

# The Arctic Council: Past, Present, and Future Prospects with Canada in the Chair from 2013 to 2015

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**Abstract:** Established in 1996 as a “high level forum” to promote co-operation in the Circumpolar World, the eight-nation Arctic Council subsumed the programs and initiatives of the Arctic Environmental Protection Strategy, initiated in 1991. Six Indigenous peoples’ organizations enjoy “permanent participant” status in the Council, which has successfully completed wide-ranging technical assessments on environmental, social, and economic issues. In 2004 the Council approved an Arctic Climate Impact Assessment, four years in the making. Projecting extensive ablation of Arctic sea ice resulting in significant environmental and social change, this assessment markedly influenced the subsequent research and policy agenda of the Council and the attitude to the region of many non-Arctic states and interests. The European Parliament and some academics and non-governmental organizations suggest that as a result of the “opening” of the Arctic to increased development of hydrocarbons and minerals, a legally-binding treaty be put in place to ensure development in the region is “orderly.” This concept has been firmly rejected by the Arctic states which have, instead, promoted the evolution of the Arctic Council to broaden and deepen co-operation in the region. The Council now has numerous observers: twelve non-Arctic states, nine international intergovernment and inter-parliamentary organizations, and eleven non-governmental organizations. The Council is now supported by a permanent secretariat based in Tromsø, Norway. Of considerable importance, ministers increasingly provide the Council with the mandate to negotiate legally-binding agreements to address specific issues.

## **Introduction**

The Circumpolar Arctic has experienced significant social and economic change in recent decades, but what has occurred in the past may be only a taste of what is to come.<sup>1</sup> In 2004, ministers of the eight-nation Arctic Council—a high-level forum established in 1996 as a result of diplomacy, particularly by the Government of Canada, to promote co-operation in the

region—reviewed and responded to the Arctic Climate Impact Assessment (ACIA), which projects wholesale changes to the northern environment with likely irreversible social, economic, and cultural impacts and effects.<sup>2</sup> At issue is the ability of Arctic states operating individually and collectively to prepare for, adapt to, and manage projected change. As environmental and economic circumstances in the Arctic increasingly reflect decisions by non-Arctic states and interests far to the south, predicting and managing change in the region, as far as this is possible, is a matter of foreign as well as domestic policy.

Also at issue is who does the predicting and managing. As Canadian legal scholar Michael Byers recently put it: Who Owns the Arctic?<sup>3</sup> Who will have the controlling say in what takes place in the region? As the Circumpolar World becomes an important venue for the exercise of foreign policy by non-Arctic as well as Arctic states, what rules will govern their relationships in the region? Can we expect co-operation or competition, or elements of both, and what does this portend for the Arctic Council, which from May 2013 to May 2015 is chaired by Canada?

This article examines the genesis of the Arctic Environmental Protection Strategy (AEPS) in 1991, and the Arctic Council, which in 1996 subsumed and expanded upon the strategy. The article notes the strengths and weaknesses of the Council and highlights its most notable accomplishments. Emphasis is placed on the ACIA, for it is the author's opinion that by projecting massive ablation and melting of sea ice and the "opening" of the Arctic to the global expansion of hydrocarbon development and trans-Arctic shipping, this assessment prompted non-Arctic states and non-governmental organizations to focus on a region that was previously characterized as having marginal economic and geopolitical importance. Resulting suggestions for a new international framework to promote "orderly" development in the Arctic are then canvassed, as is the still unfolding evolution of the Council in response to these suggestions.

The article ends with a discussion of Canada's proposed agenda for the Council during its chairmanship, and the agenda formally endorsed by the Arctic states on 15 May 2013 in Kiruna on the final day of Sweden's chairmanship.

### **The Genesis of the Arctic Environmental Protection Strategy**

For decades the Arctic was frozen in the geopolitical rigidity of the Cold War. East and West glared at each other across the Arctic Ocean; the only land boundary between the Soviet Union and members of the North Atlantic

Treaty Organization (NATO) was in the Arctic. But on 1 October 1987, Mikhail Gorbachev, then General Secretary of the Communist Party of the Soviet Union, delivered a lengthy speech in Murmansk in which he proposed initiatives with Arctic states to address economic, scientific, environmental, and other issues.<sup>4</sup> Best remembered for his proposal to establish the Arctic as a “zone of peace,” he pointedly referenced Canada, noting co-operative scientific exchanges between the two countries going back to the 1970s.

In foreign policy terms the Arctic was, at the time of Gorbachev’s speech, a peripheral concern of the Government of Canada although asserting sovereignty and full jurisdiction over the waters of the Arctic Archipelago remained a significant issue for federal politicians. The 1969 and 1970 transits of Humble Oil’s supertanker SS *Manhattan* through the Northwest Passage brought to public attention the very different positions of Canada and the United States (US) on the legal status of the passage.<sup>5</sup> As a result of the publicity surrounding the uninvited 1985 transit of the US icebreaker USCGC *Polar Sea* through the Northwest Passage, sovereignty over the passage became a key consideration for the Government of Canada as it evaluated how best to respond to Gorbachev’s speech. The United States maintained then, as it does now, that the passage is an international strait through which its vessels have a free and unrestricted right of access.<sup>6</sup> Joe Clark, Canada’s minister of external affairs at the time, responded on the floor of the House of Commons to the US position:

Canada’s sovereignty in the Arctic is indivisible. It embraces land, sea and ice. It extends without interruption to the seaward facing coasts of the Arctic islands. These islands are joined and not divided by the waters between them. They are bridged most of the year by ice. From time immemorial Canada’s Inuit peoples have used and occupied the ice as they have used and occupied the land.<sup>7</sup>

“Strait baselines” were drawn around the islands of the Arctic Archipelago to give legal effect to Canada’s view that the passage is “internal historic waters” over which Canada has full and unfettered jurisdiction and control.<sup>8</sup>

Almost a year later, the report of the Special Joint Committee of the Senate and the House of Commons on Canada’s International Relations supported a northern dimension for Canadian foreign policy and the development of co-operative arrangements with all Arctic states. In response, the Government of Canada proposed to buttress Canadian sovereignty over Arctic waters, modernize northern defenses, prepare for commercial use of the Northwest Passage, and expand circumpolar relations. A “blue ribbon” working group

of the National Capital Branch of The Canadian Institute of International Affairs advised the Government of Canada on the nature, priorities, and detail of a northern dimension to Canada's foreign policy, making much of the opportunity to engage the Soviet Union.<sup>9</sup>

Also in the late 1980s, data filtered through to the West about environmental destruction in the northern reaches of the Soviet Union, particularly in the Kola Peninsula bordering Finland, and in and around nickel producing facilities at Norilsk near the mouth of the Yenisei River.<sup>10</sup> Furtive and illegal dumping of radionuclides in the Kara and White seas was admitted by the Soviet Union and widely condemned<sup>11</sup> little more than a year after the Chernobyl nuclear power station disaster spread radionuclides far and wide in northern Europe.

Still wondering where "perestroika" (restructuring) and "glasnost" (openness) would lead, reaction in the West to Gorbachev's Arctic invitation was hesitant. At roughly the same time, data emerged of emissions from industrial plants in the Kola Peninsula that were impacting nearby northern Finland. As a consequence, in 1989 a representative of the Government of Finland met with individual circumpolar countries to ascertain their interest in meeting to explore existing and emerging environmental issues. As a result of this initiative in September 1989, Finland convened all Arctic states to present their views on issues and priorities. At this initial meeting, countries realized that many environmental issues in the Arctic, particularly those concerning industrial emissions, were transboundary in nature and that mitigation would require some sort of co-operative action. This conclusion reminded Canadian delegates of the acid rain debate in the 1970s and early 1980s, and negotiation of the 1985 sulphur dioxide protocols to the Convention on Long-range Transboundary Air Pollution involving Canada, the United States, and other member countries of the United Nations Economic Commission for Europe (UNECE). Additional meetings of Arctic states in Canada and Sweden resulted in a strategy for co-operative action, enabling ministers of the eight Arctic states meeting in June 1991 in Rovaniemi, northern Finland, to sign a Declaration on the Protection of the Arctic Environment and to adopt the Arctic Environmental Protection Strategy.<sup>12</sup>

For the first time, ministers from all Arctic countries committed to regular meetings to "assess the progress made and to co-ordinate actions which will implement and further develop the AEPS," and firmly committed to implement the detailed elements of the strategy's action plan.<sup>13</sup> The declaration also formalized a commitment "to promote co-operation with

the Arctic Indigenous peoples and to invite their organizations to future meetings as observers.”

Drawing, in part, upon the financial and political support of Canada, three Arctic Indigenous Peoples’ organizations—Inuit Circumpolar Conference (now Inuit Circumpolar Council, ICC), Nordic Saami Council (now Saami Council), and the USSR Association of Small Peoples of the North (now Russian Association of Indigenous Peoples of the North, RAIPON) were accorded observer status in the AEPS, as were Germany, Poland, United Kingdom, the UNECE, the United Nations Environment Programme (UNEP), and the International Arctic Science Committee (IASC).

### **The Arctic Environmental Protection Strategy**

Overseen by meetings of environment ministers every two years and Senior Arctic Affairs Officials (SAAOs) every six months, the AEPS was composed of four programs: to monitor and assess pollution; to conserve Arctic flora and fauna; to protect the Arctic marine environment; and to promote emergency preparedness, prevention, and response. While the AEPS was circumpolar in scope, a primary intent was to assist the USSR to clean up its blighted northern environment. Russia assumed the role of the USSR in the strategy after the 1991 dissolution of the Soviet Union.

Canada was well positioned to participate in the 1989–1991 AEPS negotiations because federal agencies were in the process of consulting Canadians about a national Green Plan, released in 1990.<sup>14</sup> Reflecting its extensive jurisdiction in its three northern territories, a “stand alone” Arctic Environmental Strategy (AES)<sup>15</sup> was adopted by the Government of Canada as a component of the Green Plan. The priorities and programs of the AEPS and AES were strikingly similar, reflecting the fact that personnel who drafted the AES also represented Canada in AEPS negotiations. Both strategies, for example, stressed assessment of the environmental and public health implications of long-range transport to the Arctic of Persistent Organic Pollutants (POPs)—insecticides, pesticides, and by-products of industrial burning including PCBs—released to the environment in Europe, Asia, and North America.

Although accorded observer status in the AEPS, the ICC, Nordic Saami Council, and the USSR Association of Small Peoples of the North were not permitted to attend meetings of SAAOs at which recommendations to ministers were discussed. At the first ministerial meeting of the AEPS in Nuuk, Greenland in Autumn 1993, the political leaders of these three organizations breakfasted privately with ministers at which they characterized their

exclusion as contrary to the spirit of co-operation in the Circumpolar World, and unwarranted. Ministers agreed, and these organizations were thereafter permitted to attend and intervene in all meetings of the AEPS and came to be known as “Permanent Participants” — a term first formally used in the AEPS Inuvik Declaration of March 1996 and adopted six months later in the declaration that established the Arctic Council.

### **From the Arctic Environmental Protection Strategy to the Arctic Council**

At the same time that the AEPS was being negotiated and then implemented, the Toronto-based Walter and Duncan Gordon Foundation supported the Canadian Arms Control Centre (CACC), ICC, and the Canadian Arctic Resources Committee (CARC) to promote new governance arrangements in the Circumpolar World in which northerners, particularly Indigenous peoples, would be directly involved.<sup>16</sup> Peace, security, and sustainable development were key concerns of these organizations. Speaking in Leningrad in 1989 and responding, in part, to Gorbachev’s Murmansk speech, then Prime Minister Brian Mulroney proposed a council to bring Arctic nations together. The Walter and Duncan Gordon Foundation also sponsored a panel<sup>17</sup>, upon which First Nations and Inuit were represented, that prepared a widely circulated report proposing an Arctic Council. In 1991, CARC published the panel’s report and a draft treaty to establish the Council as a legal entity; these documents were prepared by internationally respected lawyer Donat Pharand, a member of the National Capital branch’s working group of the Canadian Institute of International Affairs that had earlier advised the Government of Canada on how it should approach international relations in the region.<sup>18</sup>

Even as the first steps were taken to implement the AEPS, Canada sponsored meetings of Arctic states, which the US initially attended as an observer, to explore the Arctic Council concept. During a meeting in Vancouver in April 1993, Prime Minister Mulroney pressed then US President Bill Clinton to support the proposed Council, and in 1994 Mary Simon, a well-respected Inuk and former President of ICC and Makivik Corporation (the Inuit organization implementing the 1975 James Bay and Northern Quebec land claims agreement) was appointed Canada’s first Arctic ambassador with a remit to get the Council established.

Negotiations between the circumpolar states, with the three AEPS Indigenous peoples’ organizations in attendance, took place from 1993 onward, and by the Spring of 1996 all of the participants had, with minor reservations, agreed to a draft declaration to establish the Council, explaining why it is mentioned in the March 1996 AEPS declaration signed in Inuvik.

ICC later committed to paper its observations and understanding of what happened next:

In June, 1996, the United States sent a new head of delegation to the Arctic Council negotiations, who was armed with a position at odds with key provisions of the April draft declaration. Changes sought—and there were many—focused in particular on the status of aboriginal peoples in the Council. The American delegation insisted that the changes would have to be made if the United States were to sign the declaration. In negotiations over the summer, the American view, supported to varying degrees by other states, was incorporated in the final version of the declaration.

Four changes of particular importance to Inuit resulted from this extraordinary turn of events. First, the final version of the declaration deleted aboriginal peoples' organizations as constituent and founding elements of the Council. While aboriginal peoples remained "permanent participants" in Arctic Council deliberations, the declaration made it clear that the Arctic Council was a forum for states, not peoples. Second, aboriginal peoples' organizations were disinvited from signing the declaration. The April draft had provided for the three permanent participants to sign the declaration as witnesses to the signatures of the eight nations. Third, the final declaration avoided use of the plural term "indigenous peoples." Notwithstanding the reality this term reflects and the declaration's lack of legal effect, the plural was felt to imply the right of aboriginal self-determination or even secession from nation states. Finally, the declaration omitted preambular clauses that addressed environmental security and economic equity, and provided an aboriginal perspective on sustainable development.<sup>19</sup>

The declaration included two important footnotes: that the Council "should not deal with matters related to military security," and that the single use of the word "peoples" in the declaration "shall not be construed as having any implications as regards the rights which may attach to the term under international law." The declaration envisaged up to four additional permanent participants, ensuring that there would always be fewer permanent participants than members. The Aleut International Association (AIA) was admitted in 1998, followed by the Gwich'in Council International (GCI) and Arctic Athabaskan Council (AAC) in 2000. It was agreed that permanent participants would sit at the same table as members, including at ministerial meetings, and be able to intervene and speak according to the

same procedures governing members. Observer status was open to non-Arctic states, intergovernmental and interparliamentary organizations, and non-governmental organizations. The declaration was signed in Ottawa by representatives of all Arctic states on 19 September 1996.<sup>20</sup>

Establishment of the Council was a notable success for Canadian diplomacy, but the Ottawa Declaration was by no means a ringing call to action. A prosaic and uninspiring document, it established the Council as a “high level forum” rather than an institution “for promoting cooperation, coordination and interaction” on sustainable development and environmental protection. The Council subsumed the AEPS working groups and the agendas and projects upon which they were working, continued biennial meetings of ministers and biannual meetings of now renamed Senior Arctic Officials (SAOs), and maintained the strategy’s voluntary approach toward financing working groups and projects. The declaration did not specify substantive goals or objectives to be achieved by the working groups or timetables to guide their activities, although it did charge the Council to “promote interest in Arctic-related issues.” Instead, it established the basic architecture of the forum and committed Arctic states to discuss “common” Arctic issues. The Council was set up as a discussion oriented, consensus seeking, and decision-shaping, rather than decision-making, forum.<sup>21</sup>

Although the institutional architecture and intent of the AEPS and Arctic Council are very similar, they differ in two important respects: the Council focuses on sustainable development as well as environmental protection, and is composed of ministries of foreign affairs rather than ministries of environment. The first of these differences reflected, in part, the advocacy of the three Arctic Indigenous peoples’ organizations who hoped to use the Council to defend their harvesting of wildlife in the face of activism, particularly in Europe, of animal rights organizations. It is important to note, however, that the AEPS was already evolving in this direction: a task force was established in 1993 to generate sustainable development projects. The second difference reflected a growing realization among Arctic states that the region was becoming an important venue for the exercise of foreign policy. Convening ministries of foreign affairs—senior agencies in all Arctic states—would, it was assumed, promote the use of the Council’s technical assessments in the foreign policy of member states. At its founding, Canada assumed chairmanship of the Council for a two-year term, followed by the United States and then all other members in turn. Subsequent years saw a transition from the AEPS to the Arctic Council, with the final AEPS ministerial in Alta, Norway on 13 June 1997, and the first Arctic Council ministerial in Iqaluit, Canada on 17-18 September 1998.



The Council's first item of business was to negotiate rules of procedure, approved at the Iqaluit meeting. These rules have attracted little comment, which is surprising for developing them took more than eighteen months of protracted negotiations and, at forty-seven clauses and two annexes, they are more detailed and prescriptive than the Ottawa Declaration.

European members favoured short and simple procedural rules, but having reluctantly acquiesced in the formation of the Council, the US looked to rules of procedure to ensure that the Council would only undertake activities that were formally authorized. Noting the initial intent of the US to mirror in the Arctic Council the rules of procedure governing implementation of the Antarctic Treaty System, Evan Bloom, the US Department of State lawyer who led the US delegation in these negotiations, summarized:

*The Rules of Procedure ... are relatively lengthy and detailed for an informal body which has no legal authority to bind its members ... the Rules serve the purpose of establishing an agreed framework for co-operation. Negotiation of the Rules clarified points of difference among Arctic states on issues such as how the Council's activities would be approved, and how and under what circumstances Observers could participate in the Council's work. The Rules also tie disparate parts of the Council together. Under the AEPS, the working groups had their own rules of procedure and manner of doing business, their failure to co-ordinate programs and policies was a matter of some criticism and concern. Under the Council regime, the Council's Rules apply to all subsidiary bodies, including these working groups.<sup>22</sup> (emphasis added)*

This statement goes some way to explaining why the rules of procedure provide for "private" meetings of members "at their discretion," require "all proposed programmes and projects" to receive ministerial sanction, and permit public communication of what the Council is doing only after material to be released has been "approved by relevant officials of each Arctic State." As well, the rules of procedure require members and permanent participants to provide extensive and detailed information in support of any proposed activity or project. At best, the rules of procedure provide a lukewarm welcome to observers who are allowed to make statements, but only at the discretion of the chair. The Council must determine that applicants for observer status can "contribute to its work" before they can be accredited, and an accredited observer can attend meetings only if a consensus to that effect is maintained among members: "Any observer that engages in activities

which are at odds with the Council's Declaration shall have its status as an Observer suspended."

The Council's second order of business was to negotiate terms of reference for a sustainable development program. Most states, including Canada, favoured a strategic approach in which projects would address shared priorities identified by members and permanent participants. This was not, however, the view of the United States. As a result, the terms of reference approved by ministers in 1998 in Iqaluit did not reflect this sensible approach. Noting the ill-defined nature of sustainable development, Bloom notes:

It was not possible for the Arctic states to agree to a comprehensive sustainable development program, *or even a list of priorities*. Instead ... the Council decided that the Sustainable Development Program would consist of a series of specific projects to be managed by the Senior Arctic Officials ...<sup>23</sup> (emphasis added)

Notwithstanding commitments in the Ottawa Declaration, ministers did not approve a coherent sustainable development program, but an arrangement through which members (or permanent participants) could propose projects for which they were prepared to pay. This untidy state of affairs was addressed in 2000 when ministers approved a short framework document to provide strategic guidance to the Sustainable Development Working Group.

Notwithstanding the Council's inherent limitations as a "soft law" forum rather than an institution grounded in "hard law," the voluntary basis for funding, and constraints embedded in the rules of procedure, Canada was urged in the detailed and well-reasoned 1997 report of the House of Commons Standing Committee on Foreign Affairs and International Trade to invest politically in the Council to ensure its success.<sup>24</sup> In response, Canada released, in May 2000, the Northern Dimension of Canada's Foreign Policy (NDFP) stressing Arctic sovereignty and human security, and aiming "to establish the Circumpolar region as a vibrant geopolitical entity integrated into a rules based international system."<sup>25</sup> Bill Graham, member of parliament, international law professor, and chair of the standing committee that produced the 1997 report; Lloyd Axworthy, Minister of Foreign affairs from 1996 to 2000; and Mary Simon, Arctic Ambassador from 1994 to 2003, were instrumental in the development of the policy. In the current era of highly polarized politics it is worth recalling that both

Liberal and Progressive Conservative governments of Canada engaged in and supported the 1987–1996 campaign to establish the Arctic Council.

### **The Arctic Council in Action**

The Arctic Council has developed a reputation for preparing highly professional and technically sound assessments of selected issues, illustrating the centrality of the working groups to its achievements and reputation. The wide range of projects undertaken is impressive and the resulting reports are commonly referenced in academic, research, and public policy circles. The growing list of reports prepared and approved prompt two obvious questions. First, have they precipitated or resulted in policies, program, or decisions by Arctic governments, either singly or collectively, that have made the Arctic a better place in environmental, economic, or social terms? Second, are global institutions better informed about and more amenable to considering Arctic circumstances and perspectives as a result of the Council's activities?

Answering these questions requires a detailed examination of decisions by member states and international agencies in the wake of the Council's assessments, and this analysis has yet to be undertaken. But in relation to at least some of the Council's assessments the answer is clearly "yes." For example, the Council's 1997 and 1998 assessments of the health and environmental impacts in the Arctic of Persistent Organic Pollutants released to the environment in tropical and temperate lands, effectively influenced negotiation of the 1998 POPs protocol to the Convention on Long-Range Transboundary Air Pollution, and the Global POPs Convention opened for signature in Stockholm in 2001.<sup>26</sup> These agreements single out the Arctic and its Indigenous inhabitants, and are the first such references in international law. Similarly, the Council's 2008 Arctic Marine Shipping Assessment<sup>27</sup> stimulated ongoing efforts by the International Maritime Organization to strengthen and make mandatory an International Code of Safety for Ships Operating in Polar Waters. Koivurova and Vanderzwaag, on the other hand, point out that the environmental assessment guidelines developed and approved by ministers at the final AEPS meeting and inherited by the Council have yet to be reflected in decisions by national governments.<sup>28</sup>

In institutional and organizational terms, the Arctic Council has grown and matured since its establishment in 1996, although its fundamental character as a "high-level forum" rather than an institution has not changed. Additional working groups have been established to address sustainable development and environmental pollution, and time-limited task forces have been instituted to look at specific issues. Norway, Denmark, and

Sweden funded a small secretariat in Tromsø to support their respective chairmanships of the Council between 2006 and 2013. The number of observers to the Council has increased steadily and currently includes nine international organizations and eleven non-governmental organizations. At the ministerial meeting in May 2013, China, India, Japan, Italy, Singapore, and the Republic of Korea joined six European states (France, Germany, Italy, the Netherlands, Poland, and the United Kingdom) as observer states to the Council. As at the World Summit on Sustainable Development in South Africa in 2002, the chair of the SAOs has occasionally been mandated to speak to international audiences about the Arctic, and collective statements by all eight Arctic states on climate change in the Arctic have been presented at Conferences of the Parties to the UN Framework Convention on Climate Change. The ambience at Council meetings is collegial and relatively informal, and the consensus seeking nature of the Council has ensured that neither ministers nor SAOs have ever voted on an issue, although the rules of procedure provide for such an eventuality.

Interventions by the permanent participants are generally listened to with respect, but lack of both human and financial resources hinders their ability to participate in debate and influence decisions. They generally select initiatives in which to participate that reflect their specific interests. The Government of Canada has long financially supported the three permanent participants that are based, in part, in Canada. Denmark has largely paid for a small Indigenous Peoples Secretariat (IPS) with a mandate to assist all permanent participants.

The Council depends on the willingness of individual states to voluntarily sponsor and lead projects and to contribute funds to carry them out. Sometimes this works well. For example, during its 1998–2000 chairmanship the United States developed, in consultation with others, a work plan for a proposed Arctic Climate Impact Assessment (ACIA) approved by ministers in Barrow, Alaska in 2000, and then chaired, led, and largely paid for the assessment completed in 2004 and published in 2005. On the other hand, in 2006, ministers approved a proposal to conduct an ambitious Arctic Biodiversity Assessment (ABA) as a contribution to the UN's 2010 goal to substantively reduce loss of biodiversity. It took more than two years for member states to volunteer sufficient financial and human resources to initiate this exercise, completed and approved in 2013.

The Council has been criticized for its slow moving internal procedures, lack of continuity and loss of corporate knowledge as a result of its two-year rotating chairmanship, occasional lack of co-operation between working groups, and the inconsistent quality of reports they generate. Certainly the

Council has made little effort to engage sub-national Arctic governments or to inform the public, and as a result is not well known.<sup>29</sup> Each incoming chair has the opportunity to stake out a two-year agenda, and some have included improving the internal workings of the Council, contracting consultants to review and recommend appropriate procedures.<sup>30</sup> The 2006 Salekhard Declaration issued on the conclusion of the Russian chairmanship requested SAOs to examine the efficiency and effectiveness of the Council and this has become a standing instruction in subsequent declarations. Norway, Denmark, and Sweden defined shared objectives for their 2006–2013 chairmanships, adding continuity to the Council.

Working group chairs and secretariats now meet routinely to coordinate projects and activities. Similarly, the SAOs and permanent participants, but not the observers, meet informally before formal, open meetings of the Council, allowing off-the-record discussion of the actual and prospective agenda. These meetings are now characterized as the Council’s Executive, although this title is nowhere to be found in the Ottawa Declaration, the Council’s constitution. Much depends on the skill and commitment of the chair of the SAOs, although “big” countries able to draw upon significant financial and human resources have not necessarily been the most successful or innovative. It is generally acknowledged, for example, that the 2002 to 2004 Icelandic chairmanship was a particular success.

The ACIA and, in particular, the development of ACIA-related policy recommendations in 2003-2004 (addressed below) is characterized now as a pivotal period in the evolution of the Arctic Council’s agenda and of the Council itself. From 1996 to 2003-2004 the SAOs maintained largely a “hands off” approach to the working groups. As long as projects had received ministerial approval, the working groups had significant leeway to undertake their projects, to come up with conclusions and findings, and to recommend policy and scientific responses. The working groups reported orally as well as through written reports to ministers at their biennial meetings. During this period, the working groups were, effectively as well as functionally, the face of the Council. Ministerial meetings have always been short, to the point, largely scripted, and focus on the signing of declarations negotiated by SAOs with input from the permanent participants.

### **The Arctic Climate Impact Assessment<sup>31</sup>**

It is difficult to overstate the importance of the ACIA in the still unfolding process to reform and strengthen the Arctic Council, and to the evolution of its substantive agenda. Meeting in Barrow, Alaska in October 2000, ministers authorized two of the Council’s working groups, in collaboration

with the International Arctic Science Committee (IASC), to conduct a four-year assessment of the social, economic, environmental, health, and cultural impacts of climate change in the region. Including health and culture—things not considered in global assessments by the Intergovernmental Panel on Climate Change—reflected interventions by the permanent participants, as did the direction in the 2000 Barrow Declaration to include policy recommendations.

More than 300 scientists from fifteen countries prepared the ACIA, which drew, as well, upon the traditional knowledge of Arctic Indigenous peoples freely contributed by the permanent participants. A hugely complex and detailed assessment, the ACIA was in part shaped by the permanent participants, who intervened in many of the ACIA preparatory meetings, including those held by a committee charged with drafting policy recommendations.

It was clear by early 2003 that the ACIA would project significant impacts and effects of climate change in the region, including the potential extinction of ice-dependent species, such as polar bears and walrus, as a result of ablation of multi-year sea ice. The ACIA summary volume went so far as to posit the potential end of the marine-mammal based hunting culture of the Inuit, and projected difficult circumstances for all Arctic Indigenous Peoples.<sup>32</sup> Projecting decades into the future, the assessment concluded that climate change would “open” the Arctic to all manner of industrial developments particularly in the fringing seas of the Arctic Ocean, and promote trans-Arctic shipping through the Northeast and Northwest passages, and directly across the Arctic Ocean, linking industrial areas in Asia, North America, and Europe. The political importance of this projection was reinforced by the US Geological Survey, which in 2008 concluded that approximately 30 percent of the world’s undiscovered natural gas and 13 percent of its undiscovered oil was located in the region.<sup>33</sup> An early draft of the assessment prompted the Governing Council of UNEP in 2003 to pass an Arctic resolution urging states worldwide to look north and heed the reading of the Arctic climate change barometer.<sup>34</sup> The Arctic, it seemed, was destined to become a major industrial and geopolitical frontier.

Notwithstanding the seriousness of climate change to the future of the Arctic and its residents, at the third meeting of the ACIA policy drafting committee in 2003 the US representative said he was under instructions from the “highest level” to table a document that proposed delaying, apparently indefinitely, the drafting of policy recommendations. In subsequent correspondence and meetings of SAOs, it was pointed out, in particular by

ICC, that this would change the rules of the game previously endorsed by ministers and do so while the game was underway.

On 15 September 2003, Sheila Watt-Cloutier, International Chair of ICC, appeared in Washington, DC, before the US Senate Committee on Commerce, Science and Transportation chaired by Senator John McCain, and spoke of the position adopted by the US Department of State in the ACIA policy process. Her revelations generated extensive publicity in the US and around the world, reinforcing the characterization of George W. Bush and his administration as climate change “deniers,” and prompting Senator McCain to write to Secretary of State Colin Powell advising him that US participation in the ACIA policy process should fully reflect the rules of the game defined in the Barrow Declaration.

After considerable wrangling and difficult debate among SAOs and permanent participants, such proved to be the case. A full set of policy recommendations dealing with mitigation, adaptation, research, observations, monitoring, modelling, and outreach were presented to and approved by Arctic Council ministers at their Reykjavik meeting in November 2004.<sup>35</sup> In the political context of the day, the approved language in the ACIA policy document recognizing that “concerted action” was needed on emissions, was seen as something of a breakthrough, although no timetables or targets were specified. The publicity surrounding the ACIA policy process ensured that major international news organizations were in Reykjavik to cover the Arctic Council ministerial meeting at which the ACIA was released and to closely question Paula Dobriansky, then under secretary of state for democracy and global affairs, and head of the American delegation.

All the permanent participants cite and draw extensively upon the ACIA in their national and international advocacy to promote implementation of the international climate change mitigation regime. The most striking example of this is the December 2005 petition to the Inter-American Commission on Human Rights, by Watt-Cloutier and more than sixty named Inuit from northern Canada and Alaska, alleging that the impacts of virtually unregulated emissions of greenhouse gases by the US amount to a violation of the human rights of Inuit.<sup>36</sup> This was the first occasion worldwide that the impacts of climate change were characterized as an infringement of individual and collective human rights in an action to a quasi-judicial human rights tribunal. While Inuit did not obtain the relief they sought, the connection between climate change and human rights was endorsed a few years later by agencies of the United Nations.<sup>37</sup> Moreover, in early 2013 the Arctic Athabaskan Council submitted a petition to the Inter-American

Commission targeting Canada for human rights violations as a result of environmental damage resulting from alleged lax regulation of black carbon, a Short-Lived Climate Pollutant, which contributes significantly to climate warming in high latitudes.

The Arctic is now widely understood to be particularly vulnerable to climate change. Polar bears are recognized not just by Arctic residents but worldwide as the iconic species at risk as a result of climate change. This is a surprisingly recent development and reflects, in part, the global publicity generated by Watt-Cloutier's 2003 appearance before Senator McCain's committee, the advocacy of all permanent participants in these years, and extensive coverage of the release of the ACIA in 2004. Before the ACIA, climate change and the Arctic were infrequently linked in newspaper reports and editorials. After the ACIA they are rarely spoken of separately.

The permanent participants operated in close co-operation in the ACIA, almost as a bloc; and in the face of a direct challenge by the US to the policy development process, they defended the integrity of the Council itself as well as the ACIA. Be that as it may, these interventions and the publicity they generated were embarrassing to the United States and highly unusual in the measured and controlled world of interstate diplomacy. This led some to opine that the ACIA policy process was "out of control." As a result, in recent years the SAOs have exerted greater oversight over assessments and activities of the working groups, including development of policy recommendations. SAOs have replaced the working groups as the public face of the Council. Administrative and procedural reforms outlined earlier to improve the Council's efficiency and effectiveness also reflect this perceived need to exercise greater oversight.

### **Governance in the Circumpolar Arctic and Strengthening the Arctic Council**

While little appreciated at the time, the global publicity that greeted the ACIA stimulated non-Arctic states and others to more seriously consider and articulate their long-term Arctic interests including applying for observer status in the Arctic Council.<sup>38</sup> That multi-year Arctic sea ice has disappeared in the last few years far more rapidly than projected in the ACIA, has both reinforced and accelerated this trend.<sup>39</sup>

Both non-Arctic states and non-governmental organizations with an ongoing or new found interest in the Arctic also have sometimes trenchant views about governance in the region, including the structure and role of the Arctic Council. Writing in *Foreign Affairs* Scott Borgerson predicted that



“anarchy” would soon reign in the Arctic as states competed—he used the word “raced”—for the region’s natural resources<sup>40</sup>, but he was not alone in suggesting that conflict could replace co-operation.<sup>41</sup> Drawing upon the nineteenth century “scramble for Africa” among colonial powers and the resulting 1884/1885 Congress of Berlin, which provided for “orderly” colonization<sup>42</sup>, he proposed a comprehensive Arctic treaty to provide for “orderly development.” A year later in a commentary for the *New York Times*, he suggested that all marine areas north of 88 degrees north should be designated a marine park, off limits to development.<sup>43</sup>

The World Wide Fund for Nature (WWF), a long-standing observer to the Council, published a well-argued and frequently quoted paper in 2006 calling for a comprehensive treaty to govern the Arctic offshore.<sup>44</sup> A follow-up analysis of Arctic governance by Koivurova and Molenaar, also for WWF, was particularly critical of the shortcomings of the Arctic Council noting:

1. The Ottawa Declaration does not impose legally binding obligations and the Arctic Council is not empowered to do so;
2. The Arctic Council is “project driven” and does not evaluate whether its non-legally binding guidelines are being followed;
3. Non-Arctic states have limited access to and limited participation in the Arctic Council;
4. There is no permanent secretariat; and
5. There is no structural funding.<sup>45</sup>

On 9 October 2008 the European Parliament passed a resolution suggesting that the European Commission should press for an international treaty to protect the Arctic including as a starting point the unpopulated and unclaimed area at the centre of the Arctic Ocean.<sup>46</sup>

These suggestions prompted the five Arctic Ocean littoral states to meet in Ilulissat, Greenland on 28 May 2008 and issue a declaration rejecting the Arctic treaty concept and reinforcing application of the Law of the Sea as a framework to resolve offshore disputes.<sup>47</sup> All littoral states including the US, which has yet to accede to UNCLOS, plan to extend their continental shelf rights into the Arctic Ocean. But in meeting as the “Arctic 5,” the littoral states broke ranks with the Arctic Council, leaving Sweden, Finland, Iceland, and the permanent participants complaining of their exclusion.

Prompted in part by alarmist portrayals of the Arctic’s future and criticism of the Arctic Council, a number of American and Canadian foundations convened as an informal Arctic Funders Group, and in 2008

initiated an Arctic Governance Project chaired by Oran Young, a well-known and highly respected American academic with decades of experience in the Arctic.<sup>48</sup> The well-reasoned April 2010 findings of this project are worth dwelling over for they continue to influence the reform and evolution of the Arctic Council and co-operation in the Circumpolar World more generally. The project noted:

The existing capacity to address matters of governance in the Arctic is substantial. An Arctic-specific agreement would not be capable of addressing effectively issues that are driven by global forces (e.g., climate change). The political obstacles to negotiating an Arctic treaty are profound; such an initiative would be time consuming and might well end in failure. Any agreement emerging from such an effort would suffer from inflexibility.<sup>49</sup>

Rather than design something new, the challenge of Arctic governance was, according to this project, to ensure that all components of the existing system operate in a mutually supportive manner “to form an interlocking suite of governance systems ... in which the idea of stewardship is central and the whole is greater than the sum of the parts.”

With the rejection by the littoral states of fundamental reform of Arctic governance, how did the Arctic Council respond to its critics? This response can be categorized into four areas: technical, internal/procedural, external/observers, and new agreements.

At a technical level the Council initiated a new suite of assessments including the Arctic Marine Shipping Assessment, Arctic Biodiversity Assessment, and Arctic Oil and Gas Assessment to improve the information base for management of the region’s natural resources. These assessments may or may not give rise to national guidelines or policies, or help to transfer from one jurisdiction to another the lessons of past mistakes and best practices. The agenda and activities of the working groups, particularly the Sustainable Development Working Group, continue to grow, driven by the prospect of accelerating social and economic development as a result of the impacts of climate change.<sup>50</sup> Additional attention is being given to integrating social, health, and cultural concerns into the Council’s work, effectively ensuring that sustainable development, in addition to environmental protection, are the Council’s touchstones. In short, the agenda of the Council continues to evolve and to reflect the projected impacts and effects of climate change.

In relation to internal issues, at an April 2010 closed meeting of the SAOs and permanent participants, a four-point proposal establishing a permanent

secretariat, adopting a formula financing arrangement, making decisions of the Council “more binding,” and improving outreach and communication was proposed in order to strengthen the Council and enable it to deal more authoritatively with would-be observers. In subsequent meetings of the SAOs and permanent participants, extensive debate on this agenda ensued, the negotiated results of which are the annexes to the May 2011 report of the SAOs to ministers.<sup>51</sup>

An Arctic Council Secretariat (ACS) was established in 2013 with up to ten employees based in Tromsø, Norway to assist the SAOs chair and those working groups without a secretariat. A budget of \$1 million shared equally between the Arctic states was allocated for the Secretariat, but in light of the Secretariat’s location Norway agreed to provide additional funding. No changes were made to the voluntary financing of projects and working groups, ensuring the continued operation of the Council as a “high level forum” rather than an institution. The Indigenous Peoples Secretariat is to co-locate in Tromsø, likely by the end of the Canadian Chairmanship in 2015.

In terms of the external/observers category, recommendations to improve communication, with a focus on the Council’s website, were included in the SAO report to ministers and accepted by ministers in 2011. Implementing these recommendations will be a key task of the ACS.

It took more than five years for the Arctic states, by consensus, to admit six non-Arctic states as new observers in 2013. Simultaneously, ministers approved an observer manual to “harmonize” the activities of observers in the Council’s working groups and task forces. As a result of Canada’s strong objection to the European Union’s 2009 prohibition of seal products on the European market, an entirely enigmatic statement was included in the Kiruna Declaration regarding the application by the EU for observer status:

The Arctic Council receives the application of the EU for observer status affirmatively, but defers a final decision on implementation until the Council members are agreed by consensus that the concerns of Council members, addressed by the President of the European Commission in his letter of 8 May are resolved, with the understanding that the EU may observe Council proceedings until such time as the Council acts on the letter’s proposal.<sup>52</sup>

The 8 May letter was not, as might have been imagined, to the Chair of the Arctic Council, but to the Prime Minister of Canada,<sup>53</sup> and characterized the EU as a valuable potential partner in Arctic affairs, particularly in the realm of research.

The most important development in the Arctic Council and circumpolar co-operation generally in recent years lies in the fourth response category: new agreements. Rather than turning the Arctic Council into a formal, treaty-based institution or developing an Arctic-wide treaty along the lines suggested by Borgerson, WWF, or the European Parliament, ministers have agreed to establish task forces, on an as-needed basis, and to provide them with mandates to negotiate sector specific, functional agreements. Such a development was foreseen by Young<sup>54</sup> and recommended by the Arctic Governance Project.

In 2009, Arctic Council ministers authorized negotiation of an Arctic Search and Rescue Agreement by a task force chaired by Russia and the US. This legally-binding agreement was approved and signed with real fanfare at the May 2011 Nuuk ministerial.<sup>55</sup> Taking place only months after the massive 2010 oil spill in the Gulf of Mexico, ministers authorized negotiation of a new international instrument on preparedness and response to Arctic marine oil pollution, which was signed in 2013 in Kiruna.<sup>56</sup>

Franklyn Griffiths, an early proponent of an Arctic foreign policy for Canada and increased co-operation among and between Arctic states, recently urged the Arctic Council to become far more strategic in direction and operation, and long-term in thought and commitment.<sup>57</sup> It appears that the Council is, indeed, moving in this general direction.

### **Canada's Arctic Foreign Policy**

It is no exaggeration to suggest that Canada's commitment in the early 1990s to propose and champion the Arctic Council was crucial in getting it established. Since then, successive federal governments have maintained a commitment to the Council evidenced by the establishment in 1994 of the Office of Arctic Ambassador and the 2000 Northern Dimension of Canada's Foreign Policy. In December 2004 the short-lived Martin government promised to develop a northern strategy and in Summer 2005 released a series of reports on foreign policy in which the Arctic featured prominently. Development of a northern strategy was sidelined in January 2006 when the Conservative Party, under Prime Minister Stephen Harper, assumed power. A few months later, Jack Anawak, former member of parliament (Liberal) for Nunavut and successor to Mary Simon as Arctic Ambassador, was fired by Peter MacKay, Minister of Foreign Affairs. At the same time, the Office of the Arctic Ambassador was disbanded, to the dismay of the Canadian-based permanent participants and the three northern territorial governments.

Notwithstanding the brouhaha over the Arctic ambassador office, Arctic issues have featured prominently on the agenda of Prime Minister Harper who has spoken repeatedly of the disputed legal status of the Northwest Passage and boundary disputes with the United States in the Beaufort Sea, and with Denmark over Hans Island in Nares Strait between Ellesmere Island and Greenland. Asserting Arctic sovereignty is now a central feature of the northern agenda of the Government of Canada. Investments have been announced in ice-strengthened navy patrol vessels, a polar class icebreaker, a world-class Arctic research facility in Cambridge Bay, re-equipping and increasing the number of Inuit rangers, and developing docking facilities for the Canadian navy in Arctic Bay. Legal measures have been taken to extend the geographical coverage of the Arctic Waters Pollution Prevention Act and to require foreign-flagged vessels to register with Canada if they plan to enter northern waters over which Canada asserts full jurisdiction. The Canadian Polar Commission, which for years languished without a chair and board of directors is, it appears, being reinvigorated. Canada has been working assiduously to gather data in the Arctic Ocean to support a December 2013 submission to the Commission on the Limits of the Continental Shelf, and negotiations are underway with the United States to delimit national boundaries in the Beaufort Sea. A formal northern strategy to assert Arctic sovereignty, promote social and economic development, protect the environment, and improve and devolve northern governance, was announced in 2009,<sup>58</sup> followed by the 2010 Arctic Foreign Policy Statement<sup>59</sup> that largely projects into the Circumpolar World the objectives of the domestic northern strategy.

Canada's Arctic Foreign Policy "vision" for the Arctic is a stable, rules-based region with clearly defined boundaries, dynamic economic growth and trade, vibrant northern communities, and healthy and productive ecosystems. "Leadership and stewardship" are promised to realize this vision, including addressing Arctic governance. The Arctic Foreign Policy statement references numerous reports prepared by Arctic Council working groups and pointedly commits to continuing support for the permanent participants and the Arctic Council Advisory Committee (ACAC) through which the territorial governments and Canadian-based permanent participants advise the Government of Canada. Importantly, the statement confirms Canada's view that the Arctic Council needs to be "strengthened." Essentially, it seems to be the Government of Canada's view that the Arctic Council has well served Canada's interests and while incremental improvements can and should be made, there is little need for fundamental change.

### **The Canadian Chairmanship**

Leona Aglukkaq, an Inuk from Nunavut and currently Canada's Minister of the Environment, was appointed in 2012 by Prime Minister Harper to lead Canada's engagement in the Arctic Council. In January 2013 Canada tabled with SAOs a two-page concept paper that proposed "Development for the People of the North" as the overall theme for Canada chairmanship. In subsequent weeks Canada tabled project proposals of two to three pages each, dealing with:

1. Circumpolar Business Network;
2. Oil Spill Prevention Instrument;
3. Arctic Oil Spill Environmental Sensitivity Mapping;
4. Guidelines for Arctic Tourism and Cruise Ship Operations;
5. Arctic Council Leadership for an International Polar Code;
6. Supporting Traditional Lifestyles and Knowledge;
7. Short-Lived Climate Forcers; and
8. Adaptation to Climate Change Best Practices.

For several of these initiatives Canada provided specific text for the Kiruna Declaration, but few of Canada's initiatives survived the rough and tumble of negotiations with Arctic states in the form in which they were originally proposed.<sup>60</sup> The major exception to this is the declaration's commitment to "establish a Task Force to facilitate the creation of a circumpolar business forum" for this is precisely what Canada proposed. In addition, Canada proposed a "robust [Arctic] Council advocacy campaign in the International Maritime Organization (IMO)" to promote a mandatory and environmentally stringent code for ships operating in Polar waters.

In terms of using the Council as a foreign policy vehicle to establish rules, procedures, and conditions under which development takes place, the most important of Canada's initiatives were items 2 and 7 and the proposal for collective action in the IMO. Proposed negotiation of "international instruments" to prevent marine oil pollution and to reduce emission of black carbon, and the call for collective action by Arctic states in the IMO did not receive consensus support so the commitments in the Kiruna Declaration are much less than what Canada hoped for or proposed.

### **Into the Future**

There is a clear sense among public policy practitioners and many northerners that history in the Arctic is speeding up and that the future of this region will be unlike its past. Charles Emmerson seems to capture this discontinuity

in *The Future History of the Arctic*, the title of his 2010 book.<sup>61</sup> The sense of fundamental change in the region is also the theme of Lawrence C. Smith's book *The World in 2050*, also published in 2010, which posits a northern future for civilization—cities on the tundra—as a result of climate change and other factors.<sup>62</sup> Canada's ability to respond to and manage this change is likely to be sorely tested. The key question is whether and how Arctic states and Arctic peoples can deepen and broaden their co-operation, which will surely be required if they are to influence to a significant extent what happens in the Arctic and the place of the Arctic in the globe. It appears that the Arctic Council will in coming years assume greater political importance as a component of the foreign policy of all Arctic states, and that Canada's lack of immediate success in persuading others to commit to an expansive Arctic Council agenda is surely unlikely to remain the situation.

Recently Franklyn Griffiths suggested that the future history of the Arctic should be constructed around the concept of "co-operative stewardship." He proposes that Arctic states reject "fragmented incrementalism," which is how he characterizes activities to date in the Arctic Council, and instead treat the Circumpolar World as a functioning region and take decisions from a regional as well as national perspective. This, of course, would have profound implications for the Arctic Council. As an early proponent of circumpolar co-operation and the Arctic Council, it seems apt to give Griffiths the last word:

The Arctic 8 could also adopt a multilateral and region-wide approach to Arctic affairs. Besides seizing opportunities as they arise, the ice states would orchestrate joint actions so as to shape the region's development according to a common strategic design. They would act not so much on what might seem doable ... but also on what is needed to create and maintain a region that is maximally consistent with national purposes and the long view.<sup>63</sup>

#### **Author**

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## Notes

1. This article is as much about the future of the Arctic Council as well as its past and was, in part, stimulated by Charles Emmerson's book *The Future History of the Arctic* (New York: Public Affairs, 2010). Engagingly written and informative, Emmerson's book is nevertheless inappropriately titled for it does not look at potential strategic futures in the region, but rather recounts the author's interesting conversations with Arctic residents. It virtually ignores Canada, which is most unfortunate in light of the central role played by the Government of Canada in persuading Arctic states to establish the Arctic Council.
2. *Arctic Climate Impact Assessment* (Cambridge, England: Cambridge University Press, 2005) and an ACIA summary and synthesis volume, *Impacts of a Warming Arctic* (Cambridge University Press, 2004), are available at [www.acia.uaf.edu](http://www.acia.uaf.edu). The ACIA was authorized by Arctic Council ministers in 2000, presented in 2004, and published in 2005. For those daunted by the 1042 pages of the ACIA, a good summary is available in Susan Joy Hassol and Robert W. Corell, "Arctic Climate Impact Assessment," in Hans Joachim Schellnhuber, Wolfgang Cramer, Nebojsa Nakicenovic, Tom Wigley, and Gary Yohe (eds.), *Avoiding Dangerous Climate Change* (Cambridge, England: Cambridge University Press, 2006), 205–213.
3. Michael Byers, *Who Owns the Arctic? Understanding Sovereignty Disputes in the North* (Vancouver: Douglas and McIntyre, 2009).
4. General Secretary Gorbachev's speech is available at [www.barentsinfo.fi/docs/Gorbachev\\_speech.pdf](http://www.barentsinfo.fi/docs/Gorbachev_speech.pdf). A good survey of international co-operation in the Arctic in the 1980s and 1990s is Clive Archer and David Scrivener, "International Co-operation in the Arctic" in Mark Nuttall and Terry V. Callaghan (eds.), *The Arctic: Environment, People and Politics* (Amsterdam: Harwood Academic Publishers, 2000).
5. Brian Bow, "Arctic Waters, 1969–1971" in *The Politics of Linkage: Power, Independence, and Ideas in Canada-US Relations* (Vancouver: UBC Press, 2009), 75–101. See also the articles in J. Edgar Dosman and P. A. Brennan, *The Arctic in Question* (Toronto: Oxford University Press, 1976).
6. The position of the Government of the United States of America on the legal status of the Northwest Passage was most recently articulated on 9 January 2009 in National Security Presidential Directive NSPD–66 and Homeland Security Presidential Directive HSPD–25, available at [www.georgewbush.whitehouse.archives.gov/news/releases/2009/01/20090112-3.html](http://www.georgewbush.whitehouse.archives.gov/news/releases/2009/01/20090112-3.html).
7. Byers, *Who Owns the Arctic?* 53.
8. Much has been written about events and initiatives to bolster and give effect to Canada's Arctic sovereignty, including the response to the Polar Sea episode. For historical perspectives see Ken S. Coates, P. Whitney Lackenbauer, William R. Morrison, and Greg Poelzer, *Arctic Front* (Toronto: Thomas Allen, 2008);



P. Whitney Lackenbauer, *From Polar Sea to Polar Saga: An Integrated Strategy for Canada and the Circumpolar World*, Foreign Policy for Canada's Tomorrow, Canadian International Council, 2009 available at [www.opencanada.org/wp-content/uploads/2011/05/From-Polar-Race-to-Polar-Saga-Whitney-Lackenbauer](http://www.opencanada.org/wp-content/uploads/2011/05/From-Polar-Race-to-Polar-Saga-Whitney-Lackenbauer); but, in particular, Shelagh D. Grant, *Polar Imperative* (Vancouver: Douglas and McIntyre, 2010). While dated, the legal and political issues surrounding the Northwest Passage are well addressed in Franklyn Griffiths (ed.), *Politics of the Northwest Passage* (Montreal and Kingston: McGill-Queen's University, 1987).

9. The working group was composed of Gordon Robertson (chair), Clayton Beattie, Robert Cameron, Maxwell Cohen, Keith Greenaway, John Halstead, Michael Jarvis, Peter Jull, John Merritt, Donat Pharand, Thomas Pullen, Fred Roots, and Graham Rowley. See *The North and Canada's International Relations*. The Report of a Working Group of the National Capital Branch of the Canadian Institute of International Affairs (Ottawa: Canadian Arctic Resources Committee, March 1988).
10. *The Arctic Environment and Canada's International Relations*. The Report of a Working Group of the National Capital Branch of the Canadian Institute of International Affairs (Ottawa: Canadian Arctic Resources Committee, March 1991).
11. See "Arctic Pollution: How Much is Too Much?" *Northern Perspectives*, 18, No. 3 (September/October, 1990): 1–12; and Lassi Heininen (ed.), *Arctic Environmental Problems*, Tampere Peace Research Institute Occasional Papers No. 41, 1990.
12. The political declaration announcing the Arctic Environmental Protection Strategy and the strategy itself are posted on the Arctic Council website, see [www.arctic-council.org/filearchive/arctic\\_environment.pdf](http://www.arctic-council.org/filearchive/arctic_environment.pdf).
13. The US sent an ambassador rather than a minister to sign the AEPS Declaration in Rovaniemi.
14. *Canada's Green Plan*, Minister of Supply and Services Canada, 1990.
15. *The Arctic Environmental Strategy An Action Plan*, Indian and Northern Affairs Canada, Minister of Supply and Services Canada, 1991.
16. See [www.gordonfoundation.ca/sites/default/files/publications/Axworthy\\_2010-12-2\\_ArcticCouncilHistory](http://www.gordonfoundation.ca/sites/default/files/publications/Axworthy_2010-12-2_ArcticCouncilHistory).
17. The members of this panel were Franklyn Griffiths, Professor of Political Science, University of Toronto (co-chair); Rosemarie Kuptana, President, Inuit Tapirisat of Canada (co-chair); John Amagoalik, former President, Inuit Tapirisat of Canada; William Erasmus, President, Dene Nation; Cindy Gilday, formerly of Indigenous Survival International; Stephen Hazell, Executive Director, Canadian Arctic Resources Committee; John Lamb, Executive Director, Canadian Arms Control Centre; and Mary Simon, President, Inuit Circumpolar Conference.

18. See *Northern Perspectives*, 19, no. 2 (1991): 1–24. The draft treaty was also published in *The Arctic Environment and Canada's International Relations*.
19. Sheila Watt-Cloutier, Joe Kunuk, and Terry Fenge, "The Arctic Council, Sustainable Development and Inuit." *WWF Arctic Bulletin*, No. 4 (December 1996): 7–8.
20. The declaration to establish the Arctic Council and all declarations subsequently adopted by Arctic Council ministers are posted on the Arctic Council web site, see: [www.arctic-council.org](http://www.arctic-council.org).
21. As soon as it was established, various commentators noted weaknesses in the Arctic Council. See, for example, "Summary of Discussion" in Davor Vidas (ed.), *Arctic Development and Environmental Challenges*, Scandinavian Seminar College, GRID Arendal and The Fridtjof Nansen Institute (Copenhagen, Denmark: Scandinavian Seminar College, 1997).
22. Evan T. Bloom, "Establishment of the Arctic Council," *American Journal of International Law*, 93 no. 3 (July 1999): 712–722. This article is also available at [www.state.gov/g/oes/ocns/opa/arc/ac/](http://www.state.gov/g/oes/ocns/opa/arc/ac/).
23. Bloom, "Establishment of the Arctic Council," 714.
24. *Canada and the Circumpolar World: Meeting the Challenges of Cooperation into the Twenty-First Century*, Report of the House of Commons Standing Committee on Foreign Affairs and International Trade, April 1997.
25. The 2000 Northern Dimension to Canada's Foreign Policy is available on the website of the Department of Foreign Affairs and International Trade. See [www.international.gc.ca/polar-polaire/ndfp-vnpe2.aspx?view=d](http://www.international.gc.ca/polar-polaire/ndfp-vnpe2.aspx?view=d).
26. See the articles in David Leonard Downie and Terry Fenge (eds.), *Northern Lights Against POPs: Combatting Toxic Threats in the Arctic* (Montreal and Kingston: McGill-Queen's University Press, 2003).
27. The Arctic Marine Shipping Assessment is available at [www.pame.is](http://www.pame.is).
28. Timo Koivurova and David Vanderzwaag, "The Arctic Council at 10 Years: Retrospect and Prospect." *UBC Law Review*, 40 no.1 (2008): 121–194.
29. See Minna Turunen and Paula Kankanpaa, "The Visibility of the Arctic Council." University of Lapland, Arctic Centre Report No. 37, 2002. By far the best source of information on the council is the quarterly *WWF Arctic Bulletin*, which in 2009 was upgraded to and replaced by *The Circle*, published by WWF's International Arctic Programme.
30. During its 2000-2002 chairmanship Finland commissioned the former Finnish Minister of Environment to examine the structures of the Arctic Council. See, Pekka Haavisto, "Review of the Arctic Council Structures," Helsinki, 2001, available on the Arctic Council website. The permanent participants, specifically the Arctic Athabaskan Council, have also suggested strengthening the Arctic Council. See [www.arcticathabaskancouncil.com/aac/?q=letters\\_documents](http://www.arcticathabaskancouncil.com/aac/?q=letters_documents).
31. The ACIA section of this article draws upon Annika E. Nilsson, *A Changing Arctic Climate*, Linköping Studies in Arts and Science No. 386, Linköping

University, Sweden, 2007. *A Changing Arctic Climate* is the published version of Ms. Nilsson's PhD dissertation. Ms. Nilsson worked with the Council's Arctic Monitoring and Assessment Programme (AMAP) in the 1990s as a science writer contributing significantly to *Arctic Pollution Issues: A State of the Arctic Environment Report*. She was well-known to the SAOs and permanent participants and as a result enjoyed wide access to Arctic Council personnel when drafting chapter five of her dissertation which addresses the ACIA.

32. *Impacts of a Warming Arctic*, 2004.
33. "90 Billion Barrels of Oil and 1,670 Trillion Cubic Feet of Natural Gas Assessed in the Arctic" press release issued by the United States Geological Survey, 23 July 2008. [www.usgs.gov/newsroom/article.asp?ID=1980](http://www.usgs.gov/newsroom/article.asp?ID=1980).
34. "Sustainable development of the Arctic," Resolution 22/11, United Nations Environment Programme, 22<sup>nd</sup> Session/Global Ministerial Forum, 2003, [www.unep.org/Resources/gov/Previousession.asp](http://www.unep.org/Resources/gov/Previousession.asp).
35. The ACIA-related policy recommendations are posted on the ACIA website. See [www.acia.uaf.edu](http://www.acia.uaf.edu).
36. "Inuit Petition Inter-American Commission on Human Rights to Oppose Climate Change Caused by the United States of America," press release issued by the Inuit Circumpolar Council (Canada), 7 December 2005. This press release and the full petition are available at [www.inuitcircumpolar.com/index.php?Lang=En&ID=316](http://www.inuitcircumpolar.com/index.php?Lang=En&ID=316).
37. See *Fighting Climate Change: Human Solidarity in a Divided World*, Human Development Report 2007/2008 (New York: United Nations Development Programme, 2007).
38. See, for example, Shyam Saran, "Why the Arctic Ocean is Important to India," 6 December 2010, [www.business-standard.com](http://www.business-standard.com). Mr. Saran is a former foreign secretary of India.
39. David Barber, Louis Fortier, and Michael Byers, "The Incredible Shrinking Sea Ice." *Policy Options* (December 2005/January 2006): 66–71.
40. Scott Borgerson, "Arctic Meltdown; the Economic and Security Implications of Global Warming," *Foreign Affairs*, 87 No. 2 (March/April, 2008): 63–77.
41. Maurice Strong, "The Arctic: A Potential Source of Conflict," 29 November 2010, [www.deccanherald.com](http://www.deccanherald.com). Mr. Strong is former under-secretary general of the United Nations.
42. The "scramble for Africa" metaphor is thoroughly out of place in the Arctic, which is being decolonized not colonized. In recent decades Arctic Indigenous People and northerners generally have been gaining political authority and ownership of land and natural resources, evidenced through the 1971 Alaska Native Claims Settlement Act, home rule in Greenland in 1979, creation of the Nunavut Territory in 1999, and establishment of Saami Parliaments in Norway, Sweden, and Finland.

43. Scott Borgerson and Caitlyn Antrim, "An Arctic Circle of Friends," *New York Times*, 28 March 2009.
44. Rob Huebert and Brooks Yeager, *A New Sea* (WWF International Arctic Programme, Oslo, Norway, October 2006).
45. Timo Koivurova and Erik J. Molenaar, *International Governance and Regulation of the Marine Arctic: Overview and Gap Analysis*, WWF International Arctic Programme, Oslo, Norway, 2009. See also Timo Koivurova, "Limits and Possibilities of the Arctic Council in a Rapidly Changing Scene of Arctic Governance." *Polar Record* 46 (2010): 146–156.
46. European Parliament resolution on Arctic governance adopted 9 October 2008 at [www.europarl.europa.eu/sides/getdoc.Do?type=TA&reference=P6-TA-2008-0474&language=El](http://www.europarl.europa.eu/sides/getdoc.do?type=TA&reference=P6-TA-2008-0474&language=El). Support for this proposition can be found in Stephanie Holmes, "Breaking the Ice: Emerging Legal Issues in Arctic Sovereignty." *Chicago Journal of International Law*, 9 (2009-2009): 323–351. Arguments against the case for an Arctic Treaty are found in Hans Corell, "Innovation in the Arctic Governance: the Possibilities and Limitations of a Binding Legal Regime for the Arctic," presentation to the Seventh Conference of Parliamentarians of the Arctic Region, Kiruna, Sweden, 3 August 2006.
47. The Ilulissat Declaration is posted on the Arctic Council website.
48. The Steering Committee of the Arctic Governance Project was composed of Hans Corell, Robert Corell, Udloriak Hanson, Paula Kankanpaa, Jacqueline McGlade, Tony Penikett, Stanley Senner, Nodari Simoniya, and Oran Young.
49. *Arctic Governance in an Era of Transformative Change: Critical Questions, Governance Principles and Ways Forward*. Report of the Arctic Governance Project, 14 April 2010. See [www.arcticgovernance.org](http://www.arcticgovernance.org).
50. The council's *Arctic Human Development Report* (Akureyri, Iceland: Stefansson Arctic Institute, 2004) has been particularly important in underpinning and motivating projects of the Sustainable Development Working Group.
51. All reports of SAOs to ministers are posted on the Arctic Council website.
52. The Kiruna Declaration is posted on the Arctic Council website.
53. José Manuel Barroso, President of the European Commission, letter to Stephen Harper, Prime Minister of Canada, 8 May 2013.
54. Oran R. Young, "Whither the Arctic? Conflict or Cooperation in the Circumpolar North." *Polar Record*, 45 No.232 (2009): 73–82.
55. This agreement is posted on the Arctic Council website.
56. The Nuuk Declaration is posted on the Arctic Council website
57. Franklyn Griffiths, "Toward a Canadian Arctic Strategy," in Franklyn Griffiths, Rob Heubert, and P. Whitney Lackenbauer, *Canada and the Changing Arctic: Sovereignty, Security and Stewardship* (Waterloo, Ontario: Wilfrid Laurier University Press, 2011), 181–225.

58. See [www.northernstrategy.gc.ca](http://www.northernstrategy.gc.ca). For a critique of Canada's Northern Strategy see Terry Fenge, "Canada's Northern Vision," *The Yearbook of Polar Law*, 3 (2011): 719–722.
59. See [www.international.gc.ca/polar-polaire/Canada-arctic-foreign-policy](http://www.international.gc.ca/polar-polaire/Canada-arctic-foreign-policy). Virtually all Arctic states now have formal northern strategies.
60. Terry Fenge, "Canada and the Kiruna Declaration." *Northern Public Affairs*, 2 No. 1 (2013): 43–46.
61. Charles Emmerson, *The Future History of the Arctic*.
62. Lawrence C. Smith, *The World in 2050* (New York: Dutton, 2010).
63. Franklyn Griffiths, "Toward a Canadian Arctic Strategy."