



State of an international agreement governing the Arctic

The Polar Conservation Organisation

Report on the Future of an International Agreement for the Arctic

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1 Executive Summary

The existing legal framework for governing the Arctic region consists of independently functioning elements and is largely non-binding. The framework includes multilateral agreements, councils, and organisations. The fragmented nature of this framework results in a landscape in which Arctic States act independently, with agreements designed primarily to preserve sovereignty. The long-term future of the Arctic environment and its residents is uncertain in the wake of rapidly occurring impacts of climate change. Issues at the forefront include preservation of the environment and marine life and sustainable exploitation of resources.

The non-profit Polar Conservation Organisation (PCO) has a central mission to ensure a sustainable future for both Polar Regions through the establishment of suitable international agreements.

This report aims to provide a summary of the status and issues surrounding an international agreement and in doing so promote and encourage dialogue about the future of governance in the Arctic and potential for a new framework agreement.



2 The Existing Framework

In literature on Arctic governance, one of the most often cited and significant pieces of international legislation is the United Nations Convention on Law of the Seas (UNCLOS).¹ According to the UNCLOS historical perspective, the benefit of the Convention's defined exclusive economic zones (EEZs) is that coastal states have the necessary "economic jurisdiction" over what encompasses roughly 99% of the world's fisheries and a large percentage of areas of oil and gas production, which together presumably reduces the potential for disputes. The Convention furthermore encourages fishing without overfishing and access for neighboring or land-locked states. With regard to the continental shelf, the EEZs are the limit for "seabed and subsoil exploitation." But the UN's own "Historical Background" also concedes that "it is a club that one must join in order to fully share in the benefits" as it "creates rights only for those who become parties to it and thereby accept its obligation," (United Nations). Therefore mechanisms for settlement of disputes incorporated in the Convention are only obligatory in so far as states accept the Protocol. And with regard to the Arctic, EEZs are defined only across the oceans without many specifics. Most explicit to the Arctic would be Article 234 on the right of coastal states "to adopt and enforce non-discriminatory laws and regulations" to prevent marine pollution in ice-covered areas (United Nations). Koivurova and Molenaar report 157 abiding parties to UNCLOS along with 135 and 72 respectively to the related Part XI Deep-Sea Mining Agreement and Fish Stock Agreements (14). And while the European Community and Arctic States are among the parties, major world power the United States is noticeably missing.

Rivaling the Convention in hierarchy of potential governance is the Arctic Council, widely respected as the authority on the Arctic and made up of stakeholders with varying degrees of participation. The Arctic Environmental Protection Strategy of 1991 originally established AMAP, the Arctic Monitoring and Assessment Programme, now a working group of the Arctic Council. Then the Arctic Council was created in 1996 through the Ottawa Declaration for cooperation among the eight Arctic states: Canada, Denmark, Finland, Iceland, Norway, the Russian Federation, Sweden and the United States. In addition, six organisations of Indigenous Peoples are named as Permanent Participants: the Aleut International Association, the Arctic Athabaskan Council, the Gwich'in Council International, the Inuit Circumpolar Council, the Saami Council, and the Russian Arctic Indigenous Peoples of the North. The Arctic has a population of roughly four million representing 30 indigenous groups (Dhanapala 1). Monitoring and assessment is perhaps the most widely known function of the Council, though a number of other working groups address issues of pollutants, conservation, emergency response, and

¹The United Nations adopted the Convention on Law of the Seas in 1982 after a nine-year conference in which 160 nations bargained for an international agreement to regulate the oceans, seas, and their resources ("United Nations").



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sustainable development (Arctic Council). A number of other organisations and non-Arctic states have observer status. The established hierarchy and organisation of the Council makes it a commonly cited as an institution worth maintaining and strengthening. At present the Council's reputation is that of avoiding contentious issues, but an effective instrument of cooperation and particularly inclusive of indigenous peoples (Rothwell 8).

In the area of shipping, Arctic states turn to the United Nation's International Maritime Organization (IMO) and its Arctic Shipping Guidelines. As with UNCLOS, critics also question the enforcement and efficacy of IMO. For Koivurova and Molenaar, problems with the IMO begin with the differing definitions of the scope of the Arctic and the Arctic Ocean (12). Currently IMO has 168 Members, this time including the United States, and three Associate Members. The guidelines provided by IMO for shipping in the Arctic are intended to take into special account the ice-covered nature of Arctic waters and the safety of navigating such conditions ("About IMO").

Other avenues for cooperation with regard to the Arctic include the Nordic Council, the Barents-Euro Arctic Council (BEAC), and OSPAR. The Nordic Council brings together the Nordic states (Denmark, Finland, Iceland, Norway and Sweden), in cooperation in the Arctic, with areas of concern over all the general issues affecting the region, and with a particular slant toward sustainable development—cultural, social, and economic and to support indigenous populations. According to the Nordic Council Web site, cooperation takes place at the parliamentary and governmental levels ("Nordic Co-operation"). BEAC on the other hand focuses more specifically on the Barents Region with the specific objective of sustainable development and long-term political stability. Members include the Arctic states of the Barents region (all excluding the United States and Canada) as well as the European Commission, and the Working Group of Indigenous Peoples serves in an advisory role ("Cooperation"). OSPAR is the Convention by which 15 states provide coordinated protection of the marine environment of the North-East Atlantic region ("OSPAR"). Arctic Waters make up one of the five regions within the North-East Atlantic designated by OSPAR. Still other conventions exist with regard to fisheries.

2.1 *The Issues*

A sense of urgency to address the issues facing the Arctic stems largely from alarm over the impacts of climate change on the Arctic environment. Shrinking ice means increased access for both Arctic and non-Arctic states through opening of shipping lanes to the region for exploitation of natural resources, including areas already in dispute such as the Northwest Passage. Increasing energy prices make the Arctic attractive for its vast hydrocarbon reserves (Gunitskiy 261). This present and inevitable future increase in activity brings attention to gaps in international law and major concern on the part of international organisations pushing for marine environment protection or a nuclear-free region. These issues call into question the strength of international law in the wake of claims to the continental shelf and disputes over maritime borders (Koivurova 15). Recent international press have sensationalized the potential for conflict and speculated about fierce competition among states in the near future (Young 73). But the general consensus is that such times call for an assessment of existing governance.



2.2 Problems with the framework

The Arctic Council is also widely regarded as soft law when it comes to governance. While most writers on the subject are in favor of strengthening the Arctic Council as an existing, working institution, the Council does not provide a mechanism for dispute resolution (Dhanapala 3). While the Council provides mechanisms for cooperation, it cannot ensure sustainable development without legally binding authority (Koivurova 14). Reinforcing its reputation for soft law, the Arctic Council has adopted the IMO's non-binding Polar Code, which includes the Guidelines for Ships Operating in Arctic Ice-Covered Water (Koivurova 19). On the other hand, an argument in favor of soft law is that it provides flexibility, the potential for additional content, and is easier to adjust in areas of contention (Young 76). Another advantage to the institution is the unique role in the Council of indigenous peoples as permanent participants; for indigenous groups, this should be a central aspect of any international agreement. It increases the likelihood of cooperation on the part of residents of the region, for whom issues facing the Arctic are most pertinent (Inuit).

One of the primary critiques of the existing legal framework is that of gaps in UNCLOS. Rayfuse concludes that Article 234 of the Convention does not require Arctic coastal states to conform to international rules and standards with the exceptions of freedom of navigation or the EEZs (2008). Furthermore, the disappearance of sea ice could challenge the language of Article 234, which refers to ice-covered areas. At the core of Rayfuse's critique of UNCLOS is its "decentralized and sectoral nature," resulting in a lack of coordination (2008). The areas lacking include a regime for conservation and sustainable use of marine biodiversity and a regime for assessing long-term human impact. The Arctic Council has what some actors believe to be a reliable means for assessment—AMAP. But within AMAP, each country has its own National Implementation Plan for AMAP activities, which illustrates a further measure of decentralization.

If international agreement is the objective, there is an argument to be made for concentrating on the existing regime instead of moving toward a new one. While this may be more complex in nature, the existing framework, already largely accepted by the international community, could be considered more politically viable (Young 74). For scholars like Oran Young, the scenario speculated recently by the press, in which states act aggressively to maximize their interests of jurisdictional claims and resource exploitation, is far-fetched at best (73-74). Instead the likelihood is that the United States will ratify UNCLOS; and Russia—despite flag planting in the North Pole seabed—has not confirmed speculation on plans for additional territorial claims. When it comes to fisheries, existing conventions have utility such as the Northeast Atlantic Fisheries Commission, the Convention on the Conservation and Management of Pollock Resources or the regional fisheries management organisations (RFMOs) (75). Regimes for fisheries and the marine environment also exist within UNCLOS in limited areas beyond the EEZs (Rayfuse). Though for others, the alarming loophole is the fact that no fisheries management organisation exists that encompasses the region as a whole, leaving the region vulnerable to overfishing (Saksina 31). Likewise, the Ilulissat Declaration is critiqued for not addressing access to high seas



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fisheries and protection of the marine environment (Rayfuse). Proponents for the existing framework face the challenge of making a case that the gaps are minimal or non-existent that would cause irreparable harm to the region's environment.

2.3 Security

A potential regime for comparison with proposals on the Arctic would be the Antarctic Treaty System (ATS). Many members of the public and institutions see similarities with ATS as a model for an international agreement (Koivurova 17). But the biggest difference to keep in mind is that the Arctic is subject to claims of sovereignty, whereas ATS does not recognize any territorial claims. The polar regions are similar, however, as places of considerable scientific research and environmental challenges. The appeal of ATS lies in its peaceful nature, a nuclear-free zone without the option for claims of sovereignty. And security is increasingly of concern for Arctic stakeholders.

Both the Arctic Council and the Ilulissat Declaration are criticized for not addressing issues of military activity and security in the Arctic region (Rayfuse, Koivurova 14). While the Arctic coastal states may have declared their commitment to peaceful settlements there is no recourse in the event of militarization (Rayfuse). Dhanapala, as former UN Under-Secretary-General for Disarmament Affairs, makes a compelling case that an international regime providing more direct terms of mediation is essential when nuclear states have competing claims. Though the Cold War ended, the Arctic is still a potential source of rivalry and military activity on the part of Russia and the United States, both of whom ensured that the formation of the Arctic Council did not impinge on military affairs (Dhanapala 2). According to Dhanapala, Arctic coastal states have "attached a strategic importance to the region," including, for example, increased Canadian military presence and Danish territorial claims (3). Dhanapala also points to a resurgence of patrolling and submarine activity (6).

There is growing support for an Arctic Nuclear Weapon-free zone initiated originally by indigenous Peoples and supported by a Canadian initiative. One possible method for implementing a nuclear-free zone would be with two tiers, the first being the eight Arctic states and other states with interests in the next (Dhanapala 7). An international agreement in this arena could be a source for unification and increased multilateralism. But it is exactly this rivalry that is cited by proponents for maintaining the existing framework. That both the United States and Russia have resisted conferring decision-making authority on the Arctic Council implies there is little cause to believe that they will respond to a new international agreement or regime (Young 76). The assumption here is that the states in question have enough motivation to find their own practical solutions to issues of jurisdiction.



3 Advocacy and the World Wildlife Fund

Advocates for protection of the fragile marine environment make up a large part of the constituency calling for a new agreement governing the Arctic and the World Wildlife Fund (WWF) is a major voice in this trend. As an organisation dedicated to the conservation of nature, WWF critique of the existing framework is ultimately in the interest of marine life protection and long-term preservation of the region. The positions of the Arctic Programme of WWF merit specific review because their representatives have published extensively on the need for an international regime governing the Arctic. A 2009 WWF report on governance and regulation identifies several significant gaps in the current framework. The weaknesses fall under the headings of the Arctic Council, UNCLOS, sectoral and cross-sectoral issues (Koivurova and Molenaar 6-7).

The 2009 WWF publication, *The Circle*, attempts to outline the different beneficial angles of the perspective on a future treaty. WWF consistently advocates from the perspective of protection of marine life and environments. Tatiana Saksina argues that the current, sector-based regulation fails to adequately protect the marine environment, further complicated by the lack of legally binding authority on the part of the Arctic Council (30). A multilateral agreement could remedy the gap. UNCLOS protections are likewise minimal, only encouraging states to agree on rules and cooperation.

On the issue of sovereignty, Rothwell argues that UNCLOS is a way to solve some maritime boundary disputes, but has not always been successful, as cited in the case of the Beaufort Sea dispute between the United States and Canada. As claims increase in the interest of resource exploitation and carving up the Arctic seabed, UNCLOS does not provide for how this space can be divided (6). Rothwell also points out that the Arctic Council avoids these contentious issues (8). In this position, a formal treaty would serve as a means for dispute resolution and resource management with clauses for environmental and marine life protection and sustainable development (8). Berkman, on the topic of the North Pole, relates an issue cited by just about every opinion, that the UNCLOS mechanism has not yet been ratified by the United States, though they are expected to do so in the near future (16). On the one hand this weakness in the existing regime calls for greater cooperation, possibly in the form of a treaty. On the other hand, it calls into question the potential for successful negotiation.

Though WWF's communication on Arctic governance attempts to provide supporting and opposing angles, the overall case remains clear. On the issue of community-based monitoring, Michael Bravo points out that an Arctic Treaty presents challenges uniting a diverse group of stakeholders in a geographically peripheral region. But community-based monitoring can help meet the demand and would be easier to implement than the new legal regime (13). Bravo provides a historical foundation for community-based monitoring but does not direct the audience to modern-day examples for implementation. Olav Schram Stokke provides the argument against a new regime, namely because of the existing institutions others have deemed too weak—the Arctic Council and the UNCLOS. While one position is that a new regime would be more cost-effective, Stokke argues that because of asymmetrical costs and benefits, regulation is better off at the sub-regional



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levels (10). Among existing institutions, UNCLOS sets standards in maritime transport and requires the approval of a “competent international organization” in the form of the International Maritime Organization (10). But Stokke also readily admits that the current framework emphasizes monitoring and fact-finding and bears little political teeth. The primary challenge then, in WWF’s stance, is that consensus will be difficult to achieve in the wake of competing interests.

4 Arctic States and Indigenous Peoples

In May of 2008, five of the Arctic states—Canada, Denmark, Norway, Russia and the United States—signed the Ilulissat Declaration, reinforcing their commitment to the existing legal framework concerning the Arctic Ocean. Also very directly, “We therefore see no need to develop a new comprehensive international legal regime...” (“Ilulissat”). The statements of a number of foreign ministers of Arctic states echo these sentiments as demonstrated in the following examples. Indigenous peoples, who are residents of the region and most directly impacted by any changes, emphasize that their participation in governance is essential regardless of the form it takes.

Canada as a signatory of the Ilulissat Declaration confirms its position against the need for a new treaty. Overall, Canada approves of multilateral solutions, but is slow to come to agreements. Of several major issues with regard to the Arctic region, shipping is Canada’s primary concern and it remains in dispute with the United States over jurisdiction of the Northwest Passage—whose access is steadily increasing as the ice melts under global warming. At the end of the day, Canada also has to answer to public opinion and therefore remains “tempered” on the issue (Huebert 22). The hesitation on the part of Arctic states to form new agreements at once illustrates the challenge and the urgency on reaching an agreement as national interests become more entrenched.

Canadian Foreign Minister Lawrence Cannon addressed the Arctic Council directly alongside U.S. Secretary of State Hillary Clinton in June 2009. Cannon expressed enthusiasm for Clinton’s hosting of the Antarctic Treaty-Arctic Council Joint Meeting in Washington earlier in April 2009. For Cannon, “there are no obstacles” to managing the Northern border (“Secretary of State”). Cannon and Clinton agreed that, as Arctic countries, Canada and the United States abide first and foremost by UNCLOS.

Secretary Clinton’s sentiments were in close alliance with Cannon. Clinton stated that the United States and Canada want to work closely with the Arctic Council to foresee and resolve any issues, though she acknowledges that questions over jurisdiction still exist. Clinton further acknowledged the major challenges facing the Arctic including “greater maritime passageways,” “exploration for natural resources” and “security issues,” and the need to address them before states without Arctic coastlines begin making claims (“Secretary of State”). At the April 2009 joint meeting, Secretary Clinton stated very clearly that the Administration is committed to ratifying UNCLOS,



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which will give actors “clarity [they] need to work together smoothly” (Clinton). This puts to rest speculation over the United States’ commitment to UNCLOS, but no timeline was given for completing the process. Comments by both the United States and Canada are in favor of building on the strength of the existing framework.

At a conference on the future of the Barents Region, Finnish Prime Minister Matti Vanhanen echoed the general position of Arctic states. Finland, as affirmed by the Prime Minister, does not consider it necessary to create a treaty, citing UNCLOS and IMO as sufficient legal framework to be improved under recommendations of bodies like the Arctic Council.² His speech also emphasized the importance of indigenous peoples’ participation.

Iceland’s position is somewhat less clear geographically. Iceland has coastline on the Arctic Ocean, but the government’s official line is that the five signatories of the Ilulissat Declaration are the five official coastal Arctic states (Denmark, Norway, Canada, the United States and Russia). According to the Ministry for Foreign Affairs’ website, Iceland derives its right to the continental shelf from its membership in the Treaty of Spitsbergen (the area now known as Svalbard). That being said, Iceland also declares full support for the Convention on Law of the Seas as “one of the greatest achievements in the history of the United Nations” (Iceland Min. “Ocean and the Law”). And in indirect reference to a new international regime, relevant states should make every effort to “utilize existing instruments to the fullest before other options” (Iceland Min. “Ocean and the Law”).

Denmark’s Foreign Minister is on record with the Arctic Council, and as current Chair representing the Kingdom of Denmark, as stating that there is “great need for international cooperation and governance,” though not for a new treaty (Hansen). In the wake of the signing of the Ilulissat Declaration, the Minister also does not see a risk of armed conflict in the region. The Russian Foreign Minister is also on record with regard to the Arctic Council stating Russian interest in “strengthening the cooperative spirit and cooperative practices” on issues of climate change (Russian Ministry 6).

As mentioned previously, the Arctic Council takes participation of indigenous peoples very seriously in their activity. The Arctic treaty must use the Arctic Council as a model for ensuring future rights of indigenous people in order to be effective. As for all stakeholders, of primary concern for indigenous groups is the impact of climate change that is “driven by and is a driver of... oil, gas and mineral industry” (Olli 23). Increased claims and activity in the Arctic as a result of the changing climate threatens indigenous land use. Historically resource exploitation has failed to include indigenous peoples and impinges on their own subsistence. According to Egil Olli, currently President of the Sámi Parliament in Norway, the position of Arctic indigenous peoples is that partnership with states is essential. Their concern is that groups like the Sámi have freedom to develop their own industries, traditional or otherwise (25).

Self-determination is also a primary concern iterated in *A Circumpolar Inuit Declaration on Sovereignty in the Arctic*. The Declaration likewise declares that anyone who uses Inuit Nunaat, as the Inuit homeland is known, must be in dialogue with the Inuit peoples and respect their sovereign rights

² Finland is *not* a signatory of the Ilulissat Declaration.



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(Cochran). The Declaration calls for “close cooperation” among Arctic states and with Arctic peoples, with emphasis on indigenous peoples rights but without explicit mention of a future treaty. Based on precedent, any future agreement has an obligation to respect the sovereign rights of Arctic indigenous peoples to “self determination and representation in intergovernmental matters,” as the Inuit have declared (Inuit).

5 The European Union and the Arctic

The Arctic region is most directly relevant to the European Union due to the membership of three Arctic states: Denmark, Sweden and Finland. In addition, non-member states Iceland and Norway are members of the European Free Trade Association and the European Economic Area. Issues of sovereignty, EEZs, indigenous rights and impacts of climate change are all pertinent for EU decision-makers.

The EU Commission’s report “The European Union and the Arctic Region” frames the Arctic region as a priority for the EU because of Arctic member states, the Northern Dimension policy, and the rapidly occurring impact of climate change and human activity. In addition, the Communication states that a number of EU policies have “direct bearing” on the Arctic (2). The assumption is that activity in the Arctic region is directly relevant to the lives of EU citizens and therefore the EU must address the Arctic in a coordinated manner in the interest of international stability and security (3). In this light, the Communication lays out three major policy objectives: protection and preservation, sustainable resource exploitation, and enhancement of multilateral governance (3).

The Communication to the Parliament and the Council followed closely on the heels of the Parliament’s own “Resolution on Arctic Governance” adopted in October of 2008. Concerned with the impacts of climate change and the sustainability of indigenous livelihoods, the EU Parliament declared that the Arctic merits a “standalone EU arctic policy” (European Parliament). The Resolution encourages the Commission to open international negotiations to adopt “a treaty for the protection of the Arctic.” But the Commission’s response in the form of the November 2008 Communication, specifically with regard to governance, was not, in fact, to suggest opening international negotiations, though it does not dismiss the idea either. Instead the objectives include upholding the existing UNCLOS legal framework and promoting dialogue while recognizing the need for an assessment of existing multilateral cooperation (Commission 10-11). The Communication declares the intention to apply for permanent observer status in the Arctic Council, pursue measures for marine biodiversity protection, and give special consideration to the Arctic in wider EU policy-making.³ The Commission’s Communication concludes with a call for “more detailed reflection,” which

³ The Arctic Council put the EU’s application on hold in April 2009 at the request of Canada, due to concerns about a ban on seal products (Phillips).



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does not provide a definitive answer on whether to move toward an international treaty (12).

Clearly the EU believes environmental changes in the Arctic are a cause for concern for states and citizens. The EU's Commissioner for External Relations, Benita Ferrero-Waldner, on presentation of the Communication, cited environmental sustainability as the primary issue ("Environment pushes EU"). The Commissioner confirmed support for existing legal frameworks but also acknowledged the room for exploring new instruments. European Parliament Vice President Diana Wallis agrees that the Arctic represents a convergence of issues directly relevant to the EU.

But in light of these comments from EU representatives, the Commission still is not putting out a call to open international treaty negotiations. EU Energy Commissioner Andris Piebalgs is on record as saying the likelihood is that littoral Arctic states would object to a treaty and would rather defer to existing law, primarily UNCLOS ("EU energy chief"). Piebalgs was speaking in the context of support for Arctic drilling in September of 2008, arguing that Arctic exploration or exploitation is justified for the EU's energy security, contingent on adequate environmental protections. It is exactly this drive for exploitation of resources that concerns advocates for a new international regime. The EU aims to reduce dependency on energy-giant Russia, who also happens to be a major territorial player in the Arctic region. Joe Borg, EU Commissioner for Maritime Affairs and Fisheries stated at the 2009 Arctic Frontiers conference that the Arctic merits "decisive action" at the international level to balance human activity and protection of the ecosystem. The EU has an irrevocably close historical and geographical connection to the Arctic region, the future of which is now in question.

MEP Bilyana Raeva, Chairwoman of the Delegation for relations with Switzerland, Iceland, Norway and the EEA, states that the European Parliament will continue to appeal for the treaty as the best way to ensure "clear and respected rules for governance" in response to growing national interests of coastal and other states (26). Among the reasons in favor of an international treaty are to avoid a repeated Cold War regime, to avoid dominance by any particular state, to balance respect for the environment and use of natural resources, and to ensure indigenous voice in governance (26). It appears the European Union is establishing a unified position in terms of objectives for the future of the Arctic, but without a unified mechanism for carrying them out.

Sweden recently touched on the relative positions of Iceland, the EU and the Arctic at a press conference with European Affairs Minister Malmström and Foreign Minister Bildt on the upcoming Swedish EU Presidency. Iceland's expected bid for membership to the EU brings up several specific issues such as that of fisheries policy. Minister Bildt was clear that while their application is anticipated, no predictions will be made until it is formally processed, including a report from the Commission. At stake is a potentially greater role for the EU in the Arctic; Bildt named several Arctic issues deemed significant including energy resources, transportation, the environment and climate change (Bildt and Malmström). The implication is that under the Swedish Presidency, Iceland, and consequently Arctic issues will become a greater priority, but not before its candidacy for EU membership is made official.



6 Next Steps

Based on the positions of Arctic states and the EU, it is clear that Arctic issues are becoming a priority. In the wake of varying opinions and interests, the important objective for advocacy groups in favor of greater protections in the interim is to encourage and stimulate the debate in hopes of finding areas of agreement. Koivurova notes that both the UNEP GRID-Arendal foundation and the IUCN reached conclusions that an evaluation of the existing regime and prospects for a future agreement need to be examined (23). As indicated earlier, this is indeed the conclusion of a number of scholars. The ENEP GRID-Arendal Web site itself states that in its investigations of environmental conventions, no Multilateral Environmental Agreement exists whose scope is exclusively the Arctic.

6.1 Essential Considerations for Arctic Stakeholders

UNCLOS should be the foundation of any agreement or legal framework moving forward. All Arctic states express loyalty to the Convention (with the exception of the U.S., though it is moving in this direction) and therefore any future agreement should first support the authority of this international law to maximize cooperation and agreement.

Input and full participation of indigenous peoples is essential for a successful agreement, whether in new form or strengthening of existing mechanisms.

Protection of the marine environment is fundamental for securing the future of the Arctic, particularly if resource exploration continues in its current trajectory. Protection for marine life is necessary, but also sustainable resource exploitation (e.g., fisheries).

In the interest of global security, Arctic states and relevant stakeholders should consider the possibility of a nuclear free zone, demilitarization, or measures that prevent escalation of military activity.

Though a multilateral agreement presents significant challenges, it also has the potential to provide a lasting forum for negotiation (Gunitskiy 267). In the case of the UNCLOS, the United States' renewed interest in ratification may demonstrate the utility of international law for even the isolationist state. Gunitskiy also argues that a single multilateral agreement benefits the states involved by reducing transaction costs for cooperation (268). Certainly the agreement is one that must be seen as credible by all the stakeholders.

6.2 Next Steps for the Polar Conservation Organisation

Move forward with the PCO "The Arctic Treaty Initiative," a grant proposal to research and report on viewpoints and international strategies underlying sustainable development efforts and future conservation of the Arctic Region.



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Design programmes that provide opportunities for stakeholders to enter in dialogue about future governance.

Serve as a primary source for ideas and perspectives about the existing framework and future governance arrangements.

Develop educational material targeted to specific audiences, in particular policy-makers and their constituencies.

A potential partner in activities moving forward is the Arctic Governance Project that seeks to collect and understand the range of perspectives on governance of the Arctic. The Project aims to “arrive at a series of compelling conclusions about the way forward” based on analysis of the positions and the options available. The premise for the Project is to strengthen the existing framework while remaining open to new possibilities for organisation. Specifically the Project is planning Arctic Governance Webinars for October and November of 2009 with the goal of reviewing, assessing and finding common ground among the proposals for future governance of the Arctic.

It should be noted that the Chair of the Project is Professor Oran Young who has written extensively in favor of strengthening the existing framework rather than proposing an international treaty. But language on the Project’s website with regard to their mission and objectives is strongly in favor of dialogue and understanding of varying perspectives in the interest of mitigating the impacts of climate change with protection for indigenous peoples and the environment. The WWF Arctic Programme has positioned itself squarely in favor of a new international agreement, and both sides should be encouraged in the dialogue mentioned above. WWF can serve an invaluable role as an unfailing advocate for greater protections for marine life and the environment.

7 Conclusion

An advantage of an international agreement is that it can create a working group to negotiate the issue causing the greatest tension, territorial claims, and can mandate demilitarization to alleviate tensions (Gunitzkiy 269). It can also establish a nuclear free zone and lay down guidelines for sustainable extraction of natural resources with stringent guidelines for clean-ups and protection of the environment (Dhanapala and Saksina). However, if an international agreement is not embraced by the states, indigenous peoples and other institutions, then other avenues for agreement on the major issues must be pursued for a sustainable future. Long term impacts of climate change and development in the Arctic are also long term impacts for the planet. Strengthening the existing avenues must be targeted to achieve the major objectives with detailed priorities. Regardless of the international agreement, this involves bringing all parties to the table, for which groups like the Polar Conservation Organisation may be in a position to both organize and facilitate.

The new EU term of office starting in September 2009 offers an ideal opportunity for the EU to be an active contributor to discussions, its role



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however will need delicate negotiations and its position on various aspects will be challenged.

Another organisation which seems to have taken up the Arctic Treaty challenge is the World Wildlife Fund (WWF). It is too be seen however if their position will be accepted by several governments and organisations.

It will take a bold move followed by concerted effort however if an agreement is to be achieved in the next 5 years.



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