

U.S. Arctic Policy: Context, Currents and Our Canadian Neighbour

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INTRODUCTION

This paper provides an overview of U.S. arctic policy that discusses the relationship of the U.S. to its own arctic territory as well as its neighbours surrounding the Arctic Ocean, with particular emphasis on North America. It is impossible within the scope of a short essay to cover every dimension of American arctic policy. As such this paper will develop the context for U.S. arctic policy by demonstrating the role of Alaska in relation to the rest of the United States, then discuss the formal governance roles of primarily the federal government. Next the paper will address the special relationship the U.S. has with Canada as our contiguous neighbour, then end with thoughts on the near-term future.

It is worth noting that the word “Arctic” can have several meanings related to the high North. The Arctic Circle is bounded by the

* There is also scholarly debate over when to capitalize the word “Arctic.” This paper uses the literary convention of only capitalizing the word when used as a proper noun, and not as an adjective.

latitude of 66.30° North and within this region the sun is both above the horizon and below the horizon for a period of 24 hours depending on the season. However, others have argued for a more flexible definition based on the extent of permafrost, sea ice coverage, temperature ranges, or northern tree line. Canada’s internal delineation is north of 60° N. Depending on one’s disciplinary background or rhetorical needs the Arctic¹ can be tied to physical, symbolic, or political boundaries. For the purpose of considering U.S. policy in the Arctic, and the region in general, the Arctic Monitoring and Assessment Program (AMAP) working group of the Arctic Council nicely balances these dimensions of “Arcticness” in its geographical coverage.¹ This paper will follow by considering the Arctic as the AMAP area.

In terms of international politics, the Arctic is made up of eight sovereign nations often divided up as the Nordic countries – Norway, Sweden, Finland, Denmark (Greenland), and Iceland; North America – Canada and the United States; and Russia. This list includes what some describe as a ninth polity, the Inuit – via the Inuit Circumpolar Council. The eight nations developed the Arctic Council in 1996 and have included indigenous peoples’ organizations as permanent participants. Sometimes there is a further split in terms of policy by discussing the five coastal (littoral) nations – Russia, Canada, Norway, Denmark, and the United States – which also happen to be in possession of the majority of the land and sea space in the Arctic.

CONTEXT

Russia began systematically colonizing coastal areas of Alaska by the early 1800s in order to take advantage of the fur trades, both inland and “sea fur” (e.g. fur seals, otters), and other marine mammal species such as whales.² Although the Russian American Company was fairly profitable, and diversified beyond fur, by the 1850s the Crimean War and a sense of eventual American expansion across all of western North America led it to sell its “Russian America” to the young United States on March 30, 1867.³ It was not until the late 1890s and early 1900s when the gold rushes of the Yukon Territory and Alaska brought prospectors north, that Alaska incorporated as a U.S. territory in 1912. By the World War II era the population of Alaska was around 200,000 and began a

statehood campaign in 1946 – a territorial referendum found 60% in favour and 40% against statehood. The major sources of debate were over the ability for Alaskans to control their own natural resources, at this time fisheries were the major source of income, and the federal government's doubts that such a small population could generate enough revenue to support state functions. The final deal involved the federal government retaining 72% of the territory as federal lands. At the same time the federal government gave to Alaskans 90% of the profits from mineral lease sales on that federal land.⁴ Today, the federal government owns 60% of Alaska's total land area (222 million acres). The rest is held in state or private hands (including the Native Corporations).⁵

In order to understand the U.S. position on the Arctic one does not need to know every last detail of its sole arctic state, but a basic understanding of the socio-economic conditions of this location are valuable for a few reasons. First, it demonstrates how many U.S. arctic policies are shaped based on the domestic concerns of Alaska. Second, Alaska is a large territory. When one considers its terrestrial, marine, subsurface, and airspace dimensions it strategically represents a significant portion of the Arctic. Third, the U.S. Arctic has greater similarity to the Canadian Arctic in terms of social-environmental issues related to rural communities, indigenous affairs, a changing climate, and economic development than to any other nation.

The United States completed its decadal census in 2010 and Alaska is now the 47th largest state in population with 710,231 Alaskans and a growth of 13.3% since 2000. Within the state, rural areas continue to lose population to the cities. Anchorage remains the largest city with 291,826 people. Demographically, the state is 64.1% "white, non-Hispanic," 14.8% Alaska Native and American Indian, with Hispanic/Latino, Asian, and Black at 5.4%, 5.4%, and 3.3% respectively. Those who selected more than one race, or "other" on their census forms made up 7%.⁶ Unlike many states, Alaska entered 2012 with a budget surplus and remains one of the few states to have weathered the recent recession well, largely due to its economy being tied to oil revenue. It is said that "Alaska's economy has three pivots: the oil and gas industry, the Alaska Permanent Fund (PF), and everything else."⁷ The state's inflation adjusted share of oil revenue (since statehood) has been \$157 billion. In the last year the Obama administration agreed to sell outer continental shelf (offshore) leases in Alaska, extend the existing ones, and permit more frequent lease sales in the on-shore National Petroleum Reserve of Alaska. The market for gold remains strong and total value for mineral production in 2010 was \$3.1 billion.⁸

The federal government's concern with Alaska falls into three major categories based on Alaska's strategic location as America's gateway to the arctic realm. The first are security concerns. While Alaska is home to several Army and Air Force bases that have supplied troops to the conflicts in Iraq and Afghanistan, the Navy and Coast Guard have significant arctic interests and have renewed discussions related to search and rescue, and homeland security. In May 2011, negotiated through the Arctic Council, the eight Arctic States signed a legally binding search and rescue agreement. Second, the natural resources of the Alaska region are

significant, though the non-renewable hydrocarbons are currently more lucrative than forests or fish. Third, Alaska is what makes the U.S. an Arctic nation. It places the U.S. at the table with other nations surrounding the Arctic Ocean. As sea ice retreat continues this ocean is likely to develop commercially and bring in a suite of related activities from local to global scales that will significantly affect the inhabitants, large and small industries, ecosystems, and social systems of the region.

Outside of America's arctic territory, the rest of the Arctic remains of significant importance to the U.S. While it was previously a geopolitical zone representing a barrier between America and the Soviet Union it has become a location of intense scrutiny for a variety of reasons related to climate change, indigenous peoples' concerns, natural resource wealth, and sovereignty as discussed in the next sections.

UNITED STATES ARCTIC POLICY

At the national level, we can trace our modern attention toward the Arctic to the formal executive directive by President Richard Nixon in 1971, the National Security Decision Directive 144. It had three prongs that have been reiterated with only minimal differences over the last four decades: to minimize environmental impacts; to promote international cooperation; and to protect national security interests. Congress passed the next major policy approach, the Arctic and Policy Act 1984. Again, defense of the region was highlighted along with commercial fishing and funding for environmental science. This act also created the U.S. Arctic Research Commission (USARC) as an independent federal agency. It is a significant coordinator of arctic issues and its presidentially-appointed members are drawn from industry, medical fields, indigenous leadership, and science fields. Its role in the complex arctic policy network will be discussed below. The last major policy decision of the 20th century, outside of formalization of the Arctic Council, was the signing of the Arctic Environmental Protection Strategy in 1991 with the other Arctic nations; this agreement became a part of the Arctic Council after the 1997 Yalta Declaration.

In January 2009 after a two-year interagency review, U.S. arctic policy coalesced under the Bush administration with the release of the National Security Presidential Directive 66 and Homeland Security Presidential Directive 25 on the subject of "Arctic Region Policy" (NSPF-66 and HSPD-25). It describes the United States as an arctic nation with varied and compelling interests in the region. Superseding the last directive related to the Arctic from 1994 (which also covered Antarctica), the new directive, not inconsequentially, focuses only on the Arctic and primarily notes the changed national policies on "homeland security and defense" alongside climate change, the work of the Arctic Council, and "growing awareness that the Arctic region is both fragile and rich in resources" as a suite of background developments for the new policy. The third section lists six distinct policy areas.

III. POLICY

A. It is the policy of the United States to:

1. Meet national security and homeland security needs relevant to the Arctic region;
2. Protect the Arctic environment and conserve its biological resources;
3. Ensure that natural resource management and economic development in the region are environmentally sustainable;
4. Strengthen institutions for cooperation among the eight Arctic nations (the United States, Canada, Denmark, Finland, Iceland, Norway, the Russian Federation, and Sweden);
5. Involve the Arctic's indigenous communities in decisions that affect them; and
6. Enhance scientific monitoring and research into local, regional, and global environmental issues.

National Security Presidential Directive 66 and Homeland Security Presidential Directive 25, January 12, 2009.

The rest of the document addresses each policy area through seven points tied to energy, environmental protection, national security, international governance, scientific cooperation, maritime transportation issues, and extended continental shelf boundary issues. In each case there is a directive for implementation, although these directives are fairly general and permit some latitude for any individual president, legislature, or government actors to fulfill them. Nonetheless, a review of the document as a whole reveals that the executive directive has the following clear policy goals: U.S. Senate ratification of U.S. accession to UNCLOS (United Nations Convention on the Law of the Sea); no adoption of an Antarctic style treaty; consideration of new international arrangements to complement current U.S. participation in the Arctic Council, the International Maritime Organization, and wildlife conservation and management agreements; delimitation of the outer continental shelf of the U.S. “to the fullest extent permitted under international law;” better coordination of science, in particular with Russia, and leadership in scientific understanding of environmental change. Of particular significance to Canada, is the language that the

Northwest Passage is a strait used for international navigation, and the Northern Sea Route includes straits used for international navigation; the regime of transit passage applies to passage through those straits. Preserving the rights and duties relating to navigation and overflight in the Arctic region supports our ability to exercise these rights throughout the world, including through strategic straits.⁹

It is worth noting that comparisons of this U.S. strategic document demonstrates striking similarity to those of the other five arctic

coastal nations of Russia, Canada, Norway, and Denmark at a general level. Each nation lists sovereignty, environmental protection, resource development, and indigenous peoples within their major concerns and goals. In the case of all these nations, any “Arctic Policy” implementation is likely to shift in priorities depending on the partisan affiliations of the president or prime minister, the political composition of the national legislature, and trends in political culture. While general commitments will be maintained, it will be internal national politics that are most likely to shape national and subnational implementation of policies towards major debates over environmental protection and hydrocarbon development, indigenous people’s rights and government priorities, and scientific access versus national security concerns. Lastly, one cannot discount the geo-economic drivers of prices, particularly for energy sources and minerals, as forces that could shift national decision-making and potentially arctic policies.

WHAT IS THE UNITED STATES DOING TO REALIZE ITS PRIORITIES?

In terms of “who’s in charge” of working on this list of issues we have to remember that U.S. policy, as it is in most federal systems, is fragmented and generally incremental. The arctic policy domain is no different. If we move past the Congress as the law-maker in relation to arctic issues, and the president as the executor of those laws, the primary actors in the U.S. are the secretary of state, currently Hillary Clinton, and the secretary of the interior, currently Ken Salazar. The latter department contains, among others, the Fish and Wildlife Service, Bureau of Indian Affairs, Bureau of Land Management, and U.S. Geological Survey – all intimately related to Alaskan concerns. But, as Josh Rogin, writing for *Foreign Affairs* accurately notes “beneath them a web of councils, task forces, and interagency policy groups are tackling Arctic issues, with overlapping efforts that come at the problem in different ways.”¹⁰

In October 2010, under the newly elected President Barack Obama, who has not issued any directives related to the Arctic that supersede the 2009 directive, the Congressional Research Service (CRS) published “Changes in the Arctic: Background and Issues for Congress” to provide “an overview of Arctic-related issues for Congress.” This, along with some other more in-depth CRS reports, basically outlines the state of national affairs with regards to arctic issues; it is in some ways a “to do” list for the national government.¹¹ The issues are many: climate change and loss of arctic sea ice; territorial claims and sovereignty issues; commercial sea transportation; oil, gas, and mineral exploration; oil pollution and pollution response; fisheries; protected species; indigenous people living in the Arctic; polar icebreaking; search and rescue; U.S. relations with other arctic countries; and U.S. military forces and operations.

Two major players at the federal level that work across the branches of government and are interagency are the U.S. Arctic Policy Group chaired by the Department of State and designed in response to the increase in attention on arctic development.

The second is the Interagency Climate Change Adaptation Task Force. While a thorough review of all the actors and interests are outside the scope of this paper, there are some notables needed to understand the forces shaping the implementation of the arctic directive. The U.S. has a Senior Arctic Official, currently Julia Gourley of the Department of State, who generally represents the U.S. at the Arctic Council. Within the Executive Office of the President, the Council on Environmental Quality and the Office of Science and Technology Policy play major roles. In 2010, the former issued the Interagency Ocean Policy Task Force Final Recommendations. Among these was the recommendation to form a National Ocean Council within the executive branch. The Navy, along with USARC (United Nations Arctic Research Commission) and the Office of Science and Technology Policy (as a co-chair) is currently developing an Arctic Strategic Action Plan in relation to this. As of last summer, the plan has six action items: “improve Arctic environmental response management, observe and forecast Arctic sea ice, establish a distributed biological observatory, improve Arctic communication, advance Arctic marine mapping and charting, improve coordination on Arctic Ocean issues.” The document is publicly available and well designed to capture milestones of implementation. For example, the first point of developing contingency plans to handle increased industrial development in the Arctic was recently addressed by the Obama administration. An Arctic environmental response management application (ERMA) that can map information into accessible GIS (Geographic Information System)-based maps for emergency responders is in development, and Deputy U.S. Interior Secretary David Hayes noted in an Anchorage speech that the government will call on private companies working the Arctic as well as holders of indigenous knowledge to create the best available science for spill responses.¹²

Other executive cabinet departments with major arctic interests are Defense and Commerce. The Navy primarily represents the Department of Defense in the Arctic and has its own Task Force on Climate Change. It released the Navy Arctic Roadmap in 2009 and the Navy Climate Change Roadmap a year later. These indicate several priorities that interface with military affairs in the coming decades such as sea level rise affecting military installations, emergency coordination in disaster scenarios, or how overfishing which may result security issues. It is the Commerce Department that contains the National Ocean and Atmospheric Administration (NOAA) which has issued its own Arctic Vision and Strategy with a list of key goals to facilitate weather and environmental prediction in the North as it impacts livelihoods and ecosystems. Briefly rounding out the executive players: the Department of Energy generally handles policy for the pipeline; the Department of Agriculture is concerned with rural development and utilities; and the Department of Health and Human Services manages the Indian Health Service and interfaces with indigenous groups.

Also at the executive level, but not as cabinet departments, are the Environmental Protection Agency (the Arctic is its Region 10), and the National Science Foundation, which funds basic research at both poles through the Office of Polar Programs.

At the state level, due to its population, the state of Alaska has only one representative in the House, Don Young. But it has two senators, Lisa Murkowski and Mark Begich. Sen. Murkowski is the senior of the two and routinely presses the Senate to ratify UNCLOS.

Consequently, while these national level priorities and actors set the stage for the behaviour of governments in the North, they do not always determine government activities. In other words, much of what is “Arctic Policy” – or actual governance in Arctic and sub-Arctic locations – is determined by national legislatures, state/territorial/provincial governments, co-management regimes with indigenous peoples, local scale legislatures, and even the activities of major city councils (e.g. zoning, education, taxation). Three very brief examples of this at the national level demonstrate how the Arctic may sink or rise on the national agenda depending on budgets, partisanship, and perceptions of risk: (1) the Senate’s repeated refusal to ratify UNCLOS in spite of requests from multiple presidential administrations and government officials from Alaska; (2) on the other hand, Bush signed a joint resolution with Congress in 2008 that resulted in the 2009 Arctic Fishery Management Plan closure of the U.S. Arctic Management Area to commercial fishing pending more research on the marine environment; (3) and despite military and scientific pressures, the U.S. possesses only a single icebreaker in commission, the *USCG Healy*.

CONSIDERING CANADA

Not unlike Canada the U.S. is a federal system. Our states, unlike the provinces, do not own their natural resources. Though, our nations are similar in the patchwork of federal government-owned lands across the nation. Before discussing our disagreements, it should be highlighted that the U.S. has a multitude of agreements with Canada, not the least of which represent significant military and economic shared interests (NORAD and NAFTA). In the Arctic these range from local-local management institutions to our membership with Canada on the Arctic Council. On a highly localized scale there are the less familiar arrangements — a history of interlocal agreements: the Management Agreement for Polar Bears in the South Beaufort Sea (IGC-NSB) created in January 1988; the Alaska and Inuvialuit Beluga Whale Committee (AIBWC) formed in 1988; the International Porcupine Caribou Commission and the U.S.-Canadian Porcupine Caribou Agreement of 1987; and the U.S.-Canada Yukon Salmon River Agreement of 2002 (UCYSRA). Each represents localized environmental management of internationally shared common pool resources which have contributed to legal protection and legislation within the state, territory, and federal governments of the involved parties and species. In this sense, these institutions are remarkable examples of environmental stewardship that crosses international boundaries and yet remains locally driven.¹³ Our nations also share in international arctic agreements with bilateral components. For example, the 1973 International Agreement for the Conservation of Polar Bears and the 2008 nation-to-nation memorandum of understanding. These are

examples of how functional the U.S.-Canadian high northern relationships are even though there may be formal national level disagreements.

Canada ratified UNCLOS in 2003, having signed in 1982 when the treaty was first open to signature. The United States first submitted the treaty for Senate approval in 1994, but still has not acceded to it. Under this convention, coastal countries are able to control access to their territorial seas, subject to other states' innocent passage, up to 12 nautical miles from their shorelines. Coastal States have sovereign rights for the purpose of exploring and exploiting, conserving and managing, the natural resources in the water column and seabed up to 200 nautical miles from shore. Under the treaty, a nation can assert sovereign rights to explore and exploit non-living resources of the continental shelf beyond 200 nautical miles if it can provide acceptable scientific data about the extent of its continental shelf. Because a nation has ten years from the signing of UNCLOS to submit data supporting its assertion of sovereign rights over the natural resources of seabed and subsoil, Canada must do so by 2013. The series of joint continental shelf surveys between the U.S. and Canada demonstrate the overwhelmingly friendly relationship the two countries share, in spite of competition. This project is not the only maritime cooperation, the two Coast Guards have also engaged one another in recent years as seen in a comparison of two governmental reports from 2008 on U.S. Operation Salliq (USCG Arctic Initiative) and Canada's Interim Report of the Standing Senate Committee on Fisheries and Oceans.¹⁴

The two most significant arctic disputes between the U.S. and Canada are marine – the Beaufort Sea and the Northwest Passage. The former stems from controversy over a wedge-shaped slice of territory resting on the International Boundary between the Yukon Territory and Alaska. In short, the U.S. believes the boundary line should be based on equidistance while Canada rests its claims on the Treaty of Saint Petersburg (1825), to which Canada is a successor to Great Britain. Furthermore, when Alaska was purchased from Russia, the U.S. accepted similar wording related to the extension of the maritime boundary as extending from the Yukon-Alaska land border. Canada and the U.S. are currently engaged in friendly technical discussions over the disputed wedge, in part due to the potential for natural gas. Consider that it took Russia and Norway about 40 years of such discussions to produce the Barents Sea Agreement. Most recently a surprising twist to this debate has arisen in which Russia may be able to claim continental shelf territory that would result in Canada and Russia meeting up around 80°N. latitude.¹⁵

The Northwest Passage has become an issue again as climate change has thinned and diminished the ice in its waters to permit more traffic. The route would make trips between Europe and Japan, for example, nearly 2,500 miles shorter. In brief, the U.S. views these waters as an international strait and Canada considers them internal. In the wake of the *Polar Sea* not asking permission to move through the passage, the bilateral 1988 Canada-U.S. Arctic Cooperation Agreement was signed to allow for the two nations to, essentially, agree to disagree about

the status of the Northwest Passage in international law. In it the U.S. affirmed “that all navigation by U.S. icebreakers within waters claimed by Canada to be internal will be undertaken with the consent of Canada,” but this would in no way diminish the respective positions of each nation in their legal differences. The conflict remains unresolved, but rhetoric from both nations has heated up as the consideration of issues such as development of natural resources are highlighted by record lows in arctic sea ice extent.

ARCTIC FUTURES

Since the Illulissat Declaration in 2008, signed by the five Arctic Ocean littoral nations, the U.S. has sent two policy signals about the future of its arctic policy. First, the national government has committed itself to no new regime formations and to using the current international legal process to resolve disputes. It is worth quoting a portion of the declaration, though from a document only two pages in length.

In this regard, we recall that an extensive international legal framework applies to the Arctic Ocean ... Notably, the law of the sea provides for important rights and obligations concerning the delineation of the outer limits of the continental shelf, the protection of the marine environment, including ice-covered areas, freedom of navigation, marine scientific research, and other uses of the sea. We remain committed to this legal framework and to the orderly settlement of any possible overlapping claims. This framework provides a solid foundation for responsible management by the five coastal States and other users of this Ocean through *national implementation and application of relevant provisions*. We therefore see *no need to develop a new comprehensive international legal regime to govern the Arctic Ocean* [italics added].

To some extent this has put to rest the discussion about the applicability of the Antarctic Treaty to the Arctic. While depth of understanding of the former is insightful for shaping viewpoints and policies for the latter, for example related to issues of importance for both poles (e.g., scientific endeavours, tourism, species preservation), it is unlikely to serve as a model of governance. The following comparison is not novel, but bears consideration. The Antarctic is an island, a land mass surrounded by water with no indigenous human inhabitants, and a climate that dramatically restricts human endeavours. The Arctic is primarily an ocean surrounded by sovereign nations and inhabited by the Inuit and other indigenous groups for millennia. While debates may remain over transformative arctic governance, it seems unlikely either the U.S. or Canada will take dramatic action in the coming decade. Second, Secretary Clinton's attendance at the biannual Arctic Council meeting in Nuuk, Greenland was a sign that the U.S. will play a greater role in arctic institutions of governance at the global level and continue its internal elevation of arctic issues in its bureaucracy.¹⁶

The preceding sections indicate the multi-agency, multi-stakeholder engagement of arctic issues by the U.S. government that have been rapidly evolving in the last decade. Canada's hosting of the International Polar Year conference in Montreal was titled "Knowledge to Action" and brought thousands of scientists together to discuss both poles. It is telling that at this meeting the U.S. Arctic Research Commission and the Canadian Polar Commission held their first joint meeting in over a decade. They reached consensus on the following: closer collaboration on scientific research and environmental assessments in the Beaufort Sea region; support for activities conducted by Canada and the

U.S., which serve as chairs of the Arctic Council from 2013-2017; support for sustainable funding of arctic observing networks; and increased and easier scientific access to the Arctic.¹⁷ In this decade, such a back-to-back chairing of the Arctic Council is sure to swing attention toward North America. Currently, it seems that such focus between two neighbours on their arctic territory will produce friendly rather than frosty relations.

ENDNOTES

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