems to be no possibility of a comprehensive and integrated partnership with Russia in the Arctic. One alarming prospect is that the Arctic might be split in half, into the Russian Arctic, some 50% of the region, and the Western Arctic, comprising the other Arctic states. Such “bi-polar” development of what is a

uniform region might deepen the post-invasion split and would undoubtedly undermine comprehensive and sustainable Arctic development.

As recently as 2021, all eight Arctic states were hoping that the Arctic would be “a region of peace, stability and constructive cooperation” by 2030.⁷⁸ However, with the Russian invasion of Ukraine, the Arctic no longer has the freedom to see itself as an exception, as a region free from military confrontation; there is a strong signal that the era of Arctic exceptionalism is over. The lesson has been learned from the current situation, and it is of great concern. As yet we are unable to depict what form of Arctic cooperation we will have in the future, but obviously there is no return to a normalized cooperation like that in the pre-invasion infrastructure. We are probably in the process of crafting a new normal in Arctic cooperation.

⁷⁷ “Ukraine and the Arctic: Perspectives, Impacts, and Implications”, 14 March 2022, *Wilson Centre*, available at <https://www.wilsoncenter.org/event/ukraine-and-arctic-perspectives-impacts-and-implications>.

⁷⁸ Arctic Council, Arctic Council Strategic Plan 2021 to 2030.

War, exclusion, and geopolitical tension: the accepted normal in Arctic Council governance?

Tina Soliman-Hunter

The Russian invasion of Ukraine in February 2022 has led to heightened geopolitical tension, on a scale unheard of since the Cold War. The invasion has not only affected the security of Europe, but has also had a profound impact on the relationship of Russia with fellow Arctic states. The military dimension of the Russian invasion of Ukraine has overshadowed Arctic cooperation, and according to Wishnick and Carlson, the invasion has distracted attention from key Arctic issues such as climate change, socio-economic development and Indigenous communities.¹ Russia was keen to utilize its tenure as Chair of the Arctic Council from 2021 to engage with other Arctic Council states to advance its priorities, which included the development and improvement of the life of Arctic inhabitants and Indigenous peoples, climate change

and its impact on the Arctic, environmental protection in the Arctic.² Other goals of Russia during its Chairmanship included responsible governance for a sustainable Arctic by promoting collective approaches to the sustainable development of the Arctic, environmentally, socially and economically balanced development of the region, enhanced synergy and cooperation and coordination with other regional structures, as well as 'the implementation of the Council's Strategic Plan, while respecting the rule of law'.³

In advance of its tenure as Arctic Council Chair, Russia released several critical Arctic documents: On the fundamentals of the State policy of Russian Federation in the Arctic for the period up to 2035 (2035 Russian Arctic

¹ Elizabeth Wishnick & Cameron Carlson, 'The Russian Invasion of Ukraine Freezes Moscow's Arctic Ambitions' (2022) *Journal of Indo-Pacific Affairs* <https://www.airuniversity.af.edu/JIPA/Display/Article/3172713/the-russian-invasion-of-ukraine-freezes-moscows-arctic-ambitions/>

² Arctic Council, *Russian Chairmanship 2021-2023* (2021) <https://www.arctic-council.org/about/russian-chairmanship-2/>.

³ Arctic Council, *Russian Chairmanship 2021-2023* (2021) <https://www.arctic-council.org/about/russian-chairmanship-2/>.

Policy), and the Russian Arctic Strategy to 2035 (2035 Arctic Strategy).⁴ Together, these documents define the goals, strategies, directions, and tasks Russia will undertake to implement Russian ambitions for economic development in the region on the back of petroleum development and the expansion of the Northern Sea Route.

The Arctic Council, arguably the most important intergovernmental platform for addressing key questions of Arctic regional development, was rapid and loud in its response to the Ukraine invasion, issuing a *Joint statement on Arctic Council Cooperation Following Russia's Invasion of Ukraine* on 3 March 2022:

Canada, the Kingdom of Denmark, Finland, Iceland, Norway, Sweden, and the United States condemn Russia's unprovoked invasion of Ukraine and note the grave impediments to international cooperation, including in the Arctic, that Russia's actions have caused.

We remain convinced of the enduring value of the Arctic Council for circumpolar cooperation and reiterate our support for this institution and its work. We hold a responsibility to the people of the Arctic, including the indigenous peoples, who contribute to and benefit from the important work undertaken in the Council.

The core principles of sovereignty and territorial integrity, based on international law, have long underpinned the work of the Arctic Council, a forum which Russia currently chairs. In light of Russia's flagrant violation of these principles, our representatives will not travel to Russia for meetings of the Arctic Council. Additionally, our states are temporarily pausing participation in all meetings of the Council and its subsidiary bodies, pending consideration of the necessary modalities that can allow us to continue the Council's important work in view of the current circumstances.⁵

This pause in the Arctic Council's cooperation with Russia means that

⁴ Russian Federation, Strategy of development of the Arctic Zone of the Russian Federation and the provision of national security for the period to 2035, signed into law October 2020. This strategy followed the document On the Principles of the State Policy of the Russian Federation in the Arctic to 2035 signed into law 5 March 2020.

⁵ Arctic Council, *Joint Statement on Arctic Council Cooperation following Russia's invasion of Ukraine* 3 March 2022, <https://www.state.gov/joint-statement-on-arctic-council-cooperation-following-russias-invasion-of-ukraine/>

Russia's attempts to address its pressing Arctic issues during its chairmanship will be significantly hampered at the very least, and more likely completely shelved. The Joint Statement issued was deliberately worded, with the term 'pause temporarily' an indication of a pause rather than an action to remove Russia from the Arctic Council or a reconstitution of the Arctic Council without Russia as a member. In reality, this means that the remaining seven Arctic Council members will continue the Council's activities, to the exclusion of Russia's chairmanship and participation. This raises the fundamental question that addressed in this article - can the Arctic Council operate without Russia?

According to Article 1 of the *Ottawa Declaration on the establishment of the Arctic Council* ('the Declaration'), the Arctic Council was established as a high-level forum to provide a means for promoting cooperation, coordination and interaction amongst Arctic states, particularly regarding the sustainable development of the region, and the interests of the Indigenous peoples in

protecting and assisting the environment during the commercial development of resources.⁶ Thus, the goal of the Arctic Council is to provide cooperation at a governmental level on issues dedicated to the Arctic area, with Indigenous peoples' involvement at the forefront.

There are no provisions in the Declaration regarding the cancellation of host country's chairmanship or capacity to host meetings. On the contrary, Article 5 of the Declaration stipulates the necessity for rotation of the hosting of the meetings between all members of the Arctic Council. The cancellation of the right of a host country to hold a meeting must be by consensus of ALL Arctic Council Members, as Article 7 requires that ALL Arctic Council states agree with the decisions of the Council. This means that the decision of the other seven members of the Arctic Council to 'temporarily pausing participation in all meetings of the Council and its subsidiary bodies'⁷ lacks legitimacy under the provisions of the Declaration.

The Arctic Council is an intergovernmental forum that operates

⁶ Ottawa Declaration on the establishment of the Arctic Council (1996) Article 1(a).

⁷ Arctic Council, *Joint Statement on Arctic Council Cooperation following Russia's invasion of Ukraine* 3 March 2022, <https://www.state.gov/joint-statement-on-arctic-council-cooperation-following-russias-invasion-of-ukraine/>

by consensus, as required under Article 7 of the Declaration – ‘Decisions of the Arctic Council are to be by consensus of the members’. Therefore, the Arctic Council is not the forum for a contemplation of legitimacy or otherwise of Russian actions in Ukraine, or a forum for unilateral action. The decision of the remaining seven Arctic states to ‘temporarily pausing participation in all meetings of the Council and its subsidiary bodies, pending consideration of the necessary modalities that can allow us to continue the Council’s important work in view of the current circumstances’⁸ is a breach of Article 7 of the Declaration, since Russia has not agreed to the temporary pause in meetings, and therefore such a pause, temporary or not, violates Article 7.

The operation of the Arctic Council should not depend on the actions or misdeeds of any state. It should function for the aims that it was formed for, as a high-level forum to promote cooperation, coordination and interaction amongst Arctic states, rather than as a forum for punitive action against a state. Otherwise, the Arctic Council leaves it open to politicization for the misdeeds of any other Arctic

Council member that does not act in a way that others agree with.

The neutral nature of the Arctic Council was demonstrated by Norway nominating the AC for Nobel Peace Prize in early 2022, with Norwegian political conservative Bård Ludvig Thorheim declaring that ‘we believe this cooperation is exceptional in international politics and demonstrates the need for cooperation and trust between countries at a time where peace is threatened around Ukraine and other regions’. Russia’s military actions in the Ukraine, whilst clearly a breach of international law, need to be separated from its membership, chairmanship, and participation in the Arctic Council to protect the continued apolitical and non-military focus of the Arctic Council and to ensure that all Council members adhere to both the purpose and objectives of the Declaration and to the spirit of the Arctic Council, especially in relation to Indigenous peoples and nations. Indeed, matters related to military security are specifically carved out of Article 1(a) of the Declaration, indicating the wish of the signatories to not include or consider matters of a military nature within the confines of the Arctic Council.

⁸ Ottawa Declaration on the establishment of the Arctic Council (1996), Article 7.

In practice, this means that although Russia's military actions in the Ukraine require a response within the international geopolitical arena, the Arctic Council is not the forum to undertake such a response. The Arctic Council should not conflate Russian military aggression and action with Arctic regional development and cooperation, environmental protection, climate change, and Indigenous matters, especially since the role of the Arctic Council is to be depoliticized and demilitarized, sitting outside of politics and military security.

Such conflation has attracted the ire of the crucial Arctic Council observer nation China. In October 2022, China's special Envoy to the Arctic for China Feng Gao questioned the actions against Russia, commenting that 'The Arctic Council is based on a declaration and there is no procedure for leaving the council. I doubt that the chairmanship can be transferred to anyone or that Norway can take over

the chair without Russia from a legal point of view.'⁹ Although only an observer state to the Arctic Council, China undertakes substantial research activities in the Arctic, as well as heavily investing in the region, particularly through the establishment of the Polar Silk Road as part of its *Belt and Road Initiative*.¹⁰ Such activities are designed to buttress China's Arctic influence and strategic position, given it seeks to become a great polar power by 2030.¹¹

Whether such Chinese ambitions will come to pass remains questionable, given the complex relationship between Russia and China, and Russia's ongoing caution over Chinese ambitions in the region. Although China asserts itself as a near-Arctic state and important Arctic stakeholder with the right to a greater role in Arctic governance,¹² Koivurova notes that China perceives Arctic governance to be part of a greater global governance, and therefore China's role in such governance is

⁹ *China: "Will not acknowledge Arctic Council without Russia"* High North News, 15 October 2022, <https://www.highnorthnews.com/en/china-will-not-acknowledge-arctic-council-without-russia>.

¹⁰ Rush Doshi, Alexis Dale-Huang and Gaoqi Zhang, *Northern Expedition: China's Arctic Activities and Ambitions* (2021) Brookings Institute Report, https://www.brookings.edu/wp-content/uploads/2021/04/FP_20210412_china_arctic.pdf

¹¹ Rush Doshi, Alexis Dale-Huang and Gaoqi Zhang, *Northern Expedition: China's Arctic Activities and Ambitions* (2021) Brookings Institute Report, https://www.brookings.edu/wp-content/uploads/2021/04/FP_20210412_china_arctic.pdf, 1-2.

¹² P. Whitney Lackenbauer, Adam Lajeunesse, and Ryan Dean, 'Why China is not a peer competitor in the Arctic' (2022) *Journal of Indo-Pacific Affairs*, <https://www.airuniversity.af.edu/JIPA/Display/Article/3172586/why-china-is-not-a-peer-competitor-in-the-arctic/>.

significant.¹³ China openly declared its interest in the Arctic in its *Arctic White Paper*, which Hossain notes is probably best read as a policy declaration reaffirming China's adherence to pre-existing legal frameworks governing the Arctic region.¹⁴ Such reaffirmation, whilst important in a global context, has little bearing on the decisions and actions of the Arctic Council, given China's observer status and concurrent limited ability to influence the actions and decisions of the Council.

Thus, the actions to limit the participation of Russia in the Arctic

Council remains the purview only of Arctic Council members. The Declaration requires the consensus of all Arctic Council states (including Russia) before Russia can be restricted or prevented from participation in Arctic Council meetings or holding the Chairmanship. Such consensus from Russia is not forthcoming. Thus, the present temporary pause on Russia's Chairmanship and participation breaches Articles 5 and 7 of the *Ottawa Declaration on the establishment of the Arctic Council*.

¹³ Timo Koivurova, 'The current and future role of non-Arctic states in Arctic governance' in Akiho Shibata, Leileu Zou, Nikolas Sellheim, and Marzia Scopelliti (eds) *Emerging Legal Orders in the Arctic: The role of non-Arctic actors* (Routledge, 2019), 26

¹⁴ Kamrul Hossain (2018) "China's White Paper on the Arctic: Legal Status under International Law", *ASIL Insight* 22–7. www.asil.org/insights/volume/22/issue/7/chinas-white-paper-arctic-legal-status-under-international-law

Global Polar Law?

Rachael Lorna Johnstone

These brief, personal reflections are based on an intervention at the 15th Polar Law Symposium in Reykjavík, on 14th October 2022 on the panel “10 Years of Current Developments in Arctic Law: Arctic Law is an Academic Discipline” organised by Kamrul Hossain.

The geophysical interconnections of the polar regions to the rest of the world are well-recognised. The phrase, “What happens in the Arctic does not stay in the Arctic” has become so commonplace at Arctic events that it has become a cliché. Meanwhile, the Russian aggression in Ukraine in 2022 demonstrated beyond any doubt that polar affairs cannot be fully sheltered from international tensions elsewhere.

Polar law is, inter alia, part of international law and there is no doubt that international law applies at the Poles. These are not Wild-West¹ awaiting discovery, colonisation and exploitation despite the regular clickbait headlines.

The preamble to the Antarctic Treaty points to global interests:

Recognizing that it is in the interest of all mankind that Antarctica shall continue for ever to be used exclusively for peaceful purposes and shall not become the scene or object of international discord.²

And article 10 of the same treaty sees the states parties, especially the consultative parties, as self-appointed stewards who determine the rules for the benefit of the whole world.

Each of the Contracting Parties undertakes to exert appropriate efforts, consistent with the Charter of the United Nations, to the end that no one engages in any activity in Antarctica contrary to the principles or purposes of the present treaty.³

Meanwhile, in the North, the eight Arctic States, and sometimes the five States that border the Central Arctic Ocean, consider

¹ Not that the Wild West was not an empty land, devoid of Peoples or Law before the arrival of Europeans.

² Antarctic Treaty, December 1, 1959, United Nations Treaty Series 402 (1960): 71, Preamble.

³ Ibid, Article X.

themselves as stewards, or even guardians of the Arctic Ocean.⁴

But how global are the influences that create the body that we call polar law?

In the Arctic, the eight States with territory above Arctic Circle jealously guard their sovereignty and sovereign rights – even if one fundamentally violates the sovereignty of its neighbouring state in the most egregious and brutal way.⁵ The rules for observers to the Arctic Council make it clear that while they welcome *support* from non-Arctic States, intergovernmental organisations and fora and non-governmental organisations, only the Arctic States and permanent participants have a say (quite literally) at the ministerial and Senior Arctic Official meetings.⁶ Even the structure of the meetings ensures the

deference of observer States and institutions.

In the Antarctic, the Asian States, possibly excepting Japan, are viewed as interlopers on the “white continent” (pun intended).⁷ The resistance to China’s proposals for the Dome A Antarctic Specially Managed Area (AMSA) around Kunlun station epitomises the fear that this is a cover to restrict access to other States’ missions or even that it is a preliminary “land grab,”⁸ even while the claimant States play with area management in their sovereignty games. The claimant States are behind 2/3 of all the Antarctic Specially Protected Areas and AMSAs in the Antarctic, nearly all within their own “claim” while there is no protected area in the unclaimed sector. Ferrada describes this succinctly as “putting

⁴ Foreign Ministers of Canada, Denmark, Norway, Russia, and the United States of American, *The Ilulissat Declaration*, May 28, 2008.

⁵ Ibid.

⁶ Arctic Council Rules Of Procedure, as adopted by the Arctic Council at the First Arctic Council Ministerial Meeting, Iqaluit, Canada, September 17-18, 1998 and Revised by the Arctic Council at the Eighth Arctic Council Ministerial Meeting, Kiruna, Sweden, May 15, 2013, especially Annex 2, <https://oaarchive.arctic-council.org/handle/11374/940>; and Arctic Council Observer Manual for Subsidiary Bodies, as adopted by the Arctic Council at the Eighth Arctic Council Ministerial Meeting, Kiruna, Sweden, May 15, 2013 and Addendum, Approved by the Senior Arctic Officials at the Meeting of the Senior Arctic Officials, Anchorage, US, October 20-22, 2015 and Portland, Maine, US, October 4, 2016, para 7.3, <https://oaarchive.arctic-council.org/handle/11374/939>.

⁷ Elizabeth Leane, “Fictionalizing Antarctica” in *Handbook on the Politics of Antarctica*, Klaus Dodds, Alan D Hemmings and Peder Roberts, eds. (Cheltenham: Edward Elgar, 2017); see also Anne-Marie Brady, *China as a Polar Great Power* (Cambridge: Cambridge University Press, 2017).

⁸ Sakiko Hataya, “Legal Implications of China’s Proposal for an Antarctic Specially Managed Area (ASMA) at Kunlun Station at Dome A,” *Yearbook of Polar Law* 12 (2020): 75, 76. See also Dodds, “Sovereignty Watch,” 238 on similar reactions to China’s earlier plans to build a research station at the same location.

stewardship to work for sovereignty purposes.”⁹

Apartheid South Africa was a founding member of the Antarctic Treaty and welcomed through the decades, notwithstanding the racist regime that was a pariah in other international fora. Sixty years later, South Africa remains the only State party from the African continent. The research requirements in order to become a consultative party effectively preclude any developing State from obtaining decision-making power. It is not surprising that they do not bother to join the treaty at all.

Amongst the “thinkers” of polar law, there is a great deal of talking at other regions and not so much listening to. The “Third Pole Process” under the *Arctic Circle* banner is described as:

A comprehensive effort to introduce the Arctic model of collaboration to the Third Pole region.¹⁰

People of experience who have played an important role in Arctic collaboration will submit articles and

papers offering insights and analysis, as will officials, scientists, and people of experience from the Third Pole region.¹¹

Lessons learned from collaboration in the Arctic present many useful examples for other parts of the world and can serve as an inspiration for and find application in the Third Pole and Himalaya region.¹²

Glacial melt and sea-level rise is not the only thing now exported from the Poles to other regions; now Arctic institutions offer advice about how they should govern themselves.

Yet perhaps in current times, polar scholars should be asking what the Himalayan can teach us. The region boasts three nuclear-armed States with disputed borders who have survived seven decades of on-off skirmishes, four outright Indo-Pakistani wars and a Sino-Indian war. The Himalayan region may have something to say about managing international relations in times of hot conflict and hotter rhetoric.

⁹ Luis Valentin Ferrada. “Five Factors that will Decide the Future of Antarctica,” *Polar Journal* 8(1) (2018): 84, 99.

¹⁰ “The Arctic Circle UAE: Third Pole Process,” Arctic Circle, accessed November 7, 2022, <https://www.arcticcircle.org/third-pole-process>.

¹¹ United Arab Emirates Ministry of Climate Change and Environment and Arctic Circle, “The Arctic, Third Pole and COP28: Launch of the Arctic Circle – United Arab Emirates: Third Pole Process,” Press Release, TP process press release (n.d.) https://prismic-io.s3.amazonaws.com/arctic-circle-www/07e98c8f-20f1-4c39-b242-6d8e9a21dae4_TP+Process+Press+Release+2.pdf.

¹² Ibid.

Within the more traditional academe, structural barriers to a global scholarship remain. Much of this can be attributed to lack of funding: research requires investment and this is heavily weighted towards large institutions with access to national and EU grants (as well as those institutions with strong grant-machine support offices). Scholars from developing countries are locked out.

Participation in keystone events like the *Polar Law Symposia* and contributions to the *Yearbook of Polar Law* and the *Current Developments in Arctic Law* series also fail to represent voices from all regions of the world. Since the first volume of the *Yearbook of Polar Law* was published in 2009, nearly all the contributions have come from citizens of Arctic States and Antarctic Consultative Party States.

When it comes to our research projects, established polar law scholars should consider diversity when seeking partners and in allocating limited – often very limited – funds. Can we support participation in our conferences and seminars? Can we offer support with copy-editing for scholars writing in a second or third language?

Similarly, when considering the next generation of polar lawyers, efforts might be stronger to build a truly global discipline. In fourteen years of the polar law masters programmes at the University of Akureyri, Iceland, only three African students have taken the programmes and the first Indian student began only in 2021.

The perspectives they bring from post-colonial independent nations fundamentally enrich our discussions and challenge our assumptions about decision-making in the polar regions. Yet many more promising applicants have been denied by our immigration laws – and in one case by the Danish immigration authorities at Copenhagen airport notwithstanding a valid study permit for Iceland!

A global discipline requires diversity: not only in representation of different persons from different places; but also different perspectives. Literature on polar law reveals a dominance of western legal-thinking, especially positivist approaches to international law. There is extensive focus on treaties and instruments of international organisations (especially the United Nations). But there is a shortage of critical voices questioning the very structures of international law at the Poles.

- *Who gets to make law?*
- *Why does international law have authority over communities that never accepted it?*
- *What about the other “civilised nations” in the Arctic?*

The polar law academic community rightly seeks to centre the law of Indigenous Peoples in its work in the Arctic context. However, most of the *Yearbook's* articles are on the law *about* Indigenous Peoples, laws approved *by States*, and not the laws *of* Indigenous Peoples – and most of it is written by outsiders like the present author.

Scholars including John Borrows, Mariano Aupilaarjuk, Marie Tulimaaq, Lisa Qiluqqi Koperqualuk, Christina Allard and Susan Funderud Skogvant are all mapping their legal systems. This is undoubtedly *polar law* - but are we doing enough to welcome them to the polar law network? In the south, Māori explorers probably knew of the Antarctic continent hundreds of years before Bellingshausen.¹³ Yet where are the Indigenous Māori, Australian and native Patagonian scholars? If the Chilean and Argentinian territorial claims are based – in part – on proximity and continental continuity, then the much older sovereignty of the Indigenous of Patagonia

and Tierra del Fuego should equally give rise to a claim.

Polar law is no longer an emerging discipline; it is an established discipline. But it is not a *mature* discipline and will not be until it is more inclusive – of different regions and different, critical perspectives. That requires the old guard of polar law to step outside the comfort of our familiar networks and reach out. To be realised, it will require outreach and support to be directed towards new or underrepresented voices. And it may even require us to challenge our states' own immigration laws and policies that prevent ambitious students from studying in our countries.

¹³ Priscilla M Wehi, et al, "Transforming Antarctic Management and Policy with an Indigenous Māori lens," *Nature Ecology & Evolution* (2021), <https://doi.org/10.1038/s41559-021-01466-4>.

The Western (Near-)Future of Arctic Law

Stefan Kirchner^a

The escalation of Russia's war of aggression against Ukraine since 24 February 2022 has led to the greatest changes in Arctic governance since the end of the First Cold War.¹ Although there were some efforts at international cooperation, the development of Arctic Law only really took off since 1989. 2022 marks a similarly important incision in the evolution of Arctic Law. The seven Western Arctic states (A7), have suspended cooperation with Russia in the Arctic Council (AC), making the group of eight Arctic states (A8) practically irrelevant as a cooperative collection of states. Instead, Sweden and Finland are on the way to joining the North Atlantic Treaty Organization (NATO), giving up generations of nominal neutrality almost three decades after joining the European Union (EU) - another development of the 1990s that was facilitated by the end of the First Cold War. At the time of writing, in mid-August 2022, about half a year after

the beginning of the escalation, there are no indicators that Russia would change the destructive course it has chosen anytime soon. Instead, while Russia's advances on the ground are largely blocked by Ukrainian forces, rocket attacks targeting civilians across Ukraine continue daily and statements from Russian officials make it clear that this war is waged with genocidal intent.² Russia is waging a genocidal war of aggression against Ukraine. This war is not only Putin's war but Russia's war. Conducting this war and committing numerous crimes against the civilian population of Ukraine would not be possible without the active involvement of hundreds of thousands of soldiers and millions more people in Russia and abroad.

The current situation raises serious questions regarding the use of international law in Arctic governance and concerning the future of Arctic Law. With the cooperation with Russia, which covers

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¹ For an overview see Timo Koivurova (2022). "Is It Possible to Continue Cooperating with Russia in the Arctic Council?", in: Georgetown Journal of International Affairs, 29 June 2022, <https://gjia.georgetown.edu/2022/06/29/is-it-possible-to-continue-cooperating-with-russia-in-the-arctic-council/>.

² See e.g. Thomas Kika (2022). "Ukraine Slams 'Genocidal Language' by Russian Ambassador Pushing 'Final Solution'", in: Newsweek, 20 August 2022, <https://www.newsweek.com/ukraine-slams-genocidal-language-russian-ambassador-pushing-final-solution-1735413> (last accessed 21 August 2022).

half of the lands and half of the population in the Arctic, in the AC already suspended, how can Arctic Law be developed further?

Arctic Law is a product of an inherently optimistic time. While it is based on optimism, it is not unaware of risks. Its basic premise is one of trust in international cooperation to address critical issues that are relevant for all Arctic states. Regarding the Russian Federation, this premise is no longer valid because it can no longer be assumed that the wellbeing of others elsewhere in the Arctic is also in Russia's interest. Regarding the cooperation within the A7, this cooperation still remains relevant - in fact, today, it might be more relevant than ever before.

“At first sight, the choice might seem twofold: Arctic Law can retain the character of optimistic cooperation but reduce the geographical scope by excluding Russia, being limited to the A7. Alternatively, it can retain the geographical scope of the A8 but change its character and content, being downsized from a law of cooperation to a bare minimum of law to allow for co-existence.”

Arctic law, therefore, is at a crossroads today. At first sight, the choice might seem twofold: Arctic Law can retain the character of optimistic cooperation but reduce the geographical scope by excluding Russia, being limited to the A7. Alternatively, it can retain the geographical scope of the A8 but change its character and content, being

downsized from a law of cooperation to a bare minimum of law to allow for co-existence. But one of Russia's neighbours, Ukraine, is even being denied its very existence. Therefore, a third potential path emerges for the future of Arctic Law, a path that has been chosen by Russia: Russia has abandoned fundamental norms of international law - although it relies on international law elsewhere, for example in the contexts of the international law of the sea or in Antarctica. Russia has been excluded from the Council of Europe and de facto from the Arctic Council. It might find itself outside of the G20 but its positions in the Organization for Security and Co-operation in Europe (OSCE) and in the United Nations (UN) are, from the perspective of international law, secure for the moment. This selective reliance on and commitment to international law on the part of the Russian Federation also has implications for its position in the community that forms the fundament for the development of Arctic Law as a part of Public International Law. Cooperation through Arctic Law is now limited de facto to the A7. Russia remains a party to international treaties that have been

“With regard to the internal coherence of the A7, it is noteworthy that this is strengthened in ways that were unimaginable just a year ago. Finland and Sweden are on course to join NATO, meaning that all A7 states will soon be NATO members and that the Arctic will be clearly split into two halves.”

created as part of Arctic Law,³ but at the moment this appears to be law that exists on paper more than in practice. With regard to Russia, cooperation has already been reduced dramatically. With regard to the internal coherence of the A7, it is noteworthy that this is strengthened in ways that were unimaginable just a year ago. Finland and Sweden are on course to join NATO, meaning that all A7 states will soon be NATO members and that the Arctic will be clearly split into two halves. The scope of Arctic Law is expanding as it will include a stronger component of security-related norms, such as the North Atlantic Treaty. While Arctic Law has long been more than the international treaties that the A8 has created with a focus on the Arctic, these developments increase cohesion between the A7 and deepen the legal chasm between Russia and the Western Arctic.

This also means that actors that are not Arctic-exclusive, such as NATO and EU, will play a bigger role in cooperation in the Arctic. Arctic Law has never been limited to the A8 but today, this is becoming even clearer. In Ukraine, but also in Georgia, Syria, and elsewhere, Russia's current government has exhibited a clear disregard

for fundamental principles of international law. This makes it difficult to perceive Russia as a partner that can be trusted. Russia has abandoned international law, not the other way around. Instead of cooperation with Western neighbours, Moscow has chosen a path of aggression that leads to isolation, similar to that chosen by Teheran. Today, the Russian state, its institutions, representatives, and supporters, are associated with the genocidal war of aggression. Russia's behaviour forms an antithesis to the cooperative spirit that is the fundament of Arctic Law. During the First Cold War, East and West were split and in opposition to each other. Arctic Law could emerge on the basis of the recognition of shared interests. Today's situation is characterized not only by opposition but by aggression. The current situation, therefore, appears worse than the Cold War when mutual cooperation was possible, for example in the form of the Polar Bear Agreement⁴ or when the United States of America and the Soviet Union cooperated to rescue whales trapped off the coast of Alaska. Arctic Law reflects the spirit of cooperation. Between the A7, this spirit exists and the desire to cooperate only grows due to Russia's

³ See in detail Timo Koivurova, Pirjo Kleemola-Juntunen & Stefan Kirchner (2020). "Arctic Regional Agreements and Arrangements", in: Karen N. Scott & David L. VanderZwaag (eds.), *Research Handbook on Polar Law*, Cheltenham: Edward Elgar, pp. 64-83.

⁴ Agreement on the Conservation of Polar Bears, adopted 15 November 1973, entered into force 26 May 1976, 2898 United Nations Treaty Series I-50540.

aggression and threats. With regard to Russia, it is impossible to see how and when the current situation will change again. The positive experience of 1989-2022, when cooperation was possible despite political differences and when the Arctic, like Outer Space, was seen as an area in which international law was protected from disputes elsewhere, might serve as an inspiration for future cooperation.

At the moment, though, Russia does not meet the requirements for cooperation. Historical experiences show that it can take generations of efforts to allow for a return to the table (for example when West Germany and East Germany joined the United Nations in 1973). Creating the necessary conditions that will allow for a resumption of cooperation within the framework of Arctic Law is up to the Russian people alone. All actors in Arctic Law, state and non-state actors alike, will have to be clearly committed to the core values of international law, including those laid down in the Charter of the United Nations, as well as to the rule of law in international relations. International law does not require all states to share a single political ideology - on the contrary, it allows for peace despite differences. What is necessary is a basic consensus on essential rules, such as the sovereign

equality of states and the prohibition of the use of force in international relations.

Russia has moved away from this fundamental consensus. For the time being, it does not play a role in the further development of Arctic Law - and Arctic Law is being developed further. It is not going to remain static. By abandoning the core consensus that made Arctic Law possible, Russia has placed the power to develop Arctic Law in the hands of the A7. If, when, and how, Russia might be able to catch up in the future remains entirely unclear and this is a topic for future discussions. The A7's commitment to international law today is reflected in its support for those who repel Russia's aggression. Arctic Law continues to develop, but Russia has removed itself from the circle of those who have a say in its development. This is a loss for the Arctic community as a whole, but even more so for the people who live in the Russian Arctic.

Careful precautions or dangerous misperceptions?

Analysing the militarization strategies of the Arctic countries following the Russian invasion of Ukraine.

Christopher Kiyaseh

Abstract: *Following the February 2022 Russian invasion of Ukraine, the Arctic has evolved into a sensitive security environment. Uncertainty regarding the duration of the war in Ukraine, misperceptions around Arctic military exercises, and growing tensions among Arctic states have opened an opportunity for accidental encounters or spillover conflict. Therefore, this analysis seeks to explore the militarization strategies of NATO and Russia within the Arctic following the Russian invasion of Ukraine. To supplement the analysis, this article will also examine military exercises as an indicator of militarization strategies by using the Center for Strategic and International Studies (CSIS) Arctic Military Activity Tracker. Specifically, by quantifying open-source articles from prominent Arctic media outlets to record the most recent military events. The findings indicate that current perceptions of militarization do not match actual observed military activities. Specifically, military activities fell by nearly half following the Russian invasion of Ukraine compared to military activity before the conflict. In addition, NATO has returned to a Cold-War era doctrine that*

focuses on Russian deterrence and containment. On the other hand, Russia has nearly completed its military modernization strategy in the Arctic and claims it is not interested in further military build-up. This implies that the Russo-Ukrainian conflict has not only broken down Arctic cooperation, it also acted as a breaker of observed Arctic military activity by drawing away resources towards the frontlines and away from the Arctic.

1 Introduction

Following the Russian invasion of Ukraine in February of 2022, tensions among the North Atlantic Treaty Organization (NATO) and the Russian Federation have become heightened. As countries react to the dynamic security environment, misperceptions regarding military capabilities and activity arise as a result. This analysis will seek to examine the militarization strategies of the Arctic countries following the Russian invasion of Ukraine. Secondly, using the Center for Strategic and International Studies (CSIS) Military Activity Tracker, a supplementary examination of the state of military activity in the Arctic will be quantified to gauge

activity before and after the Russo-Ukrainian conflict. From the initial data, it can be seen that prior to the conflict, military activity had been steadily growing. However, following the commencement of hostilities in February of 2022, Arctic military activity has been reduced by nearly half. This shows the resources and attention that the Russo-Ukrainian conflict has required.

It is also clear that the invasion has eroded away the concept of Arctic exceptionalism,¹ seemingly no longer applying as external geopolitical realities have solidified the securitization of the Arctic from the perspective of the eight Arctic Council member states.² This has been reflected in the sudden breakdown of cooperation between NATO and Russia both within and outside of the Arctic. This has been prominently represented by the sudden end of diplomatic and scientific cooperation as seen for many decades in cooperative bodies like the Arctic Council, among other Arctic institutions. As a response, the conflict in Ukraine has strengthened NATO's resolve in the Arctic and unified previously neutral hesitant states in Sweden and Finland.

Finally, NATO is using the conflict in Ukraine as an opportunity to bolster their

military and infrastructural capabilities within the Arctic. This can be seen in the revision of maritime strategies to restore Cold War-era doctrines with the focus on deterring and containing Russia and an emerging China. With the impacts of climate change acting as a threat multiplier, the Russian invasion of Ukraine has increased the intensity of climate change's consequences. Countries have been forced to reallocate resources and shift focus from climate mitigation and adaptation efforts to military security. These environmental impacts seek to act as barriers to effective militarization of the region and potentially challenge conventional applications of strategies.

2 Russian Military Strategy

In recent years, Russian President, Vladimir Putin has made a concerted effort to increase the Russian military's presence in the Arctic region. This has included the construction of new military bases, the deployment of additional troops and hardware to the region, and the establishment of a new Arctic command (Paul 2022). Putin has also been working to increase the Russian civilian presence in the Arctic, along with energy and transportation infrastructure in part to support the military's increased activity in

¹ Arctic exceptionalism

² United States of America, Russia, Canada, Iceland, Finland, Sweden, Norway, Denmark

the region. Following the Russian invasion of Ukraine, Russia had nearly completed its military modernization process in the Arctic (Center for Strategic and International Studies 2022).

“Putin has also been working to increase the Russian civilian presence in the Arctic, along with energy and transportation infrastructure in part to support the military's increased activity in the region.”

The Russian Arctic region acts as a key strategic location for the Russian military. The region is home to Russia's northernmost military base, the Northern Fleet. The Northern Fleet is a critical component of the Russian nuclear triad, which is designed to ensure the Russian nuclear deterrent is invulnerable to a first strike (Paul and Swistek 2022). The Northern Fleet is also responsible for patrolling the Arctic Ocean and protecting Russian economic interests in the region, which are significant given the region's vast natural resources. The Northern Sea Route (NSR) acts as key transportation corridor and security barrier. In 2019, new air-defense missile systems, and S-350 surface-to-air missile launchers were installed along the NSR near Novaya Zemlya and Franz Josef Land among other archipelagos in the Arctic. (Bertelsen 2022)

From the Russian perspective, the decision for Finland and Sweden to formally join NATO in response to Russian actions in Ukraine is seen as a significant security

challenge and destabilizer in the region. This is because it increases the instance for misperceptions, accidental confrontation, or escalation of a security dilemma (Sergunin 2022). From Sweden and Finland's perspectives, this was a necessary defensive geostrategic measure to secure their long and short-term national defense interests. Despite these efforts, Russia argues that it does not want to further militarize the region upon the completion of its modernization process but focus on preserving peace and cooperation. Furthermore, Russia perceives its actions as working to maintain the regional power balance rather than deploying offensive potentials (P. W. Lackenbauer 2022).

3 NATO Military Strategy

The NATO Arctic military strategy following the Russian invasion of Ukraine is focused on closing the capability gap by investing in new assets, scientific research, increasing military presence and visibility, and maintaining strong cooperation among Arctic allies to deter and contain any potential Russian aggression in the region. This includes both naval and air assets, as well as troops on the ground (Odgaard 2022). NATO is also working to improve its ability to operate in the Arctic, including in the event of a conflict. NATO has classified the region of both geostrategic and military interest due to the large proportion of Russian nuclear capabilities in the region. Furthermore, maritime chokepoints like the Greenland-Iceland-United

Kingdom (GIUK) gap and the chokepoint between Svalbard and Norway (Bear Gap) have come under mounting tensions due to the hostilities of Russia in Ukraine. Consequently, NATO strategists have recommended that Nordic states be tasked with leading alliance efforts to ensure sufficient situational awareness and reinforce regional resilience against adversarial behavior from Russia. (Buchanan 2022)

From a maritime security perspective, NATO has acknowledged that there is a need to update its Arctic/ High North strategy to reflect the dynamic geopolitical environment. As a result, NATO has also called for a return to the Cold War-era Atlantic Command. This focuses on featuring the High North as a prominent

theatre for deterring and containing any Russian military aggression (Buchanan 2022). This has been exemplified by individual country strategies, like the recent U.S. National Strategy for the Arctic Region 2022. As stated within the strategy, the U.S. aims to “maximize our cooperation with Arctic Allies and partners to enhance our shared security and deter aggression in the Arctic, especially from Russia.” (The White House Washington 2022)

In addition, Norwegian Armed Forces have also raised their level of military preparedness to reflect the “most serious security policy situation in decades” as the Norwegian Prime Minister, Jonas Gahr Støre emphasized. Furthermore, Canada and the United States have invested heavily in the North American Aerospace Defense

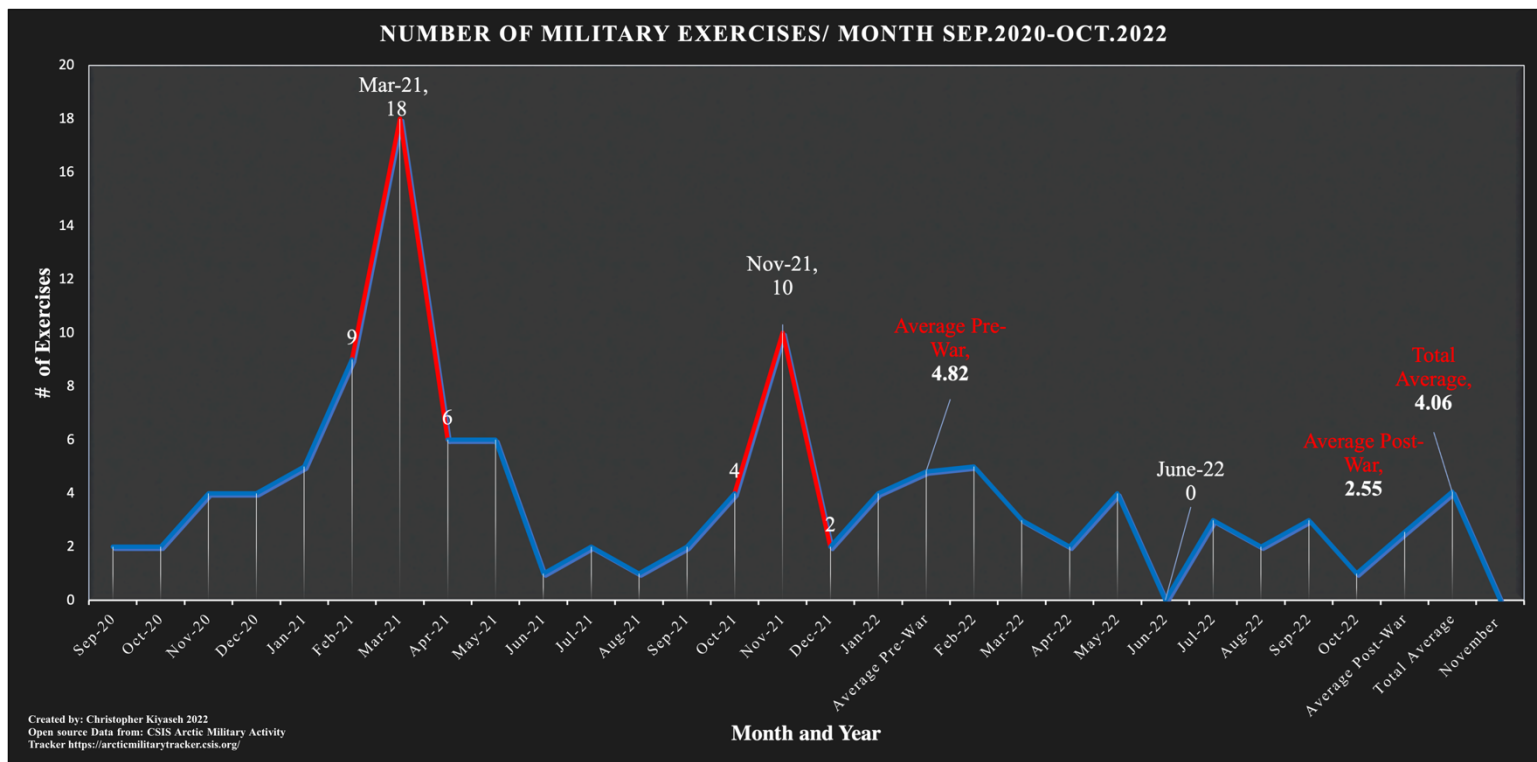


Figure 1: Created by: Christopher Kiyaseh 2022 using opensource data from CSIS Arctic Military Activity Tracker <https://arcticmilitarytracker.csis.org/>

Command (NORAD) and to ensure its modernization process makes NORAD a leader of NATO’s northern and western approaches. (NATO 2022) In addition, the Swedish Chief of Defense has recently called for the increase of its military presence in the northern regions of the country. Particularly, through establishing a new unit in the Kiruna municipality of upper Norrland (Gunn-Bye 2022). Finland has also reacted in a similar sense, stating that the Finnish Arctic policy “needs to adapt to the realities of a new Cold War”. (Humpert 2022)

4 Analyzing the state of military activity

While NATO and Russia have outlined their respective militarization strategies in reports or documents, their behavior in the

Arctic beyond these constraints can be understood through military exercises and drills. These military activities give a unique insight that either contradicts or confirms the countries’ strategies and allows the measurement of military competition and capabilities in the Arctic. The Center for Strategic and International Studies, a Washington, D.C. based think-tank created the Arctic Military Activity Tracker (AMAT) which acts as an up-to date repository of strategic competition in the Arctic (Choi and Harris 2022). AMAT covers six different classifications of military activity and includes overflight, exercises and training, missile test, deployment, air defense operations, and air policing. Each event is dated, geolocated, categorized, and labeled with the type of equipment/capability recorded along with

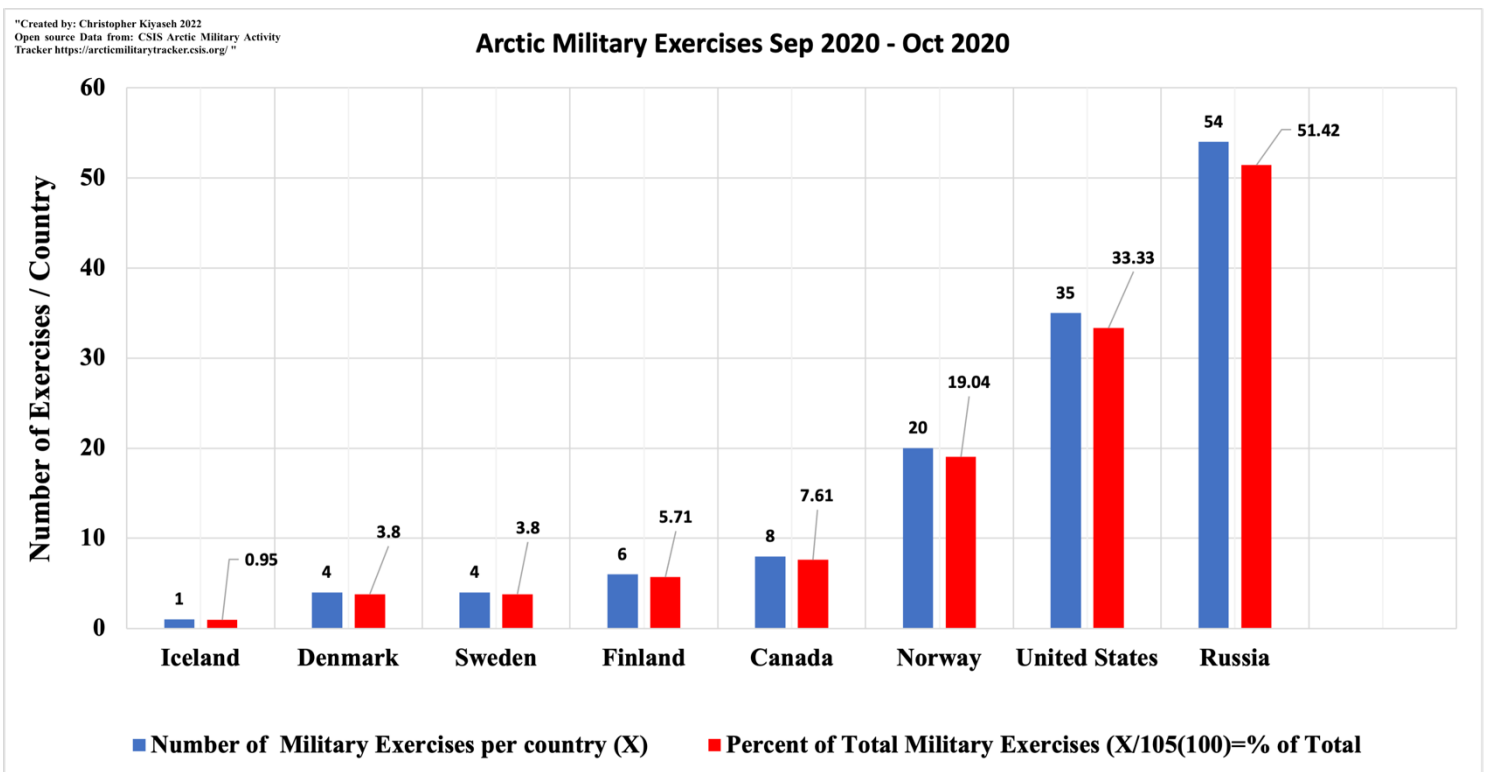


Figure 2: Created by: Christopher Kiyaseh 2022 using open-source data from CSIS Arctic Military Activity Tracker <https://arcticmilitarytracker.csis.org/>

participating countries and hyperlinked sources.

In total, between September 2020 and October of 2020, there have been 105 events recorded, with the following classifications, 53 exercises and training, 24 overflight, 15 missile test, 11 deployment, 1 air defense operation, and 1 air policing (figure.1). A noteworthy statistic is viewing the average monthly frequency of these exercises before and after the 2022 Russian invasion of Ukraine. Prior to the Russian invasion of Ukraine, (Sep.2020-Jan.2022) there were 4.82 exercises a month on average. After the Russian invasion of Ukraine (Feb.2022-Oct.2022) there were 2.55 exercises per month on average, for a difference of 2.27 exercises or approximately a 47% decrease.

This data offers a unique angle that illustrates the impact of the Ukrainian war on both NATO and Russian military resources. It also gives insight into how other conflicts outside of the Arctic could act as a potential decelerator to further military activity. In addition to viewing military activity on a country-by-country basis (figure 2) can expand our understanding of who is responsible for the most military action in the region. In proportion to the total 105 exercises, Russia is responsible for 54 activities or approximately 51% as opposed to the United States with 35 activities or 33%. This shows that there is not only a perceived gap within military capability but a visible

gap in military activity within the Arctic region between Russia and the United States. It also shows that the United States cannot stand alone in the Arctic, nor can other NATO allies. Notice that Combined NATO Military activities (78) outweigh Russia's (54) by a significant margin as opposed to being measured individually. If NATO is to navigate external shocks and potential spillover effectively and efficiently from Russia or China intervening in the Arctic, that they must do so as a coherent and singular unit.

“In proportion to the total 105 exercises, Russia is responsible for 54 activities or approximately 51% as opposed to the United States with 35 activities or 33%.”

5 Looking forward

From this analysis, it can be understood how external geopolitical conflict can impact militarization and military activity within the Arctic region. It also allows us to pause and ponder the differences between observed military activity and perceived capabilities of NATO and Russia. From these conclusions, it is evident that further research needs to be conducted in this realm to inform both policymakers and scholars alike on the importance of accurately representing adversarial tensions or lack thereof. Perhaps the greatest danger in the Arctic is misperception, which in the past has contributed to the acceleration of several global conflicts.

Furthermore, the need for an interdisciplinary approach to understanding the militarization strategies of different countries within the Arctic are crucial. Social scientists and policymakers must collaborate with natural scientists and climatologists in joint or multilateral efforts in order to accurately inform military strategies and associated risks. Understandably, the findings in this article could have been strengthened by additional data on other military capabilities in the Arctic but is limited due to the unavailability of the data or classified nature of the information.

For example, tracking the quality and frequency of military bases in the Arctic or deployment of offensive versus defensive capabilities can contribute to a greater understanding of Arctic militarization. This would help to act as a preventative measure against overinflated military posturing from countries like China who continues to disruptively lay claim to the region as a "near-Arctic state". Inaccurate resource or land claims to the Arctic left unvetted can act as dangerous landmines in each nation's geopolitical strategies. This can increase the likelihood for accidental or unaccounted for reactions to imagined threats. Continued communication and diplomatic efforts across political, scientific, and military mediums are crucial to maintaining peace in the region and deescalating military buildup. As a final note, caution and careful calculation can be the greatest ally to each respective nation

when faced with dynamic and emerging threats.

"Perhaps the greatest danger in the Arctic is misperception, which in the past has contributed to the acceleration of several global conflicts."

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Japanese Master's Students Contributing to the Arctic Legal Studies through the 15th Polar Law Symposium

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1 Introduction

The Arctic is both physically and conceptually far away from Japan and for Japanese graduate students. Several impetuses are needed for them to engage in the Arctic legal studies. Utilizing the opportunities provided through the Polar Law Symposium and the Arctic Circle Assembly, this paper describes a unique educational and research scheme established in Japan to promote prospective Japanese early-career scholars and practitioners to be interested in the Arctic legal and policy issues.

2 First Impetus: Credited courses at Kobe University

Japanese students entering graduate schools majoring in international law would rarely have original interests in polar law: they are usually interested in "mainstream" topics such as human rights law, economic law, environmental law, etc. The first encounter to the polar law must necessarily

come from professors, and the Graduate School of International Cooperation Studies (GSICS), Kobe University provides such opportunity through the 2-credit courses on "International Polar Law I" in Japanese and "International Polar Law II" in English. GSICS is the only university in Japan that provides polar law courses at the graduate level. In the spring semester of 2021, the Japanese course focused on the Antarctic Treaty System. In the fall semester of 2022, the English course focused on the Arctic international law. Professors Rachael Lorna Johnstone and Antje Nuemann at University of Akureyri, Iceland, were the guest lecturers, each teaching two classes online on human rights protection and environmental protection in the Arctic. The three co-authors of this paper have registered to the latter course in 2022.

"GSICS is the only university in Japan that provides polar law courses at the graduate level."

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In addition, GSICS provides a 2-credited course on international fieldwork, in which a professor designs a fieldwork of minimum 10-day stay abroad with concrete academic exercise, such as interviewing at international organizations, participating in United Nations treaty negotiations, and attending and making research presentations at academic conferences. In fall semester of 2022, an international fieldwork in Iceland was designed by the co-author of this paper, with the expected exercise to make an academic presentation at the 15th Polar Law Symposium (15 PLS) and to expand academic network through the Arctic Circle Assembly (ACA) participation. A visit to Akureyri was included to conduct interviews at University of Akureyri and Arctic Council Working Group Secretariats, CAFF and PAME. Five first-year master's students, including the three co-authors of this paper, and one second-year student registered to this fieldwork. Four of them decided to try to make academic presentations at the 15 PLS.

In 2015, through the same scheme, three master's students made research presentation at 8th Polar Law Symposium in Alaska. Today, one of them assumed an assistant professorship in international law

from April 2022 at Osaka University of Economics and Law in Japan. Another has become a diplomat in Japanese Ministry of Foreign Affairs. Similarly, a bright future ahead is expected from those attending this year's 15 PLS.

3 Second Impetus: Money, of course! Funding from ArCS II

With increasing international travelling costs due to fewer flights between Asia and Europe caused by COVID-19, the fuel hike caused by the Ukraine crisis, and the weakening of Japanese Yen, how to finance the students' travel to Iceland had become an important issue. In this regard, the co-authors are very appreciative of the financial support provided by the Arctic Challenge for Sustainability II (ArCS II) Overseas Fellowship Program. ArCS II is a Japanese national flagship project for Arctic research, with 11 research programs.¹ International law research program is one of them and led by the co-author of this paper, implemented through the Polar Cooperation Research Centre (PCRC), which has become one of the world's leading polar legal research hubs.² The state-of-the-art Arctic legal research at PCRC is fed into educational opportunities at GSICS with the ArCS II project funding,

¹ Juha Saunavaara and Fujio Ohnichi, "Arctic Challenge for Sustainability II: Japan's New Arctic Flagship Project", *Current Developments in Arctic Law*, Vol.9 (2021), p.40.

² PCRC website: < <https://www.research.kobe-u.ac.jp/gsics-pcrc/index.html> >

to promote capacity building of prospective early-career scholars.

The ArCS II Overseas Fellowship Program provides funding to graduate students, early career researchers belonging to Japanese universities and other research institutions, as well as young practitioners from public and private institutions, to support their participation in international conferences for making presentations and collecting information, as well as their stay at overseas universities and research institutions for conducting research and expanding contacts along with fieldwork trips. Its expectation is that these experiences will stimulate further research and other activities by early career professionals and will help them expand their personal networks at the international level.³ This funding is on a competitive basis based on candidates' applications. Owing to this funding opportunity, the international field work in Iceland was able to be realized for several students, including the three co-authors of this paper.

4 Final Impetus: What a great opportunity at the 15th Polar Law Symposium!

In the morning of the second day of the Symposium, the co-authors of this paper

made two oral presentations: one on "Interim Conservation and Management Measures under CAO Fisheries Agreement", and another on "Potential Legal Means to Regulate Underwater Noise in the Arctic". The first examined the legal structure of the newly entered-into-force treaty, the Agreement to Prevent Unregulated High Seas Fisheries in the Central Arctic Ocean (CAO Fisheries Agreement) and its "step-wise approach". It examined in detail how the potential commercial fishing could start under Article 5 and the importance of the Interim Conservation and Management Measures being agreed to by all 10 Parties under Article 3. Second presentation proposed the introduction of the precautionary approach based on the "Guidelines for the Reduction of Underwater Noise from Commercial Shipping to Address Adverse Impacts on Marine Life" adopted by the International Maritime Organization in 2014 to address the issue of underwater noise in the Arctic.

The research on those topics and the preparation for presentations were intensive and time-consuming. The co-authors have started researching on the subject matters around mid-August, with the guidance of their professor. They made a practice presentation before leaving

³ ArCS II website: <https://www.nipr.ac.jp/arcs2/e/info/essential2-2022/>

Japan, utilizing the international law seminar at GSICS, with several useful comments from two other professors and a dozen students of GSICS' International Law Program. The final revisions to the PowerPoint presentations were done in consultation with the professor during the snow storm in Akureyri, just a few days before the Symposium. All these efforts bore fruit in the presentations, as they attracted several questions from the floor. The co-authors were very grateful to the friendliness of the Polar Law Symposium towards early-career scholars and to the academic encouragements received from its participants.

Throughout the two-day 15 PLS, the co-authors exchanged their thoughts and opinions with other participants regarding the Arctic and Antarctic legal and policy issues. They were very much encouraged by the participation of master's and doctoral students from all over the world, interested in polar legal and policy matters. From interactions with them, the co-authors realized the importance of incorporating knowledge and perspectives from other academic fields such as natural science into the research of legal study, since issues in the Arctic cannot be resolved by international law alone. They also participated in the 2022 Arctic Circle

Assembly (ACA). With 2,000 participants from both Arctic and non-Arctic states, the ACA was one of the best opportunities to build human networks with the Arctic experts. The co-authors were able to observe the sensitive political positions of China, Korea and Japan as regards the CAO Fisheries Agreement through their participation in breakout sessions. It was useful to obtain information from the participants on the implementation of the Agreement such as the inaugural Conference of the Parties at the end of November 2022, as none is yet available publicly. These experiences will be shared with other graduate students at GSICS in order to further enhance interests and academic studies regarding Arctic international law at Kobe University and more generally in Japan.

In conclusion, the participation in the Polar Law Symposium, with the financial assistance of ArCS II Overseas Fellowship Program and the educational assistance from GSICS and PCRC, enabled Japanese master's students to identify and propose solutions to the legal challenges facing the Arctic through their research and oral presentations. This is an important means for Japan, as a non-Arctic state, to contribute to the development of Arctic governance based on the Rule of Law.

Russia's international Arctic policy after the invasion of Ukraine:

Experts' voices in the domestic media

Marina Lomaeva,^a Fujio Ohnishi^a

In the second year of Russia's chairmanship of the Arctic Council (AC), the other seven-member states unanimously condemned its invasion of Ukraine and suspended cooperation with Russia, later partially resuming the Council's work on projects not involving Russia (AC a, 2022; AC b, 2022). The Barents Euro-Arctic Council (BEAC), the International Arctic Science Committee (IASC), and UArctic took similar steps (BEAC, 2022; IASC, 2022; UArctic, 2022). This isolation – along with security challenges posed by Finland and Sweden's decision to join NATO – became a major topic in Russia's domestic media, as the Arctic narrative has traditionally been high on the agenda in Putin's Russia (similar to the Soviet period).

This short paper is a report on the preliminary results of a study reviewing the assessments of the current situation and forecasts by Russian experts published in March-October 2022 in the domestic, government-controlled media. Its purpose

is to shed some light on the discussion involving members of the Russian academia, as transmitted by the popular media to the general public.

Russian scientists have traditionally been influential in the Arctic community, have long-established ties with their foreign counterparts, and have communicated with them via conferences and meetings held within and outside Russia, visited Arctic-related research institutions all over the world, and have joined numerous international research projects (many of which have been put on hold after the start of the invasion) (Breum, 2022).

The scope of our study ranged from digital broadsheets (such as *Izvestia*, *Nezavisimaya Gazeta*, and *RIA Novosti*) to local papers (e. g. *Sankt-Peterburgskie Vedomosti*) and portals specializing in the Arctic and international issues (such as *Go Arctic*, *Arctic: Territory of Dialogue*, *Russian*

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International Affairs Council (RIAC)'s website etc.).

The experts quoted represent such centers of international relations research in Russia as MGIMO University, Saint-Petersburg State University, Russian Academy of Sciences Institutes (the Institute of World Economy and International Relations (IMEMO), Institute of Northern Europe etc.), and think tanks (the Russian International Affairs Council, Russian Institute for Strategic Studies, Institute of Regional Expertise etc.).

It should be kept in mind that the Russian government further tightened its control over the media and research institutions after the invasion, so the authors of the articles and the experts they interviewed had to weigh each word so as not to be charged with violating the repressive legislation adopted on March 4 after the start of the hostilities (Meduza, 2022).

The main points of the reviewed commentaries, columns and interviews may be summarized as follows:

- **The Arctic seven's decision jeopardizes the current Arctic governance structure and the privileged position of the Arctic states.**

- Decision on the exclusion of Russia from the AC by the rest of its member states breaches the consensus as the decision-making rule of this forum and undermines

the legitimacy of AC (Danyuk cited in Kazargin, 2022).

- The situation is further exacerbated by proposals of new cooperation frameworks excluding Russia such as Nordic Plus or Arctic Council 2.0 (see Kirchner, 2022; Rogoff, 2002). Such steps may jeopardize the Arctic foothold of such states as Denmark (connected to the Arctic only via Greenland) and the US, which is facing serious competition from China (as demonstrated, for instance, by comparison of the two states' icebreaker fleet) (Belukhin, 2022; Fedorov, 2002).

- **Russia may move to other international Arctic forums.** If the current deadlock persists, Russia will have to consider such alternative forums for discussion of the Arctic agenda as the Arctic Circle or Arctic Frontiers (Lipunov, 2022; Zhuravel, 2022; Korchunov, 2022).

- **Russia should focus on its domestic Arctic agenda and cooperate with non-Arctic states.** In the face of the boycott by the rest of the AC states, Russia will concentrate its efforts on the domestic Arctic agenda, inviting non-Arctic states such as China or India to join partnerships with Russian public bodies and private companies for the development of the Russian Arctic zone (AZ) (Lipunov, 2022;

Zhuravel, 2022; Arctic: Territory of Dialogue, 2022).

- **The Northern Sea Route may be closed to unfriendly states.** The closure of the Northern Sea Route to the vessels of unfriendly states is the necessary security measure in response to NATO's expansion and its military maneuvers in the Arctic (Fedorov, 2022).
- **AC breakup is detrimental to Arctic research and environmental protection.** Scientific research in the Arctic, which is pivotal to studying the impacts of global climate change, requires the participation of Russia as the largest Arctic state (Lipunov, 2022; Labetskaya, 2022; Mikhailichenko, 2022).
- **Science diplomacy may be a way out of the deadlock.** Science diplomacy, in which non-state actors are the key players, may pave the way out of the current deadlock. The expert community should act in the interests of humanity in general (Sergunin, Devyatkin cited in Sukhoverkova, 2022).

From the Russian media discourse communicating the domestic experts' views, the following "antithetical" propositions may be distilled:

1. **International dialogue and cooperation vs. self-sufficiency in the Arctic.** Most experts concur that

international dialogue and cooperation in the Arctic are crucial for the sustainable development of the Russian AZ, although they emphasize Russia's self-sufficiency (Koktysh cited in Kazargin, 2022).

2. **Russia's departure from its "exclusionist" Arctic stance vs. apprehensions over encroachment of "extra-regional" players.** The gradual worsening of the relations with the rest of the AC members led Russia to reconsider its "exclusionist" stance (formerly shared with Canada) on the non-Arctic states' involvement in the Arctic. On the other hand, the experts show apprehensions about the consequences of the breakup of the Arctic states' regional unity and the advance of "extra-regional" players such as China or the UK (Lipunov, 2022; Izvestia, 2022).
3. **Hopes for mediation by the expert community vs. Russian government's tightening grip over research, education and media.** Although the mediation by the expert community could be beneficial, considering the impressive record of scientific cooperation in the Arctic since the Murmansk Initiative, it appears problematic in view of the tight control (financial, regulatory) of the federal agencies over research and

educational institutions and activities, as well as the media.

We will continue monitoring the Russian experts' assessments and forecasts and their coverage in the Russian media as part of the larger Arctic-related policy discourse in Russia. Next steps could be to include independent media as sources, to broaden the scope of the study to other non-state actors such as subnational governments, businesses and Indigenous communities, and to trace the Arctic and non-Arctic states' academia responses to their Russian counterparts' statements. These steps would allow us to explore the impact of such a dialogue on the future of scientific collaboration and broader Arctic cooperation, and numerous regional forums involving Russian actors and other members of the Arctic community.

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Intrinsic Value of Arctic Cooperation for Future Generations

Alexandra Middleton^a

During last 30 years Arctic scientific cooperation has created both tangible and intangible assets. Tangibles are the institutes and intergovernmental fora like Arctic Council. Intangibles are the knowledge networks, relationships, and the pool of shared expertise of Arctic researchers from around the globe built on principles of trust and respect for scientific rigor. Science from the Arctic and about the Arctic is used, for example, in International Panel on Climate Change reports¹, in negotiations on the Convention on Biological Diversity² and many other initiatives that are crucial for sustainable development worldwide. The Arctic cooperation via the Arctic Council, the primary intergovernmental cooperation, is on pause. Canada, the Kingdom of

Denmark, Finland, Iceland, Norway, Sweden, and the United States issued a joint statement on March 3, 2022³ to pause cooperation due to Russia's invasion of Ukraine. Other cooperation avenues between all eight Arctic countries are also paused, *e.g.*, the Barents Euro-Arctic Council suspended activities involving Russia in the Barents Euro-Arctic cooperation⁴ and the Northern Dimension followed⁵. Considering the Arctic cooperation void between all Arctic countries the following questions need to be addressed: Why do we have Arctic cooperation in the first place? What is at stake? How do we continue?

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¹ Abram, N., Carolina, A., Bindoff, N. L., & Cheng, L. (2019). Special Report on the Ocean and Cryosphere in a Changing Climate. Intergov. Panel Clim. Chang, 1, 1-36.

² UN Biodiversity Negotiations. <https://www.conservation.org/events/biodiversity-negotiations>.

³ US Department of State (2022, March). Joint Statement on Arctic Council Cooperation Following Russia's Invasion of Ukraine. US Department of State. 3, March 2022. <https://www.state.gov/joint-statement-on-arctic-council-cooperation-following-russias-invasion-of-ukraine/>.

⁴ The Barents Euro-Arctic Cooperation (2022, March). Statements regarding Barents Euro-Arctic cooperation. The Barents Euro-Arctic Cooperation. 4, March 2022. <https://www.barents-council.org/news/joint-statement-of-finland-denmark-iceland-norway-sweden-and-the-european-union-regarding-barents-euro-arctic-cooperation>

⁵ EU External Action (2022, March). Northern Dimension Policy: Joint Statement by the European Union, Iceland and Norway on suspending activities with Russia and Belarus. EU External Action. 8, March 2022.

https://www.eeas.europa.eu/eeas/northern-dimension-policy-joint-statement-european-union-iceland-and-norway-suspending_en.

1 Why do we have Arctic cooperation in the first place?

The Arctic regions are undergoing unprecedented changes both environmentally and socio-economically. The impact of climate change is the most pronounced here. Scientists have now found that the Arctic area is warming up even faster than previously thought. Researchers reported on August 11, 2022, in *Communications Earth & Environment* that over the last 40 years, the average temperature in the Arctic has risen almost four times as fast as the average temperature around the world⁶. Previous studies have shown the average temperature in the Arctic to be rising two to three times faster than everywhere else. From a social perspective, the Arctic is experiencing demographic challenges, rapid urbanization and the emergence of new industries⁷. Intensification of extractive industries, increased inequality, plastic pollution⁸, loss of biodiversity and energy insecurity⁹ are just few challenges facing the Arctic. Monitoring and analysis of these trends require a large scientific base as well as coordination and cooperation between

international researchers. These challenges are here today, and they are not going to disappear unless something is done.

2 What is at stake?

As it stands, humanity and other species are facing existential threat due to climate crisis. Adverse effects of unmitigated climate change could endanger survival of the species and permanently change the earth. Future generations do not have control over the kind of world we will leave to them, which according to the philosopher Nick Bostrom makes their representation an important moral and political priority¹⁰. We have a responsibility to ensure future generations are given the opportunity to thrive. Future generations are fundamentally disempowered: they will inherit the world and society we leave behind yet have no influence in how our societies are governed. They are unable to vote and are not considered by our legal systems, the rights of future generations are compromised due to non-existence challenge, non-identity challenge, and their unactionable rights¹¹. Yet future generations, including our children and

⁶ Rantanen, M., Karpechko, A. Y., Lipponen, A., Nordling, K., Hyvärinen, O., Ruosteenoja, K., ... & Laaksonen, A. (2022). The Arctic has warmed nearly four times faster than the globe since 1979. *Communications Earth & Environment*, 3(1), 1-10.

⁷ ECONOR (2020). The Economy of the North. Sustainable Development Working Group. Arctic Council. <https://oaarchive.arctic-council.org/handle/11374/2611>.

⁸ Arctic Council (2021). Plastics in the Arctic. <https://www.arctic-council.org/explore/topics/ocean/plastics/>.

⁹ Gjörv, G. H., Lanteigne, M., & Sam-Aggrey, H. (Eds.). (2020). Routledge handbook of Arctic security. Routledge.

¹⁰ Bostrom, N. (2013). Existential risk prevention as global priority. *Global Policy*, 4(1), 15-31.

¹¹ Gosseries, A. (2017). On future generations' future rights. In *Environmental Rights* (pp. 335-363). Routledge.

millions of future generations are all significant.

However, it is not easy to represent generations that do not yet exist and do not have a voice. Professor Dennis Thompson in his essay "*Representing Future Generations: Political Presentism and Democratic Trusteeship*" from 2010¹² claims that there is a tendency to neglect long-term environmental risks and that democracy is partial towards present. In the context of future generations short-termism means discounting future well-being for time preference, discounting future benefits due to uncertainty and discounting the moral importance of future people¹³.

Still there is a hope that the interests of future generations have started to be recognized. Several countries have had initiatives to address the rights of future generations, *e.g.*, The Commission for Future Generations was established in

Israel (active during 2001-2008)¹⁴, the Finnish Committee for the Future was established in 1993 and is still active¹⁵ and the Welsh Future Generations Commissioner has been operational since 2016¹⁶. Apart from the creation of national institutions for future generations, the need to address this issue at the UN level has been evident since 2012¹⁷. The UN report "Our Common Agenda" from 2021 looks ahead to the next 25 years and represents the vision on the future of global cooperation¹⁸. "Our Common Agenda" claims that addressing risks to our planet needs to be part of every decision, every policy, every investment and every budget. It also recognizes how existential risk reduction is beneficial for those alive today, but an overwhelming amount of the value accrues to future generations.

The UN declaration on Human Rights¹⁹ celebrated its 70th anniversary in 2018. The UN is currently working on a Declaration on

¹² Thompson, D. F. (2010). Representing future generations: political presentism and democratic trusteeship. *Critical review of international social and political philosophy*, 13(1), 17-37.

¹³ González-Ricoy, I., & Gosseries, A. (Eds.). (2016). *Institutions for future generations*. Oxford University Press.

¹⁴ Foundation for Democracy and Sustainable Development (2022). Knesset Commission for Future Generations. <https://www.fdsd.org/ideas/knesset-commission-future-generations/>

¹⁵ Parliament of Finland (2022). The Committee for the Future.

<https://www.eduskunta.fi/EN/valiokunnat/tulevaisuusvaliokunta/Pages/default.aspx>

¹⁶ Future Generations Commissioner for Wales (2022). <https://www.futuregenerations.wales/about-us/future-generations-commissioner/>

¹⁷ Ward, H. (2012). *Committing to the future we want: a High Commissioner for Future Generations at Rio+ 20*. Londres: Foundation for Democracy and Sustainable Development. World Future Council. <https://www.fdsd.org/wp-content/uploads/2014/11/Committing-to-the-future-we-want-main-report.pdf>

¹⁸ UN (2021). *Our Common Agenda*. <https://www.un.org/en/common-agenda>

¹⁹ UN (1948). *Universal Declaration of Human Rights*. <https://www.un.org/en/about-us/universal-declaration-of-human-rights>

Future Generations. The current draft paper makes a distinction between youth and future generations (the Elements Paper²⁰ defined Future Generation as 'all those generation that do not yet exist, are yet to come and who will eventually inherit this planet'). The draft paper is built on recognition of the need to identify, monitor and manage existential risks as key to ensuring that Future Generations can benefit from the full range of measures identified in the Sustainable Development Goals.

Arctic scientific cooperation is an indispensable part of our human activity toward reducing existential risks and cannot be neglected. The Arctic is an essential piece in the puzzle to understand and mitigate climate change; it is home to Arctic Indigenous Peoples and local Arctic people already experiencing the consequences of climate change. Moreover, the future generations living in the Arctic are likely to experience even graver effects of climate change first-hand.

3 How do we continue?

Currently, formal cooperation channels between seven Arctic countries and Russia are paused. Still, at the same time, the message issued by the University of the Arctic is that " *collaboration between individual researchers in Thematic Networks and educational activities for students shall continue where possible*"²¹. Similarly, the Human Rights Committee of the Council of Finnish Academies stated that " *collaboration with individuals can in many cases be continued or even reinforced during times of crisis*"²². International Science Council, in its statement from February 28, 2022, warns that " *our capacity to work collaboratively on global challenges, and on cutting edge research such as Arctic and space research, is only equal to our capacity to maintain strong collaboration amidst geopolitical turmoil. Ultimately the isolation and exclusion of important scientific communities is detrimental to all*"²³.

We need to ask ourselves what happens if cooperation between Arctic researchers does not continue. How can we address

²⁰ UN (2022). Elements Paper for the Declaration for Future Generations. <https://www.un.org/pga/76/wp-content/uploads/sites/101/2022/09/Elements-Paper-Declaration-for-Future-Generations-09092022.pdf>

²¹ University of the Arctic (2022). UArctic Actions on Ukraine. <https://www.uarctic.org/news/2022/4/uarctic-actions-on-ukraine/>

²² The Council of Finnish Academies (2022). Human Rights Committee's recommendations for organising research and collaboration during the times of crisis. <https://academies.fi/en/uutiset/human-rights-committees-recommendations-for-organising-research-and-collaboration-during-times-of-crisis/>

²³ International Science Council (2022). International Science Council Statement on Ukraine. <https://council.science/current/news/isc-statement-ukraine/>

existential risk and safeguard the interests of future generations in the Arctic and worldwide? The scientific community should be empowered to inform, create awareness, cooperate, and be engaged in science diplomacy when the future of the Arctic and the whole world is at stake while government-to-government cooperation is on pause. Scientific cooperation needs to continue despite political tensions.

Inspired by "Our Common Agenda", we can adopt the same thinking for the Arctic and call it "Our Common Arctic Agenda", in which we explicitly address future generations, existential risks, and long-term thinking. Let's engage in scenario planning: what if scientific cooperation does not continue in the long perspective? Can the Arctic science community self-organize, or does it need a facilitating agent?

We should consider different options for sustained Arctic cooperation between

scientists. We need to utilise the crucial intangible assets of Arctic scientific expertise and related scientific networks. One option could be the creation of an Envoy for the Arctic or Arctic programme, for instance, under the UN cooperation umbrella to represent the interests of all Arctic People and the interests of future generations. The Envoy for the Arctic can be entrusted to facilitate science cooperation in the Arctic involving scientists and Arctic Indigenous Peoples using the principles of impartiality and inclusion. Furthermore, dialogue on the avenues for scientific cooperation on climate change and human adaptation to climate change in the Arctic needs to be initiated. As the international scientific community, we are the holders of the intrinsic value of Arctic cooperation, and we need to act and come up with the solutions to be accountable to future generations and preserve our planet and all life.

Changing Arctic governance landscape: The Arctic Council navigating through geopolitical turbulence

Fujio Ohnishi^a

1 Introduction

The Arctic governance landscape has been experiencing profound changes amid geopolitical turbulence since Russia's unprovoked aggression against Ukraine initiated in February this year. The most distinct change is the widespread move suspending cooperation with Russia, that is, the 'deep freeze' in cooperation with Russia¹. The Arctic Council, the EU's Northern Dimension and the Barents-Euro Arctic Council have all suspended their activities involving Russia. One can add the Arctic Economic Council, a non-governmental international body, to the list. Considering the fact that these were to a significant extent platforms for cooperation with a Russia that was law-binding and predictable after the collapse of the USSR, this reality might have implications for the region and entail an end of 'a zone of peace' in the post-Cold

War period². Some have argued that the Arctic international cooperation would begin to move into the 'two Arctic', with closer cooperation between the Western States in the Arctic on the one hand and intensified regional cooperation between Russia and China on the other³. Therefore, investigating the prospect for the Arctic governance landscape is an emerging and crucial agenda for understanding the future stability and peace in the region. For the moment, arrangements of Arctic cooperation are on hold and have possibilities both to be resumed and to be abolished. Besides the progress of Russia's war in Ukraine, which exceeds the scope of this study, the key factor deciding such possibilities could be the function provided by the secretariats of cooperative frameworks since they are supposed to serve not for individual member states but for the interest of arrangements. Bearing

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¹ Paal Sigurd Hilde, "Deep Freeze: Security and International Relations in the Arctic Following Russia's Invasion of Ukraine", *Security Policy Working Paper* (No. 8, Federal Academy for Security Policy), 2022, ISSN 2366-0805.

² Stefan Kirchner, "Nordic Plus: International Cooperation in the Arctic Enters a New Era", *Polar Connect*, March 6, 2022 <<https://polarconnection.org/nordic-plus-cooperation-arctic/>> (accessed 29 June 2022).

³ Timo Koivurova, Marc Lanteigne, "One Arctic or Two? Polar Geopolitics in the Wake of the Ukraine Conflict", *Polar Connect*, May 11, 2022 <<https://polarconnection.org/one-arctic/>> (accessed 4 August 2022).

this perspective in mind, the author conducted interviews with several diplomats and officers related to the Arctic Council in September 2022. This article summarizes the findings out of this research.

2 Arctic Council on hold

The Arctic Council, being established in 1996 and succeeding the spirit of the 'zone of peace' made by Gorbachev's Murmansk speech of 1987 and efforts taken under the Arctic Environmental Protection Strategy, has been a key international cooperation tackling Arctic issues such as environment protection and sustainable development, except 'matters related to military security'. Although it is merely a 'high level forum with no legally-binding authority over the Arctic states, not alike international organizations, it was believed the Council to be the most important building blocks cementing the region in cooperation and thus keeping it predictable, stable and peaceful. It's 26 years' experience of the well-functioning and no interruption from the geopolitical clouts, most eminently as in the case of the 2014 Russia's invasion to Crimea, led Arctic officials and observers to

believe the robustness of 'Arctic exceptionalism'.

Contrary to this background, the Russian full-scale aggression in Ukraine did not allow the Arctic Council to stand outside the geopolitical clouts. The Council for the first time in its history risked breaking down. Several experts predicted infeasibilities of cooperating with Russia, being the member of the Council and currently sitting in the chairmanship position, and proposed alternatives such as the 'Nordic Plus'⁴ and the 'Arctic Council 2.0'⁵. Judging the situation and acting accordingly on March 3, seven members of the Arctic Council (hereafter mentioned as the A7) issued a joint statement saying, "our states are temporarily pausing participation in all meetings of the Arctic Council and its subsidiary bodies, pending consideration of the necessary modalities that can allow us to continue the Council's important work in view of the current circumstances". They claimed that the 'core principles of sovereignty and territorial integrity' based on international law which had long underpinned the work of the Arctic Council was flagrantly violated⁶. While this move was unilaterally done, it is

⁴ Kirchner *op.cit.*

⁵ Alice Rogoff, "It's Time for An Arctic Council 2.0", *Polar Connect*, March 5, 2022 <<https://polarconnection.org/arctic-council-2/>> (accessed 29 June 2022).

⁶ Office of the Spokesperson, "Joint Statement on Arctic Council Cooperation Following Russia's Invasion of Ukraine", *U.S. Department of State*, March 3, 2022 <<https://www.state.gov/joint-statement-on-arctic-council-cooperation-following-russias-invasion-of-ukraine/>> (accessed 29 March 2022).

worth noting that the official account of the Twitter of the Council updated and reiterated its pausing in participation all meetings in the next day.

The statement caused concerns on prospects of the Council, especially its important work contributing to the communities of Circumpolar North in terms of adaptation to the impacts of climate change, sustainable development and environmental protection. Importantly, the joint statement stressed the “enduring value of the Arctic Council for circumpolar cooperation” and a “responsibility to the people of the Arctic, including the indigenous peoples, who contributed to and benefit from the important work undertaken in the Council”⁷. Arctic officials generally understand its importance and responsibility that the Arctic Council has taken so that there was a broad set of consensus on maintaining the Arctic Council without changing its membership and structure⁸. It was no surprising with

Russia, arguing that the Arctic Council should remain the key international forum for the region and be resumed as soon as possible⁹. Accusing the A7’s decision, Russia continued to implement the Council’s programs domestically. There were also demands from different local communities including the Indigenous peoples for resuming the work of the Arctic Council.

Circumvented from the situation being locked in the imperative both of immediate restart of the Council’s work and of avoiding cooperating with the war fighting Russia, the A7 announced to resume their work in the Arctic Council with the projects that did not involve the participation of the Russian Federation on June 8¹⁰. It is no wonder that in the announcement, the A7 stressed the importance of their responsibility to the people of the Arctic, including Indigenous peoples¹¹.

⁷ *Ibid.*

⁸ Astri Edvardsen, “USA’s Arctic Coordinator: “We Do Not Want to Change the Structure or Membership of the Arctic Council”, *High North News*, May 18, 2022 < <https://www.highnorthnews.com/en/usas-arctic-coordinator-we-do-not-want-change-structure-or-membership-arctic-council> > (accessed 29 June 2022).

⁹ Astri Edvardsen, “Arctic Council Paused: The Search for A Future for Arctic Cooperation Continues”, *High North News*, April 27, 2022 <<https://www.highnorthnews.com/en/arctic-council-paused-search-future-arctic-cooperation-continues>> (accessed 29 June 2022).

¹⁰ Trine Jonassen, “The Arctic Council: The Arctic 7 Resume Limited Work Without Russia”, *High North News*, June 8, 2022 <<https://www.highnorthnews.com/en/arctic-council-arctic-7-resume-limited-work-without-russia>> (accessed 29 June 2022).

¹¹ Office of the Spokesperson, “Joint Statement on Limited Resumption of Arctic Council Cooperation”, *U.S. Department of State*, June 8, 2022 < <https://www.state.gov/joint-statement-on-arctic-council-cooperation-following-russias-invasion-of-ukraine/>> (accessed 29 June 2022).

3 Where the Arctic meets global - the issue of setting modalities to resume the work

In addition to such the responsibility, an urgent issue is to tackle with global warming. In so doing, it is needed to resume scientific collaboration with Russia in areas like monitoring and observation in the Arctic Ocean and its landmass. Needless to say, Russia occupies a half of the Arctic landmass and marine areas including territorial seas and the exclusive economic zones. Addressing the impacts of climate change in the field of research has also significant implications on local communities across borders. In this vein, the discussions on possible modalities to resume the work in the Arctic Council centered on how to resume collaboration with Russia at scientific level¹².

Pending consideration of the necessary modalities to resume the work is also important in terms of saving the Arctic governance intact. Even though it is not practical to set realistic modalities to resume the work in the Arctic Council while Russia does not stop resorting its political agenda by means of military power in Ukraine, placing a sort of reservation in resuming cooperation showed that the A7

countries had a will to cooperate with Russia in the medium or long term, if not a shorter term. Without such a political message, the Arctic governance landscape would risk deteriorating to the point of no return.

Against this background, however, setting agreeable modalities among the A7 would be not straightforward. 'Domestic' pressures for resuming the Arctic scientific collaboration with Russia would be diverse among the A7 according to their geopolitical realities in relation to Russia¹³. In sum, setting such modalities represent crossroads where Arctic officers and diplomats meet with requirements from larger geopolitical landscape such as Russia's war in Ukraine and global strategic competition.

4 Navigating through political turbulence with cautious optimism

These developments described above brought the Arctic governance into a unique situation. The projects and programs installed by the Strategic Plan 2021 to 2030 at the Reykjavik ministerial meeting in May 2021 are now separately operated in Russia which holds the current

¹² An Interview with officials at the Arctic Council Secretariat, Tromø, Semptember 14, 2022.

¹³ An Interview with officials at the Arctic Council Secretariat, Tromø, Semptember 14, 2022. Same is observed in an interview with Mr. Pétur Ásgeirsson, Ambassador, Senior Arctic Official, Director for bilateral and regional affairs, at the Ministry of Foreign Affairs of Iceland, Reykjavik, Sempember 7, 2022.

chairmanship and in the A7 countries. Norway is supposed to take over the chairmanship from Russia in Spring 2023. In fact, Norway began the preparation for its own priorities for the next term early this year¹⁴. The procedure that chairmanship member state is supposed to propose a date and the location for a biennial ministerial meeting at least six months in advance signifies that the transition of chairmanship from Russia to Norway is the first and foremost important agenda now in the Arctic Council (See Art. 18 of the Arctic Council Rules of Procedure). In a normal setting, there used to review the accomplishments during the term of the outgoing chairmanship and discuss priorities for the next chairmanship in the occasion of the biennial ministerial meeting. Such agreements on these matters formalize in a format of a ministerial declaration, which need to be on the basis of consensus. The Senior Arctic Officials (SAOs) are supposed to support and give advice to the transition process of the chairmanship among others¹⁵. However, the SAOs' advisory function is also severely limited under the current situation. These difficulties amount to the

problem to hold a ministerial meeting in next May.

Under this circumstance, what seems to be in a crucial position for successfully navigating the situation is the Arctic Council Secretariat (ACS), which serves not for the interest of individual member state but one for the whole. In an interview, the Director of the Arctic Council Secretariat Mr. Mathieu Parker explained the situation, "currently, the secretariat started working with Norway preparing their incoming chairmanship. We are also involved in discussions with current and incoming chairmanship to determine on how the process of transition unfolds this time around. Because our governing documents and procedures are not developed under this type of situation in mind, it will be a unique transition process. But we help it as smooth as possible. We have 'cautious optimism'"¹⁶.

5 Conclusion

Big picture is important to grab the trends of times but always involves speculations and often misses to overestimate things. To avoid such mistakes in the similar vein, the big picture needs to be scrutinized

¹⁴ Trine Jonassen, "Gathering Input for Norway's Chairmanship", *High North News*, January 25, 2022 <<https://www.highnorthnews.com/en/gathering-input-norways-chairmanship-arctic-council>> (accessed 17 September 2022).

¹⁵ Senior Arctic officials meet at least twice a year. Their general function is to oversee the work and ensure that the priorities of chairmanship are met.

¹⁶ An Interview with officials at the Arctic Council Secretariat, Tromø, September 14, 2022.

carefully. In the Arctic context, it happened once when the Russian expedition placed its national flag on the seabed under the pole in the summer of 2007. The event incurred speculations on scramble for resources in the Arctic, but it turned out misleading later. Now, we are facing with the moment that risks speculating or overestimating about “what could be the longer-term consequences of the war” in the Arctic¹⁷.

The Arctic governance landscape is inevitably affected by geopolitical clouds as they now loom into everywhere in the world. The Arctic could not stand out of it as it did before and will continue to stand in the midst of it for at least a certain time being. However, this process does not undergo overnight. It incrementally and necessarily involves push and pull factors. In this research the paper found that there were two important issues related to the Arctic Council in prospecting the Arctic governance landscape. One is about the modalities to resume its work, and another is the transition of chairmanship from Russia to Norway. It also found that in the

latter issue the role of the ACS would be important especially when normal contacts among state representatives are severely restricted. It also revealed that negotiations on how transition uphold was about to start. In order to improve the understanding of the changing Arctic governance landscape this research needs to be complemented by further investigation on the Arctic Council and other Northern arrangements of international cooperation.

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¹⁷ Timo Koivurova, Marc Lanteigne, *op.cit.*

A Heating Arctic

A Summary on the Legal Status of Military Operations in a Foreign EEZ

Cedric Pfeiler^a

1 Introduction

The Arctic Ocean area can be likened to a family's house – a small area and many actors, all vying for space. If the family is at peace, this results in harmony, but once the family begins to fight, that utopia falls apart. For decades since the Cold War, the military activities taking place in the cramped and controlled Arctic region have been of little significance, but over the last years, Russia's military presence in the Arctic Ocean region has become more aggressive in nature, and this, along with Russia's illegal attacks on Ukraine, has caused a rise in tension, calling for concern

on both sides, the European and Russian.¹ Most of the Arctic Ocean has been claimed by one state or another as part of its exclusive economic zone (EEZ) or continental shelf, and this has therefore caused significant tension when one state starts a military training exercise in the region.

The Law is unclear on the legality of military exercises in foreign EEZ. Some non-western states, however, most notably China, India, and Brazil, consider such military activities illegal without prior approval from the coastal state.² Although, it must be pointed out that western states and scholars,

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¹ For more on the increasingly aggressive approach, see 'The Study on Legal Analysis of Military Activities Hindering Energy Installations in the Exclusive Economic Zone or International Water: Chornomornaftogaz Rigs Case in the Black Sea and the NordBalt Cable Case in the Baltic Sea' 8; For news sources, see, among others, 'Northern Fleet Exercise Area Overlaps into Norway's EEZ amid Europe Tensions' (*The Independent Barents Observer*) <<https://thebarentsobserver.com/en/security/2022/01/northern-fleet-will-exercise-maritime-border-norway-amid-europe-tensions>> accessed 9 November 2022; Reuters, 'Russia Starts Navy Drills in Barents Sea - Report' *Reuters* (15 February 2022) <<https://www.reuters.com/world/europe/russia-starts-navy-drills-barents-sea-report-2022-02-15/>> accessed 9 November 2022; '30 Russian naval vessels stage show of force near coast of Norway' (*The Independent Barents Observer*) <<https://thebarentsobserver.com/en/security/2019/08/30-russian-naval-vessels-stage-show-force-coast-norway>> accessed 9 November 2022.

² For more discussion on the non-Western approach see Keyuan Zou, 'Peaceful Use of the Sea and Military Intelligence Gathering in the EEZ' in Seokwoo Lee and Hee Eun Lee (eds), *Asian Yearbook of International Law, Volume 22 (2016)* (Brill Nijhoff 2018); Jing Geng, 'The Legality of Foreign Military Activities in the Exclusive Economic Zone under UNCLOS' (2012)

generally tend to disagree: Military operations in other states' exclusive economic zone *are* legal, or at least, an ignored issue.³ Although Russia, the European Union, and Norway actually agree, their current status quo, wherein Russia continues to build up its military prowess in the region and is becoming more active and hostile, has brought about the current untenable situation.

In this paper, I will define the conflicting current legal arguments surrounding the possibility of military operations within a foreign EEZ, and explore the real cost generally, specifically in the Arctic. This essay aims to bring this debate to the forefront of legal issues again.

2 UNCLOS

2.1 Introduction

The regulations on the law of the sea come from the United Nations Convention on the Law of the Sea (UNCLOS) or customary international law. Notably, both demand peace and the peaceful use of the seas.⁴

It must be noted that the UNCLOS, often considered the 'Constitution of the Oceans',⁵ due to its far-reaching administration and widespread acceptance, is unclear on the legality of military operations in a foreign EEZ. The reason for this is twofold and stems from the history of the negotiations of UNCLOS. Firstly, the post-World War II political landscape saw widespread decolonization and new, small states were all vying for part of the pie and wanted more rights in the seas.⁶ These new states, along with already-existing politically weaker states, began fighting for recognition and rights in the seas. As a compromise between the new and old, powerful and weak, States, they developed the EEZ.

A note on this debate is called for. It regards the age-old debate between Grotius's *mare liberum* theory, describing an open sea, for all to access equally, and the *mare clausum* theory, wherein the sea is divided into sections for each state. While at first glance, the *mare liberum* theory

28 Utrecht Journal of International and European Law 22; Silvia Menegazzi, 'Military Exercises in the Exclusive Economic Zones: The Chinese Perspective' [2015] Maritime Safety and Security Law Journal 15.

³ For examples of this see Murray, Jack Whitacre, *Chapter 4: Military Activities in an EEZ – Law of the Sea* (John Burgess, Lucia Foulkes, Philip Jones, Matt Merighi, Stephen ed); Menegazzi (n 2).

⁴ United Nations Convention on the Law of the Sea (entered into force 16 November 1994) 1835 UNTS 3 preamble, art 88, 301.

⁵ Tommy T. B. Koh, "A Constitution of the Oceans", in: Myron H. Nordquist (ed.), *United Nations Convention on the Law of the Sea 1982: A Commentary*, Dordrecht, 1985 xxxvii.

⁶ For information on this debate, including a group of (new) states, the Group of 77, see Boleslaw Adam Boczek, 'Peacetime Military Activities in the Exclusive Economic Zone of Third Countries' (1988) 19 *Ocean Development and International Law* 445, 448; See also generally Satya Nandan and Shabtai Rosenne (eds), *United Nations Convention on the Law of the Sea: A Commentary*, vol III (Martinus Nijhoff) Volume II.

provides for equity, in reality, it provides for equality. Due to unequal resources, states have different levels of access to the seas, and its resources.⁷ For example, while the United States is able to traverse the sea at relatively high speeds, another state does not have the same resources and may only be able to access a few nautical miles of sea. Conversely, it is often those states, therefore, that most need the sea for sustenance and economic prosperity that do not have the resources to access the sea. As a result, less powerful states often found their resources exploited by more powerful global players.⁸ The exclusive economic zone was created, among other reasons, to remedy this.

Secondly, the two opposing Superpowers of the time – the Soviet Union and the United States – were not known for their goodwill toward each other, so an agreement would be groundbreaking. Therefore, to facilitate the negotiations, highly contentious issues, such as military operations, were left off the docket.⁹ The issue has, since then, once again come front and center.

Therefore, the extent of this rule is unclear but can be viewed through the lenses of the different legal arguments contained in UNCLOS. First, this section will scrutinize military operations with regard to the freedom of navigation, then compare military operations with exploration of the EEZ, and finally analyze the principle of due regard for the rights of other states.

2.2 Freedom of navigation

The first argument regards the extent of freedom of navigation under UNCLOS. The Corfu Channel case established that, under customary international law, the freedom of navigation did not limit the navigational rights of military vessels in straits, but it also did not specify a scope.¹⁰ In other words, it did not determine whether it was just the movement or also the operation of its military hardware that was covered. The case was, however, influential in the creation of the freedom of navigation.

UNCLOS later adopted and expanded this definition but left unanswered many questions. Article 58 confers the rights referred to the high seas, listed in article 87, to the Exclusive Economic Zone.¹¹ While

⁷ Geng (n 2) 24 and; Charles E Pirtle, 'Military Uses of Ocean Space and the Law of the Sea in the New Millennium' (2000) 31 *Ocean Development & International Law* 7, 36.

⁸ See, for example, *Fisheries Jurisdiction (United Kingdom v Iceland)* [1974] ICJ Rep 1974.

⁹ Note: articles 29-32 of UNCLOS do provide rules on warships, their responsibilities and their immunities; however, UNCLOS does not go into the extent of the freedom of navigation for the warships, or the operation military vessels. For more on this, see Boczek (n 5) 448; Pirtle (n 6) 9; also, generally, for the Cold War and Western-centric law of the sea regime, see Menegazzi (n 2).

¹⁰ Geng (n 2) 26; *Corfu Channel (United Kingdom of Great Britain and Northern Ireland v Albania)* [1949] ICJ Rep 1949.

¹¹ United Nations Convention on the Law of the Sea (n 4) 58, 87.

article 87 of UNCLOS does allow for the freedom of navigation, the extent is unclear. For example, the question arises whether the use of weapons in naval exercises is included within the freedom of navigation, usually reserved for innocent passage. Additionally, article 58 itself goes further and commands that states “enjoy ... the freedoms ... associated with the operation of ships” within the EEZ. Both articles bring about two questions: firstly, is this article referring to civilian ships only, or does it include military ships? And secondly, what is the scope of the ‘operation of ships’?

To answer the first question, the aforementioned Corfu Channel case equates civilian and military vessels.¹² This follows the line of thinking of the United States and its western allies.¹³ They are supported by the President of the negotiations of UNCLOS, who condemned states that restricted the freedom of navigation.¹⁴ Other states, including China, point out the ambiguity here, though: they

claim there is no concrete answer in the law and, therefore, cannot be bound by it.¹⁵

Secondly, the scope of ‘operation of ships’ is inconclusive, and the definition of military operation is currently non-existent in the current law.¹⁶ However, some have split the definition of military operations into two general groups.¹⁷ Firstly, movement rights, or the freedom of navigation, relates to the right of military vessels to navigate the seas freely, without disturbance. Secondly, operational rights refer to the *use* of military equipment beyond simple navigation. This includes “maneuvering, anchoring, intelligence collection, surveillance, military exercises, ordnance testing and firing, and surveys.”¹⁸ The latter definition suggests that the operations of military equipment would not be accepted under the umbrella of the freedom of navigation. This is not currently regulated by the law, however, and therefore requires codification.

¹² *United Kingdom of Great Britain and Northern Ireland v. Albania* (n 9).

¹³ Murray, Jack Whitacre, *Chapter 4: Military Activities in an EEZ – Law of the Sea*, p 4 (John Burgess, Lucia Foulkes, Philip Jones, Matt Merighi, Stephen ed).

¹⁴ Some states, most notably Brazil, were vocal about their interpretation of the treaty. The President of the Conference (UNCLOS III) said to this: ‘Nowhere is it clearly stated whether a third state may or may not conduct military activities in the exclusive economic zone of a coastal state. But, it was the general understanding that the text we negotiated and agreed upon would permit such activities to be conducted.’ Geng (n 2).

¹⁵ Menegazzi (n 2) 59, 60, 65.

¹⁶ For the debate, see *ibid* 58; ‘Military Activities in the EEZ: Preventing Uncertainty and Defusing Conflict’ 260; Young-Kil Park, ‘Different Voices on Military Activities in the EEZ’ (2011) 3 *KMI International Journal of Maritime Affairs and Fisheries* 183, 184.

¹⁷ For example, Zou (n 2) 163; Pirtle (n 6) 8; Boczek (n 5).

¹⁸ Zou (n 2) 163.

2.3 Exploration

The second legal issue regards exploration. Article 56 of UNCLOS provides that the coastal state has

“sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the seabed and of the seabed and its subsoil, and with regard to *other activities for the economic exploitation and exploration of the zone*, such as the production of energy from the water, currents, and winds [emphasis added];”¹⁹

Primarily this article is meant to refer to economic and scientific exploitation. Beyond that, however, the article also guarantees sovereign rights for the exploration of a coastal state’s exclusive economic zone. The extent of this exploration, however, is unclear; the article decidedly allows for economic exploration, such as the production of energy or exploration of hydrocarbons. However, similarly, military exercises are meant to provide for the exploration of an area and of the mechanisms to be used in times of war. Would such military exploration

include scientific exploration by military ships, as often done by China in the Arctic? What about weapons testing? How far does “exploration” go?

More to the point, under UNCLOS, a coastal state is given priority for Marine Scientific Research (MSR). While, in these instances, the MSR is not exclusively for the coastal state, it requires notification. Could it be that scientific research is protected but not the fundamental security interests of the state?²⁰ Logically, neighboring states operating military technology near or within their respective borders may be more worrying for the other state.²¹ It would, therefore, not be far-fetched to consider military exploration of the EEZ as requiring notification.

2.4 Due regard

The final legal argument to be made regards the due regard obligations at the end of article 87 of UNCLOS, restricting the freedoms of states, including the freedom of navigation.

“These freedoms shall be exercised by all States with due regard for the interests

¹⁹ United Nations Convention on the Law of the Sea (n 4) art 56.

²⁰ Zou (n 2) 164. In his article, Zou weighs the freedom of navigation with limitations such as the one clearly established in UNCLOS for MSR.

²¹ Take, for example, the issue at hand on the second question in the *United Kingdom of Great Britain and Northern Ireland v. Albania* (n 9), wherein Albania was apparently unable to ascertain the intent of the British Naval warships. For further examples and analysis, see also Menegazzi (n 2) 57.

of other States in their exercise of the freedom of the high seas.”²²

According to the ICJ’s Chagos case, due regard requires states to ensure that the allocation of rights and obligations is equal and that each state shall not infringe on the other’s rights. The Court makes clear that the coastal state nor any other state has priority in claiming any right. A balance based on the necessary information would be required to strike a conclusion.²³ Of importance here is the emphasis often put on sovereignty in international law and the necessity to protect that sovereignty.²⁴ As stated before, part of that sovereignty is the integrity and security of the state and the right of a state to ensure another state is not actively working against it or at least for the coastal state to be aware of the actions in its area of influence.

3 Discussion

Of issue with many states are the security impacts of a purely open ocean. In a time where technology is rapidly improving and more states have highly capable military weaponry, the necessity for states to ensure their safety in the Exclusive Economic Zone is not without merit. In such cases, where there are non-attributed

rights, Article 69 of UNCLOS requires states to come to an equitable agreement, “taking into account the respective importance of the interest involved.”²⁵ There is no presumption of benefit to the coastal state, but instead, the importance of each party’s interest must be weighed against each other. It is easily argued that the integrity of the coastal state is the most crucial interest, as without which it cannot protect, defend, and ensure its survival as a sovereign state.

Looking back at the beginnings of maritime delimitation, the “cannon shot” rule established a territorial sea of three nautical miles, or the distance the cannons could shoot. Today, weaponry can go further, and surveillance is a serious threat to national security, and therefore the protections, in the form of more autonomy over the EEZ, should be bolstered.

The argument herein should not be construed to believe that a foreign state cannot not act in the EEZ of another state, rather that there should be clearly established rules in this regard. In the author’s opinion, a simple rule of notification would be sufficient. Therefore, the safety of actors, both military and otherwise, at sea are kept safe, as well as

²² United Nations Convention on the Law of the Sea (n 4) art 87.

²³ *Legal Consequences of the Separation of the Chagos Archipelago from Mauritius* [2019] ICJ Rep 2019.

²⁴ For more on states in international law, reciprocity, and sovereignty, see Gleider I Hernández, *International Law* (Oxford University Press 2019) chapter 1.

²⁵ United Nations Convention on the Law of the Sea (n 4) art 69.

the interests of the coastal state. To appease the states insisting on keeping the oceans open to all, notification of the coastal state may not necessarily allow the coastal state to refuse the operation of military equipment by the non-coastal state, or the coastal state may only refuse in certain situations.

The situation in the Arctic is slightly different, however. Here, there is no disagreement by the states - the parties legally agree, but Russia is using it its benefit, increasing its military maneuvers in the Arctic. It should be noted, however, that the Soviet Union, before it gained its later

military might, was against the militarization of the oceans and attempted to ban military activities in the high seas.²⁶ A reversion back to this policy for Russia is possible, however, unlikely, as the policies of both sides have become entrenched in the region, and changing it would be tantamount to changing the balance of power in the area.

This, however, does not mean that there is no cause for concern. As stated in the introduction, the war with Russia has exacerbated the available legal structures, and the posturing on both sides has not turned down the thermostat.

²⁶ Boczek (n 5) 457.

Return Of Geopolitics: Navigating Through A New Normal In The Arctic

Rashmi BR^a

On 20 May 2021, when the 12th Arctic Council Ministerial meeting adopted the first 'Arctic Council Strategic Plan 2021-2030'¹, it marked the culmination of the Icelandic chairmanship and more importantly, 25 years of the Arctic Council. Lest one would have suspected that its functioning would be paused owing to a conflict that is geographically not in the Arctic, but one that involves the Arctic states. The post-Cold War achievement in cooperation in the Arctic now seems in danger. Does this mark the 'return of geopolitics' to the region and its numerous institutions? This may or may not be the new normal, but it certainly has impacted the dynamics in the Arctic.

1 Cooperation and sustaining peace

Often, the perceptions from outside debated and predicted (and continue to do so) the outbreak of conflicts in the Arctic, owing to its growing global importance,

resource 'rush' fuelled by climate change and technology, overlapping maritime claims and the thawing West-Russia diplomatic relations.

The expression 'return of geopolitics to the Arctic' may not find consensus, given that it was never absent even after the Cold War ended and cooperation began. However, standing by that expression is the fact that the multiple cooperative mechanisms realized among the Arctic actors, have successfully found ways to use diplomatic tools, negotiate, initiate dialogue and sustain the process.

In 2010, Norway and Russia signed the *Treaty on the Maritime Delimitation and the Cooperation in the Barents Sea and the Arctic Ocean*, ending a forty-year-old dispute over 175,000-square kilometer area². The treaty divided the area equally

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¹ Gunn Bye, H. (2021). *Arctic Council Adopts First-ever Strategic Plan*. High North News. <https://www.highnorthnews.com/en/arctic-council-adopts-first-ever-strategic-plan>

² Henriksen, T., & Ulfstein, G. (2011). Maritime Delimitation in the Arctic: The Barents Sea Treaty. *Ocean Development and International Law*, 42(1–2), 1–21. <https://doi.org/10.1080/00908320.2011.542389>

and enabled both Norway and Russia to carry the oil and gas exploration³.

On 14 June 2022, Foreign Ministers of Canada and Denmark and Prime Minister of Greenland signed an agreement to resolve the outstanding maritime border dispute over the small, uninhabited Hans Island in the Kennedy Channel of the Nares Strait⁴. Being the only land dispute in the Arctic, there was no actual confrontation, barring planting national flags, the 'whiskey wars' and occasional verbal exchanges between the leaders.

Outstanding security issues are often strong reasons for states not to engage in cooperation - bilaterally, regionally, or on global forums. Additionally, it may upset the working of an organization. The South Asia Association for Regional Cooperation (SAARC) is a classic example of how geopolitical conflicts, unsettled borders and historical grievances will impede a regional cooperative initiative. Though South Asia and the Arctic are not comparable in terms of the magnitude of the security and political challenges, the

latter has been successful in sustaining cooperation among the countries that were on different sides during the Cold War.

2 How will the 'new normal' shape the Arctic?

In March this year, the seven Arctic countries issued a joint statement condemning Russia's war in Ukraine. Stating violation of the principle of sovereignty, they called for a temporary pause in the Arctic Council meetings and their participation in pending projects⁵. The Arctic, since the end of the Cold War, has largely been protected from bearing the consequences of external geopolitical issues, irrespective of differences between the US and Russia, the impact of which is reflected across the world in different regions.

The Crimean Annexation in 2014 strained West-Russia relations, and the latter was sanctioned by the remaining members of the Arctic Council. Barring the effect of sanctions on Russian oil and gas, the event did not threaten cooperation and the soft-law regime in the Arctic. The cooperation

³ Treaty between the Kingdom of Norway and the Russian Federation concerning Maritime Delimitation and Cooperation in the Barents Sea and the Arctic Ocean, September 15, 2010.

https://www.regjeringen.no/globalassets/upload/smk/vedlegg/2010/avtale_engelsk.pdf

⁴ Global Affairs Canada. (2022, June 14). *Canada and the Kingdom of Denmark, together with Greenland, reach historic agreement on long-standing boundary disputes* [Press release]. <https://www.canada.ca/en/global-affairs/news/2022/06/canada-and-the-kingdom-of-denmark-together-with-greenland-reach-historic-agreement-on-long-standing-boundary-disputes.html>

⁵ Statement on Arctic Council Cooperation Following Russia's Invasion of Ukraine. (2022). *US Department of State*. <https://www.state.gov/joint-statement-on-arctic-council-cooperation-following-russias-invasion-of-ukraine/>

continued, and the Council functioned. With the current developments at the Council, the Arctic is no longer unaffected by external occurrences, which in itself is a 'new normal'.

Have the 'hard' issues and the situation in Ukraine taken centre stage compared to the more non-traditional challenges like climate change in the Arctic? The states have often pondered over the possibility of 'buying' time in case of climate change and associated initiatives while they have to swiftly deal with hard-pressing military conflicts and 'national priorities' with all their options and resources at their disposal. The joint statement by the seven countries, in an attempt to balance, said that "we remain convinced of the enduring value of the Arctic Council for circumpolar cooperation and reiterate our support for this institution and its work. We hold a responsibility to the people of the Arctic, including the Indigenous peoples, who contribute to and benefit from the important work undertaken in the Council."⁶ Some of them have reiterated that currently, their work is focussed on ensuring that when the time is 'appropriate', a smooth return to the Arctic

Council is possible. However, there is no knowing of the right time, and it is a gamble to keep 50 percent of the Arctic out of the primary pan-regional institution⁷.

When the Council resumes its work when it thinks it is the right time, differences are bound to cause friction. With Finland and Sweden opting to join NATO, seven countries would be part of the military alliance essentially against Russia- in short, 'NATO-ization of the Arctic'. In March, NATO held an exercise called "Cold Response" north of Norway, where the country is fictionally under attack and the allies are responding in its aid. This is an exercise that has been held over the years. Yet, due to the war, it gained more traction, more mobilization, and approximately 30000 troops, including 3000 US marines⁸, in preparation for an unpredictable Russia.

The 'return of geopolitics', militarization, and strong borders with Russia have most negatively affected the Indigenous people of the Arctic. Suspension of cross-border movement, internet and free speech restrictions, political pressure, and Russia's isolation have again divided the Sámi community and the Sápmi since state

⁶ Statement on Arctic Council Cooperation Following Russia's Invasion of Ukraine. (2022). *US Department of State*. <https://www.state.gov/joint-statement-on-arctic-council-cooperation-following-russias-invasion-of-ukraine/>

⁷ Edvardsen, Astri. (2022). *Arctic Council Paused: The Search for a Future for Arctic Cooperation Continues*. High North News. <https://www.highnorthnews.com/en/arctic-council-paused-search-future-arctic-cooperation-continues>

⁸ Ali, Idrees; Emmott, Robin. (2022). *NATO, in Arctic training drills faces up to Putin's 'unpredictable' Russia*, Reuters. <https://www.reuters.com/world/nato-arctic-drill-takes-new-significance-after-russia-invasion-ukraine-2022-03-23/>

borders came into force⁹. The Russian Sámi are not new to suspicion, political oppression, forced relocation and isolation, which they experienced during the Soviet Union era. Since the fall of the USSR, the Sámi leaders and activists tried and pushed for rights that their counterparts would benefit from in Finland, Norway and Sweden. Decades of efforts were also channelized towards building contacts between the Nordic and Russian Sámi, involving the latter in the Sámi Council and the Arctic Council meetings. In Liisa Holmberg's words, multiple collaborative initiatives happened, cross-border movements existed and the once-divided families could meet their relatives, all of which no longer happens¹⁰.

Cross-border collaborations and meetings have helped to preserve and revitalize the endangered Sámi languages and dialects, particularly in Russia, and implement Arctic Council's projects that track mining, drilling, pollution levels and effects of climate change¹¹. The war has now paved the way for suspicion. There is a pause on

the flow of funds from the Nordic countries, data collection and sharing that is critical for sustaining climate action in the Arctic and scientific cooperation. In Morten Høglund's (Norway's Arctic Ambassador) words, "neither the working groups nor the expert groups are meeting, and no outreach activity is taking place. The affiliated scientists can work on their analyses, each on their side; however, there should be no data exchange or official publishing."¹²

3 Conclusion

In a world that is closely related, connected by multiple social and political relationships, and in which force has less weightage, cooperation between states through different means is a natural consequence. Joseph Nye and Robert Keohane call this a 'complex interdependence'. They put forth three conditions for complex interdependence - first, increased ways of contact between states; second, reduced use of military might; and lastly, security is no longer the main concern in the international system¹³.

⁹ Last, J. (2022, June 28). *The Russia-Ukraine War is Dividing the Sámi Indigenous People of the Arctic*. *Foreign Policy*. <https://foreignpolicy.com/2022/06/27/russia-ukraine-war-saami-indigenous-arctic-people-norway-sweden-finland/>

¹⁰ Excerpts from the interview (conducted on 11 June 2022 at Inari, Finland) with Liisa Holmberg, Film Commissioner, International Sámi Film Institute-Norway; Rector, SIIDA- Sáami Museum and Nature Centre; former Rector, Sámi Education Institute, Inari; and former Chair of the Council of the University of Arctic.

¹¹ Last, J. (2022, June 28). *The Russia-Ukraine War is Dividing the Sámi Indigenous People of the Arctic*. *Foreign Policy*. <https://foreignpolicy.com/2022/06/27/russia-ukraine-war-saami-indigenous-arctic-people-norway-sweden-finland/>

¹² Edvardsen, Astri. (2022). *Arctic Council Paused: The Search for a Future for Arctic Cooperation Continues*. High North News. <https://www.highnorthnews.com/en/arctic-council-paused-search-future-arctic-cooperation-continues>

¹³ Maxime, G. (2013, March 8). *Joseph Nye on Soft Power*. E-International Relations. <https://www.e-ir.info/pdf/34119>

For defining an “ideal type” of complex interdependence, neoliberalism takes three diametrically opposite assumptions as opposed to realism. First, states are not the only actors in the international system. Second, military power is secondary in relationships of interdependence. Third, goals are not hierarchical; instead, many “issue areas” exist horizontally¹⁴.

When the Arctic landscape was crowded with cooperative initiatives in the 1990s, it seemed a near “ideal type” complex interdependence. The states are certainly not the only actors in the Arctic. Added to this is the important role of institutions, sub-national governments, NGOs, scientific groupings, and civil society in governance matters. The states were also hesitant to use military power as a political tool, and common issues, particularly climate change, encouraged them to cooperate. In current circumstances, the Arctic governance is shaping in a manner in which cooperation has taken a backseat, militarization is on the rise, and security is growing as one of the most discussed issues in the region. In the coming days, sovereignty, legal issues surrounding shipping in NSR, resource extraction, hard power, and data exclusivity will be the important realist aspects that will have

more say in regional governance. Climate change, however, may come back as the central element in how the Arctic is perceived, given that it is at the frontline of facing climate catastrophes and existential challenges. Climate change, therefore, will still be the push factor for the states to find ways to cooperate in the future using the Arctic Council as a platform.

Guðlaugur Þór Þórðarson, Iceland’s foreign minister, wrote in *Pathways* (2021) that “it is now more important than ever before that we, in the Arctic region, continue to use the platform the Arctic Council has provided us with for the past 25 years to strengthen our cooperation in the circumpolar North”¹⁵. When there were tough questions on globalization, institutions, and multilateralism, the Arctic Council stood as an example that provided a forum for dialogue and cooperation. It is now a test for the Arctic and its institutions.

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¹⁴ Spindler, M. (2014). Interdependence. In S. Schieder, & M. Spindler, *Theories of International Relations* (pp. 60-61). Routledge.

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India & the Central Arctic Ocean Region

Kanagavalli Suryanarayanan^a

The Central Arctic Ocean (CAO) region covers approximately an area of 28,00,000 sq Km covering 19% of the Arctic Ocean. This region is beyond the territorial jurisdiction of any Arctic coastal state, even though there are claims of extending the continental shelf limits by the coastal states as the Arctic seabed is believed to hold up to 25 % of global oil and gas reserves, large quantities of tin, manganese, gold, nickel, lead, platinum and rough diamonds. There has been no commercial fishing happening in the region because throughout the year it is covered by thick sea ice. With anthropogenic global warming, there is a drastic change in the Arctic ecosystem resulting in a rapid decrease in sea ice.

Climate change in the future is likely to create a scarcity of resources globally and create new geopolitical scenarios. The unexploited CAO is rich in resources including marine organisms and hydrocarbons, which attracts both Arctic and non-Arctic players to the region. The

CAO region is also important from a maritime shipping perspective, the Transpolar shipping route (TSR) would pass through the CAO region which is beyond the territorial jurisdiction of any Arctic coastal states. Some studies suggest that the TSR will be equally or more viable than the Northern Sea Route (NSR) by 2050, however, this is questionable considering the limited access to ports. Countries like China are keen on asserting their influence in the regional governance of the CAO region. China is also keen to explore fish and Krill from the marine-rich CAO with the help of its large distant water fishing fleet. Considering the growing interest and activity in the region and the corresponding rapid decrease of summertime sea ice and loss of multiyear sea ice in the Arctic Ocean, there will be not only an impact on the Arctic ecosystem but also a severe impact on the monsoon in the Indian subcontinent.¹ Hence, it is also in India's genuine national interest to look into the CAO region and build its capacity

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¹ *Arctic Circle Assembly, M Ravichandran Secretary, Ministry of Earth Sciences, Govt of India* <<https://www.youtube.com/watch?v=8m6YnmRHp-Q>>

in the region, which is part of the 'global commons'.

India's interest in the region has been mainly in conducting scientific research, especially from a climate change perspective. India's Arctic Policy (IAP) acknowledges and emphasizes the need to study the linkages between the Arctic and the Himalayas, citing the IPCC's Special Report on Ocean and Cryosphere (2019) from a climate change perspective. India presents itself as a 'Tripolar state' with its presence in both the poles through its research facilities and in the Himalayas, through which it can contribute efficiently in the area of scientific and environmental research, especially in the area of climate change by harmonizing the Polar research conducted in both the poles and Himalayas. India's Arctic Policy (IAP) emphasizes the need for the conservation of marine flora and fauna, marine environmental protection, contribution towards environmental emergencies, and search and rescue efforts in the Arctic Ocean region. There is extensive scientific material available that discusses the 'teleconnection' between the Arctic and the rest of the world and its significant global economic impacts.² Hence, building

capacity and establishing India's presence is important to understand the unexplored region and at the same time to be the sane voice in a region where 'economic interest' outweighs the potential problems of Climate change. It is also in India's interest to protect the CAO region and protect the marine resources from exploitation and promote establishing a conservation regime in the region or even propose a marine protection area. India, due to its geographical positioning, is unlikely to use the TSR or fish in the CAO region; hence it is prudent for India to take a position toward Environmental protection and marine conservation.

“India's Arctic Policy (IAP) acknowledges and emphasizes the need to study the linkages between the Arctic and the Himalayas, citing the IPCC's Special Report on Ocean and Cryosphere (2019) from a climate change perspective.”

India's association with the Arctic dates back to 1920 as a party to the Svalbard treaty³, but it has never focused on commercially exploiting Svalbard or the CAO region, although there is recent criticism that Svalbard is utilized by non-arctic states to further their Arctic

² Stern 2007; Tol 2009; Hope 2013; Nordhaus 2013; Dietz and Stern 2014; IPCC 2014a, b; Burke et al. 2015 Whiteman et al. 2013; Hope and Schaefer 2016; Yumashev et al. 2019;

³ Treaty between Norway, The United States of America, Denmark, France, Italy, Japan, the Netherlands, Great Britain, and Ireland, and the British overseas Dominions and Sweden concerning Spitsbergen (The Svalbard Treaty 1920)

ambitions.⁴ For example, China has sought more autonomy on its research station and asserted its rights as a contracting party to the Svalbard treaty⁵. Interestingly the Chinese People’s liberation army is one of the main planners of the Chinese Polar science program. CAO will be of strategic and geopolitical importance and is very much under the radar of the Chinese, who are interested to establish a polar silk route in order to avoid the Malacca dilemma and commercially utilize Svalbard as a base in the High North. Chinese declaration as a “Near Arctic state’ and India’s interest as a “Tripolar state’ may sound similar, asserting their presence over the region. Although China’s stated interest is in research, especially climate change but China’s major focus on the region is predominantly based on its economic needs (blue economic passage...leading up to Europe via the Arctic Ocean)⁶ and to assert its right in the Arctic region⁷. On the other hand, IAP focuses on its research capability in all three poles and conducts research in a synergized manner to provide key solutions not only to its problems but also to the global climate crisis. India’s Arctic

Policy (IAP) also strongly highlights the impact of warming the Arctic on the rest of the world and vice versa through ‘teleconnection’ between the Arctic and the Himalayas. Hence India is in a ‘unique’ position to play a key role in Arctic Environment Protection, especially in the CAO region which is a region that falls under the high seas.

The CAO region is one of the few regions in the world where Commercial fishing has



Figure 1 Arctic Centre, University of Lapland. Data source: Arctic Biodiversity Data Service (ABDS)

⁴ Torbjørn Pedersen, ‘ The politics of research presence revisited: A response to Molenaar and Ulfstein’ (2021) Vol 11(2) The Polar Journal, Pg 438-440.

⁵ ibid

⁶ State Council Information Office: The people’s Republic of China, “Vision for Maritime Cooperation under Belt and Road Initiative,” 20 June 2017

<http://english.www.gov.cn/archive/publications/2017/06/20/content_281475691873460.htm /> accessed on 30 April 2022

⁷ The People’s Republic of China, The State Council of Information Office (2018)’ *China’s Arctic Policy, White Paper* <<https://www.uaf.edu/caps/resources/policy-documents/china-arctic-policy-2018.pdf>> accessed on 08 May 2022

not yet started due to the heavy presence of sea ice both in winter and summer and also because of the lack of commercially viable resources at the 'present moment', else the region would have been exploited long before the CAOFA⁸ was agreed and probably there would not be a CAOFA. However, due to climate change and the corresponding melting of sea ice and with the primary production of pelagic microalgae there will be an increase in the fish stocks including cod, capelin, and herring, etc, and hence the CAO is likely to attract large distance fishing vessels in the future⁹. Post the Donut hole fiasco (between the EEZ of Russia and the US in the Bearing Sea) due to which the fish stocks completely collapsed during the late 1980s, the Arctic coastal states (Arctic 5- US, Russia, Norway, Canada, and Denmark) decided to protect the CAO region from a similar catastrophe and stop exploitation by the distant water fishing vessels from other countries. But Iceland raised its concern about excluding it from the discussion to regulate the CAO region, followed by voices from China, Japan, the EU, and as well the Indigenous people in the Arctic region (See ICC Inuit circumpolar declaration of sovereignty).

The Agreement to prevent unregulated High seas fisheries in the Central Arctic Ocean (CAOFA)

This agreement has come into force on 25 June 2021. Although the intent behind this agreement is to protect unregulated fishing in the CAO region, through a joint scientific program the region would be explored to understand the ecosystem and the availability of fish stocks in the region. The agreement will be in force until 2037 and will be automatically renewed for a successive period of 5 years if no party raises any objection. The parties to the agreement may in the future negotiate to set up Regional Fisheries Management Organizations (RFMOs) for the CAO region. The moratorium imposed by the CAOFA is in fact on "unregulated" commercial fishing, not on commercial fishing per se. The parties to the agreement include the 5 Arctic Ocean littoral states Plus the EU, Iceland, China, South Korea, and Japan (Arctic 10). The only Arctic council observer states who are not parties to the agreement are India and Singapore. China has ratified the CAOFA which bans unregulated commercial fishing for the next 16 years in the Central Arctic Ocean at the same time China's 13th Five-Year (2016-2020) Plan states that "China will pay

⁸ Agreement to prevent unregulated high seas fisheries in the Central Arctic Ocean region June 25, 2021, <
<https://www.mofa.go.jp/files/000449233.pdf>>

⁹ Euorfish magazine 6/2020

more attention to and join other parties in issues related to Arctic fisheries and participate in Arctic fisheries surveys and management." China which is a party to the agreement reserves the right to carry out harvesting activities in the agreement area. *It is important to note that the Joint program of scientific research under the agreement is not only applicable to just fish but to the entire marine ecosystem in the CAO region.* India's Arctic policy explicitly explains its interest in the conservation of the marine resources in the Arctic region, hence if India is a signatory to the treaty it can engage in a Joint scientific research program and participate in the regional governance of the CAO region.

"Although the intent behind this agreement is to protect unregulated fishing in the CAO region, through a joint scientific program the region would be explored to understand the ecosystem and the availability of fish stocks in the region."

The agreement allows the expansion of new participants by invitation by the existing signatories to the treaty (Arctic 10) provided they have a 'real interest' in the CAO region (Art 10). To the question of real

interest, what should be considered a real interest? Usually coastal states and other states which have conventionally fished in the region become members of the RFMOs. However, this region has never seen commercial fishing, hence one cannot possibly argue that these 10 states alone have a real interest in the Central Arctic Ocean region. The Economic gains that China is interested though extraction and exploitation will result in serious environmental impact and vastly impact the marine biodiversity of the region.¹⁰ Indian Arctic policy, on the other hand, commits to research on Arctic Ecosystem values, and marine protected areas and contributes towards environmental management in the Arctic, and engages with the Emergency preparedness and response working group of the Arctic Council to contribute toward the environmental emergencies in the Arctic. India is supporting ACAP¹¹ with data on atmospheric aerosols and emerging contaminants from IndArc and Gruvebedat observatory. India is working with AMAP¹² in the monitoring of glaciers, Arctic Precipitation, and climate change studies. India also works with CAFF¹³ on microbial diversity in Svalbard and Arctic breeding

¹⁰ Po-Hsing Tseng and Kevin Cullinane, "Key criteria influencing the choice of Arctic shipping: a fuzzy analytic hierarchy process model," (2018), 45 (4) Maritime Policy and Management 422-438, <https://doi.org/10.1080/03088839.2018.1443225>.

¹¹ Arctic Contaminants Action Program

¹² Arctic Monitoring and Assessment Program

¹³ Conservation of Arctic flora and fauna

birds that visit India on a yearly basis.¹⁴ India is also a member of the International Arctic Science Committee. However, India needs to improve its participation in other working groups such as EPPR, PAME, and SDWG,¹⁵ and also increase its engagement with programs under the Expert

“Indian Arctic policy, on the other hand, commits to research on Arctic Ecosystem values, and marine protected areas and contributes towards environmental management in the Arctic, and engages with the Emergency preparedness and response working group of the Arctic Council to contribute toward the environmental emergencies in the Arctic.”

group such as the Arctic Marine Biodiversity program (CAFF). The precautionary principle and the ecosystem-based approach form the basis for this agreement and the future Arctic RFMO so as to protect the CAO in such a manner so it does not end up like the Donut hole saga, hence it is important to have states that

have conservation and protection of marine ecosystem as a priority. Thirdly the CAO is part of the global commons, hence exploration, and protection of the region cannot be restricted just to the Arctic 10 alone even though the coastal states have the duty under the LOSC¹⁶ to protect the surrounding regions. Also, increasing India's presence in the region will give a strategic advantage to protect its own interest in the future and at the same time engage in regional governance in the region which is environmentally vulnerable. Hence, India needs to make a case for becoming a party to the unregulated fisheries agreement and any future overarching agreements or engagements in the ecosystem management and regional governance of the Central Arctic Ocean region.

¹⁴ Arctic Council, 'Republic of India- observer report 2019-2021' < https://oaarchive.arctic-council.org/bitstream/handle/11374/2721/SAOXIS2_Arctic-Council-Observer-REPORT-2019-2021_INDIA.pdf?sequence=1&isAllowed=y > accessed on 12 May 2022

¹⁵ Emergency prevention, preparedness and Response, Protection of Arctic Marine Environment and Sustainable development working group

¹⁶ United Nations Convention on the Law of the sea, 1982

Convention Theory as a Framework for Discourse Analysis in the Field of International Relations: A Case Study of the European Union's Arctic Policy

Ana Belén López Tárraga^a

Abstract: *The effects of climate change are becoming increasingly evident in the Arctic. Consequently, and due to emerging economic opportunities, this region has become one of the world's main geostrategic hotspots. Arctic states, non-Arctic states and international organisations such as the European Union (EU) are seeking to access these opportunities. The theoretical frameworks about international relations have traditionally been used to understand relationships among states and between states and international organisations. This article leaves international relations theories aside and, divergently, uses sociology as an approach to analyse international relations. Additionally, it takes the analysis of the EU's discourse on the Arctic region as a case study. The primary objective of this research is to show that the sociological theory of conventions can be applied to discourse analysis in the field of international relations. This paper*

presents preliminary results derived from the use of this theoretical framework to analyse the content of EU's Arctic policy. The results are briefly discussed, and initial conclusions are drawn.

1 Introduction

Nowadays, it seems problematic to deny that climate change is a reality that is increasingly showing its effects more and more severely. The polar areas of the planet are the ones that are exhibiting the intensity of these consequences the most. A rise in meteorological hazards caused by heat sources, such as fires, as well as an increase in average temperatures, which are rising in the Arctic twice as fast as the global average, especially during the winter (IPCC, 2022, p.2324), are causing the loss of the ice sheet that covers the Arctic Ocean (Figure 1).

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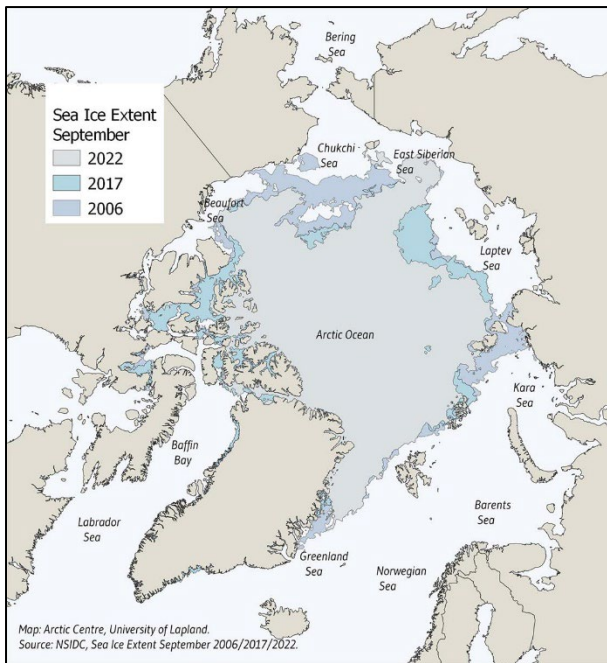


Figure 1: Comparison of sea ice extent in the Arctic Ocean in September 2006–2022. Source: Arctic Centre, University of Lapland (www.arcticcentre.org/EN/arcticregion/Maps)

These changes have turned the Arctic region into one of the world's major geostrategic hotspots due to natural resources, shipping routes and tourism (Dodds & Woodward, 2021, p. 95-100) found in the region. Factors that both Arctic states (Finland, Sweden, Norway, Denmark, Russia, Iceland, the United States

and Canada) and non-Arctic states (such as China or India), as well as international organisations (such as the EU) seek to access. A fact that has been heightened at present due to the energy crisis (Kirchner & Koivurova, 2022, p.40) and Russia's aggression towards Ukraine (Kirchner, 2022, p.8).

The theoretical frameworks about international relations theory have traditionally been used to analyse relations - either cooperative or conflictual - between states. Considering that sociology is the science that studies the nature and development of society and social behaviour (Oxford, 2022), this article leaves international relations theories aside. Instead, it turns to sociology as a potentially useful science for analyzing international relations and it takes the analysis of the EU's discourse on the Arctic space as a case study.

Orders of justification	Definitions	Concepts				
Inspiration	This order is related to opportunities and discoveries (Boltanski & Thévenot, 1991, p.87-161).	Opportunity, experimentation, innovation				
Domestic	This order is related to habits, culture and traditions (Boltanski & Thévenot, 1991, p. 164-247).	Tradition, habit, community				
Public	This order is related to popularity, fame and reputation (Boltanski & Thévenot, 1991, p. 294-183).	Fame, reputation, prestige				
Civic	This order is related to security, cooperation and rules (Boltanski & Thévenot, 1991, p.108-187).	Collectivity, common good, rules <table border="1" data-bbox="1011 891 1460 1151"> <thead> <tr> <th>Justification</th> <th>Concepts</th> </tr> </thead> <tbody> <tr> <td>Security</td> <td>Cooperation, agreement, forum</td> </tr> </tbody> </table>	Justification	Concepts	Security	Cooperation, agreement, forum
Justification	Concepts					
Security	Cooperation, agreement, forum					
Market	This order is related to benefices, markets and utilities (Boltanski & Thévenot, 1991, p.143-199).	Market, competition, profit				
Industrial	This order is related to efficiency and resources (Boltanski & Thévenot, 1991, p.123-204).	Efficiency, resource, standard				
Ecological	This order is related to the environment and sustainability (Lafaye y Thevènot, 1993)	Sustainability, nature				

Figure 2: The orders of justification, definitions and related concepts.

Source: Author's elaboration. Data extracted from Boltanski & Thévenot, 1991 and López-Tárraga, 2022.

The main objective of this research is to show that the sociological theory of conventions can be applied to discourse analysis in international relations. To this end, this paper presents preliminary results

obtained by using this theoretical framework to scrutinize the discourse and policy of the EU regarding the Arctic region. The results are briefly discussed, and initial conclusions are drawn.

1 Convention theory and literature review

The theory of conventions was developed by the French sociologists Luc Boltanski and Laurent Thévenot in 1991. These researchers sought to understand the relationships between people and objects in different situations of everyday life. They constructed a scheme to analyse the coexistence between people, things and situations within multiple orders of worth, such as the orders of evaluation and, most relevantly, justification. These worlds of justification are coherent sets of values, principles and arguments that make it possible to evaluate people's behaviour in different situations and the objects involved in each case as justifiable or unjustifiable (Boltanski & Thévenot, 1991, p.14). In everyday human life, according to the authors, it is possible to distinguish up to six principles or orders of worth (Boltanski & Thévenot, 1991, p. 77): inspirational, domestic, public, civic, market and industrial (Boltanski & Thévenot, 1991, p. 87-204). Later, in response to the natural conflicts that were beginning to be perceived, the ecological world was incorporated (Lafaye & Thevenot, 1993, p. 521). Since this research goes beyond relations between people and objects to relations between states, where security¹ is

an essential matter, this subject has been categorised in this paper as an additional category of justification within the civic order. Thus, eight worlds of justification are considered in total. Figure 2 develops these concepts further and provides examples of the content of each order of worth.

As the authors explain, this theoretical framework can be used in a multitude of disciplines. Such approach enables the connection of issues that are often addressed from different perspectives and disciplines, such as the study of social relations or contracts, on the one hand, and technological constraints or product quality on the other (Boltanski and Thévenot, 1991, p.9). For these reasons, this sociological theory is suitable to study conflicts and compromises by categorizing the different positions, objectives, and interests of the actors around the seven conventions outlined above. In democratic environments, policy making is always a process that involves compromise to address problems and conflicts adequately. Therefore, EU policies may be properly understood from this theoretical standpoint because their inception and practice involve very diverse actors in terms of their nature (public / private), their goals (for profit / not for profit) and their scale

¹ Emphasise that security issues are in the civic sphere.

(local, regional, national, and supranational).

With this goal in mind, a literature review was carried out. 21 publications² were selected and classified into six different topics according to their subject matter. From the highest to the lowest number of pieces, the first category is consumption/agri-food market (10 papers), followed by publications related to institutions and the environment (3 papers), culture/society and energy (2 papers), and education (1 paper).

The literature review shows that the convention theory, derived from economic sociology, has been applied mainly to case studies related to the market economy. No academic research has been found that uses this framework with states as the primary subject matter and international relations as the object of analysis. Therefore, this paper contributes to theoretical innovation by conceptualizing the state as an actor that, in the field of international relations, needs to deal with goals and interests related to the seven orders of justification, with a strong focus on security within the broader realm of the civic justification.

1.1 The EU Arctic Policy: case study and codification of results

The EU's Arctic policy, coordinated by the European External Action Service, has been taken as a case study for this research. It analyses the discourse developed by the international organisation over the years, and the different documents issued by European institutions from October 2008 to October 2021. During this time, 19 documents have been issued by the following institutions: European Commission, European Parliament, Council of the EU, Court of Justice, Committee of the Regions and Economic and Social Committee (EEAS, 2022).

All documents have been coded following the concepts related to the orders of justification. The document analysis software N-Vivo was used for this process. The results shown in this paper have been extracted from the primary documents issued by the European Commission: Communication from the Commission to the European Parliament and the Council 'The EU and the Arctic Region' (COM (2008) 763 final); Joint Communication to the European Parliament and the Council 'Developing a EU Policy towards the Arctic Region: progress since 2008 and next steps' (JOIN (2012) 19 final); Joint

² As this is an abridged version of the presentation of this research, the bibliographical review has not been expanded. However, the bibliographical references taken for the review are detailed in the references section.

Communication to the European Parliament and the Council 'An integrated EU policy for the Arctic (JOIN (2016) 21 final); Joint Communication to the European Parliament, the Council, the European Economic and Social Committee, and the Committee of the Regions 'A stronger EU engagement for a peaceful, sustainable and prosperous Arctic' (JOIN (2021) 27 final).

2 Results

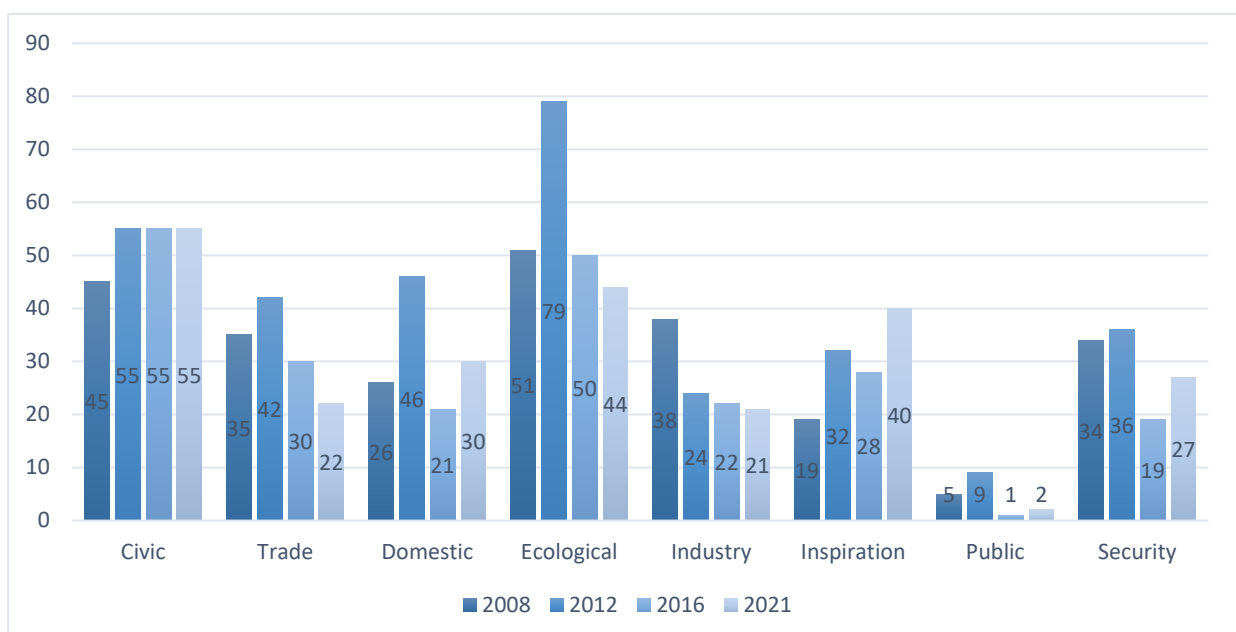
The general results (Figure 3) obtained from analysing the documents mentioned above are presented below. It should be noted that more than one type of convention can be coded in the same paragraph if it contains arguments concerning different issues.

The average number of references to each agreement in the documents cited during

Orders of justification	Average number of mentions in the main documents (2008-2021)
Civic	52.2
Market	32.25
Domestic	30.75
Ecological	56
Industry	26.25
Inspiration	29.75
Public	4.25
Security	29

Figure 4: Average number of mentions to each type of convention in the main EU Arctic policy documents (2008-2021). Source: Author's elaboration. Data extracted from López-Tárraga, 2022

Figure 3: Number of mentions of each type of convention in the EU's main Arctic policy documents (2008-2021) Source: Author's elaboration. Data extracted from López-Tárraga, 2022



the period under consideration was also calculated (Figure 4).

For a better understanding of the content of these documents, the results and specific excerpts that illustrate each argument are presented below. It should be kept in mind that different orders of worth are usually interlinked, and that the actions promoted by the EU have a cross-cutting nature. Therefore, a specific activity may impact several orders or conventions.

The civic convention, which refers to collectivity, legislation, and the achievement of the common good (in this particular case, in the Arctic region), is among the most important ones in the evolution of EU policy documents. This convention is complemented by the ecological justification, which is the most influential according to data (56 mentions in average). The connection between the two orders of justification can be seen in the following paragraph from the 2016 Communication (JOIN (2016) 21 final, p.8):

“The EU aims to protect, preserve and improve the environment, including in the wider region, for present and future generations. The EU should continue its engagement in multilateral environmental agreements that also have particular relevance to the Arctic, and encourage their implementation. The EU should encourage full respect for the provisions of UNCLOS, which is considered customary international law, including the obligation

to protect and preserve the marine environment”.

A clear example of the cross-cutting nature of the civic and ecological conventions can be found in how tourism is addressed in a way that respects the environment and local communities (COM (2008) 763 final, p.13). This is a field that countries such as Finland, Sweden and Norway have been promoting since 2008, through developing sustainable tourism projects supported by the European Regional Development Fund (ERDF) or the Northern Periphery and Arctic Programme. Apropos of the blue economy, the European Commission expressed (JOIN (2016) 21 final, p.11) that the organisation is highly committed to the promotion of sustainable practices in fisheries, a field of its exclusive legal competence. The reflection of these actions can be seen in the EU Water Framework Directive, which since its issuance in 2000 and its subsequent updates, aims to ensure good quality water throughout the EU by managing river basin systems in a coordinated manner at regional and national levels (2000/60/EC, 2000). This is a prime example of the transversal nature of these issues in which the industrial and commercial conventions can be observed.

The domestic order of worth, which is related to habits and traditions and the conservation of local communities, appears in an average of 30.75 mentions in the sample of documents. The following text

excerpt from the 2012 Communication (JOIN (2012) 19 final, p.15) exemplifies this convention:

"The EU has been actively involved in working towards the adoption of the United Nations Declaration on the Rights of Indigenous Peoples. The EU seeks to integrate human rights and indigenous issues into all aspects of its internal and external policies, including its political dialogues with third countries and regional and multilateral organizations. The EU also provides financial support to civil society organizations working on indigenous issues, in particular through the European Instrument for Democracy and Human Rights (EIDHR)"

In this regard, and as an example of EU actions under this convention, the organisation has been engaged since 2008 in a regular dialogue with indigenous peoples of the Arctic coordinated by the Directorate-General for Maritime Affairs and Fisheries (COM (2008) 763, p.5). It also supports local communities through several funding programmes, such as the INTERREG Northern Periphery and Arctic Programme mentioned above.

The commercial (market, profit, 32.25 mentions) and industrial (resources and efficiency, 26.25 mentions) worlds of justification orders appear to a similar extent in the original texts. Both worlds of justification are interconnected on several occasions, including the conclusions of the 2008 Communication, where the civic and

ecological conventions also appear in a dialectic manner (COM (2008) 763 final, p.13):

"The suggestions contained in this Communication aim to provide the basis for a more detailed reflection. This will be useful for implementing the EU's strategic initiatives, including the Integrated Maritime Policy. The present Communication should also lead to a structured and coordinated approach to Arctic matters as the first layer of an Arctic policy for the EU. This will open new cooperation perspectives with the Arctic states, helping all of us to increase stability and to establish the right balance between the priority goal of preserving the Arctic environment and the need for sustainable use of resources".

With the 2021 policy update, the convention to which all innovation is attributed (29.75 mentions on average) refers to the EU's investment in technology and science and relates mainly to innovations in security. This can be seen in what follows in the next paragraph of the 2021 Communication (JOIN (2021) 27 final, p.6), where the green convention is also highlighted:

"Timely and efficient search and rescue (SAR) operations are crucial in the Arctic because of its severe climate, unpredictable weather, and the huge distances involved. Galileo SAR significantly reduces the time needed to rescue people at sea. The new Galileo Return Link Service offers new

functions for sailors and pilots operating in hostile environments and is currently offered uniquely by Galileo, worldwide and free of charge".

In a cross-cutting manner, and to illustrate what the actions concerning the industrial, commercial and innovation conventions translate into, two EU financial contributions described in two different periods may be mentioned. Firstly, in 2012, to monitor changes in the region's natural environment, the EU earmarked €200 million for research activities under the Seventh Framework Programme (JOIN (2012) 19 final, p.4). Secondly, in the latest policy update in 2021, the EU stated that it will provide, through the InvestEU Fund, €370 billion in public-private investments to finance projects such as green and digital transitions, research and innovation, new fields of action in the health sector and the strategic technologies sector (JOIN (2021) 27 final, p.16).

There is a scarce presence in the documents of references related to the search for public recognition, reputation or fame (4.25 mentions on average). The manner in which the EU disseminates its obtained results to the public directly influences the reputation that it seeks to acquire among the public as an actor operating in the Arctic region. This matter is addressed in the following quote, where the convention of innovation also coincides (COM (2008) 763 final: 7):

"Ensure open access to information from Arctic monitoring and research based on the principle of the Shared Environmental Information System. Facilitate and support outreach to the broader public".

Lastly, all aspects related to security are mentioned an average of 29 times in the four documents. Throughout the development of the policy, security issues are addressed in relation to the environment (COM (2008) 763 final:11). No mention is made of possible military conflicts on the ground. A situation that changes entirely with the publication of the new Communication, which alludes directly to geopolitics and puts the focus on Russia and China (JOIN (2021) 27 final:3):

"Military build-up across the Russian Arctic seems to reflect both global strategic positioning and domestic priorities, including dual use of infrastructure. In addition to increasing security challenges, it could also further aggravate the consequences of climate change. It is likely taking place partly because the long northern coastline is becoming much more accessible but is largely related to non-Arctic issues¹⁰. Many countries, including the US, Norway, UK, Denmark, Canada and Iceland, are following these developments closely, as is the North Atlantic Treaty Organisation (NATO), with a view to responding to Russia's increased assertiveness in Arctic waters and airspace. There has also been an upturn in the activities of other actors, including China,

and growing interest in areas like ownership of critical infrastructure, the construction of sea cables, global shipping, cyberspace and disinformation".

As illustrated, the mentions of the different orders of justification vary over time, as they adapt to the relevant facts or events along the years. The interconnection of the orders and further analysis around it are not covered in this paper because it is only intended to show the research carried out. However, it will be addressed in future works of greater length.

3 Conclusions

The results of the analysis show how the different conventions are interconnected. It can be observed that behind the EU's pro-environmental vocation for the Arctic area, there is a strong economic purpose related to industrial and commercial activities. The results also show how security is present throughout the development of the policy. However, in the latest update in October 2021, the EU addresses the issue more evidently, pointing to Russia and China as specific countries to focus on. This issue is expected to increase in subsequent updates due to Russia's aggression against Ukraine in February 2022 and the resulting energy crisis.

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Different scenarios, different policies

China's engagement in the South China Sea and in the Central Arctic Ocean

Marco Volpe^a

1 Introduction

American researchers have discussed the prioritisation of maritime capabilities in major national power strategising at the end of the 18th century. Across the 18th and 19th centuries, the American Naval Officer Alfred Mahan then contributed to drawing attention to the need to secure American access to international markets to absorb the tremendous amounts of goods produced domestically. Mahan's idea consisted of building a merchant navy, an American battleship navy, and a network of American naval bases. His theory has since been crucial for the development of American naval strategy and influenced the development of maritime-power strategising worldwide. In recent decades, with the Chinese economy booming after the country's opening-up reform, China became more dependent on seaborne trade than it had been before, and the Chinese leadership started prioritising maritime interests to expand

the country's trade lines. While in the first phase, their attention was on near seas, when China's shipping routes became globalised, it became necessary to improve Chinese maritime capabilities in far seas. This transition was crystallised in the Chinese military strategy released in 2015. In the document, it was stated that the People's Liberation Army Navy (PLAN) would gradually expand its activity from "offshore waters' defence" to the combination of "offshore waters' defence" and "open seas' protection" (State Council of the People's Republic of China, 2015). "Off-shore waters' defence" refers to the area between China's coastline and the second island chain (that is, the Philippine Sea) including, of course, the East and South China Seas; "open seas' protection" essentially focuses on other missions, including protecting China's sea lanes (SLOC) that cross the Indian Ocean en route to or from China.

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The improvement of Chinese naval capabilities increases the possibility of China engaging in new and emerging geopolitical scenarios. However, it also requires China to develop specific strategies for different scales and strategies modelled on regional specificities. For instance, while China's strategy in the South China Sea is mainly focused on securing China's maritime sovereignty over a large area (the South China Sea), at the global level, is more oriented toward striking a favourable power balance.

Recently, the Arctic has gained great attention for its potential, connected to natural resources, fishing, and commercial opportunities. The "Arctic race" narrative has started to emerge, fuelling global power competition. Since China started to show interest in the area, it has often been regarded as a threat to the current order in the region. Scepticism over China's declared interest in the region is based on increasing commercial shipping through the Northern Sea Route, along with the country's opportunities to exploit natural resources and fishing activities in the Central Arctic Ocean. It is thought China might see there being opportunities to improve its domestic stability and economic development. However, the long-term nature of China's policy in the Arctic, the stalling of the Arctic Council, and the probable military escalation in the region make it crucial that we strive to better understand the priority level the Arctic region occupies in China's foreign

policy. We must also pursue a deep understanding of geopolitical scenarios in which China is engaged or planning to enhance its engagement. The South China Sea and the Arctic region are two relevant geopolitical scenarios for China. However, there are profound differences between the two pertaining to regional governance, rights to conduct maritime activities, and the sociopolitical context, which may profoundly influence China's strategy for each area.

Despite these discrepancies, former US Secretary of State Mike Pompeo, in 2019, proposed assimilating China's strategies in both geopolitical contexts under the threat theory framework. Accordingly, the rhetorical question, "Do we want the Arctic Ocean to transform into a new South China Sea, fraught with militarisation and competing territorial claims?" represented the peak of discourse-building on China's threat in the Arctic (Hounshell, 2019).

Yet, is it really possible to compare these two geopolitical scenarios?

By highlighting the reasons for China's different levels of engagement in the South China Sea and Central Arctic Ocean, this article's main aim is to show that bundling the two geopolitical areas together to justify assertions that China will take a revisionist approach to change the global order is tendentious. The argument is built through an analysis on three levels. The first focuses on differences in regional maritime regimes, the second on how the regions differ in priority for China's national

and foreign policy, and the third concerns the regions' differences in how sovereignty claims from regional state actors are advanced and the mechanisms that have been developed to resolve territorial disputes.

2 Regional maritime regimes

2.1 South China Sea

The South China Sea is an enclosed sea that stretches around 3.5 million square kilometres and consists of thousands of small islands, reefs, shoals, and atolls, spanning from the Singapore Strait to the Taiwan Strait. Many states have South China Sea coastline, including Indonesia, Malaysia, the Philippines, Brunei, Thailand, Cambodia, Singapore, Vietnam, the People's Republic of China, and Taiwan. In the area, decades-long tension is mainly fuelled by overlapping sovereignty claims and fisheries disputes between regional states. The biggest archipelago in the South China Sea is the Spratly archipelago, which consists of an area of 409,000 square kilometres, located between Vietnam, the Philippines, and Malaysia. Closer to the Chinese coastline, the Paracel Islands are mainly disputed between Vietnam and China. This archipelago is 165 kilometres southeast of the Chinese island Hainan and 185 kilometres east of the Vietnamese coasts. The Pratas Islands, meanwhile, are situated southeast of Hong Kong and are under Taiwan's sovereignty. Then, the Macclesfield Bank, which consists of 25 reefs, is disputed between China and the Philippines.

The leading international ruling instrument for maritime sovereignty claims is the United Nations Convention on the Law of the Sea (UNCLOS; United Nations (UN), 1982). It establishes territorial sea up to 12 nautical miles from the baseline, the contiguous zone up to 24 nautical miles, and the exclusive economic zone (EEZ) up to 200 nautical miles from the outer limit of the territorial sea. Despite those clear demarcations, there are overlapping disputes over sovereignty claims, making the area highly disputed, because of the richness of fisheries resources. No regional fisheries management organisations (RFMO) regulate fishing activities in the area. RFMOs are regional mechanisms that promote coastal states or distant water fishing nations (DWFN) to share practical and financial interests in managing fishing stocks in a specific region. Their mandate might address the regulation of a specific species or a group of species or, broadly, ensure that fishing does not endanger the marine ecosystem. The absence of such a ruling mechanism increases the potential for overfishing and illegal and unreported fishing, which not only endangers marine species but also increases the possibility of disputes between neighbouring states. The fisheries management impact measures a state's fisheries governance capacity, which is assessed through research, management, enforcement, socioeconomics, and stock statuses, based on which all South China Sea states perform poorly (Melnychuk et al., 2016). To improve the scenario, creating a

multilateral ruling body may not only help manage fisheries activities and reduce illegal fishing and overfishing but may also help create a cooperation structure that facilitates dialogue and eases overlapping sovereignty claims and geopolitical tensions.

2.2 Central Arctic Ocean

The Arctic Ocean accounts for 8.6 million square kilometres (5.4 million sq. miles). Depths of the Arctic shelves range from 100 meters for the Siberian Shelf to 2000 metres for the Alaskan Shelf (Stabeno et al., 2004). The Central Arctic Ocean is the largest area of high seas in the Arctic. Five coastal states surround it, encompassing an area of 2.8 million square kilometres.

The area beyond the EEZs, also known as the high seas, is ruled under article 89 of UNCLOS: "No State may validly purport to subject any part of the high seas to its sovereignty" (UN, 1982). This resulted in the formation of high seas areas of the water column beyond the five coastal states' EEZs and national jurisdiction: the Donut Hole in the Bering Sea, surrounded by the EEZs of the United States and Russia; the Polygon in the Sea of Okhotsk, surrounded by the EEZ of Russia; and the Loop Hole in the Barents Sea, surrounded by the EEZs of Norway and Russia (Vylegzhanin et al., 2020).

While for decades, the Arctic Ocean's coastal states' attention was focused on creating legal and policy arrangements to allow the northern states to govern the

area, a real game-changer has since been the melting of the ice of the Arctic Ocean (Koivurova, 2019).

Regarding fisheries activities, the North East Atlantic Fisheries Commission (NEAFC) manages the long-term conservation and optimum utilisation of fishery resources in a swath of the Atlantic and Arctic Oceans north of 36°N and between 42°W and 51° E longitude, stretching all the way to the North Pole. With a specific focus on the Central Arctic Ocean, in October 2018, the five coastal states together with China, Japan, South Korea, and the European Union—signed the Agreement to Prevent Unregulated High Seas Fisheries in the Central Arctic Ocean (CAO Agreement; MOFA, 2018). The main feature of the Agreement is to prohibit unregulated fishing in the Central Arctic Ocean. It also provides for a Joint Program of Scientific Research and Monitoring to assess the prospects for the development of commercial fish stocks and, in the case commercial fishing becomes an attractive prospect, aims to launch a regular meeting to establish fisheries management organisations (Vylegzhanin et al., 2020). The CAO Agreement is based on the precautionary approach that, in the past decades, has emerged in environmental law and natural resources conservation in the face of scientific uncertainties. The concept emerged from the Rio Summit held in 1992:

In order to protect the environment the precautionary

approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation. (UN Conference on Environment and Development, 1992)

3 Priority given to China's national security

3.1 South China Sea

According to the United Nations Conference on Trade and Development (UNCTAD), 80% of global trade by volume and 70% by value are shipped by sea, and 60% of maritime trade passes through Asia (UNCTAD, 2015). The South China Sea represents a crucial maritime crossroads for trade not only for China but also for many other states, including non-Asian states.

China imports most of its energy supplies (oil and liquified natural gas) from African and Middle East regions through shipping lanes. According to the Energy Information Administration (EIA), more than 30% of global maritime crude oil passes through the South China Sea, consisting of 15 million barrels daily (EIA, 2018). The majority (90%) of the crude oil volumes managed in the South China Sea pass through the Malacca Strait, representing the shortest route between the African and

Persian Gulf suppliers for Asian markets. The three major Asian importers of crude oil in the area are China at 42%, Japan at 20%, and South Korea at 18%. China is the world's largest importer of crude oil; in 2018, its oil dependence reached 72%, and 80% of crude oil imports flowed through the Malacca Strait. The high dependence on this specific choke point is a long-lasting concern for the Chinese leadership. Moreover, the political instability and military conflicts that affect exporting regions have induced China's leadership to diversify energy supplies. Due to the long-distance shipments this entails, China should increase its expenditure on the modernisation of the military force of the PLAN, to improve its escort capabilities for energy supplies shipments (Wang and Su, 2021).

Liquified natural gas (LNG) is another energy resource vital for China's economy. China is the world's largest importer of LNG, having recently surpassed Japan. China's leadership has decided to increase the country's LNG imports to meet residential heating and industrial gas demands, principally led by the rising electricity consumption accompanying the country's economic recovery from the COVID-19 pandemic. China is also motivated to increase the LNG market with a view to the energy transition and moving to more environmentally sustainable development, with LNG the least polluting of fossil fuels. Compared to crude oil imports, China has been better able to

diversify its LNG imports: while Australia represents China's primary partner, Qatar, the USA, Russia, and Malaysia also stand as relatively stable partners. The Arctic represents one of the newest areas for LNG supplies destined for the Chinese market through a collaboration with Russia on a project in the Yamal Peninsula. Yet, despite China's diversification of LNG imports, the South China Sea still accounts for almost 40% of the LNG moved globally. Meanwhile, the major Asian importers are Japan with 42%, South Korea with 22%, China with 17%, and Taiwan with 14% (EIA, 2016).

Fishing is another highly contested issue in the South China Sea that profoundly influences China's national policy. The increasing fishing activities carried out by China have been identified as a critical driver for overfishing in the South China Sea, which highlights the lack of effective international governance in the region. China officially recognised the South China Sea in respect to the marine economy in its 13th Five-Year Plan, in which China's leadership clearly stated that the country "will develop national marine economic development experimental zones in Shandong, Zhejiang, Guangdong, Fujian, and Tianjin, support Hainan in using South China Sea resources to develop a distinctive marine economy" (Central Committee of the Communist Party of China, 2016).

The importance of exerting influence on the area is not limited to ensuring energy

and fishery supplies but is also related to estimates of natural resources. According to the US Energy Information Agency (2013), the South China Sea holds about 190 trillion cubic feet of natural gas and 11 billion barrels of oil. Control over reefs and waters in the area could also mean gaining access to 105 billion barrels of hydrocarbon reserves, which may consistently lower dependence on imports of oil and LNG supplies.

Energy and food security are the core points of China's national strategy because the government's capacity to foster China's economic development and secure internal stability legitimise the Chinese Communist Party (CCP).

3.2 Central Arctic Ocean

China's Arctic engagement has been escalating in the last few years. When analysing China's most recent five-year plan (FYP), the increasing attention to the Arctic region can clearly be seen. While in the first phase, attention was focused on enhancing scientific research capabilities, it has since gradually expanded to developing tools and mechanisms to enhance China's participation in Arctic governance. In the 12th FYP (2011–2015), the Arctic was mentioned with regard to promoting the marine economy's development, and there was a focus on increasing China's scientific capabilities in the Arctic by conducting scientific research related to mapping and investigation (British Chamber of Commerce in China, 2011).

The importance of improving the country's scientific capabilities was then reiterated in the 13th FYP (2016–2020), which mentioned the country having objectives to "strengthen the prospecting and development of marine resources and expand scientific expeditions to marine polar regions" (Central Committee of the Communist Party of China, 2016). More broadly, the polar-related policy covered:

- Establishing a new shore-based Arctic observation station through cooperation;
- Establishing a new Antarctic research station;
- Building new advanced icebreakers;
- Improving Antarctic aviation capabilities;
- Completing the basic framework for a land/sea/air observation platform in the polar regions;
- Researching and developing exploration technology and equipment suitable for the polar environments;
- Establishing a service platform for the provision and application of information regarding the polar environments and potential polar resources (Central Committee of the Communist Party of China, 2016).

Among these points emerges the ambition to advance the country's capabilities to access polar regions by developing the first China-built icebreaker, and polar regions are also mentioned in a section dedicated to the "International Economic Governance

System", in which China calls for an "active role in formulating international rules in areas such as the internet, the deep sea, the polar regions, and aerospace" (Central Committee of the Communist Party of China, 2016). This last point is highly relevant because it highlights China's commitment to engaging in the policymaking process.

The 14th FYP concerns the period from 2021 and 2025. In this document, the Arctic is framed in many different areas that range from the maritime community to the community of destiny and from scientific research to the development of blue corridors (i.e. the polar silk road). The concept of "community of common destiny" was first mentioned by former Chinese Communist Party's General Secretary Hu Jintao to the 17th National Congress of the Chinese Communist Party in 2007, referring to shared blood and common destiny of mainland China and Taiwan. The current leader Xi Jinping has slightly modified the concept into "a community of shared future" that conceptualizes the community of common destiny with mankind as the primary aim of Chinese foreign policy (Mardell, 2017). Section 3 of Chapter 33 is dedicated to China's participation in global ocean governance, where it aims to "actively develop blue partnerships, deeply participate in the formulation and implementation of international ocean governance mechanism and related rules, promote the construction of a maritime

community of common destiny" (People's Government of Fujian Province, 2021). In relation to blue partnerships, the document states that China "will deepen practical cooperation with coastal nations in the fields of marine environmental monitoring and protection, scientific research, and maritime search and rescue. We will participate in pragmatic cooperation in the Arctic and build the Ice Silk Road" (People's Government of Fujian Province, 2021).

When analysing the last three FYPs, it can clearly be seen that the prioritisation of Arctic engagement has gone through an evolutionary trajectory, gradually shifting from enhancing scientific research capabilities to improving participation in global governance and building partnerships.

4 Regional diplomacy framework

4.1 South China Sea

The contested area in the South China Sea has a decades-long history. China's claims in the area are the heritage of the eleven-dash line marked by the nationalist party Kuomintang 国民党. China's claims include territorial sovereignty over the South China Sea Islands (Nanhai Zhudao), which comprise the Pratas Islands (Dongsha Qundao), the Paracel Islands (Xisha Qundao), Macclesfield Bank and Scarborough Shoal (Zhongsha Qundao), and the Spratly Islands (Nansha Qundao) (Gupta and Geraci, 2020). In the 1970s, Chinese premier Zhou Enlai reduced the eleven dash-line to nine.

To sustain such claims, China promulgated in 1992 the "Law on the Territorial Sea and the Contiguous Zone". Article 2 established:

The territorial sea of the People's Republic of China is the sea belt adjacent to the land territory and the internal waters of the People's Republic of China. The land territory of the People's Republic of China includes the mainland of the People's Republic of China and its coastal islands; Taiwan and all islands appertaining there to including the Diaoyu Islands; the Penghu Islands; the Dongsha Islands; the Xisha Islands; the Zhongsha Islands and the Nansha Islands; as well as all the other islands belonging to the People's Republic of China. The waters on the landward side of the baselines of the territorial sea of the People's Republic of China constitute the internal waters of the People's Republic of China. (Government of the People's Republic of China, 1992)

Legal interpretations of the lines mainly take one of four viewpoints:

- They serve as a delimitation of the attribution of the islands therein;
- They represent the scope of the historical rights, which indicate where rights to fish and develop resources were historically exercised;

- They delineate the boundaries of China's sovereignty historically;
- They resemble the traditional sphere where China's influence was established. (Ikeshima, 2013).

Many of China's claims are based on historical rights (Ikeshima, 2013; Dupuy and Dupuy, 2013). Dupuy and Dupuy (2013) reconstructed the main stages China has gone through to establish and advance the legitimisation of its historical rights: in 1958, with the Declaration of China's Territorial Sea, China considered the Pratas Islands, Paracel Islands, Macclesfield Bank, and the Spratly Islands its territory; then, in 1992, article two of the Law on the Territorial Sea and the Contiguous Zone echoed such sovereignty over other islands and the South China Sea and surrounding waters. At the third session of the Standing Committee of the Ninth National People's Congress, in 1998, China adopted the Exclusive Economic Zone and Continental Shelf Act. Article 14 seems to make the first "historic rights" reference. It states, "the provision of this Act shall not affect historical rights of the People's Republic of China" (United Nations, 1998). A further official statement from China came in reaction to a joint submission by Malaysia and Vietnam to the UN Commission on the Limits of the Continental Shelf concerning the outer limits of the continental shelf beyond 200 nautical miles. In a note verbale (no. CML/17/2009) to the UN Secretary-General, China stated that:

China has indisputable sovereignty over the islands in the South China Sea and the adjacent waters, and enjoys sovereign rights and jurisdiction over the relevant waters as well as the seabed and subsoil thereof [...] The continental shelf beyond 200 nautical miles as contained in the Joint Submissions by Malaysia and the Socialist Republic of Vietnam has seriously infringed China's sovereignty, sovereign rights and jurisdiction in the South China Sea. (no. CML/17/2009)

Just two years later, China reiterated its position in a second note verbale (no. CML 08/2011), in which it stated:

China's sovereignty and related rights and jurisdiction in the South China Sea are supported by abundant historical and legal evidence. The Republic of the Philippines had never made any claims to the Nansha Islands or its components. Since the 1970s, the Republic of the Philippines has started to invade and occupy some islands and reefs of China's Nansha Islands and made relevant territorial claims, to which China objects strongly. (no. CML 08/2011)

Despite the narrative of "historical rights" to sovereignty over the South China Sea, as is often adopted by China's leadership in official statements, the meaning and

relevance of such terminology remain unclear (Dupuy and Dupuy, 2013).

One highly relevant player in the area is the Philippines, whose claims focus on the Spratly Islands and the maritime space around them, including Scarborough Shoal, a small ring of rocks and reefs more than 200 kilometres west of Luzon (International Crisis Group, 2021). Overlapping demands also involve Vietnam, which claims the Spratly and Paracel Islands. Claims over the Spratly Islands are also advanced by Malaysia and Brunei.

In 2013, the Philippines initiated a case regarding China's claims and activities in the South China Sea. It mainly consisted in assessing the validity of China's claims based on the nine-dash line under UNCLOS and evaluating China's interference with the Philippines' rights to utilise resources within its claimed waters. In July 2016, the Permanent Court of Arbitration in The Hague released a 479-page ruling mostly favouring the Philippines. The US–China Economic and Security Review Commission listed the key results:

- China's claims to historical rights and resources within its nine-dash line have no legal basis;
- None of China's claimed land features in the Spratly Islands are an island capable of generating a 200-nm exclusive economic zone;
- China violated the Philippines' sovereign rights by interfering with Philippine oil exploration activities,

prohibiting Philippine fishing vessels from operating, failing to prevent Chinese fishing vessels from operating, and conducting land reclamation in areas where the Philippines enjoys sovereign rights to explore for and exploit natural resources;

- China violated its marine environmental protection obligations under UNCLOS by causing "severe harm to the coral reef environment" with its land reclamation activities and harvesting of endangered species (US–China Economic and Security Review Commission, 2016).

The ruling represented a key moment in the South China Sea geopolitics. It was welcomed by Vietnam through the words of the Ministry of Foreign Affairs spokesperson, Le Hai Binh, who not only declared Vietnam's support for the peaceful ruling from The Hague but also reiterated Vietnam's sovereignty over both archipelagos (Spratly and Paracel), internal and territorial waters, its EEZ, and its continental shelf (Vietnam Law and Legal Forum, 2016). However, the ruling was met with strong opposition from China. The Ministry of Foreign Affairs (2016) released this statement:

The Ministry of Foreign Affairs of the People's Republic of China solemnly declares that the award is null and void and has no binding force. China neither accepts nor

recognizes it. [...] The Chinese government reiterates that, regarding territorial issues and maritime delimitation disputes, China does not accept any means of third party dispute settlement or any solution imposed on China. (Ministry of Foreign Affairs, 2016)

This statement showed China's willingness to resolve the issue through bilateral negotiations as an alternative to a third-party entity ruling over the issue (e.g. UNCLOS). Yet, in geopolitical terms, Beijing's opposition to the arbitration was relevant for two main reasons: it supported the widespread Western perspective of China disregarding the international legal order, and it deepened the country's strategic rivalry with the US, further endangering regional stability.

4.2 Central Arctic Ocean

During the Cold War, the Arctic region was a theatre for hegemonic competition between the US and the Soviet Union and a place of substantial military deployment. In the 1980s, the concept of security started to shift from military security to environmental security thanks to the increasing awareness of global warming and concerns about the deterioration of environmental conditions. This gradual shift led to the foundation of collaborative mechanisms for addressing environmental issues, such as the Arctic Military Environmental Cooperation (AMEC) between Russia, Norway, and the US, and the International Arctic Science Committee

(IASC). While the first aimed to enhance Russia's capacity to manage radioactive waste from its northern fleet, the latter was founded to encourage cooperation over Arctic research, a field that was also open to non-Arctic states. It has already been noted that China's active engagement in the Arctic started with improvements to its scientific research capabilities. The interconnectedness between scientific knowledge and expertise and Arctic governance might have influenced China's posturing in the Arctic and its commitment to scientific work.

China is a member of the IASC, and thanks to its observer status in the Arctic Council, has access to the its working groups. Under the Arctic Council, three main international binding agreements have been negotiated: the Agreement on cooperation on aeronautical and maritime search and rescue in the Arctic in 2011, the Agreement on cooperation on marine oil pollution preparedness and response in the Arctic in 2013, and the Agreement on enhancing international Arctic scientific cooperation in 2017. These three key deliverables of the Arctic Council show how cooperation and science have founded a common ground for fruitful cooperation between the Arctic states.

However, negotiations of the CAO Agreement have also been opened up to non-Arctic states, including China. Liu (2021) underlines that even though the Chinese delegation's presence has been "under the radar", it has marked the first

time China has sat equally alongside Arctic states in the negotiation processes. Certain issues with China's active participation in Arctic platforms have been raised by Ren (2019), who has investigated China's participation in task forces and highlighted: the country's non-attendance of some meetings, discontinuity of the delegation participating, and lack of expertise of the delegates. While these insights show China should probably strive to improve its negotiation capacity, its endorsement of international cooperation mechanism also seems to have set a precedent for China's Arctic engagement to be highly oriented towards maintaining the status quo in the region.

5 Discussion

Regional maritime regimes shape the manoeuvring space for regional actors and, to some extent, result from the interests of and relations between those actors. Accordingly, the differences between any two scenarios can be profound. In the South China Sea, fishing represents a priority for the regional economies, and the absence of an RFMO means there is little to prevent illegal fishing from taking place. In this area, disputes over fisheries have been waging for decades and have contributed to the difficulty in establishing an RFMO. Even if the Chinese economy's dependence on fishing differs from other countries', it still represents an essential factor in its engagement in the area. Meanwhile, for most of the 20th century, the Central Arctic Ocean has been perceived as a frozen sea

with little to offer. Even though in recent decades it has attracted the attention of Arctic and non-Arctic states, fishing still represents a considerable challenge. To regulate fishing, the NEAFC has been created to manage fishing quotas. However, fisheries activities are not a game-changer for coastal states' economies, which are mostly well-developed. More so than fishing activities, Arctic states are concerned about other states accessing international waters for regional security issues.

A driving force that has helped shape the regional maritime regime is science. The CAO Agreement highlighted the need to acquire more knowledge and expertise in the area. Yet, what led China to be part of the Agreement? While in drafting the Agreement, some states were more active than others, for China, this represented its first opportunity to be involved in the negotiating process for an Arctic Agreement. It has been proposed that China flew "under the radar" during negotiations, remaining largely quiet (Liu, 2021). From another point of view, this approach reflects China's long-term strategy in the Arctic to be gradually included as an actor in Arctic governance. Such a gradual process entails the need for China to be perceived as a responsible actor in the region and as a contributor to fostering scientific knowledge.

While the South China Sea is entirely accessible and China possesses the world's largest fishing fleet, the Central Arctic

Ocean still requires us to gain much more knowledge about the marine ecosystem and the seabed. Making such contributions to our scientific knowledge is a key objective for China to secure its place in Arctic governance since one of the criteria for observers is to "have demonstrated their Arctic interest and expertise relevant to the work of the Arctic Council".¹ While its engagement in the South China Sea is guided by sovereignty claims over a large part of the area, needed for it to keep conducting (also) fishing activities, in the Central Arctic Ocean, it seems the country's engagement is more based on consolidating its role in Arctic governance, which requires its strong engagement with scientific knowledge production.

The article has also addressed the extent to which these two different scenarios are relevant to China's national security. The discourse has mainly been focused on energy security, with it highlighted that most of the imported oil and gas pass through the Malacca Strait and the South China Sea. It has also been argued that economic development in China is strictly connected to the legitimisation of the CCP. On the other hand, analysis of the most recent FYPs has revealed how the Chinese leadership's attention to the Arctic region has gradually shifted from enhancing

research and scientific access to improving its position in Arctic governance. While both regions are relevant for natural resource access, a key difference lies in the *actual* and well-structured supply chain of energy resources through the South China Sea and the *potential* access to Arctic resources. The speculative narrative that presents China as a threat in the Arctic is principally based on its interest in exploiting Arctic natural resources (e.g. Rainwater, 2013; Robinson, 2013). Yet, Stunker (2022) and Pezard et al. (2022) have noted that there is a huge difference between the rhetorical expansion of China's presence in the Arctic and the reality on the ground.

China has not hidden its intention to realise the Polar Silk Road, framed as an extension of the larger Belt and Road Initiative. However, the actual route is ambiguous. While its collaboration with Russia may facilitate increased shipping along the Northern Sea Route, the creation of a transpolar route from the Bering Strait to Greenland has also been discussed. The advantage of this last route lies in its passage through the Central Arctic Ocean (mainly international waters), lessening the dependency on Russia. Given the harsh climate conditions, this will never represent China's primary route for energy supply.

¹ See the Arctic Council website: "Observers—Arctic Council" www.arctic-council.org/index.php/en/observer-menu

Nonetheless, the development of northern shipping routes presents a means to avoid the Malacca Strait at times, and the Northern Sea Route has often been raised as an alternative to passing through the Suez Canal, especially after the accidents in 2020 (Abay, 2021).

While Wang and Su (2021) proposed that China should modernise the military force of the PLAN to improve its capabilities to escort energy supplies shipments, heavy military deployment in the Arctic is unlikely due to the obligatory passage through territorial waters. On the topic of the military, the solidity of Sino-Russian relations offers another point to reflect on. Even though Russia's invasion of Ukraine has, to some extent, reinforced the Sino-Russian axis in the Arctic, Moscow showed initial distrust about the internationalisation of the Arctic Council when China first applied to become an observer member of the Arctic Council in 2009 (Willis and Depledge, 2014). Current contingencies have facilitated Russia's isolation in the Arctic and have pushed Moscow to strengthen cooperation with China. However, it is unlikely that we will see China sustaining a Cold War model of division in the region, with Western countries on one side and Russia and China on the other. Instead, China's long-term policy and maintenance of stable relationships with other Arctic states seem part of a step-by-step approach China is taking to implement its strategy in the

region, where Russia is not the only actor involved.

The last section of this article analysed regional diplomacy and China's sovereignty claims. In this context, the differences between the two scenarios appear incontestably profound. They are principally based on legitimising (regional) rights. In the South China Sea, China has sovereignty rights and, through the nine-dash line, advances historical claims over a large area of the South China Sea. In the Arctic it has no rights. Meanwhile, in the Arctic, China has officially declared its adherence to the extant legal framework (UNCLOS), while in the South China Sea, it has disputed the arbitration against it as raised by the Philippines and expressed a will to resolve disputes bilaterally rather than through international law.

For China, today, being part of global governance and falling in line with international frameworks represents an essential strategic approach to being perceived as a responsible actor in global politics. In the Arctic, this approach has contributed to enhancing China's position in regional governance. Yet, China's claims over the disputed area in the South China Sea have a long history, predating such modern strategising. China's assertion of its rights in the area is twofold: at the domestic level, it is oriented toward establishing a coherent legal framework, but at the international level, the advancement of its rights is based on historical rights. Engaging in disputes at

both levels shows China is highly committed to asserting and legitimising its regional rights.

For actors with territorial rights in the Arctic, meanwhile, solving territorial disputes functions to improve their cooperation and dialogue over relevant factors that may foster economic development. While in the South China Sea, rivalry and confrontational attitudes prevail, the *potential* commercial opportunities in the Arctic contribute to deescalating power tensions and solving decades-long disputes over maritime boundaries. The Arctic Council has also played a key role in generating effective cooperation. This capacity to cooperate rather than fall into confrontation has led to the conceptualisation of Arctic exceptionalism. Yet, even though the region has not experienced any military conflict in the past decades, the author does not totally agree with viewing the Arctic as exceptional to states' confrontation. The recent joint decision of the Arctic 7 to condemn Russia's invasion of Ukraine and halt the work of the Arctic Council reveals the limitations of the platform when it comes to political and security issues, which should be excluded according to the mandate. The freeze of the Arctic Council may negatively impact observer states with limited rights, which may lose influence in regional governance.

For China, the Arctic Council represents a pivotal platform to better engage with Arctic issues. It is likely we will see China

working to re-establish the work of the Arctic Council, including Russia. Some insights came from the Arctic Circle Conference held in Reykjavik last October when Gao Feng, China's special envoy for Arctic affairs, publicly stated that "if an A-7 so-called Arctic Council is to come to reality, I don't think that is the original—that will be a different one" (Schreiber, 2022). This last point is critical to underline the difference between China's approach in the two settings studied in this article. While China's confrontational approach to international law in the South China Sea reveals the country's preference for solving disputes at the state level through bilateral agreements, China's perception of the Arctic is based on a global approach that privileges dialogues and relations through international platforms. Its global perception of the Arctic region is also profoundly shaped by the transnational impact of climate change-induced effects. Since the work of the Working Groups under the Arctic Council is mainly focused on dealing with environmental issues in the region, China's efforts to restore the work of the Arctic Council might be read as not only as a means of avoiding the marginalisation of non-Arctic states in Arctic governance, but as also showing how China perceives the Arctic as a region whose issues require global platforms and international mechanisms if they are to be effectively resolved.

6 Conclusion

This article has analysed China's approach and space of engagement in the South China Sea and Central Arctic Ocean to show it is inappropriate to assimilate the two areas when discussing China as a threat to the Arctic regional order. The discourse has been built by focusing on three spheres: regional maritime regimes, priority in China's domestic policy, and the peculiarities of regional diplomacy. In all three, slightly different approaches emerged from China. While the legitimisation of China's claims has not been the core of the study, attention has been paid to understanding the framework and regional geopolitical and governance features that induce China to shape its policy, and why it is hard to envision China's assertiveness in the South China Sea being replicated in the Arctic region. While China's approach to the South China Sea is guided by issues strictly related to national security, in the Central Arctic Ocean, China's posture is far softer and in line with multilateral agreements and international platforms.

It has been argued that the South China Sea is a core point of China's foreign policy because it represents a decisive area for energy and food supplies. Moreover, the lack of an RFMO means there is nothing to adequately prevent illegal fishing from being conducted by coastal states, facilitating regional tensions. Lastly, the richness of hydrocarbon deposits estimated in the area makes the

sovereignty confrontation even tenser. In the Arctic, meanwhile, China's declared alignment with the ruling order and its participation in safeguarding marine ecosystems shows it endorses a global governance approach, rather than assuming a confrontational stance. Although China's dynamism in discussing bilateral agreements with many Arctic states has raised and fuelled the threat theory, Pezan et al. (2022) and Stunkel (2022) have shown that China's presence in the region is still extremely limited. The reasons for such limitations include the direct actions of other governments and sub-local authorities, as well as resistance from indigenous people to massive infrastructural projects.

China's Arctic strategy is a long-term strategy highly dependent on regional political stability, on bilateral relations with the Arctic states, and on China's position within Arctic governance. Comparing China's approach in the South China Sea to the Central Arctic Ocean may be instrumental in fuelling Cold War rhetoric, but due to the illustrated differences, it is extremely hard to find deep strategic commonalities for these two markedly different geopolitical scenarios.

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