

# The Arctic Council and the collective governance: what about the new scientific cooperation agreement to ensure the Arctic governance?

Although the Arctic remains one of the most vulnerable ecosystems around the world, its governance still faces today its greatest challenge: “scientific cooperation”. Beyond a common international agreement, two other elements are crucial to ensure an effective scientific cooperation: first, a good lobby among all States members of Arctic Council to the integral collective governance. Secondly, interaction between member states with other Stakeholders (e.g. indigenous people in the region) to ensure active scientific cooperation.

**Keywords:** scientific cooperation, strategic link, Arctic governance

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## INTRODUCTION

The Arctic is a living laboratory for analyzing geopolitical problems and their possible solutions which include: new Arctic shipping routes, unexplored natural resources, new fishing quotas, sovereignty and defense, risks against the environment and all issues regarding the international relations of the States of the region and/or their relations with indigenous populations.

Cooperation, for any activity in the region, should be understood in a broad sense and might include security cooperation, environmental conservation, resource exploration and exploitation, or "scientific cooperation," etc. This article will solely focus on scientific cooperation among Arctic policy actors.

It is important to contextualize first the scientific cooperation in the Arctic<sup>1</sup> and then define the relations between the actors of the new "scientific cooperation" in the Arctic<sup>2</sup> and finally, analyze the main lines of cooperation established by the new Arctic Agreement of 2018<sup>3</sup>.

## CONTEXTUALIZATION OF SCIENTIFIC COOPERATION IN THE ARCTIC

Scientific estimates show that the seabed of the Arctic could hold up to 25% of the world's undiscovered hydrocarbon resources. Also, legally there are several alternative proposals for governing the Arctic Ocean and protecting his fragile

marine environment, including treaties to fill the alleged gaps in current governance.

In the international legal and political context, scientific cooperation in the Arctic is essential, as it enables the development of knowledge and research which will help define the guidelines for future actions by Stakeholders in the region. Scientific cooperation is a sensitive subject that has been increasingly present in international discussions over the past two decades, specifically in the exploration and exploitation of natural resources from a sustainable perspective.

Among the provisions of the relevant international instruments, the 1982 United Nations Convention on the Law of the Sea (UNCLOS)<sup>4</sup> specifically states that States actively promote the establishment, in developing coastal States, of marine scientific and technical research, and participate in the strengthening of existing national centers to stimulate and advance marine scientific research (Art. 275 UNCLOS).

Certainly, it should be noted that Part XIII of UNCLOS provides for standards regarding marine scientific research, including on the encouragement and facilitation of the development and conduct of marine scientific research for peaceful purposes. There is also the Kiruna Declaration from the Eighth Ministerial Meeting of the Arctic Council in May 2013, and the Iqaluit Declaration from the Ninth Ministerial Meeting of the Arctic Council held in April 2015. International

<sup>1</sup> T. Potts, C. Schofield, *An Arctic Scramble? Opportunities and Threats in the (Formerly) Frozen North*, *The International Journal of Marine and Coastal Law*, V. 23, 2008, p. 154. <sup>2</sup> *Ibidem*, s. 171.

<sup>2</sup> Further Information: European Parliament Resolution of 9 October 2008 on Arctic governance. Also, the Communication from the Commission to the Council and the European Parliament - The European Union and the Arctic Region. COM/2008/0763 final. Brussels, 20 November 2008.

<sup>3</sup> T. Henriksen, *Conservation of Biodiversity & The Arctic Region*, Guide to the navigation of marine biodiversity beyond national jurisdiction. Ed. D'Plácido. Belo Horizonte, Brasil, 2018, p. 597.

<sup>4</sup> United Nations, Treaty Series, vol. 1833, p.3.

legal cooperation has resulted in the signing of the Agreement on Strengthening International Arctic Scientific Cooperation, which has been in effect since 23 May 2018 and is the central part of this study.

It is noteworthy that this agreement is a legally binding instrument and has been negotiated among the eight Arctic countries, in consultation with six local indigenous organizations with permanent status as participants in the Arctic Council<sup>5</sup>. It is how it belongs members of the Council, the co-ordination of the co-operation in the Arctic, as well as its policy, that is organized, besides, in the offices of direction, the legislative bodies and the agencies of execution of these States.

### ARCTIC STAKEHOLDERS AND THEIR NEW RELATIONSHIP

The Agreement on Strengthening International Scientific Cooperation in the Arctic, which is the subject of this study, is intended to strengthen circumpolar cooperation among the various ac-

tors (including States) in the framework of scientific activities<sup>6</sup>, in order to increase scientific knowledge about the Arctic (Art 2).

In this context, "*as the prime subject of public international law, the State is the pivot of scientific cooperation in that it serves as an interface between national and regional bodies*"<sup>7</sup>. In this vein, Arctic cooperation and policy are partially (but not exclusively) coordinated through the Arctic Council. There are also other important actors for cooperation in the region, such as the United Kingdom, Germany, the European Union and China. Moreover, in order to face possible difficult disputes, the United Nations, NATO, NGOs, universities and indigenous peoples in the region also play an important role<sup>8</sup>.

It is also necessary to highlight that this legal instrument takes into account the interests of the indigenous peoples of the region, organized into six groups: the Inuit Circumpolar Council (ICC)<sup>9</sup>, the Gwich'in International Council (Gwich'in International Council – GCI)<sup>10</sup>, the Aleut International Association (AIA)<sup>11</sup>, the Sa-

<sup>5</sup> The Arctic Council is made up of the eight Arctic nations: the United States of America, Canada, Iceland, Norway, Sweden, Finland, Russia and Denmark with Greenland and the United States of America. Faroe Islands. Available at: Arctic Council website.

<sup>6</sup> Government of Canada, May 11, 2017 News Release - "Fairbanks, Alaska - Global Affairs Canada", Available online: [https://www.canada.ca/fr/affaires-mondiales/nouvelles/2017/05/le\\_canada\\_signe\\_laccordsurlerenforcementdelacooperationscientif.html](https://www.canada.ca/fr/affaires-mondiales/nouvelles/2017/05/le_canada_signe_laccordsurlerenforcementdelacooperationscientif.html).

<sup>7</sup> B. Guilloux, *Le régime de droit international de La recherche scientifique marine: dualité juridique et pratique*. Annuaire de Droit Maritime et Océanique (ADMO), t. XXII, Nantes, 2004, p. 123.

<sup>8</sup> D. Garcia-Caceres, *European cooperation: Poland as strategic link to ensure Arctic governance*, Paper presented in panel S11S13-001, ISAR-5 conference in Tokyo, 2018. Available online: [https://www.jcar.org/isar-5/program/ISAR-5\\_program\\_20171212.pdf](https://www.jcar.org/isar-5/program/ISAR-5_program_20171212.pdf).

<sup>9</sup> Founded in 1977 by the late Eben Hopson of Barrow, Alaska, the Inuit Circumpolar Council (ICC) has flourished and grown into a major international non-government organization representing approximately 160,000 Inuit of Alaska, Canada, Greenland, and Chukotka (Russia). The organization holds Consultative Status II at the United Nations. Ref: website of ICC <http://www.inuitcircumpolar.com/>.

<sup>10</sup> The Gwich'in Council International (GCI) was established as a non-profit organization in 1999 by the Gwich'in Tribal Council in Inuvik, NWT, to ensure all regions of the Gwich'in Nation in the Northwest Territories Ref: website of Arctic Council <https://arctic-council.org/index.php/en/about-us/permanent-participants/gci>.

ami Council<sup>12</sup>, the Arctic Athabaskan Council (AAC)<sup>13</sup>, and the Russian Association of Indigenous Peoples of the North (RAIPON)<sup>14</sup>. The interest of this agreement for indigenous peoples<sup>15</sup> is especially based on traditional and local knowledge<sup>16</sup>. The Arctic Agreement encourages Parties and authors of research to participate in scientific activities, to use this knowledge in the planning and conduct of scientific activities, through open communication between TK hol-

ders and local knowledge holders and the participants<sup>17</sup>.

In addition, for the implementation of the 2018 Arctic Agreement, the Parties have identified geographical areas (GIZs)<sup>18</sup>, which are detailed in Annex 1 of the same legal instrument, namely: Canada<sup>19</sup>, the United Kingdom Denmark<sup>20</sup>, Finland<sup>21</sup>, Iceland<sup>22</sup>, Norway<sup>23</sup>, the Russian Federation<sup>24</sup>, Sweden<sup>25</sup>, and the United States of America<sup>26</sup>.

<sup>11</sup> ALEUT was formed to address environmental and cultural concerns of the extended Aleut family whose well-being has been connected to the rich resources of the Bering Sea for millennia; and is governed by a Board of Directors comprised of four Alaskan and four Russian Aleuts under the leadership of a president. Ref: Available online: <https://www.aleut-international.org/about/>.

<sup>12</sup> Since 1956, the Saami Council is a voluntary Saami organization (a non-governmental organization), with Saami member organizations in Finland, Russia, Norway and Sweden. Ref: Website of Saami Council <http://www.saamicouncil.net/en/about-saami-council/>.

<sup>13</sup> The Arctic Athabaskan Council (AAC) is an international treaty organization established to defend the rights and further the interests internationally of American and Canadian Athabaskan member First Nation governments in the eight-nation Arctic Council and others international organisations. Ref: Website of The Arctic Athabaskan Council <https://web.archive.org/web/20110224190430/http://www.arcticathabaskancouncil.com/aboutus>.

<sup>14</sup> In 1990 was started as association. Then, at the First Congress of the Peoples of the North it continues as organization called "the Association of the Peoples of the North of the USSR", which united twenty-six peoples of the North. On November 24, 1993 the organization was registered as a socio-political movement "Association of Indigenous Peoples of the North, Siberia and the Far East of the Russian Federation". Finally, since July 1999 the Association exists in the form of an all-Russian public organization. Ref: Website of RAIPON <http://raipon.info/activity/>.

<sup>15</sup> Art. 9.3, Agreement on Enhancing International Arctic Scientific Cooperation, 2018.

<sup>16</sup> Art. 9.1, Agreement on Enhancing International Arctic Scientific Cooperation, 2018.

<sup>17</sup> Art. 9.2, Agreement on Enhancing International Arctic Scientific Cooperation, 2018.

<sup>18</sup> "These are areas over which a State Party to this Agreement exercises sovereignty; its sovereign rights or jurisdiction, including the lands and inland waters in those areas, and the adjacent territorial sea, exclusive economic zone and continental shelf, in accordance with international law. Designated geographical areas also include areas beyond national jurisdiction on the high seas north of 62 degrees north Latitude". Ref: Annex 1 of the Agreement, 2018.

<sup>19</sup> The territories of Yukon, Northwest Territories, and Nunavut and the adjacent marine areas of Canada.

<sup>20</sup> The territory of the Kingdom of Denmark including Greenland and the Faroes and its marine areas above the southern limit of the Greenland exclusive economic zone and the Faroese fisheries zone.

<sup>21</sup> The territory of Finland and its marine areas.

<sup>22</sup> The territory of Iceland and its marine areas.

<sup>23</sup> Marine areas north of 62 degrees north latitude, and land areas north of the Arctic Circle (66.6 degrees north latitude).

The following picture shows the geographical delimitation for the application of the 2018 Arctic Agreement.

Parties to the 2018 Arctic Agreement have agreed that the identified geographical areas are de-

scribed only for the purposes of this Agreement. In other words, this agreement does not affect the existence or delimitation of maritime rights or the delimitation of boundaries between States in accordance with international law.



Figure: The "Identified Geographic Areas" of the Agreement<sup>27</sup>.

<sup>24</sup> 1. Territory of the Murmansk Region; 2. Territory of the Nenets Autonomous Area; 3. Territory of the Chukchi Autonomous Area; 4. Territory of the Yamalo-Nenets Autonomous Area; 5. Territory of the municipal entity "Vorkuta" (Komi Republic); 6. Territories of Allaikhov Uls (District), Anabar National (Dolgano-Evenk) Uls (District), Bulun Uls (District), Nizhnekolymsk District, Ust-Yan Uls (District) (Sakha Republic (Yakutia)); 7. Territories of the Urban District of Norilsk, Taimyr Dolgan-Nenets Municipal District, Turukhan District (Krasnoyarsk Territory); 8. Territories of the municipal entities "The City of Arkhangelsk", "Mezen Municipal District", "Novaya Zemlya", "The City of Novodvinsk", "Onega Municipal District", "Primorsky Municipal District", "Severodvinsk" (Arkhangelsk region); 9. Lands and islands of the Arctic Ocean, identified in the Resolution of the Presidium of the Central Executive Committee of the USSR dated April 15, 1926 "On the announcement of lands and islands situated in the Arctic Ocean as a territory of the Union of SSR" and other legislative acts of the USSR; as well as adjacent marine areas. Note: Territories of the municipal entities, listed in the abovementioned items 5-8, identified within the borders as of April 1, 2014.

## NEW LINES OF SCIENTIFIC COOPERATION ESTABLISHED BY THE 2018 AGREEMENT

Although each Arctic policy actor has specific priorities, all express concern with the establishment of effective scientific cooperation, not only for the protection of the environment but also for Access to information regarding its potential.

In order to achieve the objective of this agreement "to expand the effectiveness of the development of scientific knowledge on the Arctic", access by "civil research infrastructures and facilities" to information from scientific resources is articulated. To this end, the Agreement requires each Party to designate one or more "competent national authorities"<sup>28</sup> as the point of contact to facilitate communication between the parties. This national competent authority should also ensure access to research areas<sup>29</sup> and research infrastructures and facilities in each State Party<sup>30</sup>, as well as the entry and / or exit of its IGOs, of persons, equipment and material, (including samples, data and equipment of participants), to the extent necessary to advance the achievement of the research objectives<sup>31</sup>.

It should be noted that the Agreement does not have the effect of modifying the rights or obligations of the Parties under other international

agreements of public international law. On the contrary, the Parties may continue to enhance and facilitate cooperation with non-Parties with regard to Arctic science<sup>32</sup>. As such, the agreement provides for Parties to support full and open access to scientific metadata and to promote free access to published results as soon as possible<sup>33</sup>.

## CONCLUSIONS

The 2018 Arctic Agreement aims to improve the dissemination of scientific data and to facilitate the movement of people, samples and equipment between the borders of States Parties and its IGOs for research purposes while encouraging the use of traditional knowledge and local knowledge of the inhabitants of the region.

It is necessary to note that the issue of Arctic scientific cooperation raises implications beyond the purely scientific. Indeed, more broadly, it addresses the international relations between the Arctic Council Member States, and with other actors in the region, including indigenous peoples.

Finally, among the various issues surrounding the organization of a new scientific cooperation

<sup>25</sup> The territory of Sweden and its marine areas north of 60.5 degrees north latitude.

<sup>26</sup> All United States territory north of the Arctic Circle and north and west of the boundary formed by the Porcupine, Yukon, and Kuskokwim Rivers; the Aleutian chain; and adjacent marine area in the Arctic Ocean and the Beaufort, Bering, and Chukchi Seas.

<sup>27</sup> Further Information: Agreement on Enhancing International Arctic Scientific Cooperation. USA Department of State, 2018, on line: <https://www.state.gov/e/oes/ocns/opa/arc/278907.htm> (Revised on June 14, 2018).

<sup>28</sup> Art. 13, Agreement on Enhancing International Arctic Scientific Cooperation, 2018.

<sup>29</sup> Art 6, Agreement on Enhancing International Arctic Scientific Cooperation, 2018.

<sup>30</sup> Art 5, Agreement on Enhancing International Arctic Scientific Cooperation, 2018.

<sup>31</sup> Art 4, Agreement on Enhancing International Arctic Scientific Cooperation, 2018.

<sup>32</sup> Arts. 16 and 17, Agreement on Enhancing International Arctic Scientific Cooperation, 2018.

<sup>33</sup> The free access to the data provided for in the agreement refers to "or for a fee not exceeding the cost of reproduction and delivery". Reference: Arts 7.2, Agreement on Enhancing International Arctic Scientific Cooperation, 2018.

should be taken into consideration the fact that the United States, a member state of the Arctic Council, has not yet ratified UNCLOS which ra-

ises questions regarding cooperation and its effectiveness in acting for peace and efficient scientific cooperation in the region.

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