



ARCTIC SECURITY BRIEFING PAPERS

Prepared by Ernie Regehr, O.C., Senior Fellow in Arctic Security and Defence

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Can a Fisheries Agreement help Forestall Militarization on the central Arctic Ocean?

If the Cold War is truly back, the news has yet to reach the Arctic. In the high north, putative rivals are having a hard time getting over their habit of cooperating. They've been at it again, this time agreeing on a set of measures to prevent over-fishing in the soon to be accessible high seas of the Arctic Ocean. The agreement is rightly lauded as another advance in collective Governance in the Arctic. Furthermore, it bolsters hopes that the logic of cooperation in support of public safety, environmental protection, and responsible resource extraction will increasingly spill over into security cooperation in the global commons of the Arctic high seas.

Canada's new defence policy, unveiled this past June, declares "the re-emergence of major power competition."¹ The new American national security strategy, unveiled this week, takes up the same theme, insisting that the US faces "growing political, economic, and military competition," with China and Russia "challeng[ing] American power, influence, and interests."² A similar strain of worry runs through academic and think tank worlds, frequently including assertions that renewed global rivalry portends heightened state-to-state confrontation in the Arctic.

As climate change renders the region more and more accessible, the argument goes, increased marine traffic and resource exploitation will generate dramatically new levels of commercial competition backed by re-energized geopolitical maneuvering. That, along with Russia's demonstrated willingness to pursue changes to borders by military means, heightens the risk of military confrontation. But one thing these dire warnings fail to acknowledge is the Arctic region's inclination toward cooperation.

The region and its international partners have been remarkably pro-active in anticipating and seeking to prevent state-to-state confrontation. The most recent example is the agreement in principle to Prevent Unregulated High Seas Fisheries on the Central Arctic Ocean. The Parties to the agreement reached at the end of November (the EU, Canada, China, Denmark, Iceland, Japan, South Korea, Norway, Russia, and the US) are now embarked on a legal and technical review of the agreement's provisions and are seeking final approval from their respective governments to sign and ratify the agreement.³ It will enter into force once all ten parties have done so.⁴

The agreement covers an area of 2.8 million square kilometres (about the size of the Mediterranean) and will ensure that no commercial fishing will take place before the necessary scientific work has been done and "appropriate conservation and management measures" are established.⁵ Any subsequent fishing in the high Arctic is to be regulated and supported by scientific information on the sustainability of fish stocks. It is regarded, in the words of the European Commission, as "a first step towards the creation of regional fisheries management organizations for the Central Arctic Ocean."⁶

The science will be aided by a Joint Program of Scientific Research and Monitoring established by the agreement. Its aim will be to improve understanding of the region's ecosystem(s) and to determine "whether fish stocks might exist in this area that could be harvested on a sustainable basis."⁷

The agreement will remain in place for the next 16 years and will be renewable every five years after that, or until those appropriate conservation and management measures are in place. Inuit representatives were consulted and included in the Canadian delegation to the negotiations, and the agreement's "final text recognizes Arctic Indigenous Peoples' interests, the value of indigenous knowledge and decision making, and provides for their inclusion in the process moving forward," according to Canada's Minister of Fisheries, Oceans and the Canadian Coast Guard, Dominic LeBlanc.⁸

The agreement is an example of constructive pre-emption. As the Canadian environmental organization, Oceans North, put it, "this will be the only ocean in the world that humankind have agreed to not fish in until we have a scientific understanding of what's there and the management regime under which to operate."⁹ Legislators, scientists, and civil society organizations have long urged Arctic States to apply this "cautionary principle" to the high seas of the Arctic – that is, to act preventively *before* fishing begins. In 2008 the US Senate called for action to prevent unregulated fishing. In 2010 the US closed its Arctic exclusive economic zone (EEZ) to fishing. In 2012, a letter signed by more than 2,000 scientists called for a delay in fishing "until such time as the biology and ecology of the region are understood sufficiently well to allow for setting scientifically sound catch levels."¹⁰ In 2014 Canada blocked commercial fishing in its Beaufort Sea EEZ. In July 2015, the five states on the Arctic Ocean issued the Oslo Declaration in which they agreed that there should be a fishing moratorium in the Arctic Ocean until appropriate management measures could be put in place.¹¹

Other examples of practical Arctic cooperation include the Arctic Coast Guard Forum involving the eight states of the Arctic Council. This year they issued an agreed statement on doctrine and information sharing, and conducted their first live exercise.¹² The same cooperation is central to the new Polar Code that entered into force in January 2017. A mandatory set of safety and pollution prevention measures, the Code was negotiated through the International Maritime Organization and establishes design and operational standards for vessels and related equipment in the Arctic.¹³ Earlier agreements on cross border cooperation in search and rescue and oil spill prevention and mitigation all add to the Arctic's cooperative approach to public safety.

And all these arrangements, obviously with much still to be done on implementation, are consistent with the 2008 declaration of the five Arctic Ocean States that they would in the future be guided by cooperation rather than confrontation. The 2008 Ilulissat Declaration acknowledges the "extensive" international legal regime already in place for the Arctic, including the Law of the Sea, and commits states to respecting that "legal framework" and to pursuing "the orderly settlement of any possible overlapping claims."¹⁴

Of course, the past doesn't determine the future, and, to be sure, agreements on paper are regularly flouted in practice. But old habits are also hard to break, and the Arctic is one place where the learned habit of cooperation so clearly serves the welfare of the region that, in the process, it also serves the self-interest of every Arctic State. So, while climate and geography have to date combined

to protect the central Arctic Ocean from over-fishing, Arctic and non-Arctic States together have now recognized that this natural maritime protection regime is melting away, and that it is in their collective interest to replace it with a politically generated regime.

The same “cautionary principle” that is now being relied on to forestall unsustainable fishing, has a role to play in averting a military face-off on the high seas of the Arctic. The University of Toronto’s Franklyn Griffiths sees the parallel. The climate conditions that have prevented fishing on those high seas have also prevented naval military operations on the surface of the central Arctic Ocean.¹⁵ And the same climate change that will make the Arctic’s high seas accessible to fishing boats will make the ocean surface accessible to any military forces interested in going there. The cautionary principle thus points to the current political opportunity to do politically what has until now come naturally – namely, preventing the militarization of the surface of the Arctic Ocean. Once-again, constructive pre-emption can feed the habit of cooperation. Arctic States together are in a strong position to engage non-Arctic states in preserving what already exists, the non-militarized surface waters of the central Arctic Ocean – but it has to be done before climate change and a new Cold War conspire to destroy what nature has until now preserved.

Notes

¹ “Strong, Secure, Engaged: Canada’s Defence Policy,” Department of National Defence, June 2017.

² National Security Strategy of the United States of America, December 2017.
<https://apps.npr.org/documents/document.html?id=4332188-Trump-s-National-Security-Strategy-Dec-2017>

³ Chairman’s Statement, Meeting on High Seas Fisheries in the Central Arctic Ocean, 28-30 November 2017.
<https://www.state.gov/e/oes/ocns/opa/rls/276136.htm>

⁴ European Commission Daily News, 01 December 2017. http://europa.eu/rapid/press-release_MEX-17-5065_en.htm

⁵ “Minister LeBlanc commends historic international agreement to prevent unregulated fishing in the high seas of the central Arctic Ocean,” Fisheries and Oceans Canada, Statements, 30 November 2017.
https://www.canada.ca/en/fisheries-oceans/news/2017/11/minister_leblanccommendshistoricinternationalagreementtopreventu.html

⁶ “EU and its Arctic partners agree to prevent unregulated fishing in high seas,” European Commission Daily News, 01 December 2017. https://ec.europa.eu/maritimeaffairs/content/eu-and-arctic-partners-agree-prevent-unregulated-fishing-high-seas_en

⁷ Chairman’s Statement, Meeting on High Seas Fisheries in the Central Arctic Ocean, 28-30 November 2017.
<https://www.state.gov/e/oes/ocns/opa/rls/276136.htm>

⁸ “Minister LeBlanc commends historic international agreement to prevent unregulated fishing in the high seas of the central Arctic Ocean,” Fisheries and Oceans Canada, Statements, 30 November 2017.
https://www.canada.ca/en/fisheries-oceans/news/2017/11/minister_leblanccommendshistoricinternationalagreementtopreventu.html

⁹ Levon Sevunts, “Canada signs ‘historic’ international agreement on Arctic fishery,” Radio Canada International, 30 November 2017. <http://www.rcinet.ca/en/2017/11/30/arctic-states-and-major-fishing-powers-reach-historic-agreement-on-fishery-in-central-arctic-ocean/>

¹⁰ Mia Bennet, “Arctic fishing agreement – When climate change drives diplomacy,” Eye on the Arctic Blog, Radio Canada International 05 December 2017. <http://www.rcinet.ca/eye-on-the-arctic/2017/12/05/blog-arctic-fishing-agreement-when-climate-change-drives-diplomacy/>

¹¹ “Preventing Unregulated Commercial Fishing in the Central Arctic Ocean,” A Compilation of Reports from Meetings of Experts in Shanghai (China), Incheon (Korea), and Sapporo (Japan),” The North Pacific Fishery Management Council. <https://www.npfmc.org/>

¹² Elaborated at: Ernie Regehr, “Arctic Coast Guard Forum – Cooperative Security Under Construction,” Disarming Arctic Security. The Simons Foundation, 16 November 2017. <http://www.thesimonsfoundation.ca/projects/arctic-security-briefing-papers>

¹³ Government of Canada Department of Transport, Regulatory Impact Analysis Statement. 01 July 2017. <http://www.gazette.gc.ca/rp-pr/p1/2017/2017-07-01/html/reg1-eng.html?wbdisable=true>

¹⁴ The Ilulissat Declaration, Ilulissat, Greenland, 27 – 29 MAY 2008. <http://www.arcticgovernance.org/the-ilulissat-declaration.4872424.html>

¹⁵ Just as the Seabed Treaty preserved the status quo in keeping nuclear weapons from the seabed, and just as NWFZs to date have largely preserved the status quo in keeping nuclear weapons out of regions from which they were already absent.