

BUILDING BRIDGES (AND BOATS) WHERE THERE ONCE WAS ICE: ADOPTING A CIRCUMPOLAR APPROACH IN THE ARCTIC

Jessica Shadian



The prospect of a more temperate Arctic, writes Jessica Shadian, turned “a once peripheral piece of the global map into a centre for maritime trade and development.” As a consequence, interest in this region has risen dramatically and the debate over the future of Arctic security and development is now global. But according to her, “the best option for the Arctic would be the adoption of a comprehensive and legal management plan led by the Arctic players themselves, who have the most to gain and lose from the surge of attention.” She reviews the set of issues and options facing the Arctic, and concludes that “the Arctic Council is a competent space in which to manage a comprehensive Arctic ecosystem management plan.”

La perspective d'un climat plus tempéré dans l'Arctique « a transformé en un centre de commerce et de développement maritimes une région jusque là secondaire du globe », écrit Jessica Shadian. D'où l'intérêt sans précédent qu'elle suscite désormais et l'internationalisation du débat sur son avenir et sa sécurité. Mais la meilleure option pour cette région résiderait dans « l'adoption d'un plan de gestion global légal administré par les acteurs de l'Arctique, ceux-là même qui ont le plus à perdre et à gagner de tant d'attention ». À l'examen des enjeux et des possibilités dans la région, l'auteure conclut que « le Conseil de l'Arctique possède la compétence voulue pour gérer un plan de gestion global de l'écosystème arctique ».

In the Arctic...social and economic conditions are changing fast. The Arctic is also heavily influenced by decisions taken outside the region. There is an urgent need to strengthen cooperation, confidence building, and coordinated political decision-making on Arctic matters. Arctic matters are best addressed in a circum-Arctic context... Many look to the Arctic Council for leadership — the Council should rise to this challenge.
Ambassador Helena Ödmark, senior Arctic official for Sweden

In November 2008, the Norwegian government travelled to Brussels. Its mandate was to thwart the growing European Union momentum to support an Arctic Treaty. On October 9, 2008, the European Parliament had overwhelmingly passed a resolution calling on the EU to create an international Arctic Treaty to govern the tide of issues approaching the Arctic. Norway flat out rejected the initiative. It could be said that Norway was momentarily successful

in its mission as after the visit the EU Commission president, Jose Manuel Barroso, informed the press that the EU supported Norway's position that a melting Arctic does not mean the region requires a document similar to the Antarctic Treaty.

Anyone vaguely familiar with Arctic politics knows that the Arctic is an ocean bordering five states whereas the Antarctic is a continent owned by all. The prospect that any Arctic rim state would sign away its territory for the good of the commons is not the issue. The real question is: Who initiated the notion that it is the Antarctic way or no way for the Arctic? Given the hundreds of existing international treaties and conventions, why should it be assumed that the Antarctic Treaty should determine what is best for the Arctic? Rather, the best option for the Arctic would be the adoption of a comprehensive and legal management plan led by the Arctic players who have the most to gain and lose from the surge of attention.

Looking out from the coast of the Arctic Norwegian town of Hammerfest, it is impossible not to catch the wind of a changing sea. This change is not only about Arctic thaw such as the summer of 2008 — the first time in recorded history that both the

ranging from the EU to China, who may or may not take into account what is best for the Arctic's residents.

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In the Russian Arctic capital of Murmansk, the Russian transport ministry is investing US\$8 billion in the Shtokman field, located in the Barents Sea. Shtokman is expected to contain the largest deposit of offshore-liquefied natural gas in the world, and it is being developed at groundbreaking speed.

Northwest Passage and the Northern Sea Route were ice-free two years in a row. No, the wind of change is more on par with the aura experienced during the Hanseatic days in Lubek or Tallinn, in the 13th century, or in the ports of Portugal and Spain in the 16th century. While climate change is most certainly on everyone's mind in the European Arctic today, it is paradoxically bringing about an almost giddy sense of excitement at the prospect of a more temperate Arctic turning a once peripheral piece of the global map into a centre for maritime trade and development.

The new environmental context has initiated a global debate over the future of Arctic security and development. As icebreakers become the new battleship, everyone from politicians to environmental groups, scientists, map-makers and the European Union have become Arctic experts, asserting their claims as to where and in what form Arctic governance should proceed.

But the ultimate authorities over the future course and direction of Arctic development should be the Arctic players themselves: the Arctic nations and the Arctic's indigenous peoples, who make up a great proportion of the High North's population. And if they are to be successful, they must avoid piecemeal approaches and contradictory policies. The Arctic players must put forward a single comprehensive Arctic management plan that sets out the future of the Arctic from an Arctic perspective, or else they run the risk of being subject to a host of policy efforts from other players

the Shtokman field, located in the Barents Sea. Shtokman is expected to contain the largest deposit of offshore-liquefied natural gas in the world, and it is being developed at groundbreaking speed. Headed by Russia's Gazprom, the project also includes Norway's StatoilHydro and France's Total, and will feature a state-of-the-art field platform that the *Barents Observer* reports will be able to "detach, move...away and re-attach...as icebergs approach."

On the Norwegian side of the Barents Sea, StatoilHydro has built its own Arctic processing plant on Melkoya Island near Hammerfest. Melkoya Island, once an uninhabited island, has been entirely refurbished (without a single piece of moss spared) and incorporated into the first Arctic off-shore gas project of its kind in the world (Snovit), a project that includes carbon capture and storage technology.

Any new technology is subject to uncertainties and in the case of high-profile projects such as Snovit (which had major start-up problems limiting its August 2007 post-opening operating capacity), this includes the political pressures to keep things moving. According to StatoilHydro officials (speaking at a presentation in Hammerfest in May 2008), politics played a part in pushing up its opening date. This contributed to the start-up problems and led to an increase in Norway's carbon emissions of 3 percent in 2007, in a country that considers itself a global leader in environmental protection.

The political pressures to keep the pace of development going are also being felt with Shtokman. According to StatoilHydro's Per Kjærnes, in a *Barents Observer* interview, "Very much is going to be done in very short time," and the Shtokman field station is going to be extremely difficult.

Experience shows that these kinds of problems can result in irreversible consequences. To cite a case in the Alaskan Arctic, it required only one failed

decision and the lack of a coordinated response team to create the *Exxon Valdez* disaster, which polluted 500 kilometres of coastline. ExxonMobil has spent US\$2.1 billion cleaning up the polluted coastline, more than US\$300 million in compensation and another US\$900 million more to prevent further lawsuits. Almost 20 years later, 34,000 fishermen and others are still waiting to receive US\$5 billion in damages because their livelihoods in Prince William Sound, Alaska, were decimated.

For many Alaskan communities, economic prospects depend on sustained if not increased oil and gas production, which at the same time is forcing many to pack their bags and head for higher ground elsewhere, as their own homeland sinks beneath them. According to environmental correspondent Deborah Zabarenko, there are areas in Alaska where soil has collapsed as the ice melts, highways have buckled, houses have been destabilized and trees have tilted as the earth beneath them gives way (a phenomenon known as "drunken forests"). Similarly, six rural Alaskan communities are in the process of relocation due to severe storms brought on by climatic changes. In the future, increased permafrost melting will affect not only ecosystems but human infrastructure as well.

Alaska alone accounts for an average of 20 percent of all of US energy production. Since the first major Alaskan discovery of oil on the Kenai Peninsula in 1957, Alaska has produced more than 16 billion barrels of oil and 6 billion

cubic feet of natural gas. The 800-mile-long Trans-Alaska Pipeline System (TAPS), which extends from Prudhoe Bay on Alaska's North Slope to Valdez, is one of the world's largest pipeline projects, and the proposed Alaska Natural Gas Pipeline Project is expected to surpass TAPS as the largest pipeline project in the world. This pipeline sits adjacent to its soon-to-be-as-large neighbour, the Mackenzie Gas Project, in Canada's Northwest Territories. Looking off-shore from Alaska, the March 2008 lease sale in the Chukchi Sea yielded US\$2.7 billion for the federal government, making it the largest lease sale in Alaska history and providing a glimpse of future development plans for US Arctic energy development.

To mitigate potential disasters harmonized regulations for industrial development are imperative.

There are other concerns with respect to the Arctic. It is estimated that the Northwest Passage will be open as early as 2012, and there are similar estimates for the Northeast Passage. Saving 3,000 miles of shipping will be nothing short of a world transformation in the history of global trade. Regulating these passageways is far from simple, as US-Canadian history shows. US-Canada tensions over the Northwest Passage extend back to at least the late 1800s, with continuous "threats" to Canadian sovereignty by US whalers operating in the Beaufort Sea as well as American and other "explorers" who made "voyages of discovery" to the region. The January 2009 US Arctic Policy reaffirms this historical sentiment, as it explicitly regards the Northwest Passage as "a strait used for international navigation" and a "top national priority."

The US-Canada debate aside, mandatory regulation for international waterways does not exist. As reported by the CBC, according to Admiral Henrik Kudsk of Denmark's Greenland

Command, speaking at an international conference in Alaska in 2008, certain equipment and preparations should be made mandatory before vessels are entitled to sail into the Arctic. While the International Maritime Organization (IMO) has guidelines for ships, they are not mandatory. As Kudsk said, "I need mandatory codes. I need certain rules that ships need to apply to operate in Arctic or Antarctic waters." And this increased international shipping in the Arctic will cross paths directly with a major portion of the world's fish stocks. According to World Wildlife Fund estimates, 70 percent of the world's white fish supply comes from the Arctic, and the world's last large Atlantic cod stock

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In addition to icebreakers and oil tankers, other types of ships will increase in numbers. Approximately one million tourists visit the Arctic every year. With increasingly open Arctic waters, this number is expected to climb dramatically. And in the absence of clear guidelines, this kind of holidays may be risky business.

In November 2007, the MS *Explorer*, a tour ship, hit ice, resulting in the emergency evacuation of its 150 passengers and crew. The BBC noted that an inspection the previous May

by the UK's Maritime and Coastguard Agency found problems with the lifeboats, the navigation system, and there was no search and rescue plan. In this case the passengers were lucky; in 1994 the majority of the passengers did not survive the capsizing and sinking of an Estonian ferry in the Baltic Sea. Eight hundred people died or went missing and, according to Swedish parliamentarian Kent Karstedt — one of the approximately 100 survivors — many lives were lost as the result of faulty equipment, inadequate technology and a lack of regional and international coordination.

Given the extent and complexity of the issues facing the Arctic, a well coordinated Arctic governance plan, as well as a clear set of regulatory procedures for development, is a necessity. The Arctic states cannot afford anything short of a comprehensive policy for the Arctic Ocean, the surrounding seas and their own northern territories. Such a comprehensive approach, in addition, must ensure that the approximately one million Arctic indigenous inhabitants do more than fill vacation photo albums or serve as wage labour for those seeking an Arctic getaway. The Inuit and Sámi, for instance, have

attained major political achievements in the past 40 years through land claims settlements and local government agreements. In many instances, this also includes royalty rights, as in Nunavut, Canada, the third largest producer of diamonds in the world, and in the North Slope Borough, Alaska home to the largest petroleum deposit in North America to date. Whatever the future holds for the Arctic, its political forces now include the Arctic's indigenous populations, which have achieved the political legitimacy to govern the Arctic alongside their respective states.

Hans Corell, former under-secretary-general for legal affairs and

current legal counsel of the UN, points to the United Nations Convention on the Law of the Sea (UNCLOS), as a starting point for mitigating the debates over Arctic sovereignty (the US, while not a party to UNCLOS, calls for its ratification in the 2009 US Arctic Policy). However, unlike Corell (and

Europe may believe it can set its own standards in the Arctic, but in order for a policy to hold weight, it needs to be an Arctic policy that the US, Canada and Russia play equal roles in creating and enforcing. And without a concerted approach by all eight Arctic states, there is no motivation for the US, Canada and Russia to act multilaterally, rather than unilaterally to protect their own sovereignty.

others), UNCLOS is only a beginning as legal issues go well beyond sovereignty and the jurisdiction of UNCLOS. They include shipping, fisheries, oil and gas exploitation, pollution control, marine life, tourism and indigenous governance.

Corell also asserts that a comprehensive Arctic policy would require an entirely new legal apparatus, and that adequate UN international agreements already exist. Corell's sentiment was reaffirmed in July 2008, when the "Arctic Five" (Arctic coastal states) signed the Ilulissat agreement. Aimed at quelling the barrage of rhetoric concerning an emerging Arctic "cold war (or should we say warm war)," the agreement reaffirmed that the UN was a sufficient body to manage the Arctic. Its impact was unfortunate in that if it achieved anything, it certainly helped undermine possibilities for building a strong Arctic regime. If the Arctic Five, let alone all eight Arctic states, want Arctic development to unfold on their terms, they have to coordinate. A united front of all eight Arctic states is critical in order to have a true Arctic policy, one that is not merely European, but fully circumpolar.

While the EU's interest in the Arctic is relatively recent, it is gaining momentum. It began with a March 2008 report by Javier Solana, the EU foreign policy chief, who concluded that global climate change is going to create "significant potential conflicts...and intensified

competition over access to, and control over, energy resources." This was followed by a recommendation in October by the Nordic Council of Ministers that the EU draw up a comprehensive Arctic policy. EU efforts in this regard have resulted in a report released on November 20, 2008, identifying envi-

ronmental, governance and resource development priorities for the EU.

Europe may believe it can set its own standards in the Arctic, but in order for a policy to hold weight, it needs to be an Arctic policy that the US, Canada and Russia play equal roles in creating and enforcing. And without a concerted approach by all eight Arctic states, there is no motivation for the US, Canada and Russia to act multilaterally, rather than unilaterally to protect their own sovereignty.

Although Corell and his colleagues prefer to call on UNCLOS rather than to create a new regional legal instrument to govern the Arctic, a regional framework does in fact already exist. In December 1996, the representatives of the eight Arctic states, together with the Inuit Circumpolar Council, Sámi Council and Russia's Arctic indigenous peoples' organization, signed the Declaration of the Establishment of the Arctic Council, a regime arrangement that, unlike any other organization to date, gives Arctic indigenous groups an official seat at the table. The Arctic Council, which is consensus based, has successfully produced several comprehensive scientific assessments, successes that both the EU Commission and the US Arctic Policy affirm. These assessments include the Arctic Climate Impact Assessment and an Arctic Monitoring and Assessment Programme

(AMAP) study of the impact of Arctic oil and gas development. A shipping assessment is under way.

It is widely accepted by many pundits and academics and all state parties that an ecosystem management approach to the Arctic is the only way forward. Ecosystem management principles require local/regional oversight from the outset as well as the participation of state and also non-state stakeholders. Likewise, a direct and uncomplicated channel between science and management is necessary, as science is the buttress for any ecosystem management principle.

Given the groundwork already established by past Arctic Council assessments, the goal of achieving governance does not have to be built from scratch. Arctic scholar Robert Huebert and others point to articles in UNCLOS that allow for an Arctic regime within existing legislation. In particular, article 234, on ice-covered waters, states that "Coastal States have the right to adopt and enforce non-discriminatory laws and regulations for the prevention, reduction and control of marine pollution." Huebert also points to article 125, which asserts that coastal states of enclosed or semi-enclosed seas (applicable to the Arctic Ocean) have the right to "co-operate with each other in the exercise of their rights...directly or through an appropriate regional organization."

The Arctic Council is a body that can evolve into such a governance arrangement. Serving as the intersection between science and policy, the Arctic Council is a competent space in which to manage a comprehensive Arctic ecosystem management plan. Of particular importance is the need for well coordinated Arctic research with a direct conduit to policy, notably regarding seismic studies, oil spill prevention, fisheries, climate change, social sciences, Arctic human health, mapping the seabed floor, ice-breaker technology, off-shore development technology and maritime health and safety.

In this respect, the Antarctic Treaty is relevant. The Antarctic Treaty System has a Scientific Committee on Antarctic Research (SCAR). SCAR is an interdisciplinary committee of the International Council for Science (ICSU) and its role is to initiate, develop and coordinate high quality international scientific research in the Antarctic region and its role in

Yet, ultimately the decision-making and veto power must be the privilege of the eight Arctic countries and indigenous organizations.

In his famous and very often quoted 1989 speech in the Arctic Russian capital of Murmansk, Mikhail Gorbachev put forth a vision for attain-

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the Earth system, as a direct link between science and policy. A comprehensive Arctic management plan should include an Arctic equivalent of SCAR to bring together all Arctic research under one umbrella. While existing Arctic research consortiums include the International Arctic Science Committee (IASC) and the International Arctic Social Science Association (IASSA), there is no direct means to link this research to the policy and industrial world. Formally bridging research and policy would also help generate more funding for Arctic research and technology. As the thousands of new research insights generated by the International Polar Year 2007-08 show, nothing could be more timely and relevant.

Through articles 125 and 234, UNCLOS would be part of a refitted Arctic Council (also providing a basis for managing fisheries and pollution). This could include accompanying bodies such as the IMO, the UN Convention on Biodiversity and the Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR). A comprehensive Arctic management plan could also include China, Japan, the EU and others as observers (perhaps one step removed from the permanent indigenous participants).

ing global peace. His vision, in principle, was based on international cooperation through Arctic scientific collaboration. While a lot has changed in Russia since Gorbachev, especially since Russia became Putin's Russia, the interdependence between Russia, Europe and North America cannot be underestimated. As an illustration, the EU (including Norway), while wary of developments, remains focused on an interdependent Russia. This entails a post-Cold War, internationally engaged neighbour, the seventh-biggest oil and gas producer in the world. All Arctic countries accept the reality that Russia is a necessary economic partner (whether friend or foe) and a leading future supplier of European oil and gas.

Norway specifically has made its High North Policy, which directly focuses on improving Norwegian/Russian relations and strengthening the Barents Cooperation, a central policy piece of its overall foreign affairs agenda. While Norway shares an unresolved border issue with Russia in the Barents Sea, Norwegian foreign policy remains based on continued dialogue and an optimistic future for cooperation.

Russia's efforts to remain engaged with the international community are most evident in its claims to the North

Pole. The planting of the Russian flag, rather than a rogue exercise, was part of an earlier Russian submission to UNCLOS. In fact, if US policy-makers are looking to steer a more cooperative course with Russia, the perfect place to begin would be in the Arctic, with a bridge between Nome and Provideniya. As the two countries share the Beaufort Sea (and an unresolved border), potential location of resource discoveries, major fisheries industries and a number of Inuit communities, shared interests are bountiful.

Never since the Arctic Council's inception has the world's attention been so captured by northern events. Not only is the

Arctic Council the sole body with the capacity to comprehensively manage the Arctic, it is also the only international organization that gives the Arctic's indigenous residents an equal place at the negotiating table. The recent AMAP Arctic oil and gas report and the upcoming shipping assessment present a golden opportunity for Arctic actors to collaborate with the international community and begin a process of institution building — to create an Arctic council that has the legal capacity to manage an Arctic ecosystem governance plan.

If the eight Arctic states take a back seat to bilateral, piecemeal agreements, they risk seeing the EU and possibly Asia take the lead in Arctic governance. Should this happen, it is likely that the Arctic Council will be Arctic only in name rather than a regime set up for the benefit of those for whom the Arctic is a homeland. The Arctic is being remade. The Arctic players need to set the rules together or face the prospect of being on the sidelines of history as their political future and well-being is decided for them.

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