



## Equitable access to and sharing of the resources of the Arctic Ocean

by: Nick Cantrell

*Old Dominion University Model United Nations Society*

### Introduction

With dramatic changes in global climate and technology, the Arctic Ocean is becoming more accessible to humanity than ever before. What was desolate and useless for centuries now beckons with opportunities to exploitation, for faster shipping, mineral and fossil fuel extraction, and fishing. But with opportunities for enrichment come dangers of conflict. Not just businesses, but navies also are drawn into what once was one of the world's most inhospitable environments. Managing the opportunities while avoiding the dangers is the job of this committee.

Five UN Member States have a direct border on the Arctic Ocean and an immediate interest in events there: Canada, Denmark, Norway, the Russian Federation and the United States. All have been forthright extending territorial claims or active policies into the region.<sup>1</sup> Several other countries are getting more involved, sending scientific expeditions and to explore and freighters to show they expect to play a role, including Brazil, China, India, Japan as well as the 28 Member States of the European Union.<sup>2</sup>

<sup>1</sup> 'The Arctic: Gold rush under the ice. Russia wants a vast slice of the Arctic, *The Economist*, 3 August 2007, <http://www.economist.com/node/9607005>; 'The Arctic: Frozen conflict. Denmark claims the North Pole', *The Economist*, 17 December 2014, <https://www.economist.com/news/international/21636756-denmark-claims-north-pole-frozen-conflict>

<sup>2</sup> Jeremy Bender and Michael B Kelley, 'Military Know That The Arctic Is Melting — Here's How



Equitable distribution of the Arctic Ocean's abundant natural resources has been a topic of great dispute for many years. Accepted country boundaries have long governed who exactly has access to the different sections of the ocean, with the major players being the five nations that border it, namely The United States, The Russian Federation, Canada, Denmark, and Norway. However, as arctic ice melts and shifts, more and more of the ocean's resources are making themselves accessible. Vast reserves of oil, natural gas, minerals (such as uranium and zinc), and fish are coming of age and will not be ignored by the countries they are close to. The problem now is properly and fairly dividing these provisions in a manner that all affected countries can agree on. While the five border countries are affected the most, all other countries of the world obviously have a stake in

They're Taking Advantage, *Business Insider*, 3 June 2014 <http://www.businessinsider.com/the-competition-for-arctic-resources-2014-6>



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these resources and deserve a forum to express their ideas and opinions.

Because of how crucial non-renewable fuel, food, and minerals can be to the modern state, understanding and cooperation is crucial in this emerging situation. In addition, there is no general, underlying legal treaty governing the Arctic. The duties of such a treaty have long been upheld by the Arctic Council, whose members include the main five countries above in addition to Sweden and Iceland. This council, however, lacks the power to actually regulate anything with its main purpose being to assist the border nations in communication over policy and research. Within their own territories, each country is free to do as they wish.

The Arctic Ocean currently produces about one tenth of the world's oil and about a quarter of its natural gas. In addition, estimates put about fifteen percent of the world's remaining oil to be in the arctic region, along with thirty percent of its natural gas deposits. Currently, the United Nations Convention on the Law of the Sea (UNCLOS) states that a country has the right to an "Exclusive Economic Zone" up to 200 miles from its shores wherein they have exclusive claim to all resources it contains. However, for ten years after a signing member ratifies the UNCLOS, a country can claim an extension to their continental shelf out past the Exclusive Economic Zone. If accepted, this claim gives the country exclusive rights to any resources found within the claim's stated area of extension.

Equitable and fair distribution of the resources found in this region is a crucial concern of international relations, and one that is growing rapidly. As the arctic reveals more and more of its wealth, the risk of inflaming tensions between any of the affected states rises. Diplomacy and agreement are paramount, and so the interpretation of each country's claims by the UN is the key to maintaining stability.

### History

Extraction of the Arctic Ocean's oil deposits began in the 1920's with the northern region of Canada. Over the course of the twentieth century, each of the main five countries began the foray into the exploitation of their respective zones. Over the remainder of the century, billions of barrels of oil were pulled from the arctic, with a bulk of the active oil fields being located in Russian Siberia.



Fossil fuel prospects in the Arctic

In 1982, the UN adopted the Law of the Sea Convention, which established the guidelines of international seafaring, including the limits to where a country can claim rights to resources. According to the UNCLOS, the boundaries of a country extend twelve miles off its coastline, but a country's "Exclusive Economic Zone" extends two hundred miles off of its coastline. However, a provision in the document explains that a country can extend this zone for ten years after they ratify the document. To date, 168 state parties have ratified the document, including most of the Earth's major naval powers. Significantly absent from the list, however, is the United States, which has signed the document, but refuses to ratify it, which requires approval in the U.S. Senate

In 1996, the Arctic Council was established by Canada, Denmark, Finland, Iceland, Norway, the Russian Federation, Sweden and the United States of America. Recognizing the need for a



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coalition of the powers affected by the affairs of the arctic, the arctic council aimed to provide a basis for communication and policy decisions. Among many other things, this council monitors the ecosystem and indigenous human populations of the Arctic and advises its member states on research and policy decisions. While a good measure toward cooperation between arctic powers, this council is by no means as binding or official as the United Nations.

As the mass of ice covering the arctic declines (approximately 2.8 percent by each year since 1979), more and more of the once-frozen resources lend themselves up for harvest. Recently, the Russian Federation submitted an application to extend its Exclusive Economic Zone past the 200-mile limit. As the Arctic state that draws the most oil out of the region (a massive fifty seven percent of Russia’s overall oil production

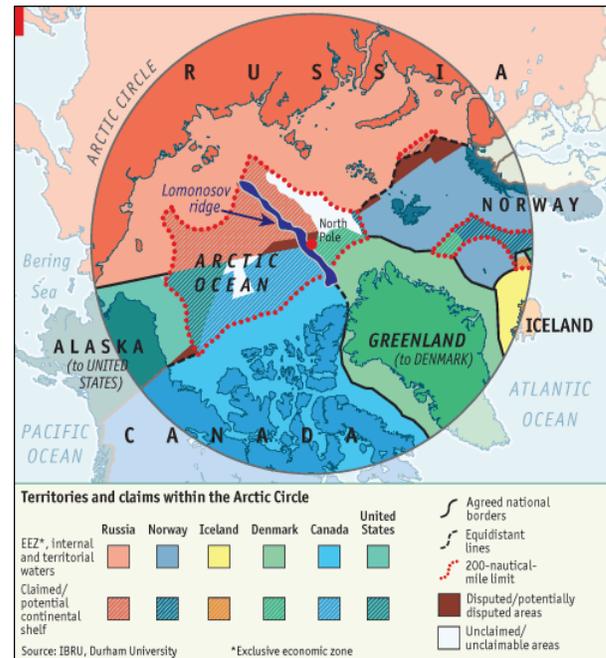
## Disputes and Legal Framework

Each of the five countries with Arctic coastlines has at least one disputed maritime claim with one of its Arctic neighbors (seen in Figure 1 below). These five Arctic states—Norway, Canada, Denmark, Russia, and the United States—formed the Arctic Council in 1996 along with Finland, Sweden, and Iceland joining them to form the A8.<sup>3</sup> The proximity of these additional three council states, along with their close history with the coastal Arctic states and shared stake in the future of the Arctic, led to their addition to the Arctic Council. To date, the council has managed to foster cooperation on maritime search and rescue operations and act as a forum for Arctic states to voice their concerns in the region without resorting to either force or the legal recourse provided through the United

<sup>3</sup> David Balton and Cari Thomas, “Ocean Governance in the High North,” *US Naval Institute Proceedings* 139 (2013): 20

Nations Convention on the Law of the Sea (UNCLOS).<sup>4</sup>

Figure 1: Competing Maritime Claims<sup>5</sup>



As the primary body for recognizing and regulating maritime claims, UNCLOS recognizes three types of maritime territory (shown in Figure 2 below): Territorial Seas, Contiguous Zones, and Exclusive Economic Zones. *Territorial seas* are recognized as extending up to 12 nautical miles (nm) from a state’s coastal baseline and islands under its sovereignty. While all ships enjoy the right of innocent passage in these waters, a state enjoys full sovereignty in its territorial sea, including policing and development privileges. A *contiguous zone* extends 24 nm from a state’s coastal baseline and allows it to exercise control

<sup>4</sup> Ian Brosnan et al., “Cooperation or Conflict in a Changing Arctic,” *Ocean Development and International Law* 42 (2011): 174

<sup>5</sup> “Suddenly, a Wider World below the Waterline.” *The Economist* May 16, 2009. Accessed December 13, 2015. <http://www.economist.com/node/13649265> HYPERLINK "http://www.economist.com/node/13649265"



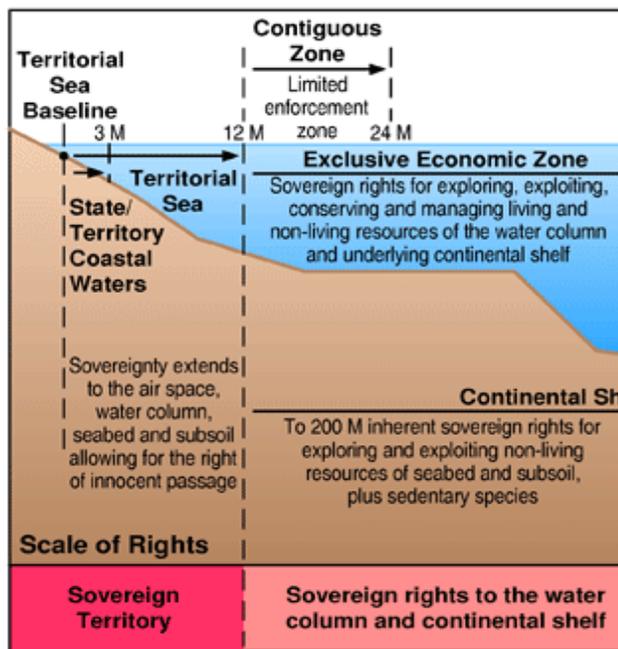
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over enforcement of local laws and customs as it would on its landmass.

Most countries hold that aircraft and ships enjoy the same freedoms of passage within a state's contiguous zone that they would enjoy on the high seas. *Exclusive economic zones* (EEZs) extend a coastal state's economic rights beyond its Contiguous Zone up to 200 nm from its baseline. This designation grants economic rights, such as the right to exploit and regulate fishing and hydrocarbon resources, within the EEZ but does not grant sovereignty rights.<sup>6</sup>

Figure 2: Maritime Zones under the UNCLOS<sup>7</sup>



Two further mechanisms exist to extend states' maritime claims under specific geographic

<sup>6</sup> Klaus Dodds, "Flag Planting and Finger Pointing: The Law of the Sea, the Arctic and the Political Geographies of the Outer Continental Shelf," *Political Geography* 29 (2010): 65

<sup>7</sup> Geoscience Australia, "Maritime Zones," Accessed Dec 10, 2015 [http://www.ga.gov.au/webtemp/image\\_cache/GA13555.gif](http://www.ga.gov.au/webtemp/image_cache/GA13555.gif) HYPERLINK

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circumstances. First, habitable islands, such as Norway's Svalbard between the Greenland Sea and the Barents Sea, generate the same rights to territorial seas and EEZs as the mainland.<sup>8</sup> Second, the Commission on the Limits of the Continental Shelf (CLCS), an independent commission operating under the auspices of UNCLOS, grants states the right to extend their claim to include an Outer Continental Shelf (OCS) up to 150 nm beyond their allotted 200 nm EEZ provided they submit geological evidence of an extended continental shelf to the commission within ten years of acceding to UNCLOS.<sup>9</sup>

This network of organizations and processes have created a system of "layered sovereignty" in the Arctic.<sup>10</sup> While the Arctic Council plays a role in opening multilateral dialogue, UNCLOS and CLCS provide a legal framework governing the offshore rights of claimant states. Each of the A5, with the exception of the United States, has ratified UNCLOS and submitted extension claims to the CLCS. Even the United States, while it is not a signatory to UNCLOS, has affirmed its commitment to the principles set forth in that document.<sup>11</sup>

While its expression of intent to uphold the international understanding of the law of the sea has provided it with some goodwill among the other claimant states, its ability to assert its own claims and challenge the claims of others is limited by the fact that as a non-signatory, it has no standing either at UNCLOS at large or the CLCS in particular.<sup>12</sup> As the most powerful member of the Arctic Council, its failure to ratify UNCLOS and submit official claims to the CLCS also weakens those bodies' ability to build reliable processes of international governance. This is important since the other four members of the A5 have relied on

<sup>8</sup> Carlson et al, 25

<sup>9</sup> Kraska, 151

<sup>10</sup> Carlson et al, 23

<sup>11</sup> Ibid., 37

<sup>12</sup> Kraska, 257



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UNCLOS to mediate disputes that might otherwise escalate into conflict.<sup>13</sup>

Still, while the A5 have been willing to use existing mechanisms like UNCLOS, CLCS and the Arctic Council, each has also expressed that it is not interested in the creation of new international organizations for the governance of the Arctic or expanded powers for existing mechanisms of maritime governance.<sup>14</sup> This may be due to their perception that they can achieve more advantageous settlements through bilateral negotiations, but recent activity suggests a worrying trend in militarized responses to competing claims in the high North. For example, Canada's former Prime Minister Stephen Harper called in 2008 for a new military base in Resolute bay, the refurbishment of Canada's deep-water naval base in Nanisivik, and the construction of 6-8 new icebreakers (to the tune of \$1 Billion each) to facilitate increased patrols along its Arctic coast.<sup>15</sup>

More recently, Canada has added to its annual Arctic military exercise, Operation Nanook, two additional annual exercises: Operation Nunakput in the Beaufort Sea and Operation Nunavut along its Northern coast.<sup>16</sup> Even more than Canada, Russia has been bolstering its military presence in the Arctic. In addition to its standing military presence in the Arctic, observers have noted that a military "blitz" is underway in the Russian Arctic, where "Moscow is training two Arctic warfare brigades and is constructing 16 deepwater [sic] ports, 13 airfields, and 10 air-defense radar stations in the region."<sup>17</sup> It is important to note that this rush to

expand military presences in the Arctic has not led to open conflict and there seems to be a consensus among academics and the policy community that such an outbreak remains unlikely.<sup>18</sup> Still, the urgency with which the Arctic States are addressing their northern shores reflects the roles of new developments in environmental processes and economic incentives in shaping their approaches to the region.

As the mass of ice covering the arctic recedes (approximately 2.8 percent by each year since 1979), more and more of the once-frozen resources lend themselves up for harvest. Recently, the Russian Federation submitted an application to extend its Exclusive Economic Zone past the 200 mile limit. As the Arctic state that draws the most oil out of the region (a massive fifty seven percent of Russia's overall oil production

### Environmental and Economic Developments

Two key economic developments stand out as results of warming Arctic Seas: expanded access to submarine natural resources, and the opening of hitherto unpassable shipping lanes. With resource extraction and Arctic transit increasingly realistic possibilities, territorial disputes that were previously rendered moot by the difficulties of Arctic navigation have rapidly gained importance. The Arctic Circle is estimated to hold approximately 30 percent of the world's unexplored natural gas and 13 percent of its unexplored oil.<sup>19</sup> These deposits

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<sup>13</sup> See, for example, the resolution of the dispute between Russia and Norway over their maritime boundaries in the Barents Sea. Yean Hong Choi, "The Barents Sea: Equal Division of the Disputed Sea between Russia and Norway," *The Journal of East Asian Affairs* 28, no. 2 (2014): 61-81

<sup>14</sup> Ebinger and Zambatakis, 1226

<sup>15</sup> *Ibid.*, 1218

<sup>16</sup> Abhijit Singh, "The Creeping Militarization of the Arctic." *The Diplomat*. October 16, 2013., 1

<sup>17</sup> Jeremy Bender, "Russian Defense Minister Explains Why the Kremlin Is Militarizing the

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Arctic," *Business Insider* February 26, 2015: 2. <http://www.businessinsider.com/why-the-kremlin-is-militarizing-the-arctic-2015-2>

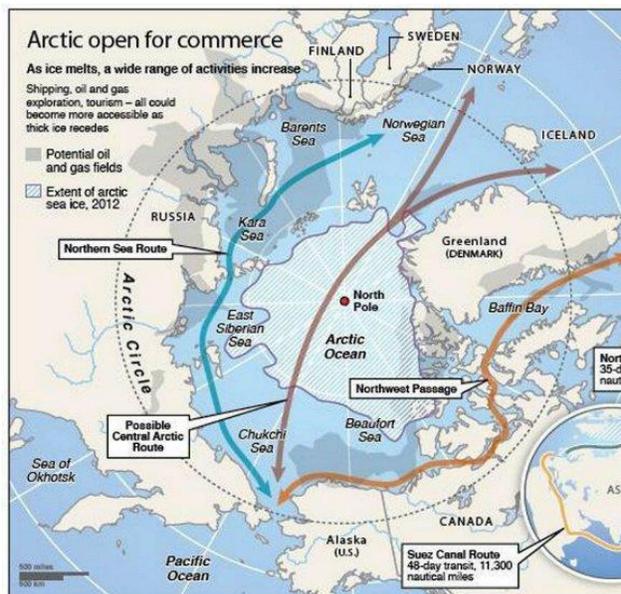
<sup>18</sup> For two such arguments, see Kraska, 99 and Balton and Thomas, 203

<sup>19</sup> Brookings Institution, "MAP: Undiscovered Arctic Oil and Gas and Potential Trade Routes." *The Brookings Institution*. March 26, 2014. Accessed December 13, 2015.

<http://www.brookings.edu/blogs/brookings->

are increasingly accessible due to the retreat of the Arctic sheet and improved deep water drilling platforms. These deposits are of interest to existing energy exporters—the United States, Canada, and Russia—as well as Denmark and Norway. Not only is it easy to intuit why states may come into competition over such large resource deposits, it is also easy to observe that the timing and placement of boundary disputes coincide with the increase in access to the region and the location of strategic reserves.<sup>20</sup> This problem is exacerbated by the fact that, unlike transnational issues like trade and combatting climate change, which can be more easily framed as positive-sum coordination problems, rights to extract natural resources are more frequently viewed as competitive, zero-sum scenarios.

Figure 3: Emerging Northern Passages<sup>21</sup>



### III. National & Institutional Positions

The ongoing processes of governance, climate change, and economic development have created complex and contradictory incentives for the

littoral states of the Arctic. Responses among the Arctic states to these pressures of layered sovereignties, warming seas, and the new economic incentives they create have varied. On the one hand, each member of the A5 has maintained a commitment to the principles and (with the exception of the United States) processes of governance provided by UNCLOS.

Also, the *Arctic Council* has served to build cooperative measures to address environmental protection as well as a forum to air concerns and maintain open channels of communication.<sup>22</sup> On the other hand, Canada and Russia have led the charge in increasing their military presences inside the Arctic Circle.<sup>23</sup> Norway seems torn between this strategy and a consensus driven approach. Within the Arctic Council it has called for a postmodern approach to governance of the Arctic Seas, emphasizing multilateral governance and the shared transnational concerns that impact each of the A5. It reached agreements with Iceland and Denmark in 2006 over their disputed maritime territories along the recommendations of the CLCS. Meanwhile, it has responded to Russia's increased militarization with (slight) increases of its own to its naval budgets.<sup>24</sup>

At the same time, while both Canada and Denmark have repeatedly affirmed their commitment to solving their own disputes over Hans Island in accordance with UNCLOS, they have both deployed ranger units to the island to occupy it for short periods of time (and of course, to replace their antagonist's national flag with their own).<sup>25</sup> These exchanges may seem more comical than cause for alarm, and to date neither country's expeditions have encountered the other's while on the island, but it should be concerning that there exist rules of engagement to dictate how the two forces react should they encounter each other on such a mission.

[now/posts/2014/03/map-undiscovered-arctic-oil-gas-trade-routes](http://now/posts/2014/03/map-undiscovered-arctic-oil-gas-trade-routes).

<sup>20</sup> Borgerson, 68

<sup>21</sup> Bender, 2

<sup>22</sup> Balton and Thomas, 174

<sup>23</sup> Quirk, op cit.

<sup>24</sup> Kraska, 75-77

<sup>25</sup> Carlson et al., 32



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In spite of the risks of escalation, there remain significant incentives for the A5 to continue to cooperate on resolving their disputed territories. It is important to remember that states considering armed conflict as a means of resolving their territorial disputes must weigh the potential gains of such a resolution (even making the assumption that the conflict ends favorably) against the costs of engaging in conflict and the opportunity costs of lost cooperation from the other party or parties involved.

These costs, in addition to the cost of the conflict itself, include increased instability in the region, increased risks to the Arctic infrastructure that has already been developed, and decreased capital flows into regional development due to investor concerns over the conflict.<sup>26</sup> These incentives have bolstered states' incentives to cooperate with existing mechanisms of regional governance, the Arctic Council, UNCLOS and the CLCS, and have strengthened the prospects of a continued peace.

If the Arctic peace holds, and especially the various claimants make further progress in reconciling their claims, the processes through which they do so may serve as a guide for maritime disputes elsewhere in the world. In fact, some have already called for using Norway's settlement of its dispute with Russia over their claims in the Barents Sea as a template for other hard cases of maritime disputes between Korea and Japan and the ongoing tensions in the South China Sea.<sup>27</sup> The ability of erstwhile antagonists Norway and Russia to achieve a peaceful settlement under UNCLOS could auger well for similar prospects in other difficult circumstances as well.

### Country and Block positions

**China:** China's recent construction of a research station in Iceland has once again generated

interest as to what China's Arctic ambitions are. Indeed, the Chinese government has yet to publish its official Arctic policy, in contrast to other major players in the Arctic, such as the United States and the European Union. Consequently there has been much speculation as to what China's plans are for the Arctic.

With growing global interests, China expects to play a prominent role in exploitation of the Arctic Ocean. Although it does not have a sea border on the Arctic, it expects to be treated fairly, and in a non-discriminatory manner. The current stakes in the circumpolar Arctic region are not sufficiently high to warrant confrontation with China. Cooperation predominantly guides their policies and activities. While they play different roles and increasingly seek to demonstrate their influence, there are common interests, such as in the freedom of the seas, in resource extraction and in developing infrastructure in the region.<sup>28</sup> So far, there are few developments suggesting that the Arctic will be a focal point of potential rivalry or confrontation in broader relations between major powers in the region. Other areas are more central to their respective international priorities, and to their interaction. But the rising importance of the Arctic is unavoidable.<sup>29</sup>

**European Union:** The 28 Member States of the European Union take a leading role crafting global policy on the Arctic. Above all, the EU stands out for its dedication to norm-based Arctic policy, based not on rival national interests but shared values that benefit the entire international community and ensure fair access to the global commons, and protection of the Arctic for future generations. For the EU, delaying or reducing

<sup>28</sup> Mercy A. Kuo and Angelica O. Tang, 'China's Arctic Strategy: The Geopolitics of Energy Security', *The Diplomat*, 16 December 2015,

<https://thediplomat.com/2015/12/chinas-arctic-strategy-the-geopolitics-of-energy-security/>

<sup>29</sup> Nengye Liu, 'China's Emerging Arctic Policy: China has a clear (though as yet unwritten) strategy for the Arctic', *The Diplomat*, 14 December 2016, <https://thediplomat.com/2016/12/chinas-emerging-arctic-policy/>

<sup>26</sup> Brosnan, 186

<sup>27</sup> Choi, 76-77



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economic exploitation over the short run is a worthy goal it permits better protection of Arctic environment. Although they are dedicated to interional normative principle, the EU Member States can be very muscular demanding global adherence. No shrinking violets, they fight aggressive for those principles. Top issues for the EU are environmental protection, especially against unrestricted fossil fuel exploitation and shipping, and fisheries protection. EU Member States also are working to demilitarize or rescue the prominent of military activity in the region, so make sure it cannot become the scene of future warfare.<sup>30</sup>

**The Non-Aligned Movement:** the 120 Member States of the UN's largest voting bloc are especially determined to avoid the rise of neo-colonial take-overs, as their former colonial rulers try to restore old-fashioned ideas about national dominance to the Arctic. The NAM is full of conflicts and contradiction. But its members usually agree that all 120 should have the same rights and provides as other states. They are especially suspicious of the use of high-minded principles that in practice would block tem from achieving the same levels of development for their people as wealthier nations.<sup>31</sup>

**India** is the largest and most prominent voice among the Non-Aligned Movement on Arctic issues. Although far off geographically, leaders in India are convinced their country is as deserving as any and has an obligation to engage these issues. Above all, Indian leaders expect fair consideration is access to Arctic resources.

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<sup>30</sup> Hannah Hoag, 'Nations agree to ban fishing in Arctic Ocean for at least 16 years', *Science*, 1 December 2017,

<http://www.sciencemag.org/news/2017/12/nations-agree-ban-fishing-arctic-ocean-least-16-years>

<sup>31</sup> 'Outsiders in the Arctic: The roar of ice cracking. Will Asian countries consolidate or disrupt Arctic stability?' *The Economist*, 2 February 2013,

<https://www.economist.com/news/international/21571127-will-asian-countries-consolidate-or-disrupt-arctic-stability-roar-ice-cracking>

They strongly oppose measures that would lock the region from other states, whether on the basis of national security or environmental protection. They see much of these appeals as naked self-interest in the form of universal principles, a misleading effort to disguise actual intentions. They seek the same access to the region as any other UN Member States.<sup>32</sup>

**Russia:** With its long Arctic coast, Russia expects to take a leading role in any diplomatic process regarding the future of the artic. It gets strong support on this from its international allies. In recent years, Russia unveiled a new Arctic command, four new Arctic brigade combat teams, 14 new operational airfields, 16 deep water ports, and 40 icebreakers with an additional 11 in development. This makes Russia the dominant naval and maritime actor in the region. Its regional build-up includes developing its Arctic military bases and capabilities.<sup>33</sup> The United States has one working icebreaker for the Arctic — it's only other one is broken. Unlike every other country in the region, Washington refuses to invest there, except through private energy and fishing firms. Canada and Norway have stronger maritime presences.

**United States:** The United States has been an Arctic nation with important interests in the region since the purchase of Alaska from Russia in 1867. At that time, national security and economic development were key U.S. interests. While this remains true today, significant changes in the international political arena, environmental, scientific and technological

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<sup>32</sup> Shyam Saran, 'India's stake in Arctic cold war', *The Hindu*, 1 February 2012,

<http://www.thehindu.com/opinion/op-ed/Indias-stake-in-Arctic-cold-war/article13290404.ece>

<sup>33</sup> Robbie Gramer, 'Here's What Russia's Military Build-Up in the Arctic Looks Like', *Foreign Policy*, 25 January 2017,

<http://foreignpolicy.com/2017/01/25/heres-what-russias-military-build-up-in-the-arctic-looks-like-trump-oil-military-high-north-infographic-map/>



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developments, and increasing global interdependence have created new priorities and opportunities for the United States and the other Arctic nations.<sup>34</sup>

U.S. Arctic policy is changing under President Trump, shifting away from an emphasis on long-term crafting through universal principles, and focusing more on immediate advantages for the United States ('America First'). In recent years, the American approach stressed international consensus through the Arctic Council, the premier forum for Arctic diplomacy and assumed the Arctic Council, which the U.S. chaired in 2015-2017. Current American policy is much more assertive, less concerned with fairness and balance, more with achieving unique advantages for the United States, based on the following principal objectives:

- U.S. national security needs.
- Protecting the Arctic environment and conserving its living resources.
- Ensuring environmentally-sustainable natural resource management and economic development in the region.
- Strengthening institutions for cooperation among the eight Arctic nations (the United States, Canada, Denmark, Finland, Iceland, Norway, the Russian Federation, and Sweden).
- Involving the Arctic's indigenous communities in decisions that affect them.
- Enhancing scientific monitoring and research on local, regional, and global environmental issues.<sup>35</sup>

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<sup>34</sup> Friedman, Uri, 'The Arctic: Where the U.S. and Russia Could Square Off Next. A closer look at Moscow's claims in the northern seas', *The Atlantic*, 28 March 2014; <https://www.theatlantic.com/international/archive/2014/03/the-arctic-where-the-us-and-russia-could-square-off-next/359543/>

<sup>35</sup> U.S. Department of State, 'Arctic', <https://www.state.gov/e/oes/ocns/opa/arc/>



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