



CE J ISS

Central European Journal of
International & Security Studies

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Volume 5 · Issue 1 · March 2011

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THE MELTING POLES: BETWEEN CHALLENGES & OPPORTUNITIES

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ABSTRACT: The Arctic and Antarctica have traditionally been treated as footnotes in larger international relations. However, the polar caps have recently entered the priority lists of a multitude of international actors and captured the attention of the international community at large. Despite popular opinions to the contrary, nearly all characteristics of these poles are different; morphological, climatic, anthro-biological, and their political and legal standings. For instance, Antarctica is governed by an international treaty while in the Arctic politics are underscored by a special legal framework which continues to be negotiated over. Due to the speed of global warming, vast perennial ice sheets are melting and presenting clear environmental challenges and, simultaneously, economic opportunities such as alternative shipping routes, new hydrocarbons and large mineral deposits. This work asks whether the absence of a comprehensive treaty in the Arctic and the increased focus on national interests by the five circumpolar states might raise tensions, and endanger international security. This article provides a dense geopolitical overview of the two polar regions to determine their impact on wider international relations, economics and security.

KEYWORDS: Arctic, Antarctic, Security Structures, UNCLOS, Arctic Five, NATO, EU, International Relations, Energy Security

INTRODUCTION

The Arctic and Antarctica, two regions within the polar circles of the Northern and Southern hemispheres, rarely featured in the geopolitical, legal and international relations scholarship in the past, have rapidly grabbed the attention of the international community. At first glance it seems that the two opposite, but complementary, polar caps have much in common, however on closer inspection, significant differences are apparent: the two opposing poles are of a different morphological and tectonic, climatic,

anthropo-biological, political and indeed different legal standing. The South Pole (Antarctica) is governed by treaty, which is fully accepted by the international community (including all neighbouring and interested parties), though is of a limited timeframe (50 years). In the North Pole (the Arctic), the construction of a similar special legal framework is still under negotiation.

Due to the pace of global warming, vast perennial ice sheets are melting, simultaneously producing environmental challenges and economic opportunities (including alternative Sea Lanes, notably the Northwest Passage, the Northern Sea Route and the Arctic Bridge, and large mineral resources including hydrocarbons). The emerging environmental reality has unleashed a commercially-driven run over the Arctic; often described as *land grabs* or a *new gold rush* with the five circumpolar states striving to acquire substantial geoeconomic and geopolitical shares in the region and, in doing so, risk conflict over demarcation lines.

The question of whether the absence of a definite legal setting in the Arctic, and the increased focus on national (geoeconomic and geopolitical) interests (and prides) by the five concerned states might trigger border tensions, domestic unrest, an open armed conflict and hence, endanger global security becomes paramount. Indeed, among the five: two are P-5 (UNSC) members (the US and Russia), four are NATO members (the US, Canada, Norway and Denmark), three are European (Norway, Denmark and Russia) in contrast to two North American states (the US and Canada), one in the EU (Denmark), three in the G-8 (the US, Russia and Canada), and all of them are OSCE members.

Before turning to the analysis which centres on potential ruptures to the status quo in both the Arctic and Antarctica, this work turns to constructing a theoretical basis for understanding the Polar Caps.

THE POLAR CAPS AT A GLANCE

Despite a few geophysical similarities shared by the two poles –permafrost encircling the geographic and magnetic poles of the planet –nearly all other characteristics are different. This section provides a brief, but dense, overview of the Arctic and Antarctica, to highlight their differences and thus acts as an important first step for the work

conducted throughout the bulk of this article. This section is broken into three complimentary parts. The first defines and details the geographic disparities, the second looks at the internal regional characteristics and the third pays close attention to environmental factors.

Defining the Poles

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Geographic literature defines the Arctic by the limitation of the Arctic polar circle; a line drawn at latitude $66^{\circ}33'$, which marks the area where at least one day per year the sun neither rises nor sets (other definitions which are less accurate but more descriptive claim that the Arctic is situated further north of the tree line). The name *Arctic* originates from the old Greek word for bear (*arktos*) due to the stellar constellation of the Bear Polaris visible from the Arctic. In contrast, Antarctica is a continent located around the South Pole, hence presenting the opposite of the Arctic (which is the original meaning of its word: 'opposite of the Arctic'). Antarctica is referred to as the area south of the Antarctic Convergence, including oceanic areas as well as all of the gravitating islands.

The Arctic is often regarded as an oceanic mass completely covered by ice, however this holds true for only (approx.) $2/5$ of the region. The remaining areas – dispersed landmass without continental continuity – are characterised by tundra and boreal forests (e.g. Greenland). Alternatively, only 2% of Antarctica's total land-mass is not permafrost (covered by ice). Therefore, it may be argued that the Arctic is 'an ocean surrounded by land,' and Antarctica is 'a continent surrounded by ocean.' Another significant difference is the annual average air temperature; while temperatures in Antarctica hover around -50°C , the Arctic's average is -17°C .

Regarding flora and fauna, the two regions diverge as well and this divergence accounts for the sustainability of life. Indeed, public awareness of these regions – limited as it is – typically knows that polar bears' habitat is in the North while penguins can be found in the South Pole. Yet, the Arctic hosts a variety of species including reindeers, caribous, bears, foxes (etc) while Antarctica is not inhabited by *any* terrestrial mammals. In adjacent oceanic areas whales, porpoises and seals have been observed, and in the Arctic Ocean also amphibious mammals. Regarding fauna, Antarctica is only sparsely populated with plants on its edges and has no tree line while the Arctic has tundra marked by a visible tree line.

Population of the Polar Regions

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The Arctic is inhabited by (approx) 4 million people; 10% of which are of indigenous origins. The Canadian part of Arctic is home to roughly half of the population of the indigenous tribes; in Greenland, the indigenous Inuit people hold the majority, but throughout the rest of the Arctic, non-native settlers outnumber native peoples (this demographic change coincided with the increased economic activity throughout the 20th century). There are more than 30 different indigenous peoples and dozens of languages (some on the brink of extinction) cohabitating in the Arctic though it is clear that natives will have to adapt to the current economic development as well as to the socio-political and demographic changes unfolding in the region.

In contrast, Antarctica is uninhabited and no evidence of *any* human presence has ever been recovered, the exception being in modern times where expeditions of scientists, residing on a short-term basis, are scattered across the continent.

Environmental Hazards and the Impact of Global Warming

Now that a short depiction of the differences and similarities between the Arctic and Antarctica has been undertaken, it is important to shift gears and commence on depicting the security implication of the ever-evolving situation at the Earth's poles.

Climate change has affected the Arctic more widely than other regions and average temperatures are rising twice as fast than any other spot on the planet. The perennial ice sheets are melting with unexpected speed, coupled with an ever-shorter winter snow season. With deglaciation (shrinking snow-cover), less sunlight is reflected back to the atmosphere; a pattern which further accelerates temperature rises due to increased sun-radiation and absorption by more absorptive dark-coloured ocean. The WMO/IPCC expects an increase of about 6°C to 7°C in the 21st century. Although there is no scientific consensus on the cause(s) of such a transformation, the effects are difficult to disagree with: the Arctic is responding rather quickly to climate change.

Alternatively, based on incomplete and indecisive scientific data, it has been (falsely) argued that Antarctica was experiencing

trends in stark contrast to the types of climate change being recorded around the world. It was assumed that Antarctic would cool while the rest of the planet warmed; however, the latest satellite images reveal that in the western parts of the Antarctic Peninsula climate change is ever-present and glaciers are rapidly melting. The thinned, and in some places punctured, ozone layer is further accelerating warming in this area.

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In addition to the stabilising role the polar caps play for global climate – all weather patterns – these areas are home to the largest reserves of fresh water. With the rapid deglaciation of Greenland and Antarctica, and the melting of the Arctic ice sheets, a torrent of fresh water is being released, seriously affecting: 1. oceanic volumes (sea level rise); 2. oceanic temperatures' density and salinity which finally, through the oceanic conveyor belt affects the 3. oceans' circulation system and consequently 4. climate around the world. It remains unclear what consequences this might have to Europe's (and international) climate and general weather conditions; future scenarios range from substantial warming (coupled with severe droughts and extreme weather conditions), to severe "coolings."

Another consequence affecting the Arctic is the thawing of permafrost and through such thawing; methane – trapped for centuries – is being released into the atmosphere, contributing to the greenhouse gas effect. In addition to dangerous methane releases, the very thawing of permafrost will cause the destruction of buildings, communications infrastructure and industrial facilities in the Arctic Circle. Flora and fauna will undergo significant changes too, unable to sustain themselves in the changing environment they will migrate north along with the animals that require them as food-stuff. In short, the Arctic is experiencing profound changes and facing severe challenges, which are already being felt far beyond its polar parameters.

LEGAL REGIMES

Just as the morphological, climatic and other characteristics of the Arctic and Antarctica differ, so does the legal status of the two. While Antarctica is governed by international treaty (proclaimed de facto as *res communis*), the Arctic lacks any acceptable legal formula applicable to the region as a whole. Indeed, and as discussed

in further detail below, Antarctica is governed by an intricate treaty system (ATS, 1961) brokered by the 12 nations, active in the Antarctica during the International Geophysical Year (IGY) 1957–58.¹ By banning *any and all* military activities on the only continent without permanent human presence, the ATS opened Antarctica for scientific use to *any* nation and is often regarded as the very first arms control accord established in direct Soviet-American negotiations during the Cold War. Celebrated as a sweeping success during such turbulent decades of US-USSR discord, the ATS was simply born from collective necessity as it was geographically remote, militarily inaccessible and an economically nonviable, unpopulated continent. Declaring it a demilitarised zone, free to “all peace loving nations”, was a relatively simple procedure.

While Antarctica had not been home to any human civilisation before the mid to late 19th century, the Arctic has always been inhabited by indigenous peoples. Already in pre-modern times, most Nordic and Russian peoples had established the parameters of their state territories exercising domestic jurisdiction well into the Arctic and over its native populations. This, combined with the absence of any comprehensive international instrument on the Arctic, opened the road for the so-called Eight Arctic States to govern the polar territory through their respective national legislations.² Historically, major portions of the Arctic (beyond economic zones – EZ) have not been (successfully) claimed by any external party, as the territories are practically inaccessible. In addition to political frictions, the harsh climatic conditions kept the Arctic – for most of the 20th century – out of negotiations for a comprehensive legal framework. However, climate change in the late 20th century, and the rapid ice-cap melting has revealed prospects of an accessible and economically exploitable Arctic; facts which are necessitating such a comprehensive legal framework.

The economic, political and legal race for the Arctic has (again) begun. Responding to this new situation, the EU and the UN have attempted to create a legal framework similar to the ATS. However, since some claimants view the Arctic as their own, inner “lake,” strong opposition to the internationalisation of the Arctic is visible and mounting. In fact, the Five Arctic States (the circumpolar states: Russia, the US, Canada, Denmark and Norway), through the *Ilulissat Declaration* rejected the creation of a new legal regime,

arguing that the UN Convention on the Law of the Sea (UNCLOS) should remain as the basic applicable law and asserted that UNCLOS was the only governing framework for the Arctic's continental shelf, seabed, the protection of the marine environment (including ice-covered areas), freedom of navigation, marine scientific research and other uses of the sea.³

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UNCLOS

Since Hugo Grotius's famous *Mare Liberum* (1609), accessibility of international waters (free naval regime) has been an international custom. Gradually, the so-called *Freedom of the Seas Doctrine* elaborated on a multitude of sea-related issues including the notion of territorial waters, continental shelves, economic zones and demarcation distances. As technological advancements made economic exploitation possible and military adventurism probable, the international community repeatedly attempted to codify the customary rules into the text of a comprehensive, universal legally binding instrument though it was not until the end of WWII, extensively fought on the seas, was critical momentum reached. The first two rounds of negotiation were conducted in the 1950s which lead to UNCLOS I (1956) and UNCLOS II (1958, 1960). With over 160 participating states, and nine consecutive years of negotiations, UNCLOS III was concluded in 1982.

Maritime Zones

Without presenting all stipulations in UNCLOS, for this study it is essential to highlight the most pressing; those related to maritime zones. UNCLOS recognises the right of states to extend national territories by several maritime zones from their respective coastline.⁴ UNCLOS identifies seven such zones:

1. **Internal Waters** (land-coast – baseline) = no passage prior to explicit permission;
2. **Territorial Waters** (from baseline to 12 nautical miles (nM) seawards, with the possible extension of an additional 12nM of so-called *Contiguous Zone*) = innocent passage right;
3. **Inner Sea** (archipelago states only) = innocent passage right;

4. **Prolongation of the Continental Shelf (PCS)** (territorial extension of up to 150nM seawards from baseline, rooted on confirmed geo-morphological evidence) = innocent passage right;
5. **Exclusive Economic Zone (EEZ)** (from baseline up to 200nM seaward, upon the UNCLOS ratification) = innocent passage right;
6. **PCS & EEZ** (up to 350nM seawards from baseline approved by the CLCS 10 years after UNCLOS ratification);
7. **High Seas** (beyond the limits of 200nM/350nM) = open for free passage and exploitation to all states.

The recognition of EEZs and PCSs by UNCLOS obliges the Arctic states to grant innocent passage rights to *all* vessels. However, it awards the Arctic Five – since both zones are exclusive belts of economic activity – in seabed exploitation (ore, gas, oil, etc) and exclusive fishing rights (marine biota).

Commission on the Limits of the Continental Shelf (CLCS)

UNCLOS established the CLCS as *the* standing (scientific) panel of the instrument to deal with the claims beyond the 200nM parameter. The CLCS is mandated to examine maritime claims following individual state requests. Recommended deliberations of the CLCS are becoming final and binding if no contradictory claim is lodged (art. 76). In case of disputes, the final settlement is subjected either to the Hague-based International Court of Justice (ICJ) or the International Tribunal for the Law of the Sea.

The above clarifies the position adopted by the Arctic Five in its reaffirmation of UNCLOS since any Antarctica-like treaty would deprive the Five of their exclusive economic rights. Despite considerable geomorphologic disadvantages (as lacking the continental shelf extension or credible proof of it) facing a few of the Arctic Five, none favours an international instrument which would ultimately turn the Arctic into *res communis*. No matter how tedious the extension verification process is or how cost-intensive specific technologies for Arctic exploitation, the Five remain dismissive of the region's internationalisation and assertively seek to protect their interests.

The strategy of the Arctic Five is strikingly similar to the so-called *Eastern Diplomatic Question* of the late 19th century, (and its related 2+3 formula);

1. **Dismissive:** Slow down the process of the dissolution of the Ottoman Empire and of external parties' interference (re: undermine international efforts for creating an Antarctica-like treaty, by keeping UNCLOS referential);
2. **Assertive:** Maximise the shares of the spoils of partition (re: extend the EEZ and continental shelf to divide most, if not the entire Arctic among only the Five);
3. **Reconciliatory:** Prevent any direct confrontation among the European powers over the spoils (re: pass the claims without arbitration of the 3 parties preferably through CLCS).

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By 2009, the deadline to submit their claims for extended continental shelf expired for numerous states. With the present number of claims and several UNCLOS articles – of imprecise wording (which leaves room to interpret the continental shelf extension as well as modalities of EEZ) – it is estimated that the comprehensive evaluation of the CLCS will not be successfully completed over the next 15 to 20 years. Noting these difficulties, some voices called upon the creation of a special (sub-) commission to deal exclusively with the Arctic claims. With looming political deadlock (at best), or active competition (at worst), expected in the Arctic over the next decades, it is important to better understand the political and legal situation in Antarctica and its applicability to the Arctic.

The Antarctic Treaty

The Antarctic Treaty System (ATS) forms the comprehensive international legal regime in Antarctica and was negotiated in the late 1950's by the twelve parties which formed its original signatories (1959). These are: Argentina, Australia, Belgium, Chile, France, Japan, New Zealand, Norway, South Africa, Russia (originally USSR), the UK and the US. The main treaty entered into force by 1961 with 47 participatory states. Declaring the Pole as *res communis*, free of any military activity, this instrument further stipulates the freedom of scientific investigation, enhanced cooperation and data exchange. Importantly, ATS prohibits nuclear testing and nuclear waste disposal, marking it the first nuclear arms agreement and, to

some extent, the first environmental accord. Any territorial claim on land or ice shelves south of 60°S latitude cannot be recognised while the treaty is in force. For the stationary scientific personal the treaty suggests their respective national jurisdiction as applicable.

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Antarctic Treaty Consultative Meetings (ATCM)

The ATCM acts as the governing body of the Treaty – monitoring of compliance and acting as legislative machinery – is essentially a clearing house that meets annually. Decision-making powers in administering and managing Antarctica are unevenly distributed among the current 47 parties: the signatory states, the consultative and other parties to the treaty. Based on explicit scientific interests and the active research presence in Antarctica, only 28 states maintain decisive says in the decision-making process; besides the original 12, there are another 16 states which joined the ATS in the last decades of the 20th century namely: Brazil, Bulgaria, China (PRC), Ecuador, Finland, Germany, India, Italy, Korea (ROK), the Netherlands, Peru, Poland, Spain, Sweden, Ukraine and Uruguay.

On its monitoring of a compliance role, the ATCM oversees that no activities contrary to the treaty occur in Antarctica and that any disputes between parties is peacefully resolved. Necessitating prior, explicit consent of all contracting parties, any eventual amendments or modifications to the treaty are to be directed through the ATCM and the accession of new members is also channelled through this body.

Serving as the principal legislative machinery, the ATCM has brokered over 200 recommendations, of which many have turned into legally binding instruments that gradually brought the comprehensive ATS into existence.

The Antarctic Treaty System

Celebrating 50 years of the original treaty in Washington (December 2009), the ATS parties organised an Antarctic Treaty Summit entitled: '**Science-Policy Interactions in International Governance**' as a brain-storming session for scientists, politicians, scholars and other interested share-holders to discuss existing regulations and future developments of the Antarctic Treaty System.

The ATS is composed of the main treaty (1961) and of additional instruments, notably the Convention for the Conservation of Antarctic Seals (1972), the Convention for the Conservation of Antarctic Marine Living Resources (1982), the Convention on the Regulation of Antarctic Mineral Resource Activities (signed in 1988, not yet in force), and finally the Protocol on Environmental Protection (1998).

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The ATS is often referred to as one of the most outstanding, fair and transparent agreements ever concluded. Still, the dismissive notion of the ATS participatory parties towards the rest of the international community is nearly identical to the dismissive Arctic Five.

Pre-empting the large-scale exploitation of natural resources, the ATS consultative parties have formulated the Convention for the Conservation of Antarctic Seals (CRAMRA) through which they declared that no commercial activity could be undertaken at the expenses of the environment. However, the convention was never ratified as it lacked the high-standards environmental regulations demanded by many members, especially France and Australia.

Consequently, another agreement was required and the Protocol on Environmental Protection to the Antarctic Treaty, also known as the Madrid Protocol, was brokered, prohibiting any commercial activity for 50 years (until 2048) and describes the Antarctica as a 'natural reserve, devoted to peace and science.' Additionally, the instrument provides guidelines and principles for other activities such as tourism or the construction and maintenance of Antarctic research bases.

In order to monitor compliance, the Committee for Environmental Protection (CEP) was founded. The consultative parties may call for a review of the Protocol within the set timeframe of 50 years but amendments require unanimity. The ban on mineral resource activities cannot be declared void unless another binding instrument is in place.

It is apparent that beyond the declared (but hardly enforced) environmental considerations, the ATS parties meant to use the Protocol as an operative tool to discourage and alienate externals (re: a dismissive stance), and maintain and prolong their exclusivity in Antarctica with all its scientific and commercial benefits (re: assertive stance) revealing that, politically, the two poles are not in fact

polar opposites and economic-opportunity-driving-competition is likely to extend to the far reaches of Antarctica as well as the Arctic. This work now turns to some of the more pressing claims and competitions unfolding on both sides of the international environment.

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CIRCUMPOLAR STATES: THE ARCTIC FIVE

The dense concentration of naval and air bases, marauding submarines and intercontinental missile silos throughout the Arctic, turned the region into the world's most militarised maritime space. At present, with the melting of sea ice, the Arctic Ocean is again in international vogue, owing to both its (actual and potential) material riches and the cast of its five littoral circumpolar states (Russia, the US, Canada, Denmark and Norway). Demonstrating their geographic proximity, power and presence, the "Arctic Five" are steadily submitting competing claims on northwards territorial extension aimed to: reduce the portion of international waters in the Arctic; and maximise national rights of navigation and effective controls over resources (EEZ).

Alternatively, and on the other side of the planet, the ATS is successfully restraining the neighbouring states, and interested parties, from submitting any territorial claims and marking it out as a legally "less contested region" though no less attractive as it is the final, significant and dividable geoeconomic and geopolitical territory on the planet. While the following discussion elaborates on the five littoral states and their increasingly assertive positions, the lessons learned may be instrumental for solving any future issues in Antarctica.

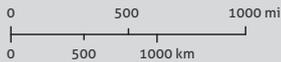
The Russian Federation

Russia is the largest territorial state in the world, containing some 17,075,200 km² (or 1/8 of the world's total land surface), where roughly 142 million inhabitants live. Russia has nearly one-third of its territory located in the Arctic and sub-Arctic regions. Even a cursory glance at a map will reveal that roughly half of the entire circumpolar territory is currently under Russia's jurisdiction.

Russophones penetrated the Arctic as early as the 11th century but systematic exploration only began in earnest in the mid-16th century.

Arctic Region

The Arctic region promises to become one of the hottest political spots on the planet in the nearest decade.



Azimuthal Equidistant Projection
Source: ESRI Maps: David Erkomashvili
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The late Tsarist and early Soviets settled nearly 2 million people in the polar circle for the purpose of large-scale research, economic and military activities, which with some oscillation, continues uninterrupted and Putin was the first of the “Five” to submit an official request for northwards territorial extensions. This policy has continued with Medvedev and Russia is very assertive in its Arctic policy.⁵

Consequently, Russia’s territorial claims are rather ambitious: extending to an area of about 1.2 million square kilometres of the Arctic seabed with the (geographic) North Pole as the outermost point. In 2001, Russia submitted its prolongation of the continental shelf claim to the CLCS, which includes parts of the Barents Sea as well as the Lomonosov and Mendeleev Ridge. However, in 2002 the Commission informed Russia that it should further research its claims as the information provided was insufficient for the Commission’s final recommendations. The revised version was submitted in 2009, and the Commission continues to examine it.

Russia’s economy is heavily dependant on the cash-flows stemming from gas and oil exports to Europe and other parts of the world. Its Arctic region already plays a significant role in the national economy, accounting for 11% of the country’s GDP and 22% of all export earnings. With the northwards territorial extension, these figures will surge, as the additional hydrocarbons, ores and other minerals locked in the Arctic seabed are likely to be very profitable.

Despite promising off-shore and costal mineral deposits, Russia will depend on foreign cooperation regarding the high-tech know-how in exploitation under harsh Arctic conditions and Russia’s Gazprom and Rosneft are already planning joint exploration sites, like the Shtokman field, with Norway’s StatoilHydro and France’s Total.

Visibly demonstrating the capability to patrol, secure and defend its territory has also become a high priority for the Kremlin,⁶ which allocates considerable funds into the development and construction of new ice breakers, submarines and polar patrol ships. To better monitor the vast area, the government recently added three nuclear ice breakers to its already large and well-equipped fleet. Russia has increased its military budget and has taken to assertive patrolling on, above and below the surface of the sea. Indeed, the rearmament programme is

the largest, and most comprehensive, since the collapse of the Soviet Union.

The United States

Ironically, it was Russia which made the US an Arctic actor.⁷ With unhindered access to both the Atlantic and Pacific oceans, it is no wonder that the US adopted the old British geostrategic imperative that “who rules the oceans rules the world.” While US naval preoccupation rests its self-portrayal as a “fish of the high seas” it is, in reality, a “fish of warm seas;” not a typical Arctic state. Firstly, its polar border is detached from mainland US and secondly, at its northern tip the US has a relatively small circumpolar share. Despite the US technological leadership, it has not deployed adequate energies for the ultimate goal of utilising the Arctic’s resources;⁸ it has not even invested in extensive maritime patrolling. However, if the US intends on prolonging its hegemony, it will be forced to deal with the unfolding Arctic scramble, retain its shares in the strategic and economic competition and prevent an unfavourable partition of the territories and distribution of its resources.

Currently, the US’s Arctic position is the weakest of all the Arctic Five since it never ratified UNCLOS and therefore, cannot access the CLCS claims mechanism. Indeed, only recently the US embarked on a joint project (as a junior partner) with Canada (as the leading partner) to properly map the US’s Arctic coastal reefs, precise baselines, the adjacent seabed and ridges. In other words, at the time of this writing the US is not in a “know-how” position to map its own Arctic territories and requires the assistance of others to achieve that objective. Given the gross imbalance between the US in the Arctic and the US in the rest of the world, it is interesting to trace the seeds of its policy lethargy.

The US Position on UNCLOS

In 1982, (then) President Ronald Reagan rejected the ratification of UNCLOS with the argument that the instrument creates unacceptable limitations and is therefore unfavourable for the US. After treaty revisions (1994), Bill Clinton signed UNCLOS but ratification was rejected by the US Senate. A decade later and attempts by

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the Bush administration (2004) also failed. In other words, no matter the colours of the President and his administration, navigating congressional labyrinths and its intrinsic bipartisan confrontations – in this case over the US Navy’s high seas patrolling rights – and interest groups (re: deep seabed resources exploitation), has proven no easy task and navigation rights, according to the US, should be compatible with most archaic of international customs that “might makes right.”

As all great powers have, the US actively participates in negotiations over the construction of legal instruments, including UNCLOS, and encourages others to ratify them – in a bid to establish a level of international obedience – but often opts out itself to avoid constriction and to reserve its freedom of action.

Recently however, Obama prioritised passing UNCLOS ratification through both houses in a bid to reconstruct some of the sapped US normative power. Indeed, the US is one of the few UN members and the *only* Arctic Five state not to have ratified the treaty – which actually impairs its Arctic position – and thus such a prioritisation is likely to produce a burst of “good-will” for US diplomacy, though in the murky worlds of the US Congress and House of Representative even such a well-intended, logical and “national-interest-enhancing” issue could be arrested by more narrow interests.

Position of a Non-Party Claimant

As a non-member of UNCLOS, the US centres its claims on the continental shelf customary law reinforcing Truman’s Presidential Proclamation (No. 2667) that ‘any hydrocarbon or other resources discovered beneath the US continental shelf are the property of the US.’⁹ Despite the unilateralist approach favoured by the US, it has shown some inclination towards negotiated settlements of Arctic tensions and the division of resources, and participates in a variety of bilateral and multilateral debates, negotiations, conferences, and summits such as the Ilulissat Arctic Ocean Conference.

The US has used such forums to articulate its positions – bypassing UNCLOS – and has, thus far, seized the opportunity to claim rights on the continental shelf extension in nine different areas of the Arctic region,¹⁰ in three areas off the US’s West Coast (including

the extension off the west coasts of Guam and the Northern Mariana Islands), and in two areas in the Gulf of Mexico.¹¹

Canada

The world's second largest country (est. 60% the size of Russia), Canada retains the second longest circumpolar border at about 244,000 kms. While one-third of Russia's territory lies within the Arctic Circle, Canada's share is even greater, roughly 40%, equivalent to Europe's entire land mass.¹² Canada is one of the most disproportionate countries when comes to the relation between physical size (9,093,507 km²) and the number of inhabitants (33.5 million) and their concentration. The entire northern and central portions of Canada are practically empty, either inhospitable or extremely under-populated, and over 90% of the population lives within 125 kms of the US and are mostly concentrated in urban centres such as Vancouver, Toronto, Ottawa and Montreal. While Canada *should* be regarded as a typical Arctic state, it has committed few resources and mobilised scant domestic support to effectively exercise its military and/or economic presence in the region.

More recently however, and in direct response to Russia's renewed assertiveness, Canada is attempting to rally popular support and mobilise the government, businesses and the research community to comprehensively assert control over *its* share of the Arctic. Similar to Russia, Canada's Arctic policy is replete with symbolism intended to heighten the legitimacy of its claims. For instance, policy enhancements include: the location for the 2010 summit of the G-7 Finance Ministers (Iqaluit, Nunavut), orders of new polar-patrolling planes and vessels, including ice-breakers for its armed forces, and the joint US-Canada mapping project entitled: the 2009 Extended Continental Shelf Project.

One of the main security concerns of Canada is to protect the northern shipping routes and the entire Arctic and sub-Arctic territory against environmental disasters through increased transportation and the exploitation of natural resources. Canada's Environmental provision, the so-called Arctic Waters Pollution Prevention Act, defines a (environmentally contagious) zone of 100 nM seawards from its coastline as an *environmental protection area*.¹³ In conformity with that provision, Canada persistently claims sovereignty

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on the Northwest Passage, justified by its environmental concerns related to increased transportation of environmentally unfriendly vessels. Believing that environmental concerns are merely a “cover” for Canada’s geopolitical and geoeconomic ambitions, both the US and the EU have repeatedly protested the treatment of the Northern Passage as Canadian territorial waters.

Since 2008, Canada requires prior notification of all vessels flying foreign flags sailing the Northwest Passage. However, it remains unclear how Canada will enforce such requirements, owing to its modest surveillance and patrolling capabilities. In the unfolding Arctic contest Canada’s position is growing increasingly weak as the Northwest Passage, due to melting ice, becomes a more attractive international shipping route and neither international customary law, UNCLOS, nor its enforcement capabilities are able to prevent Canada’s geopolitical and/or geoeconomic losses.

Concerning the CLCS, Canada (as party to UNCLOS) can lodge its continental shelf extension claims until 2013 and is preparing to extend the continental shelf on its North/North-East Coast as well as in the central and western portion of the Arctic (an area of about 1.75 million km²). Currently, Canada is making considerable investments into geomorphology and related research while tripartite expeditions (Canada, the US and Denmark) are working on several Arctic assignments together. One such assignment produced the controversial finding that the Lomonosov Ridge is connected to (extended from) Greenland and the Northern American continent, and is therefore not, as Russia claims, an extension of the Eurasian continent. Canada also claims the Alpha Ridge (adjacent to Ellesmere Island), the Beaufort Sea, and the Mackenzie River Delta, where (allegedly) riverine sediments are pouring into the Arctic seabed well into the far north. Canada is currently locked in a dispute over Hans Island (located in the Nares Strait between the Ellesmere Island and Greenland) with Denmark. Acting pragmatically, Canada and Denmark reached an agreement on the delimitation of the continental shelf, in force since 1974, with amendments added in 1994. The agreement clarifies fishing zones and defines territorial borders between the two over a length of 1,450 nM, however, Hans Island is excluded from the agreement and continues to be unresolved.¹⁴

Denmark (Greenland and the Faroe Islands)

Denmark owes its circumpolar status to its colonial past as the Kingdom boasts a rich heritage of naval power which produced an expansive domain including lands to the far north/northwest. Denmark, through its (increasingly formal) overseas possessions of Greenland (the largest, least populated island in the world) and the Faroe Islands, is entitled to make Arctic claims. Both territories were granted home rule, with only foreign and defence policy under the direct control of Copenhagen.¹⁵

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Towards the Danish Commonwealth

Denmark is the only EU member state of the Arctic Five, but strangely, Greenland and the Faroe Islands are not.¹⁶ Both territories are predominantly inhabited by indigenous peoples, and while Greenland is a vast 2,166,086 km² with a miniscule and disproportionately situated population of 57,600 (or 0.025 inhabitants per km²), the Faroe Islands are a considerably smaller territory comprised of 18 major islands totalling 1,399 km² and evenly populated with some 48,000 inhabitants of which 92% are Faroese. Although neither territory is officially part of the EU, the Faroese Islanders may choose between the Danish or Faroese citizenship while the Greenlanders are all Danish nationals.

Moves towards full independence (induced from Denmark) are gaining momentum: during Greenland's consultative referendum (November 2008), as many as 75.5% voted for an extended autonomous status granting those more powers to control the justice and home affairs as well as subjecting them to international law. Furthermore, Danish subsidies are now linked proportionally to Greenland's revenues, which besides fishing is mainly through the exploitation of natural resources. Agreement was also reached where in the event of Greenland independence all invested monies would be paid back to Denmark through revenues gained by the exploitation of minerals.¹⁷ For the time being, Greenland remains financially dependent on Denmark, and even if clear economic prospects are wide open, Greenland's infrastructure requires a steady capital flow to realise economic opportunities.

Greenland's future depends on its level of economic emancipation and the huge deposits of resources; allegedly under the island's

massive ice sheets and offshore, require further exploration and expensive preparations for viable exploitation. Even (relatively) wealthy Denmark cannot do it alone and several oil and mining companies have already begun to make investments and prepare for massive extraction projects. For instance, Scotland's Cairn Energy, together with Malaysian Petronas, are planning to invest some €310 million for exploring off Greenland's coast. It is estimated that there are oil deposits ranging from 16-47 billion barrels offshore, as well as key minerals (gold, zinc and lead) onshore. Furthermore, substantial investments aim at exploring the seabed and Greenland's continental shelf in order to file a credible claim with the CLCS rule; Denmark's submission is due in 2014.¹⁸

Similar to the other members of the Arctic Five, Denmark is strengthening and renewing its northern military capabilities and its most recent defence plans (2010–2014) call for the formation of a special Arctic (joint) Force to patrol its territorial waters and beyond. As a founding member of NATO, Denmark has steadily and actively contributed to this collective security system and expects that NATO will assist it resolve any territorial challenge in the Arctic.

Norway

Norway, a country of some 385,252 km², of which nearly 40% is situated within the Arctic Circle, and a total of 4.8 million inhabitants, is the smallest country of the Arctic Five with the smallest Arctic share. However, Norway is the most advanced in lodging its claims to the CLCS: by 2006 Norway had filed *all* its Arctic border claims (over 248,000 km²), which if confirmed, would be a territorial gain equal to 2/3 of its present territory, including the areas of the Banana Hole in the Norwegian Sea, the Loop Hole in the Barents Sea as well as the Western Nansen Basin in the Arctic Ocean.¹⁹

In March 2009, the CLCS positively responded to part of Norway's Arctic claims, making Norway the first of the Arctic Five to obtain such recommendations. The government is preparing national legislation to domesticate the CLCS deliberations (promulgating the legally binding text on the renewed/extended border limits through its constituency). However, there are several Arctic areas with overlapping claims and confronting claimants where the final settlement is pending.²⁰

Smallest in Size though Grandest in Expertise

Beyond national pride and geopolitical aspirations, Norway's prime interest in the Arctic is to maintain its current prosperity which is heavily reliant on oil as the oil industry is the main pillar in Norway's economy. However, Norway's current oil fields have reached beyond "peak," and the latest estimates predicting that known sources will be exhausted before 2030. For an oil-driven economy, this is a "red alert" to locate and exploit alternatives. Reconstructing its economic policy to respond to such changes, Norway aspires to: decouple and further diversify (support and stimulate innovations in other economic fields); and divert/expand the oil know-how (off-shore and joint-venture oil exploration in the Arctic waters).²¹

*Melting
Poles*

To demonstrate Norway's assertiveness and capabilities, the government allocates considerable funds to the development of state-of-the-art technologies for an all-season presence. At the same time, Norway is modernising its commercial and military capabilities for off-shore exploitation, deep sea exploration and research of environmental effects, or the patrolling and surveillance of its outmost Arctic limits; to end "pirate fishing" among other intruders.

Norway is also a founding member of NATO,²² and has traditionally occupied a vital controlling and deterring function on the outermost northern flank (similar to Turkey on the southern flank). More importantly, Norway has unrivalled historical experiences and knowledge in polar exploration, which when coupled with specific technological developments hoists Norway to the position of "know-how" leader among the Arctic Five.

Svalbard

The Svalbard Islands (formally Spitsbergen) are situated to the north of the European mainland, far into the Arctic Ocean, about halfway between Norway and the geographic North Pole. The archipelago – of some 61,000 km², are inhabited by 2,200 settlers, of which 55% are Norwegian and 45% Russian – consists of nine main islands and is a formal mandate given to Norway. Svalbard has rather a unique position, which is determined by the Svalbard Treaty, in force since 1925 with the so-called Svalbard Act.

Svalbard has been the object of sporadic interests for several littoral and non-littoral states, but none ever claimed the archipelago prior to the treaty. Only commercial and military advancements (including the discovery of promising coal deposits), coupled with the confrontational course between post-WWI Europe and early Bolshevik Russia brought the need for a comprehensive legal framework regulating the ownership and clarifying the territorial claims.

In the Svalbard Treaty (original name: Treaty concerning the Archipelago of Spitsbergen), signed in Paris (1920), the nine original signatories²³ recognised the formal mandate of Norway, but also agreed that every (*bonae fidei*) nation has equal rights; to inhabit the islands and, to exploit its natural resources (including the right to fish and to hunt under the legislation of Norway).²⁴

As the Svalbard Treaty was not decisive on the full set of territorial rights, there are certain calls to reopen and renegotiate the terms of the Treaty. While the archipelago is strategically important for both Russia and Norway (NATO), any possible territorial extension (maritime zones, continental shelf) via Svalbard is of direct concern for each of the Arctic Five as well since the archipelago promises extensive geoeconomic geopolitical enhancements.

Additional Arctic Parties

In addition to the five littoral circumpolar states, other actors retain both explicit and implicit interests in the region. Even geographically distant countries like China and Japan have expressed interest in Arctic affairs; interests primarily driven by increasing energy demands and alternative transportation routes. Indeed, if an investigation were undertaken to disclose the full spectrum of interested actors, this work would read less like an academic contribution and rather like a lengthy encyclopaedic volume. While such an undertaking is necessary, it is not undertaken here. Instead, while this work recognises actors beyond the Arctic Five – especially the other Arctic Council members (Iceland, Finland and Sweden) which each have real influence over regional dialogues and will be impacted on by any settlement meted out through legal or extra-legal means – research is limited due to spatial constraints.

While this section demonstrated some of the geopolitical and geoeconomic positions of the Arctic Five as they deploy their resources

and utilise their energies in pressing for their claims to be internationally accepted, some indications of the nature of the unfolding competition and potential flash-points were made visible. This work now turns to assessing some of those flash-points and seeks to distinguish the rights of claim and more archaic exploitation.

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WHAT'S AT STAKE?: TERRITORIAL CLAIMS IN THE POLES

Territorial disputes, spiralling into open hostilities, have been responsible for a significant percentage of inter and intrastate hostilities and in the absence of violence, impedes cooperation between states. Conversely, at times, states sharing spaces, or forced to negotiating tables to resolve outstanding territorial issues may find themselves increasing the positive dimensions of their relationship. When such territorial disputes occur in a dyad, associated problems are easier to solve, then situations of multiple actors and therefore multiple interests and areas of contest.

Arctic geopolitics is currently defined by four major areas of overlapping claims and each disputed area contains immense resource deposits and is endowed with some form of geopolitical importance, such as the control of transportation routes. For the most part, the Five agree on demarcation lines. However, control over the remaining areas, including the geographic North Pole, is disputed and agreement not forthcoming.

In Antarctica, claims – dating to pre-system times – are more seldom declared, though claimants have formally agreed to maintain the ATS system and none has attempted to revise the status of the continent. For how long this situation will continue is uncertain and thus it is important to include territorial issues related to Antarctica in this section.

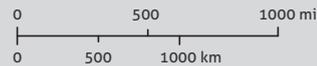
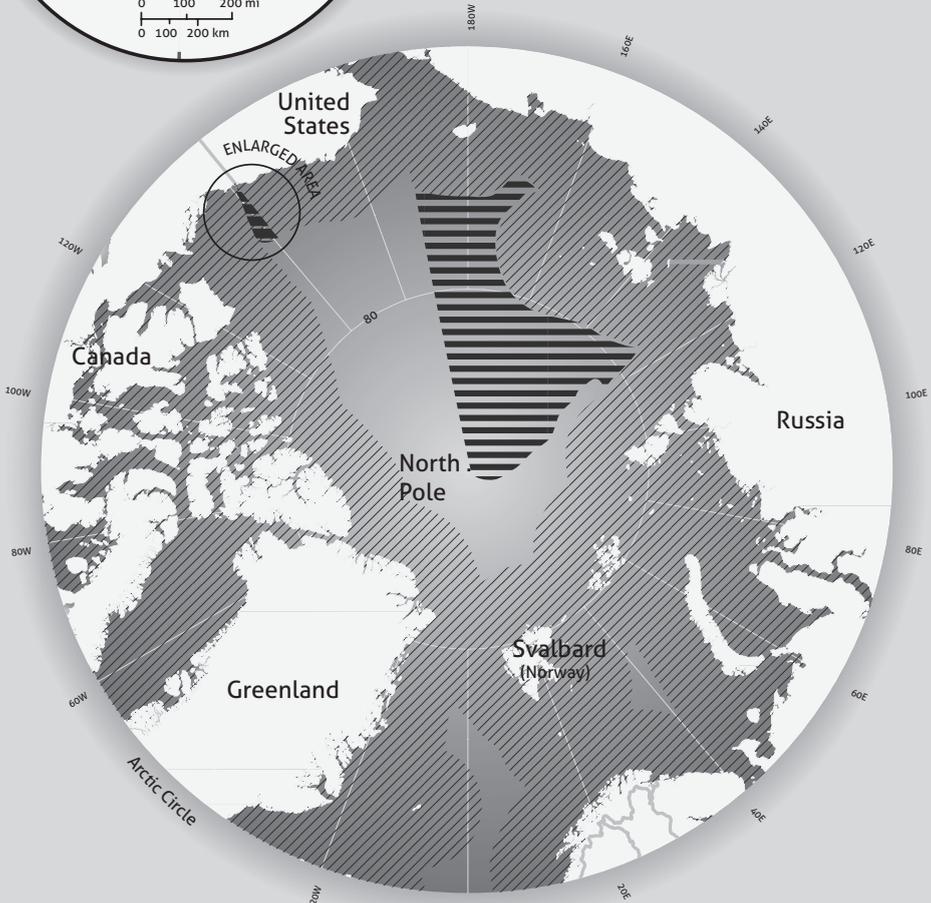
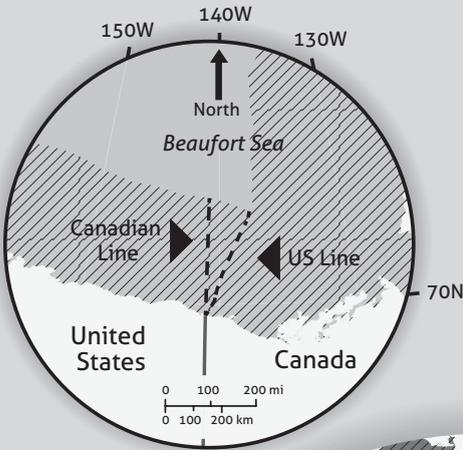
Arctic Claims

The Lomonosov Ridge

The Lomonosov Ridge is an 1,800km long seabed mountain chain stretching from the New Siberian Islands, across the Arctic Ocean and the North Pole, to Ellesmere Island (Canada) and Greenland.

Arctic Boundaries

The Arctic is a contested region. Since it may possess wealth resources bordering states claim their ownership over certain territories. Complicated mixture of international law and politics intervene.



North Pole Azimuthal Equidistant Projection

-  Russian-claimed continental shelf beyond 200 nm territory
-  200 nautical miles territorial sea and exclusive economic zone (EEZ)
-  US and Canadian claims

Three Arctic Five members claim the Ridge (Canada, Denmark and Russia) as an extension of their respective continental shelves. Russia argues that the Ridge is a prolongation of the Eurasian continent, giving them the right to exploit the seabed beyond the 200 nM limit (set as the EEZ). In 2001, Moscow submitted the CLCS a claim on the Ridge. Reacting to Russia's move, Canada and Denmark formally objected and made contradictory claims that the Ridge is an extension of *their* respective continental shelves.²⁵ The CLCS has not yet decided on the claims, but in 2002 gave Russia more time to resubmit a more scientifically researched claim.

Researching claims and presenting accurate scientific information (for all three) poses a challenge since the Ridge is located beneath thick polar ice, on a seabed of extremely rough waters. As mentioned, Canada and Denmark have embarked on a joint programme exploring and mapping the seabed and one its priorities is to collect sufficient geological data to determine which continent extends to the Ridge.

Alternatively, Russia has been patrolling beneath the Arctic ice for decades and there is evidence that Soviet and later Russian submarine fleets made detailed and precise maps of the Pole's seabed including its ridges and seabed peaks. In this case, it seems that Russia retains the more convincing data, though the political nature of the disputes will ultimately attest to this, particularly with regards to the CLCS.

As the map (above) indicates, the party favoured by the CLCS and receives the Lomonosov Ridge and its 150 nM extension of a select continental shelf will gain a "lions share" of the disputed territories and tremendously enhance their geopolitical and geoeconomic position. Although scientists argue that most resource deposits are off the coasts and not near the Pole, evidence is inconclusive and nearly all future transportation routes would traverse the Ridge. If a single state wins ownership of the Ridge it would also assume control of the majority of the Arctic. This, perhaps, maybe the reason why four of the five Arctic states (Canada, Denmark, Norway and the US) would like to see the Ridge co-shared: divided between the three claimant parties.

Mendeleev Ridge

A less impressive (in its range, heights and size), but equally important disputed territory is the Mendeleev Ridge. Located in the

Eastern Siberian Sea area of the Siberian Shelf, the ridge is the central portion of the Ocean. The Mendeleev Ridge is vital for Russian's claim since it would give Moscow direct access to the North Pole. Any success in the claim over the Lomonosov Ridge (as continuation of the Eurasian continent) would first necessitate gaining the Mendeleev Ridge.

Hans Island

Hans Island is an uninhabited islet between Greenland and Canada's far north-east (in the middle of the Kennedy channel on the Nares Strait) and is only, 1.3 km² in size.

The islet forms the centre of an acute territorial dispute between Canada and Denmark. Besides repeatedly claiming it (after an unsuccessful attempt in the 1980s for joint administration), both countries have demonstrated symbolic and actual presence on the islet; from displaying their national flags, to the Canadian Defence Minister visiting the islet in a military escort (2005); a move which Denmark replied to by dispatching an ice-breaker to patrol offshore the island. Two other proximate disputes, in the Lincoln Sea to the north of the Ellesmere Island and Greenland, were resolved through bilateral agreements, however, Hans Island was not subject to this agreement, and remains unresolved.

Canada centres its territorial rights on the so-called "Sector Principle" and Denmark fears that, in case of success, Hans Island could set a precedent on the applicability of this principle elsewhere in the Arctic (in contradiction to the Delimitation Agreement). Denmark's counter claim is based on customary law, based on the argument that the island is a traditional hunting ground of Western Greenland's Inuit people.²⁶

Located in the bottleneck straits of the Kennedy Channel, and controlled by both Canada and Denmark, it is by most accounts an irrelevant territorial gain for either side. Why then is the islet so hotly disputed? Girshovich explains that Hans Island is, morphologically speaking, a surface "tip" of the Lomonosov Ridge; so, the party controlling the islet may claim the Lomonosov Ridge.

The Barents Sea – Loop Hole

For more than 30 years, the main and most disputed area in the Arctic is the Barents Sea. The area in dispute is 176,000 km², and is well beyond the EEZ parameters of the 200 nM of both Norway and Russia.

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(Re)confirmed geological evidence that in the exploitable and (relatively) warm (re: oil-platform friendly) Barents Sea there are considerable deposits of hydrocarbons acts to heighten tensions. Bilateral Russo-Norwegian talks on the partition of this zone began in the 1970s with negligible progress. The only success was a temporary agreement on fishing rights in the Loop Hole (re: the so-called ‘Gray Zone’ Accord 1978, which grants both state exploration rights of the marine biota within the Loop Hole, also within the portions Russian and Norwegian EEZs) limited in extent since it must be renewed annually. Frustrated over the deadlock in bilateral talks, both sides submitted applications to the CLCS. However, it is beyond the Commission’s mandate to decide on the demarcation line, the parties need to find consensus and communicate them to the CLCS.

The original Norwegian proposal was to divide the disputed area by the so-called “Median Line” (to identify the closest points of both countries’ baseline and draw a dividing line exactly in the middle of them, e.g. Svalbard on the Norwegian side and e.g. outmost tip of Novaya Zemlya and France Josef Land’s archipelago on the Russian side).

The Russian proposal was to draw a dividing line at the meridian from the Varanger Fjord to the North Pole.

Russia based its demarcation proposal on the fact that any acceptance of the Norwegian proposal would mean an implicit recognition of full territorial sovereignty of Norway over Svalbard, which is incompatible with the Svalbard Treaty.

Despite previous odds however, it seems that Russo-Norwegian talks are scoring a breakthrough and negotiations are based on the following terms: Russia agrees on Norwegian jurisdiction in the Svalbard fish protection area if Norway accepts dividing the disputed area in the Barents Sea further to the west (accepting the Russia’s demarcation parameters). In these *quid pro quo* negotiations, Norway and Russia allegedly agreed how to divide 80% of the area

and the remaining 20% (with promising Fedinski-structure deposits beneath) is soon to be closed.

The Beaufort Sea

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The Beaufort Sea dispute is equivalent to the Barents Sea dispute though on the American continent (part of the Arctic Ocean, the Sea itself is of nearly a half million km²). The US and Canada dispute some 21,436 km² north of Alaska and the Yukon, which is *probably* rich in hydrocarbons. The northern land demarcation line between Canada and the US was established along the 141st degree of longitude west, which leads Canada to argue that the same demarcation line should be followed at sea. The US disputes this by claiming that the sea border should be established by drawing a line under the 90° angle relative to the coast line (diagonal to the coast line). If the US claim were accepted it would receive a significant wedge-shaped area of the Beaufort Sea.

Both Canada and the US are tempted by rich resource deposits (marine biota and minerals), but also because the dispute must be resolved in direct negotiations since the US, as a non-party to UNCLOS is hindered from the III-party/LOSC, neutral arbitrational platform. An alternative to partition would be, of course, to declare a joint development regime, for fishing and exploitation of hydrocarbons, over the disputed area. A similar, alternative approach has been in place between Iceland and Norway on the sea portion near the Norwegian Island of Jan Mayen. So far, there is no indication of such a regime: Canada justifies its position by expressing environmental concerns, questioning whether the US would enforce suitable living marine environmental protection. The US is indeed very active in oil exploitation in the western Beaufort Sea (including several extensive searches for the oil deposits in the disputed belt itself). Extensive overfishing in the belt resulted in the US's self-declared fishing moratorium in the zone, which Canada repeatedly called for in the entire theatre of the Beaufort Sea.

At any rate, it is not (always) clear whether declaring protected marine zones in certain sections of the Arctic Ocean and the introduction of stricter environmental regulations beyond territorial waters is indeed an expression of environmental concerns or compensation for a lack of exploiting and patrolling capabilities.

Prior to the ATS's entry into force, several polar exploring states had laid claim to particular parts of Antarctica. In the late 19th and early 20th centuries numerous Antarctic expeditions, by several states occurred, with the first stationery research personnel dating back already to the 1930s. This eventually led seven (Argentina, Australia, Chile, France, new Zealand, Norway and the UK), among many exploratory states, to claim particular portions of the continent.

When the Antarctic Treaty entered into force (1959), all territorial claims south of 60°S were suspended as article 4 stipulates that the 'treaty does not recognise, dispute, nor establish territorial sovereignty claims; no new claims shall be asserted while the treaty is in force.' Clearly, the Antarctic Treaty neither denies nor recognises existing territorial claims. However, article 10 underlines that the 'treaty states will discourage activities by any country in the Antarctica that are contrary to the treaty' and the subsequent, article 11 calls for the peaceful settlement of any dispute, ultimately recognising the jurisdiction of the ICJ.

Recognising Antarctica as a demilitarised continent, open to all for research and scientific exploration, the ATS denies the right to lodge any new territorial claims. Despite this, both Russia and the US (as non-claimants) reserved rights to make future territorial claims. Similar to the situation in the Arctic, such amendments to the status quo are largely driven by promising deposits of natural resources and advanced technological capabilities to access explore and exploit those resources. Even though the treaty prevents states from economic activities on land and offshore, beyond the parameter south 60°S, the UK, for example, handed in its extension of the continental shelf claim (east and south of the Falklands). Trying to *relativise* the impact, a Foreign and Commonwealth Office (FCO) spokesman stated (2007) that 'it would be a claim in name only; we wouldn't act because doing any mineral exploitation contravenes the treaty.' It is worth mentioning that the tiny archipelago (the Falklands, the South Georgia and the Sandwich Islands) which is the UK's entrance to Antarctica, witnessed a brief armed conflict between the UK and Argentina in 1982.

The moratorium on mining (and other extensive economic activities) in the Antarctica will be reviewed in 2048, as the Madrid

Protocol (in force since 1998) prohibits the exploitation of natural resources for 50 years. However, some 30 years before the expiration of the legal regime, interested (and capable) parties are quietly positioning themselves for a future land and resources grab.

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Tangible resources only account for part of the growing interest, and rising tensions, in the Arctic and Antarctic regions however. Another significant draw of geopolitical and geoeconomic gravity is based on the new shipping lanes likely to be open (re: ice-free, at least part of the year) as a result of rapid climate change. This work now turns to briefly presented the looming Arctic competition over control of the sea lanes, also known as the Sea Lines of Communications (SLOC).

Arctic Shipping Routes

With rapidly melting ice, prospects of shortened SLOCs in the Arctic region have become an unfolding reality. There are three possible SLOCs, the:

- **Northwest Passage** – connecting North America to East Asia;
- **Northern Sea Route** – reducing transport time between Europe and Asia along Russia's Arctic coastline;
- **Arctic Bridge** – connecting Canada and Russia.

There is great potential for trade with shorter distances made possible through the new SLOC between the continents. At present, amidst the Arctic thaw, such alternative routes continue to be risky and thus sea-faring traffic prefer to utilise existing transport routes which traverse the Suez and Panama Canals. However, the use of the Arctic Bridge has gained momentum and is used during summer months for shipping between Murmansk (Russia) to Churchill (Canada).²⁷ With this in mind, it is essential to look at these three routes with more detail, to better understand what is truly at stake in the Arctic competition.

The Northwest Passage

The Northwest Passage is an Atlantic-Pacific corridor navigating through Arctic waters from the Davis Straits and Baffin Bay all the way to the Bering Sea. This SLOC shortens the distance between East Asia and the East coast of North America (travel which

typically passed through the Panama Canal) by some 7,000 kilometres, allowing for greater, more efficient movements of goods and services at a reduced cost and consumption of hydrocarbons. Summer 2007 was the first season, in modern times, that the Northwest Passage was completely ice-free and the latest information suggests that the route will be accessible for non-ice-breaker cargo ships by summer 2013. Such a development will have wide implications (both negative and positive), not least in defining a peculiar North American relationship: between the US and Canada. In this case, while Canada claims the Davis Straits and Baffin Bay as its territorial waters, the US considers them high seas or, at least, an international corridor; an argument supported by the EU.

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In 1985 Canada (re-)defined its internal waters through an act of domestic legislation which included substantive paragraphs on the status (claim) of the Northwest Passage.²⁸ When Canada acceded to UNCLOS (1993), agreement with the US was reached where Canada would be notified prior to any US shipping through the Northwest Passage. However, this limitation (the right of prior consent) is hardly enforceable since Canada has no sufficient Arctic patrolling capabilities. Still, Canada verbally defends its position by expressing environmental concerns of foreign vessels. Yet, despite Canada's provocation, the straits continue to be recognised as international waters by the international community (save Canada) implying that there are no restrictions on rights of usage under any conditions, as long as international law is considered; a solution unfavourable to Canada.

The Northern Sea Route

This route – aka: the North East Passage – connects the Atlantic coast of Western and Northern Europe with the Pacific coast of Northeast Asia via the Russian Arctic coastline. Traversing this route, distances between Europe and Asia could be shortened by as much as 40% compared to transport routes which depend on the Suez and Panama Canals. Soviet Russia (following the Tsarist model) forcefully settled its polar regions which necessitated advanced critical infrastructure and the impressive array of urban centres, and harbours along the Arctic coastline has been in place since the end of WWII though until 1987, the Northern Sea route was forbidden for all foreign flagged (non-Soviet) vessels, as this acted as the

NORTHWEST PASSAGE

Approximate Distances of Shipping Routes

Northwest Passage
8.500 mi/13.600 km

Panama Canal route
15.000 mi/24.100 km



The Route

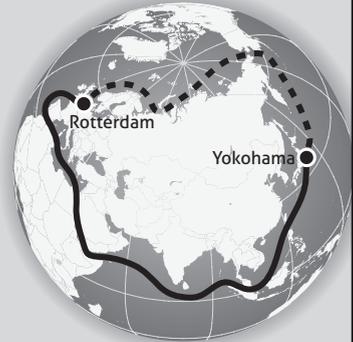
Comparison of the current trade routes versus Arctic routes.

NORTHERN SEA ROUTE

Approximate Distances of Shipping Routes

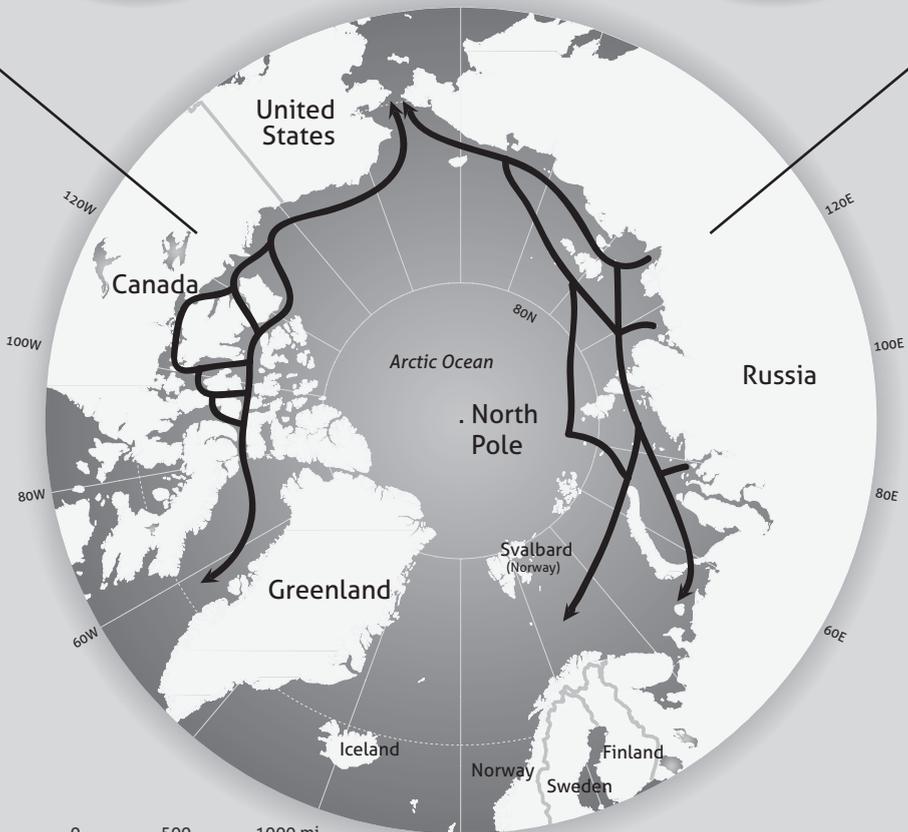
Northern Sea Route
8.000 mi/12.800 km

Suez Canal route
13.000 mi/20.900 km



— — — —
Arctic route

—————
Current route



0 500 1000 mi
0 500 1000 km

Azimuthal Equidistant Projection

Source: ESRI, United Nations
Maps: David Erkomaishvili
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only life-line which connected the Soviet Baltic and Pacific fleets. At present, the passage is mostly utilised for intra-Russian trade and military manoeuvres since the waters are regarded as very dangerous – some segments of the passage are too shallow for heavy container ships – and unpredictable. The passage is internationally accessible only after the submission of tax for Russian ice breaker guidance.

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Russia is set to invest billions of Rubles into the port of Murmansk with the aim of doubling its capacity by 2015 and to further develop and modernise its Arctic coastline. Since deglaciation is occurring and the unhindered passage is transforming into a reality, Russia wants to stay atop the competition and provide solutions to EU, Japanese and US transportation needs.

Arctic Bridge

The Arctic Bridge is a seasonal route which shortens the connection between North America and Europe continent via the Arctic Ocean. The Bridge concept was offered to Russia by Canada in the 1990s, but regular shipping began only in 2004. Currently, for roughly four summer months, it is used for shipping grain and fertilizers from Canada to Europe (via Canada's principal northern port, Churchill to Russia's port of Murmansk; both have rail-links with the rest of their respective continents). Russia is keen on further developing the concept of the Arctic bridge, and is already positioning Murmansk as a transit hub for future inter-continental shipping between North America, Northwest Europe and Pacific Asia.

CONCLUDING REMARKS

As noted, the Arctic and Antarctica are global climate stabilisers, retaining rich marine biota, hydrocarbons, minerals and tremendous fresh water reserves and thus have the potential to act as sources for ending resource scarcity around the world. However, instead of utilising the continents' vast resources for absolute gains intended for the entire international community, those responsible for "resource management" continue their quest for more narrowly defined self-interests and have used the lack of clear demarcation lines for

increasing their national military and economic presence in a bid to secure *their share* of polar resources. However, scholars must avoid the error of classifying both poles according to the same or even similar logic, and instead analyse each pole as a separate entity with different legal regimes, potential challenges and solutions. For instance, in Antarctica the ATS is in place, providing a comprehensive security, economic and environmental arrangement to protect the unique environment by restricting the pursuit of national interests (including military activities), focusing instead on preserving rights of scientific exploration of the region by all interested parties. Pre-ATS territorial claims were not settled but rather frozen, and parties to the Treaty have explicitly committed themselves to refrain from commercial activities and resource exploitation which has resulted in a stabilisation process where competition and conflict are greatly reduced and the prospect for their recommencement remote. Alternatively, the Arctic is not subject to any specific legal provisions, with the minor exception of Svalbard. The Five littoral, circumpolar states began (through UNCLOS's CLCS) to articulate territorial claims in the Arctic. Due to such inter-regional discrepancy, it is important to conclude this work with a brief recapitulation of the main Arctic protagonists and their claims since conflict is more likely in the north rather than the southern pole.

Although **the US** portrays itself as a "fish of high seas," it is primarily a "fish" of warm seas. The US suffers from territorial discontinuity with Alaska separated from mainland US by thousands of kilometres, though this has not prevented the US from emerging as an active Arctic state, pursuing its self-interests and engaging in balancing and counter-balancing strategies, especially against Russia. US presence in Antarctica is less substantive and more symbolic for prestige, though to, more practically, observe the activities of others. Finally, by not ratifying UNCLOS, the US cannot lodge official claims and cannot assist in deciding on the claims of others.

Canada is neither a typical polar state nor a considerable naval power. Its Arctic border has proven more of a burden than an advantage for Ottawa. Canada retains huge territories, though is sparsely populated with the majority of its 32 million (est) inhabitants inhabit a thin southern corridor along the US border. Most of the rest of the country is exposed, unexplored and literally empty. Long green and blue borders, as well as the lack of substantive

Arctic expertise, will keep the US close to Canada for security and geoeconomic reasons.

Russia is very well positioned with the longest Arctic coastline of the Five and a historic Arctic presence, which produced invaluable know-how. Since the times of Peter the Great, the Arctic has consistently featured high on the priority list of Russia's geopolitical imperatives. This is coupled with its geoeconomic drive; recently reinvigorated with Putin and Medvedev looking to enhance the exploitation of hydrocarbons for sales to the EU. Russia's "vocal" Arctic policy signals that it will not likely further retreat from global politics and economy – as it had steadily been doing since the end of the Cold War – and will seek to enhance its power projection as through direct control of energy sources and their transportation.

Norway, although a relatively "small state," has successfully navigated the Arctic political scene by carving out a niche for dealing with a multitude of shared challenges deploying its impressive knowledge and advanced technologies to better utilise the region's resource wealth. Yet, Norway has chosen to pursue more independent policies than many of its neighbours resulting in its geographic proximity increasing its vulnerabilities as well as its security since it is wedged between the EU and Russia, and is a key part of the Northern Flank of NATO; part of the GIN Gap (Greenland-Iceland-Norway).

Greenland directly connects the EU to the Arctic. The world's largest island will be confronted with acute environmental, economic and political challenges in the upcoming decades. Greenland's road-map is rooted in a gradual but decisively independence-oriented goal; this is less organic and more Danish inspired. However, at present Greenland is highly dependent on Danish subsidies, including in international diplomacy and because of Denmark that NATO's Arctic base is in Greenland, an important ingredient in the deterrence needed for Greenland to maintain its territorial integrity and avoid outside interference.

It seems unlikely that the Arctic Five will agree on constructing a legal system, comparable to the ATS, to govern the Arctic. Through the Ilulissat Declaration, the littoral states have unanimously reaffirmed UNCLOS as the *only* applicable framework for Arctic territorial matters. This declaration demonstrates their dismissive stance towards the larger international community, assertiveness in the

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Arctic and reconciliation among them. The sporadic calls made by members of the Five to invite different non-governmental actors into the Arctic melee (re: NATO, the EU, the Arctic Council, the Nordic Battle Group, etc.) or particular states (re: China or Japan) are tactically determined to deter others within the Five rather than actual calls for intervention. The Arctic Five will continue to keep external actors away from substantive participation in polar matters. However, this is no guarantee for smooth relations between the Five: the Arctic was the most militarised region in the world during the Cold War and continues to hold vast military arsenals. This may be nicely contrasted against Antarctica which was, and still is, the *only* demilitarised continent on the planet.

In Antarctica, a sudden change to the current legal regime is equally unlikely. However, in 2048 the ATS needs to be renegotiated and the signatories will decide whether or not to extend the treaty. Additionally, Antarctica is a great distance from the centres of existing and emerging international political power: the US, the EU, Russia, China, India and Japan; all situated in the northern hemisphere.

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NOTES TO PAGES 17-52

- 1 The ATS International Regime is comprised of a cluster of related conventions and treaties, signed by 46 treaty members, 28 consultative and 18 acceding states. The ATS defines Antarctica ‘as all land and ice shelves south of 60°S latitude.’
- 2 The “Arctic Eight” is comprised of: Canada, Denmark, Finland, Iceland, Norway, Russia, Sweden, and the US.
- 3 In May 2008, Danish Minister of Foreign Affairs (Per Stig Møller) and (then) Premier of Greenland (Hans Enoksen) invited representatives of the Arctic Five to Ilulissat, Greenland. The outcome, the so-called Ilulissat Declaration rejects interference of external parties including Finland, Iceland and Sweden (members of the Arctic Council), and representatives of indigenous

peoples, except as observers. For the full text of the Ilulissat Declaration see: *The Ilulissat Declaration* at: <<http://arctic-council.org/filarchive/Ilulissat-declaration.pdf>> (accessed 11 November 2010).

- 4 This is done by drawing baselines along coastal lines either by following the low water mark or by following the general direction of the land-coast.
- 5 A pressing geopolitical handicap facing Russia is the impossibility to connect its 5 fleets: the Baltic, Northern, Pacific, Black Sea and Caspian and since Peter the Great, Russia pressed west and south to connect its fleets through a 'warm-seas' policy. Rather unexpectedly, the opportunity to connect these fleets is now possible due to the rapidly melting north.
- 6 Including symbolic acts such as replacing the brown with a polar bear on the flag of the most influential political party: *United Russia* (2005) and displaying the Russian flag on the (geographic) North Pole from the Lomonosov Ridge (2007).
- 7 Joining the other European powers, in the 17th century Russia crossed the Pacific, penetrated the far north of the American continent and parts of California, thus becoming a colonial power in North America. Huge overseas territories were organised in Russian-America from the early 18th century until the Alaska Purchase (1867), when the US bought nearly 1 million km² for \$7.2 million (USD).
- 8 The US is a prime importer and consumer of hydrocarbons and other natural resources and should therefore expectedly take a more proactive stance towards the region which holds as much as 20% of the global level of unexploited resources.
- 9 Harry S. Truman, 'Presidential Proclamation, No. 2667,' 28 September 1945. The full-text of this declaration is available at: <www.presidency.ucsb.edu/ws/index.php?pid=12332#axzz1ILY8kfxV> (accessed 11 December 2010).
- 10 For instance, those situated in the Gulf of Alaska, the western end of the Aleutian Islands, the Northern Mariana Islands, Hawaii's Necker Island, Johnston Atoll, Kingman Reef and the Palmyra Atoll.
- 11 Christoph Seidler (2009), *Arktisches Monopoly*, München: Deutsche Verlags-Anstalt. pp. 166-175.

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- 12 Formally, Canada is a UK Dominion; part of the House of Windsor's personal union.
- 13 Louise Angelique de La Fayette (2008), 'Oceans Governance in the Arctic,' *The International Journal of Marine and Coastal Law* 23:3, p. 544.
- 14 Travis Potts and Clive Schofield (2008), 'Current Legal Developments,' *The International Journal of Marine and Coastal Law*, 23, p. 160.
- 15 The Faroe Islands gained autonomy in 1948 and Greenland in 1979.
- 16 EU law does not always apply to the entire territory of each member and several members maintain overseas possessions. Many of these special territories abstain from participation in some or all EU policies. Some, like the Faroe Islands, do not have an official relationship to the EU, others (re: Greenland, 1982), have withdrawn, while others still participate in some or all EU policies in conformity with the EU treaties.
- 17 Ministry of Foreign Affairs, the Kingdom of Denmark (2009), *Greenland Referendum*, available at: <<http://www.amblissabon.um.dk/en/menu/InfoDenmark/GreenlandAndTheFaroelands/Referendum/>> (accessed 27 April 2010).
- 18 Denmark attempts to demonstrate that Greenland's continental socket is attached to the Lomonosov Ridge, which would imply vast territorial gains. To support the claim, Denmark initiated several exploratory expeditions to the region (some with Canada and the US). Russia has overlapping claims and argues that the Ridge is a continuation of the continental shelf of the Eurasian plate.
- 19 Seidler (2009), pp. 199-213.
- 20 Brian Van Pay (2009), 'National Maritime Claims in the Arctic,' *Conference on Changes in the Arctic Environment and the Law of the Sea*, Seward, Alaska 20-22 May 2009.
- 21 By the end of 2006, the two largest Norwegian oil companies, Statoil and the Norsk Hydro oil branch (65% state-owned) merged as to improve their international competitiveness including the development of more efficient technologies for harsh Arctic conditions. This merger was a government-supported preemptive move against potential foreign takeover; to increase its leverage when facing Russia's Gazprom.

- 22 Norway is often considered the 28th member of the EU. In the early 1990s Norway, Sweden, Finland and Austria successfully negotiated accession to the EU, though Norway ultimately refused membership following a negative referendum. However, EU-Norwegian cooperation is extensive; the Kingdom is party to the EU Schengen acquis, through the EU EEA Agreement it links its EFTA grouping, and is actively contributing to the EU Security and Defence policy/ESDP (re: EU Nordic battle group).
- 23 These are: Denmark, France, Italy, Japan, the Netherlands, Norway, Sweden, UK and the US. A total of 39 states have signed the treaty.
- 24 Nordischer Ministerrat (2008), *Common Concern for the Arctic, Ilulissat/Greenland*.
- 25 In his 2009 statement, Jorn Skov Nielsen, Minister to Greenland's government, said that it is 'possible that the Lomonosov Ridge is attached to all three [countries]. If so, then one plausible solution is to divide the Ridge between the three claimants.
- 26 Michael Byers (2009), 'Breaking the Ice,' *The Ottawa Citizen*, 27 October 2009.
- 27 John Cooper (2008), 'Canada Navigating Challenging Waters in Exploring New Arctic Opportunities, *CMA Management*, pp. 53-54.
- 28 The Arctic Water Pollution Act states that the Canadian authorities have the right to interdict ships within the 100 nm parameter off Canada's coast line if they do not comply with strict environmental protection standards.

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