



China-Nordic Arctic Research Center Newsletter, 4th Issue, May 2016

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Summary Report: the Third China-Nordic Arctic Cooperation Symposium

By DENG Beixi

Co-organized by Shanghai Institutes of International Studies and Polar Research Institute of China, the 3rd China-Nordic Arctic Cooperation Symposium was held from 26 - 28 May 2015 in Shanghai. Up to 80 participants from China, Finland, Denmark, Sweden, Norway and Russia gathered together for discussion of cutting-edging issues in the Arctic, such as Arctic geopolitics, governance, legislation, economy, and sea route utilization. Mr. JIA Guide, Deputy-director of Department of Treaty and Law, Ministry of Foreign Affairs of China, Mr. QIN Weijia, Director-General of China Arctic and Antarctica Administration, Mr. LIANG Fengqui, Deputy-Director, Deputy-director of Department of State Oceanic Administration of China, Dr. CHEN Dongxiao, Director-General of Shanghai Institutes of International Studies, as well as Mr. Arni Thor Sigurdsson, Icelandic Ambassador for the Arctic, addressed the opening ceremony.

The symposium consists of academic conference and economic roundtable, moderated by Dr. YANG Jian, Deputy Director of Shanghai Institutes of International Studies, and Dr. YANG Huigen, Director of Polar Research Institute of China, respectively. The academic conference, with the theme of “Arctic Synergies: Policy and Best Practices”, is comprised of five sessions: Impacts of Scientific Development on Arctic Strategies; Framing and Implementation of Arctic Policies; Legal Aspects in the Arctic Governance; Arctic Geopolitics and Security; and Trans-Arctic Synergies in Arctic Economics. Nearly 30 scholars from major institutes on Arctic social science research delivered keynote speeches and presentations.

Prof. Lassi Heininen from Lapland University, in his keynote speech on “Global, the Anthropocene and the Arctic”, introduces the Global Arctic Program and examines how globalization and its flows affect the Arctic and how the geophysical and socio-economic dynamics in the Arctic affect the Earth system. He believed that the Arctic region in the 2010s has become a parcel of global multi-dimensional changes, the globalized Arctic has significant implications worldwide: stability-building as a common ground and ‘policy-shaping’ under the auspices of the Arctic Council as an innovative method. The Anthropocene is at play in the Arctic, and geo-economics has taken over geopolitics, which means that economic activities instead of strict environmental regulations will be prioritized and that the future of the ‘globalized Arctic’ will be no longer in the hands of the Arctic actors alone.

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Prof. XIAO Cunde from State Key Laboratory of Cryosphere Science of China Academy of Science, illustrated the inter-connection between the Tibetan Plateau and the Arctic region, in his keynote speech titled “Change of Cryosphere on ‘Third Pole’ and its Impacts”. He noted that the Tibetan Plateau is not only the origin of certain rivers flowing into the Arctic Ocean, but also shares similarities with the Arctic in terms of alpine permafrost environment and eco-system. Both regions are faced with the challenges posed by the global warming. The inter-connections between the Third Pole and the Arctic region open up a new dimension of research on Arctic environment, eco-system and humanity. China’s expertise, technology and experiences in infrastructure construction in the permafrost zones may create cooperation opportunities for China and Nordic countries.



In group discussion session on “Impacts of Scientific Development on Arctic Strategies”, Dr. Rasmus Bertelsen, senior researcher from UiT - The Arctic University of Tromsø, analyses the role of science diplomacy in China’s engagement in the Arctic affairs, and distinguishes the 3 distinct type of science diplomacy: Science informing diplomacy (international climate diplomacy), Diplomacy for science, and Science for diplomacy (Track II Diplomacy). In his perspectives, China’s science diplomacy in the Arctic fits in the category of Science for diplomacy. Science diplomacy enables China to enter the Arctic in a less threatening way. By participating in the Working Groups under the Arctic Council, the Arctic environment and sea-ice monitoring network, as well as inter-governmental scientific cooperative mechanism (e.g. IASC), China could provide public goods and intellectual supports to the Arctic governance and offer scientific evidence for policy-making, so as to mitigate the concerns over China’s engagement in the Arctic affairs. Prof. GUO Peiqing from Ocean University of China illustrates the relationship between Science and Politics in the Arctic and believes that the interactions between the two actors are inseparably intertwined and tend to strengthen. Science in the Arctic has evolved to become an ideology or political correctness that leads the Arctic governance and development, and the national strength and contributions to the Arctic science research determine the depth and width of a state’s participation in the Arctic affairs.

In group discussion session on “Framing and Implementation of Arctic Policies”, with regards to the current Arctic governance regime, Prof. Uffe Jakobsen from University of Copenhagen believes that even if the character of the Arctic Council should remain, the Arctic Council should be open for non-Arctic states as the Arctic becomes more and more a global issue. Observers, especially East Asia observers, should be included in the future negotiations and agreements on the regulations of the Arctic shipping routes as potential users. Dr. Malgorzata Smieszek from Arctic Center, Lapland University, compares the role of Arctic Council chairmanship in the institutional development and agenda-setting of the council since its establishment in 1996. She considered

that the mechanism of the council has almost ripen, but faces a number of pressing challenges, for instance, lack of policy coherence, lack of effectiveness and efficiency in decision-making, excessive focus on the national stakes and interests of a particular state during the chairmanship, etc. Dr. Marc Lanteigne from NUPI and Dr. SU Ping from Tongji University, in their analysis on China’s developing Arctic policy, note that China’s Arctic identity is being built both by China but also by other actors. Western concerns about the geopolitical and geo-strategic effects of China’s Arctic policy have led to a “clash of identity”. China, through scientific diplomacy and regional partnership, seeks an identity based on status-quo thinking; however, there has been another identity set from outside which views China as a revisionist power in the area of Arctic politics, economics and security. They urge that China should seek to further integrate itself in the Arctic Council and its Working Groups, develop Track II organizations and diplomacy, and produce an Arctic/Polar White Paper to further explain its longer-term Arctic strategies both to domestic and international audiences.

In group discussion session on “Trans-Arctic Synergies in Arctic Economics”, Dr. Arild Moe, Acting Director of Fritjof Nansens Institute provides his outlook for the Northern Sea Route. In comparing the number of trans-Arctic voyages along NSR and the transit volumes from year 2011 to 2014, he notices a drastic decrease in year 2014 and presumes the unfavorable ice conditions, the highly volatile international situation, the less competitive service fees, as well as the changes in users’ marketing strategies, to be the plausible factors leading to the decrease in data. He also suggests new uncertainties for the usage of NRS in a longer term. For instance, given the low oil price, fuel savings on NSR matter less, while fees of service and escort may adversely raise the total costs; the reduced activities in resource extraction and economic development in the Russian Arctic may halted the ongoing infrastructure projects, triggering loss of customers for NSR. To tackle the challenges and ensure future usage of NSR more favorable, he suggests that a more flexible icebreaker strategy should be adopted so that the operations of NSR could be more economized, and liberalized access for foreign investors should be encouraged so that new sources of income could be found.

The innovative perspectives of Chinese scholars come from a deepened understanding on the Arctic geopolitics. Prof. ZHANG Xia from Polar Research Institute notes that globalization and climate change strength the ties between the Arctic and its adjoining territories. An increasing number of intra-regional and extra-regional actors have been engaged in shaping Arctic governance mechanisms. The formation of Arctic governance marks the evolution from a competitive U.S.-USSR bi-polar structure in the Cold War era to a multilevel structure. He also proposes the four-point principles of China’s engagement in the Arctic affairs: principle of proximity defined by China’s identity claimed as a “Near-Arctic State” situated in mid-latitude of the Northern Hemisphere; principle of legitimacy defined by China’s legitimate rights in the Arctic global commons, i.e. Central Arctic Ocean, International Seabed; the principle of constructiveness and cooperation that guide China’s responsible engagement in the Arctic sustainable development. His colleague DENG Beixi explores how Nordic states perceive NATO’s role in Arctic security. He believes that with inexplicit, undefined and underlying role of NATO as a deterrent against Russia’s militarization in the Arctic, the formation of legally-binding agreements and intensification of regional groupings have further strengthened the inter-connections of the actors concerned, so that the status-quo of relative stability in the Arctic can be maintained.

While the conference focuses on academic exchanges, the economic roundtable themed “Cooperation towards Operational Use of the Arctic Sea Routes” aims to explore the tripartite dialogue mechanism among academia, policy-maker and business circle. The participants include representatives from the leading industries of ship-building, port infrastructure, insurance and shipping transportation in China and Nordic states, as well as Russia’s NSR Administration. The participants believe that with the accelerated melting of Arctic Sea-ice, the opening-up of Arctic shipping lines will bring opportunities to trade and regional economic development for countries situation in the mid-latitude in the Northern Hemisphere, China included. However, the harsh Arctic climate, the negative effects of methane and black carbon emissions on the fragile Arctic eco-system, the deficiencies in infrastructure along the Arctic Ocean and in search & rescue capacities and the lack regulations of navigation in Ice-covered Areas, all have posed challenges to the operational use of Arctic waterways.



Summary Report: CNARC Roundtable 2015: Arctic Shipping “Cooperation towards Operational Use of the Arctic Sea Routes”

By Egill Thor Nielsson

About CNARC Roundtable 2015: Arctic Shipping

The CNARC Roundtable takes form of a closed-door meeting for invited scholars, scientist, business leaders and policy makers. The roundtable concludes the China-Nordic Arctic Cooperation Symposium and focuses on an Arctic topic of economic and/or cultural significance. Roundtable participants also attend the opening session of the scientific symposium, as well as paying business visits to relevant local organizations with engagement in economic, policy or cultural activity related to the roundtable theme and/or CNARC's activity. Ultimately the purpose of the roundtable is to promote China-Nordic Arctic social, economic and cultural cooperation. The CNARC roundtable code is an adoption of the Chatham Rules, enforced to encourage speakers to share their insights in a group of peers.

The CNARC Roundtable 2015 concluded the 3rd China – Nordic Arctic Cooperation Symposium “Arctic Synergies: Policies and Best Practices” with a discussion under the theme “Cooperation towards Operational Use of the Arctic Sea Routes” participated by leading stakeholders and experts in Arctic shipping from China, Russia, Norway, Finland, Iceland and Korea. The discussions were lead forward by the moderators with five key questions for speakers and commentators to focus on:

- Q1: What could an economically feasible model for the commercial use of Northeast Passage look like?
- Q2: What will be the main environmental challenges and how can we best manage the risks that come with using the Arctic Sea Routes?
- Q3: What will be the main challenges and opportunities of technology used for the Arctic Sea Routes?
- Q4: What kind of international cooperation can we foster towards the operational use of Arctic Sea Routes?
- Q5: When do you believe the Arctic Sea Routes can become operational for commercially viable and environmentally acceptable use?

The CNARC Roundtable 2015 was the first time an international gathering of its kind takes place in China on Arctic shipping. The findings of the roundtable were that there is a great interest to have continued conferences so we can learn from each other. Amongst ideas put forward was creating a database to make calculations, to

complete the projects to establish the ports. Number of cargo, cargo type, period of those transit shipping, as only after that we can elaborate more about transit shipping through the Arctic passages. Participants put in diverse views on Arctic shipping from their industry or research specialization, agreeing on the need for further cooperation between various stakeholders for Arctic development to realize opportunities in a prudent manner.

Code for the CNARC Roundtable

- Accepted by CNARC Roundtable 2015: Arctic Shipping participants



Definition:

CNARC roundtable is a gathering of invited scholars, scientists, business leaders and policy makers to discuss and explore important issues and promote China-Nordic Arctic social, economic and cultural cooperation.

Participants:

The roundtable takes the form as a closed-door meeting. Open to invited guests ONLY. For registration please contact the CNARC secretariat.

Registration takes place at the front desk of the meeting room. Bring your chest card or invitation letter.

Rules:

1. Free discussion: We encourage free discussion under the Chatham House Rule, “Participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed.”
2. Contents shall include: Important and relevant facts and trends, new technology and important theories, opinions and arguments, comments and cooperation proposals focused on the round-table theme.
3. Time keeping: Each invited speaker has 10 minutes including discussion. Each commentator has 3 minutes.
4. Media responsibility: Any media interview reflecting on the CNARC roundtable is on the sole responsibility of the individual speaker.
5. Citations: No statement from this round-table shall be published, without the permission of the source speaker and the CNARC.

Notes:

The roundtable meeting is conducted in English only.

Please copy your PPT presentation into the organizers' computer at the beginning of the meeting.

All attendees are equally participating the meeting. Guided by the moderator, the participants have free discussion focusing on the predetermined theme of the meeting. It is not allowed to tape or video record the meeting without the permission of CNARC.

Please do not copy and disseminate documents of the meeting. Including, but not limited to, the PPT, presentation material, tape and video.

Participants are required to comply with this code once they register or participate in the CNARC roundtable.

Participants shall take fully legal liabilities on their own behavior once they violate this code.



Keynote Speech of Mr. JIA Guide at the Opening Ceremony of the 3rd China-Nordic Arctic Cooperation Symposium

Mr. JIA Guide, Deputy-Director of the Department of Treaty and Law, Ministry of Foreign Affairs, delivered a keynote speech on occasion of the opening ceremony of the 3rd China-Nordic Arctic Cooperation Symposium. He acknowledges that China-Nordic Arctic Research Center (CNARC) has evolved to become a major platform to promote Arctic cooperation between China and Nordic states.

In his speech, he first summarizes the current Arctic situation as overall stability, development underway, while challenges ahead.

“Overall stability” indicates that under the guidance of the eight Arctic states and with the friendly and moderate participation of the other extra-regional actors, the Arctic is well ordered and its legal framework and governance mechanism are constantly improving. The mainstream of the Arctic situation is characteristic of peace and stability.

In terms of “development underway”, on one hand, the level of institutionalization of Arctic governance has been greatly enhanced; on the other hand, Arctic development has been prioritized on the agenda. The establishment of Arctic Economic Council has created the platform to boost Arctic economic exchanges; with ice thawing injecting extra vigor into Arctic development, the prospect of opening-up of Arctic sea routes and resources utilization will provide opportunity to all stakeholders concerned.

“Challenges ahead” is reflected as the fragile ecological environment in the Arctic, the high costs and risks of the Arctic exploration, the environmental, societal and cultural clash to the traditional lifestyle for the Arctic indigenous communities, etc. These challenges are both intra-regional and trans-regional.

He considers the theme of the symposium “Arctic Synergies: Policies and Best Practices” to be the appropriate response in the view of the situation mentioned above. He further explored the connotations of the three keywords: synergies, policies and practices.

To his understanding, “synergy” is the inevitable choice of the Arctic development. Stability in the Arctic provides the foundation for the cooperation among all parties; meanwhile, each relevant state needs to constantly

coordinate in order to maintain stability as well. The development underway requests all Arctic stakeholders, in face of the prospects of Arctic development opportunities, to pay give full play to their advantages and grasp opportunities so as to realize synergies. The challenges ahead require synergies as well on both governmental and non-governmental level within Arctic states themselves and between Arctic states and non-Arctic states. Therefore, “synergy” plays a vital role in various aspects to maintain peace and stability in the Arctic region, to promote Arctic development, and to motivate the collaboration of all parties concerned to cope with challenges hand in hand.

The guidance of “policies” is the key to realize synergy. In general, the current Arctic policy environment is favorable to the Arctic cooperation. On one hand, the regional governance mechanism and the cooperation consciousness of the Arctic states have continuously strengthened. On the other hand, Arctic states have adopted a more flexible and open policy on the engagement of extra-regional states in the Arctic affairs, especially with regards to the trans-regional issues.

“Practices” bring the policies into real function. In recent years, China and the Nordic states have enhanced their exchanges, widened the cooperation fields and deepened cooperation contents in the Arctic affairs, playing an active demonstrative role in the Arctic cooperation. On the multilateral level, China and the Nordic countries maintain effective communication in the multilateral forum like the Arctic Council, the Arctic Circle Forum, and the Arctic Frontier Conference, etc. The Nordic states have offered firm support to China’s application for the observer status of the Arctic Council, while China has also paid great attention to the Arctic multilateral exchange platforms initiated by the Nordic states. China’s participating and hosting the country session in the 3rd Arctic Circle Assembly serves an example in point. On the bilateral level, China has held dialogues on Arctic affairs with each Nordic state. The Arctic issues have been important on the agenda of China-Nordic high-level meetings. Following the signature of *Framework Agreement between the Government of Iceland and the Government of the People’s Republic of China on Arctic Cooperation*, China has also further explored the possibility of signing similar agreements with the other Nordic states in different extent.

Looking forward, Mr. JIA Guide believes that the strong complementarity of China-Nordic cooperation will lead to a broader prospect for further cooperation on the Arctic affairs. The Nordic countries take the leading position worldwide in environmental protection, renewable energy and sustainable development, while China is in need of the Nordic technologies when promoting Arctic environmental protection program. With the European economic center moving northwards and the opening-up of the Arctic sea routes, the Nordic states will inevitably play a more significant role in world geopolitics and economy. China is looking forward to the equal rights of participation in the Arctic sustainable development, and is willing to provide the Nordic states with capitals, equipment and labor forces, which might be necessary to their Arctic development projects. China expects to become the potential market for the export and resources development of the Nordic states. He believes that the mutually beneficial cooperation will further tighten the China-Nordic relationship closer and bring mutual benefits to people from both sides. China would like to cooperate with the Nordic states on the Arctic affairs in an active posture, strengthen the policy guidance, refine specific measures, and promote interactions between officials and people in order to transfer the cooperation blueprints to the realities.



China's Engagement in the Arctic Affairs on the basis of Respect, Cooperation and Win-win

——A Summary of China's Country Session on occasion of the third Arctic Circle Assembly

By DENG Beixi

At the invitation extended by Icelandic President Olafur Ragnar Grimsson, China sent a high-level delegation to the third Arctic Circle Assembly taking place in Reykjavik, Iceland, from October 16 to 18 2015, and held a country session during the Assembly.

China's Foreign Minister Wang Yi delivers a video message at the opening ceremony, expounding China's basic stance on the Arctic issue. Wang Yi emphasizes the growing role of the Arctic Circle Forum as "an important platform" for discussing Arctic issues and "a useful addition" to the inter-governmental mechanisms on Arctic affairs. He noted that as the "indicator of global change" and "an emerging highlight in global development", the Arctic has drawn more and more attention from the international community. China is an important stakeholder in the Arctic. China's participation in Arctic affairs has always been guided by three major principles: respect, cooperation and win-win results.

Wang Yi expressed that respect provides the important basis for China's participation in Arctic affairs. China believes that the rights of non-Arctic countries under international law in the Arctic and the collective interests of the international community should be respected. Cooperation is the fundamental approach China follows in participating in Arctic affairs. China is ready to step up cooperation with all parties concerned for concrete outcomes in a wide range of areas including climate change, scientific research, environmental protection and shipping. Win-win results are the ultimate goals for China's participation in Arctic affairs. The future development of the Arctic bears on the common destiny of mankind. China is ready to participate in Arctic affairs in a constructive way and work with all parties to share opportunities, jointly meet challenges and strive for win-win results, thus make more contributions to the development in the Arctic.

China's delegation in the Arctic Circle Assembly was led by Vice Foreign Minister Zhang Ming, who delivered a keynote speech titled "China in the Arctic: Practices and Policies" in China's country session.

Zhang Ming introduced China's major activities and contributions in the Arctic and expounded China's Arctic policy of upholding the three principles of respect, cooperation and win-win, and China's six propositions: further exploring and understanding the Arctic, protecting and rationally using the Arctic, respecting the inherent rights of Arctic countries and Arctic indigenous people, respecting the rights of non-Arctic countries and the overall interests of the international community, building a multi-level framework of Arctic cooperation with the goal of

win-win results and maintaining the Arctic governing system under the current international law.

Zhang Ming pointed out that China is a constructive participant and partner in the Arctic affairs. The Chinese side will step up exchange and mutual learning with all parties to jointly build an Arctic that enjoys peace, stability, a sound ecosystem and sustainable development.

An excerpt of his speech is listed as below:

"Geographically speaking, China is a "near-Arctic state". The changing natural environment and resources exploration of the Arctic have direct impact on China's climate, environment, agriculture, shipping, trade as well as social and economic development. Therefore, China is a major stakeholder in the Arctic. On such basis, China insists on six specific policies regarding Arctic affairs.

First, further explore and understand the Arctic. With its unique geographic location and natural environment, the Arctic has great scientific value as an indicator of global climate change and a "laboratory" for global scientific research. As of today, mankind's exploration and understanding of the Arctic is still limited. This makes it necessary for governments, social organizations, academia and business community to work together, further strengthen cooperation, and explore and understand the Arctic in a comprehensive way. This will help lay a solid foundation for the better protection and utilization of the Arctic.

Second, protect and rationally use the Arctic. The Arctic enjoys great potential as a shipping route and with its rich resources. At the same time, its ecosystem is fragile. Therefore we must strike a balance between protection and utilization, protecting its ecosystem from irreversible damage while exploring the shipping routes and resources to an extent reasonable and in an orderly manner.

Third, respect the inherent rights of Arctic countries and the indigenous people. The territorial sovereignty over the Arctic continent and islands belong to the Arctic states. They enjoy territorial seas, exclusive economic zones and continental shelves in the Arctic. The indigenous people account for one fifth of the Arctic population and have unique cultural traditions and lifestyles. Countries have the obligation to respect and uphold the sovereignty, sovereign rights and jurisdiction of the Arctic countries, respect the traditions and culture of the Arctic indigenous people, and protect the natural environment and resources they live on.

Fourth, respect the rights of non-Arctic countries and the overall interests of the international community. The Arctic seas include high seas and international sea-bed areas. Non-Arctic countries have the rights to conduct scientific research, navigation and exploration in the Arctic region under international law, and these rights should be respected and upheld. The international community must work together to protect and utilize the Arctic, and in particular to address such global issues as climate change, ecology, environmental protection and shipping. At the same time, the overall interests of the international community in the Arctic should be respected.

Fifth, build a multi-tiered Arctic cooperation framework for win-win results. As the Arctic bears on human survival and development, countries share common responsibilities for the Arctic. The challenges in the Arctic require joint contribution of all stakeholders, including the expertise, technology, capital and market that non-Arctic countries may offer. China proposes that all sides further strengthen communication and coordination to build a cooperation framework at the global, regional and national levels, expand channels for governmental and non-governmental cooperation and seek win-win results through cooperation.

Sixth, uphold the Arctic governance system based on existing international law. The United Nations Charter, the UN Convention on the Law of the Sea, the Svalbard Treaty and other international instruments provide the basic legal framework for addressing Arctic issues, hence Arctic and non-Arctic countries are entitled to their rights and also shoulder obligations according to law. The rule-based Arctic governance system is working very well. China supports improving Arctic governance under the existing framework of international law, recognizes the important status of the Arctic Council in Arctic governance, and supports the IMO and other international platforms in playing an active role in Arctic governance.

Ladies and Gentlemen,

The future of the Arctic concerns not only the well-being of the Arctic countries and people, but also the overall interests of the entire international community. In this increasingly globalized world, it is all the more important for parties to jointly explore, understand and utilize the Arctic. As a developing country, China will continue to advocate respect, cooperation and win-win results, step up exchange and mutual learning, and work together with others to build an Arctic that enjoys peace, stability, a sound ecosystem and sustainable development."



Fellowship Report

On 16 July 2015, in Oslo, the coastal states of the Arctic Ocean – Canada, Denmark, Norway, the Russian Federation and the United States (the Arctic Five) – took a long-awaited further step in the international regulation of Arctic Ocean fisheries by signing the “Declaration Concerning the Prevention of Unregulated High Seas Fishing in the Central Arctic Ocean”. Dr. LIU Dan, Associate Professor of Center for Rule of Ocean Law Studies, Shanghai Jiao Tong University, with research expertise on Law of Sea and Polar Law, took opportunity of CNARC Fellowship program to conduct a one-month fellow visit from Dec. 2015 to Jan. 2016 at Stefansson Arctic Institute in Iceland, in order to further explore the future tendency of fishery management in the Central Arctic Ocean (CAO). Texts below are the summary of an academic report of CNARC fellowship that Dr. LIU Dan has submitted.

The 2015 Oslo Declaration on High Seas Arctic Fisheries

——Starting Point towards Future Fishery Management in the Central Arctic Ocean

1. Scientific awareness of the need for High Seas Fisheries in the CAO

Although the CAO has been covered year-round in ice through most of human history, in recent summers up to 40 percent has melted into open water. This newly emerging ocean is undergoing tremendous ecological change at the same time it is becoming potentially accessible to commercial fishing fleets, which have proved relentless in their pursuit of catch.

The High Seas of the CAO teem with cod, herring, Greenland sharks, whales, walrus, seals and polar bears, while the waters are open to fishing unless closed or regulated by international agreement. That’s why more than 2,000 scientists urged Arctic nations in 2012 to prevent the start of commercial fishing in the CAO. The letter signed by more than 2,000 scientists from 67 countries was released by The Pew Charitable Trusts on the first day of the International Polar Year conference in Montreal, to push arctic leaders to develop an international fisheries agreement that would protect the waters of the CAO.

More than 60 percent of those who signed the letter are scientists from one of the five coastal Arctic countries of Canada, United States, Russia, Norway and Greenland/Denmark, the rest are scientists from more than 62 other countries. The letter recommends the leaders of coastal Arctic countries pursue the following actions: (1) to take the lead in developing a precautionary international fisheries management agreement; (2) to start with a catch level of zero until sufficient scientific research can assess the impacts of fisheries on the CAO ecosystem; and (3) to set up a robust management, monitoring and enforcement system before fishing begins.

2. The CAO fisheries issue in the Arctic Council regime

Despite the efforts of some Arctic states, (i.e. United States) to engage fisheries issue on a multilateral level, it became clear that the Arctic Council was not interested in having any involvement in the international regulation of marine capture fisheries, or becoming a forum for the negotiation of a regional agreement on CAO fisheries. There is nevertheless no juridical obstacle for this; not for the Arctic Council per se and also not for the Arctic Council System, partly because of the broad mandate of the Arctic Council which relates to “common Arctic issues” with special reference to “issues of sustainable development and environmental protection in the Arctic”.

One of the first intergovernmental discussions on Arctic Ocean fisheries occurred at the November 2007 meeting of the Arctic Council’s Senior Arctic Officials. In addition to two ministerial meetings held in Ilulissat, Greenland in May 2008, and Chelsea, Canada in March 2010, dedicated fisheries meetings took place at the level of senior officials in Oslo in June 2010, Washington D.C. in April and May 2013, with the most recent meeting held in Nuuk, in February 2014.

The Arctic Ocean coastal states recognized shortcomings in the available scientific information and agreed to organize scientific experts meeting. At least three scientific experts meetings have been held till the end of 2015: the first in Anchorage, the United States in June 2011; the second in Tromsø, Norway, in October 2013; and the third in Seattle, the United States, in April 2015.

At the November 2007 Meeting of the Senior Arctic Officials (hereinafter referred to as the “SAOs”), the Arctic Council decided not to become involved in fisheries management issues. Even though the Council has not explicitly reversed its view since then, the issue of international fisheries management has come up within the context of the Arctic Ocean Review (hereinafter referred to as the “AOR”) project that is currently carried out within the Council’s Protection of the Arctic Marine Environment (hereinafter referred to as the “PAME”) working group.

3. Legal status and the substance of the Oslo Declaration

Currently, legal status of the Oslo Declaration is best understood as containing a number of non-legally binding commitment, amounting to so-called “soft law”, expressing a preference (but not an obligation) that the states concerned should act, or should refrain from acting, in a specified manner. Soft law is by its nature the articulation of a “norm” in a non-binding written form, and it can also be applied to non-treaty agreements between states or between states and other entities that lack capacity to conclude treaties. The soft law nature of the Oslo Declaration is not only evidenced by the title of the “Declaration” itself, but also by the use of the terms in the Declaration, such as “recognize”, “recall”, “acknowledge”, etc.

Through the Oslo Declaration, the Arctic Five declare their intent to implement the following interim measures: (1) To authorize their vessels to conduct commercial fishing in the high seas portion of the CAO only pursuant to one or more regional or sub-regional fisheries management organizations or arrangements that are or may be established to manage such fishing in accordance with recognized international standards; (2) To establish a joint program of scientific research with the aim of improving understanding of the ecosystems of this area and promote cooperation with relevant scientific bodies, including but not limited to the International Council for the Exploration of the Sea (ICES) and the North Pacific Marine Science Organization (PICES); (3) To promote compliance with these interim measures and with relevant international law, including by coordinating their monitoring, control and surveillance activities in the high seas portion of the CAO; (4) To ensure that any non-commercial fishing in the high seas portion of the CAO does not undermine the purpose of the interim measures, is based on scientific advice and is monitored, and that data obtained through any such fishing is shared.

It’s worth noting that the Oslo Declaration largely adopts or builds upon the substantive outcome of the Nuuk meeting, but it’s hardly to describe the substance of the Declaration as a “ban” or “moratorium” on fishing in the Arctic. At the Nuuk meeting, political agreement was only made “on the desirability of developing appropriate interim measures to deter unregulated fishing in the future in the CAO”. The Oslo Declaration goes beyond expressing the mere desirability of developing appropriate interim measures, and instead expresses the intent by the Arctic Five to implement a number of interim measures “to implement appropriate interim measures to deter unregulated fishing in the future in the high seas portion of the CAO.” However, the characterization of the substantive outcome of the Declaration as “ban” or “moratorium” on fishing in the Arctic is inaccurate and misleading for several seasons: First, it is important to recall the spatial focus of the Declaration and the interim

measures it describes: the interim measures apply only to the high seas portion of the CAO; Second, it must also be recalled that the Declaration and the interim measures it describes are not legally binding upon the Arctic Five. Although the Declaration indicates the intent by on behalf of the Arctic Five to comply with the interim measures it describes, such measures are legally non-enforceable. Thus, even if the interim measures amounted to a “ban” or a “moratorium” on fishing, such a ban or moratorium would be limited in spatial scope to the high seas portion of the CAO, and would not be legally enforceable amongst the parties to the Declaration.

Based on “the obligation to apply the precautionary approach,” the Oslo Declaration also calls upon the implementation of appropriate interim measures to deter unregulated fishing in the future in the high seas portion of the CAO. The precautionary approach is a common feature of all the Rio and post-Rio global environmental agreements and its purpose is to make greater allowance for uncertainty in the regulation of environmental risks and the sustainable use of natural resources. The implication of applying the precautionary principle in the Oslo Declaration reflects the significant lack of science and data, and seeks to remedy this knowledge gap before actual fisheries become feasible.

4. Role of participants toward the broader process of the High Seas Arctic Fishery Agreements

CAO fisheries governance is not only about fishing. It has many other aspects, such as cooperative governance of the Arctic, the relations among Arctic states, and the relations between Arctic and non-Arctic states. Some authors take the position that “such an agreement is thus a question of policy, science, and international relations”.

Although the signature of the Oslo Declaration by the Arctic Five in July received certain applause, the Oslo Declaration may also be described as an inter se Arctic Five approach in an ironic way. The lead role for consultations or negotiations clearly lies with Arctic Ocean coastal states. It’s not only because of the fact that the three other Arctic countries, Finland, Iceland and Sweden, as well as indigenous groups and global Arctic stakeholders such as Japan, China and the European Union, were not invited; but also because the idea behind the Oslo Declaration including its focus on need for further scientific research and its application of international law which are in line with what most Arctic fisheries stakeholders agree on, were not given enough attention.

Participation by other states outside the Arctic Five remains an important factor in the overall legitimacy and effectiveness of any outcome from the broader process, and especially in addressing possible potential inconsistencies with the freedom of high seas fishing embodies in the UNCLOS and the concept of “real interest” in the United Nations Fish Stocks Agreement. At the 2014 Nuuk meeting, the Arctic Five agreed “that it is appropriate for the States whose exclusive economic zones border the high seas area in question to take the initiative on this matter”, they also continued to “recognize the interests of Arctic residents, particularly the Arctic indigenous peoples, in these matters and to engage with them as appropriate” and to “reaffirm that other States may have an interest in this topic and looked forward to a broader process involving additional States beginning before the end of 2014”. Even the Oslo Declaration also “acknowledge the interest of other States in preventing unregulated high seas fisheries in the CAO and look forward to working with them in a broader process to develop measures consistent with this Declaration that would include commitments by all interested States.” Therefore, leaving political issues aside, it is necessary to consider a broader process involving actors beyond the Arctic Five, which would include other non-Arctic Ocean states and non-state actors in future consultations and preparations. In reality, however, one of these non-Arctic Ocean states, Iceland, has publicly expressed regrets that, although it has repeatedly asked to participate in the collaborative process, the Arctic Five have decided to keep Iceland outside consultations and preparations on the 2015 Oslo Declaration. That’s why the calls for participation of the fourth meeting of scientific experts from the five cooperating nations (China, Korea, Japan, Iceland and the European Union) in September of 2016 have been publicly acknowledged, and it seems to support the above position. As regards non-state actors, the Arctic Ocean coastal state process has so far involved considerable participation by non-governmental organizations (NGOs), notably, Pew Charitable Trust, which has been exceptionally active, and the Arctic indigenous peoples.

5. Conclusion

Recent scientific publications tend to be level-headed in their expectations of new commercial fish stocks in the high seas of the CAO. While fishes are indeed migrating northwards, scientific findings suggest that the

vast majority of such migrating stocks are likely to be found within the EEZs of the Arctic Five. The likelihood of establishing a new RFMO for the CAO thus seems slim and unrealistic in the near future. Speculation on the potential structure of such an organization therefore remains of little value. At the same time, data documenting new trends are scarce or non-existent, and scientists are generally left to give their best guesses for the future, particularly with regard to the CAO.

The Arctic Ocean coastal state process continues at the time of this writing, with a future meeting planned to take place from July 6 to 8, 2016, at Iqaluit in Canada, the EU, Japan, Iceland and South Korea are expected to be among those actors welcome to the invitation-only discussions. The choice of invitees may be informed based on the concept of “real interest”, which is a necessary prerequisite for membership and participation in RFMO/As under the UN Fish Stock Agreement. The December 2015 meeting of the Arctic coastal states plus the five cooperating nations considered that, “it is unlikely that there will be a stock or stocks of fish in the high seas area of the CAO sufficient to support a sustainable commercial fishery in that area in the near future”, therefore, “a number of these approaches could be combined in a step-by-step or evolutionary fashion”.

Uncertainty as to the future governance of the Arctic fisheries of the CAO remains within the broader process, due to political tensions surrounding Ukraine or other emerging conflicts that might have impact on the negotiation process. However, positive signals were released at the recent meeting of the Parties in April 2016: firstly, adjusting on the Oslo Declaration was considered, with input from other participants, and such a new, broader non-binding statement could be adopted; secondly, further negotiation on a binding international agreement of the kind, which has been proposed by the United States; and thirdly, additional negotiation and discussion about an agreement or agreements to establish one or more additional regional fisheries management organizations or arrangements for CAO in the foreseeable future will also be arranged at this meeting. It’s also worth noting that some but not all delegations expressed a preference that the interim measures should be in the format of legally binding instrument at this meeting.

