

Regulating Arctic Scientific Research: The 2017 Agreement on Enhancing International Arctic Scientific Cooperation

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The Arctic region has long attracted the attention of the international scientific community. Numerous Arctic expeditions already took place at the dawn of the first International Polar Year (1882-1883). Fueled initially by the desire to reach and (re)discover the planet's northernmost region, these expeditions gradually became driven by scientific interests, covering natural sciences, geography, and anthropology. Then, throughout the 20th century until today, a collective determination amongst States of the northern hemisphere to understand and protect the Arctic environment emerged as a means to advance humankind's understanding of natural and anthropogenic processes that drastically transform its surroundings.

The regulation of scientific research is a complex topic dealing with the conduct of scientific activities in and beyond sovereign territories. In the Arctic, it consists of several legally and non-legally binding instruments and processes adopted at the domestic, bilateral, regional, and international levels. These include, *inter alia*, the 1920 Svalbard Treaty, the 1982 United Convention on the Law of the Sea, the 1990 Founding Articles for an International Arctic Science Committee, the Crown Prince Regent's Decree of 30 March 2001, the 2012 Agreement on Scientific Cooperation on China-Iceland Joint Aurora Observatory, and the 2013 Arctic Council Rules of Procedure. As a result, scientific research undeniably contributed to shaping Arctic law and governance and promoting scientific cooperation in the Arctic.

With the growing awareness of the importance of the Arctic region for the world in the context of climate change, further efforts are still needed to improve our understanding of the impacts of climate change in the Arctic and their rippling effects worldwide. In this context, the eight Arctic States adopted the Agreement on Enhancing International Arctic Scientific Cooperation on 11 May 2017. The Agreement was prepared by the Scientific Cooperation Task Force established by the Arctic Council in 2013, and is the third legally binding agreement concluded between these States under the auspices of the Arctic Council. It entered into force on 23 May 2018.

The scope of the Agreement is interesting for a couple of reasons. First, the Agreement adopts a broad definition of the geographical extent of the Arctic as described in Annex 1 on Identified Geographic Areas. It includes terrestrial, marine, coastal, and atmospheric areas within and beyond national jurisdiction (art. 6). Second, the Agreement provides a non-exhaustive list of activities covered by the umbrella notion of scientific activities (art. 1). Alongside activities usually associated with scientific research, it includes traditional/local knowledge and the dissemination of scientific results.

The Agreement aims to build upon the pre-existing Arctic scientific cooperation, striving to “increase effectiveness and efficiency in the development of scientific knowledge about the Arctic” (art. 2). By cooperating logistically, financially, and scientifically, States can improve current knowledge faster and more efficiently. This goal is consistent with the generally accepted idea that tackling the global climate crisis requires prompt actions based on the best scientific evidence available.

Almost half of the provisions of the Agreement are traditional legal provisions framing its life (review, contact points, annexes, dispute settlement, relationship with other agreements, third parties, amendments, entry into force, withdrawal, depository). Nevertheless, the main part of the Agreement concentrates on logistical matters required to facilitate the conduct of and cooperation on scientific research in the Arctic. Accordingly, States must take appropriate and expeditious measures enabling scientists and their equipment to enter and exit the territory of a Party (art. 4), to access research infrastructures, facilities, logistical services (art. 5), research areas (art. 6), and data relevant to the scientific activity undertaken (art. 7 para 1). Moreover, Parties have the duty to support the dissemination of scientific results in open access outlets and, ideally, free of charge (art. 7 para 2).

The Agreement also adopts intergenerational and inclusive perspectives. Intergenerational because it strives to include the younger generation of scientists in scientific activities performed in the Arctic. The rationale behind this idea mainly rests on the will to attract students and early-career scholars and further develop capacity-building to advance knowledge about the Arctic (art. 8). And inclusive because Article 9 highlights the importance of

considering traditional and local knowledge in scientific activities in the Arctic. It also encourages engaging with and involving the holders of such knowledge (e.g., Arctic Indigenous Peoples).

All these provisions apply between the eight Arctic States, and the Agreement does not contain an accession procedure. However, it would be against the spirit of the Agreement to ignore the interests and role of non-Arctic States in scientific research in and about the Arctic. Article 17 provides for the possibility of extending the cooperation measures to non-Parties.

In practice, it is generally accepted that the Agreement is a relevant instrument for improving scientific cooperation in the Arctic. In a 2019 survey, scientists reported on their initial experiences with the implementation of the Agreement. While some encountered bureaucratic hurdles, most scientists had a positive experience regarding access to other Arctic States in general. Furthermore, they highlighted areas of improvement, such as more precision on ways to include Indigenous knowledge and non-Arctic States, but also on how to increase awareness about scientific cooperation in the Arctic.

For more on this, read...

Shibata A and M Raita, 'An Agreement on Enhancing International Arctic Scientific Cooperation: Only for the Eight Arctic States and Their Scientists?' (2017) 8 *The Yearbook of Polar Law* 129

Smieszek M, 'The Agreement on Enhancing International Arctic Scientific Cooperation: From Paper to Practice' [2017] *Arctic Yearbook* 2017 1

Shibata A, 'The Arctic Science Cooperation Agreement: A Perspective from Non-Arctic Actors' in A Shibata and Others (eds), *Emerging Legal Orders in the Arctic: The Role of Non-Arctic Actors* (Routledge 2019), pages 207–225

Dervovic M, 'Sharing Arctic Science: Applying the Common Heritage and Common Concern of Humankind in the Arctic' (2022) 13 *The Yearbook of Polar Law* 301

Sergunin A and A Shibata, 'Implementing the 2017 Arctic Science Cooperation Agreement: Challenges and Opportunities as regards Russia and Japan' (2023) 14 *The Yearbook of Polar Law* 45