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Canada's Arctic Quest
Recognized Sovereignty in a Secure North

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Abstract

Global warming, economic development and the prospect of a navigable Northwest Passage (NWP) have rekindled the international debate over Canada's sovereign claim to Arctic territory, interconnecting waterways, and underlying Continental Shelf. The unique nature of the Arctic broadens the dimension of national security beyond traditional measures to include aspects of human, social, and environmental protection. Internationally recognized sovereignty over northern waterways remains Canada's ultimate goal, so security options supporting this legal pursuit must take precedence. As such, thoughtful consideration of conflicting initiatives is essential for Canada to determine the balance of capabilities needed to meet its northern security requirements. Traditional capabilities must be enhanced immediately to meet current demands of search and rescue and humanitarian assistance to natural or other disasters. Other capabilities must be prioritized based on their ability to provide a functional presence and support the common requirement for surveillance and control. Although the need for resources to fill this capability deficiency is still developing, decisions are needed today so essential actions to produce timely results can occur tomorrow.

INTRODUCTION

Few Canadians have thought of the Arctic region as being anything other than Canadian territory. Yet beyond its borders, Canada's sovereign claim to the Arctic territory, its continental shelf, and the surrounding waters is not shared universally. Until recently, disputes centered on border-claims with the United States; however, acceptance of the impacts from global warming has heated the debate and attracted new players who view the Northwest Passage (NWP) as their future trade route shortcut. As the energy demands of growing and prospering nations expand, so too will the attraction to the NWP as a viable alternative to the Panama Canal. For Canada, this attention foreshadows prosperous economic opportunities; the Arctic is rich in natural resources, especially minerals and fossil fuels that are waiting to be discovered and harvested.[1] At the same time, however, the Arctic is also vast and fragile, the environment hyper-sensitive to the pollution that mankind's mistakes are sure to bring. Canada's northern residents and northern coastlines will feel the ecological brunt of an accidental spill so Canada must monitor and control its northern waterways. Recognized sovereignty will substantiate the necessary control measures and will enable authorities to enforce Canadian domestic laws, including customs, transportation, and environmental policies.

The uncertainty with the NWP is not about *if* it will open a new trade route but *when*.[2] In the meantime, current affects from global warming on Canada's northern communities are

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[1]Oran R. Young, "The Age of the Arctic", Foreign Policy, No. 61 (Winter 1985-86): 169.
It's estimated that the arctic holds between 100 and 200 barrels of recoverable oil, and 2,000 trillion cubic feet of natural gas.

[2]Andrea Charron, "The Northwest Passage in Context", *Canadian Military Journal,* (Winter 2005-2006): 41.

changing their way of life: melting permafrost is eroding infrastructure, shorter winters are changing migration patterns, and resource harvesting is increasing development. Human activity, newfound wealth, and economic development continue to impact the environment and to alter the traditional social network. In response, traditional security from the military - declining since the end of the Cold War - has seen renewed attention and support from Canadian politicians as public interest in the Arctic has strengthened. Governing bodies have begun collaborating from within Canada and among polar nations on the pending challenges facing this unique part of the world. New Defence assets and capabilities have appeared as wish-lists for the North in political promises. Armed ice-breakers, deep-water ports, unmanned vehicles, an army training camp, an expanded Ranger Force, a Twin Otter replacement, more northern patrols and more northern military Exercises have been suggested as priorities.[3] Ultimately, selected capabilities must not only address the unique security requirements but also provide capabilities that support Canada's quest for recognized sovereignty.

This paper will identify challenges to Canada's sovereign claim to the Arctic by presenting the evolution of the legal arguments that find their origins in the transfer of title from Britain in 1867. After describing current traditional capabilities, the need to address the unique social, environmental and economic challenges to northern security is presented. Canada's success in addressing its northern challenges through collaboration with other polar nations is highlighted and the opportunity to pursue a diplomatic solution to the sovereignty debate with the United States is presented. Finally, traditional security solutions are discussed with an onus on prioritizing acquisitions that ultimately provide a functional presence, support Canada's

[3]Department of National Defence, Canada Com Arctic Strategy: Increased CF Presence and Capability in the North, 3000-1, (Canada COMJ5 – Draft – Sept 06), presented at Defence Capabilities for Canadian Arctic Sovereignty Conference (25-29 September 2006 – Ottawa), 7-9.

sovereignty claim, and address current deficiencies in search and rescue (SAR) and humanitarian assistance.

SOVEREIGNTY CONSIDERATIONS

Northern Sovereignty Implications for Canada

The concept of sovereignty is embedded in international law and reflects a State's right to jurisdictional control, territorial integrity and non-interference by other States.[4] Furthermore, sovereignty is linked to international security by the implied expectation that territorial control is maintained by the presence of State authority, as quantified by former National Defence Minister Bill Graham when he stated that "sovereignty is a question of exercising, actively, your responsibilities in an area."[5] Sovereignty does not, however, extend State authority universally. For example, States may advocate some authority through collective agreements, such as in the case between Canada and United States for the defence of North America. Furthermore, Canada has promoted the rule of international law as the governing authority elsewhere, such as in the protection of the fragile Arctic environment under Article 234 of the United Nations' Convention of the Sea (UNCLOS) agreement.[6]

For the most part, Canada's national claim to the territorial land in the Arctic is uncontested, the legal basis of which being supported by the *Island of the Palmas Arbitral Award*

[4]Matthew Carnaghan and Allison Goody, "Canadian Arctic Sovereignty" (Library of Parliament, 26 January 2006), 2.

[5]Michael Byers and Suzanne Lalonde, "Our Arctic Sovereignty is on Thin Ice", *The Globe and Mail*, 1 August 2005, A11.

[6]Charron, "The Northwest Passage in Context"… 41.

rendered in 1928 by the Permanent Court of Justice.[7] The case supports Canada's position that voyages by Canadian explorers, the Canadian Rangers and the Royal Canadian Mounted Police (RCMP) established title to the lands by displaying a "continuous and peaceful display of State authority that was open and public."[8] What is contentious, however, is Canada's sovereign claim to Arctic waterways as its own territorial waters. Under international law, ships passing through another country's territorial waters are normally prohibited from engaging in any military or intelligence-gathering activities, and they are subject to the coastal State's maritime safety, fisheries and environmental laws as well as reasonable measures aimed at preventing customs, tax or immigration violations.[9] The remaining dilemma is that while Canada claims sovereign jurisdiction over all issues pertaining to the NWP, America and others argue that the issue of transit passage falls under the authority of international law.[10] By then arguing that an open NWP is an international straight joining two seas for navigation, any State could argue for the right to unhindered passage.

Canada has four main areas under international jurisdictional dispute: Hans Island, the Dixon Entrance, the Beaufort Sea and the opening waterways of the NWP. Hans Island is a small island about one square kilometer in size, situated on the north-east corner of Greenland. Its title remains unresolved with Denmark following the 1973 agreement delineating the

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[7]Lieutenant-Commander Guy Killaby, "Great Game in a Cold Climate: Canada's Arctic Sovereignty in Question", *Canadian Military Journal,* (Winter 2005-2006): 5.

[8]The Island of Palmas (or Miangas), April 4, 1928, reprinted in 22 American Journal of International Law, 867, 909 (1928), quoted in Lieutenant-Commander Guy Killaby, "Great Game in a Cold Climate: Canada's Arctic Sovereignty in Question", *Canadian Military Journal,* (Winter 2005-2006): 5.

[9]Michael Byers, "Canadian government cannot afford to dither on Arctic sovereignty", Policy Briefing – Canada's North, *The Hill Times,* 16 October 2006, 20.

[10]Charron, "The Northwest Passage in Context"…42.

Continental Shelf boundaries between the Canadian Arctic and Greenland.[11] Canada's legal basis is anchored in an *historic right* based on decades of undisputed use and that the Island was supposed to be included in the turnover in 1867 from Britain. The Danes disagree, so entitlement to the energy resources in the Continental Shelf is under contention.[12] The Dixon Entrance, located on the north end of the Inside Passage on Canada's west coast, represents a fishing boundary dispute with the Americans, whereas the Beaufort Sea dispute involves delineation of the Canada/US maritime boundary into the Sea, an area with abundant oil and gas resources.[13] The NWP dispute is a high-stakes, legal challenge to Canada's sovereign claim to Arctic waterways.

The Legal Perspective on Sovereignty

Canada's Arctic sovereignty claim stems from the government's 1897 proclamation that was made to clarify uncertainty that remained from the transfer of the title from Britain.[14] In asserting its position, Canada proclaimed that its northern boundaries outlined the following sector:

> The District of Franklin … comprising Melville and Boothia Peninsulas, Baffin, North Devon, Ellesmere, Grant, North Somerset, Prince of Wales, Victoria, Wollaston, Prince Albert and Banks Lands, and Parry Islands and all of those lands and islands comprised between the one hundred and forty-first meridian of longitude west of Greenwich on

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[11]United States, Department of State, Bureau of Intelligence and Research, Office of the Geographer, "Limits in the Seas", No. 72, Continental Shelf Boundary: Canada-Greenland, (August 4, 1976), 8; available from http://www.law.fsu.edu/library/collection/LimitsinSeas/ls072.pdf ; Internet; accessed 2 April 2007.

[12]Killaby, "Great Game in a Cold Climate…2.

[13]Carnaghan, "Canadian Arctic Sovereignty…6.

[14]Killaby, "Great Game in a Cold Climate…3. Britain transferred title under two separate Orders in Council, in 1870 and in 1880.

> the west and Davis Strait, Baffin Bay, Smith Sound, Kennedy Channel and Robeson Channel on the east which are not included in any other Provisional District.[15]

Since staking its claim, Canada's legal argument to define its coastal borders shifted from sector theory, to historic waters, to straight baselines. Although each approach was supported by distinct principles, they all shared the common premise of an historic right.[16] The sector theory, prevailing until the 1980s, was founded in international customary law supported by rulings by the International Court of Justice (ICJ). To contend international custom, the ICJ ruled that the practice of respecting sovereignty had to be followed by the generality of States because of the belief that they were legally bound to do so.[17] Since no formal objections surfaced, this argument initially seemed to suit Canada's legal position. However, the lack of any legal challenge was likely attributable to a lack of interest and the fact that no one had anything to gain. Nevertheless, by the late-1960s challenges did begin to occur. In 1969 the USS Manhattan, an American supertanker, and two U.S. Coast Guard icebreakers transited the NWP making a point of not seeking permission from Canada.[18] In reaction, the Canadian government granted permission anyway and sent its own icebreaker in support. Regardless, through these actions the United States had given clear indication that America did not recognize Canada's territorial claim thus undermining the legal premise of international custom.

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[15]Order in Council, (18 December 1897), *Canada Gazette,* (14 May 1898), 2613, quoted in Lieutenant-Commander Guy Killaby, "Great Game in a Cold Climate…3.

[16]Killaby, "Great Game in a Cold Climate…4.

[17]*Ibid.*

[18]Byers, "Canadian government cannot afford…20.

To strengthen its position, the Canadian government shifted its legal argument in the early 1970s by claiming that Arctic waterways were historic, internal waters.[19] The argument was premised on the fact that Canadian Inuit had occupied and controlled the land and frozen waterways for a millennium while others have acquiesced to the territorial claim. To substantiate the argument over the NWP, Canada extended its territorial waters from 3 to 12 miles, and Parliament introduced the Artic Waters Pollution Prevention Act (AWPPA) authorizing functional control of the NWP by imposing Canadian safety and environmental requirements for vessels operating within 100 miles of the coastline.[20] Initially perceived as bold and unenforceable, these proclamations were substantiated internationally in 1982 with the creation of the UNCLOS agreement.[21] In 1985, the confrontation escalated when the United States again transited without consent through the NWP, this time using the icebreaker Polar Sea. Canada responded the following year by shifting its legal argument to using a straight baseline method to define the outer limits of its historic internal waters.[22]

The straight baseline method simplifies the identification of the coastal boundary by joining outer islands or juts of land with a straight line - in lieu of following the coastline - from which to measure the 12-mile limit permitted under the UNCLOS agreement. This argument appears to be supported by the ICJ ruling on The Fisheries Case of 1951, which addressed the legal jurisdiction of States over their coastal territories by recognizing the concept of historic

[19]Killaby, "Great Game in a Cold Climate…5.

[20]The NWP is under 24 nm wide in several locations. The extension to 12 nm thus made it impossible to transit the NWP without passing through Canadian territorial waters.

[21]Byers, "Canadian government cannot afford…20. The 3rd UNCOLS was released in 1992 and ratified by Canada in 2003.

[22]Charron, "The Northwest Passage in Context"…43.

waters and by accepting the use of straight baselines as a legal means for boundary measurement.[23] However, the U.S. and the European Union have contested the use of the straight baseline method to enclose internal waters. In the case of an open passage, their counter-argument appears supported by Article 7 of the UNCLOS agreement where the prescribed use for straight baselines would be appropriate only "where the coastline is deeply indented and cut into, or if there is a fringe of islands along the coast in its immediate vicinity."[24] Under this premise, using the straight baseline method to enclose the Arctic archipelago of islands would appear to be unsubstantiated.

Although the intricacies of the legal debate are complex, the main contention with the NWP is simple: it is either an international strait or an internal waterway. America and others argue it's an international strait since it will join two expanses of high seas and it will be used for international navigation. This legal position supports America's current foreign policy of defending the freedom of navigation for its Navy that President Carter instituted in 1979 to take advantage of the provisions that were being negotiated under the 1982 UNCLOS agreement.[25] Since then, the U.S. Navy has defended its right to transit passage by physically challenging Libya's straight baseline assertion and by deliberately transiting warships on a route through Russia's internationally accepted 12-mile territorial waters into the Black Sea.[26] Noting that

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[23]*Ibid.*

[24]Ashley Roach and Robert W. Smith, "Limits of the Seas", No. 36, 7th Rev., 23 (U.S. Dept. of State, 1995), quoted in Lieutenant-Commander Guy Killaby, "Great Game in a Cold Climate…6.

[25]George Galdorisi, "The United States Freedom of Navigation Program: A Bridge for International Compliance with the 1982 United Nations Convention on the Law of the Sea?", *Ocean Development and International Law,* Vol. 27 (1996), 401.

[26]Charron, "The Northwest Passage in Context"…42.

these types of challenges persisted during the Cold War provides insight into the depth of America's resolve to enforce its foreign policy. Canada has taken a more cautious approach in defending its claim of internal waters, perhaps as indication of the legal uncertainty. As an example, Canada delayed ratifying UNCLOS until 2003, and then imposed limitations of the compulsory dispute resolution procedures when they pertained to sea boundary delineation or the exercising of sovereign rights.[27] Diplomacy continues as both nations posture to defend their positions while each delays the legal confrontation that may one day bring binding resolution. Until resolved, any solution to the emerging security requirements in the North must promote Canada's quest for international recognition of its sovereign claim.

SECURITY CONSIDERATIONS

Addressing Traditional Security

The basis for traditional security lies in supporting law enforcement and enforcing national sovereignty. Since the end of the Cold War, the military commitment to secure Canada's North has ebbed in lieu of other more pressing commitments. Foreshadowing the decline, the Navy ceased its northern deployments in 1989 and the Air Force began reducing Aurora northern patrols from over twenty in 1990 to as few as one in 1995.[28] Less emphasis was placed on exercising the forward operating locations (FOLs) for the Hornets, while the military contingent at Station Alert was reduced to 75.[29] Facing severe budget cuts, the Department of

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[27]Killaby, "Great Game in a Cold Climate"…8.

[28]Doctor Rob Huebert, "Renaissance in Canadian Arctic Security?", *Canadian Military Journal,* (Winter 2005-2006): 22.

[29]Alex Urosevic, "High Alert from atop the world: Canada's Cold Warrior spies now fight terror at 82.30 north latitude", *Toronto Sun,* 14 November 2004, n.p.

National Defence (DND) declined the offer to purchase American-owned underwater listening devices that were designed to monitor submarine traffic through the three choke-points in the NWP and rescinded the 1987 White Paper commitment to buy/build 12 nuclear-powered submarines.[30] Notwithstanding a commitment to support collective homeland defence initiatives under the North American Aerospace Defense (NORAD) partnership, Canada's "solo" initiatives in support of traditional security in the North have been rare.

Current military resources allocated for use in the North are limited: the Navy has no surface or sub-surface vessels capable of year-round operation; the Army, generally, is limited to Canadian Ranger patrols; and the Air Force operates four Twin Otter SAR aircraft from Yellowknife and maintains limited capability to forward-deploy Hornets to Yellowknife, Inuvik, Rankin Inlet, or Iqualuit.[31] Coordinating from the Joint National Region HQ (NRHQ) in Yellowknife, DND provides security support to various other government agencies, including the RCMP, the Canadian Coast Guard (CG), Canadian Customs and Revenue Agency, Citizenship and Immigration Canada (CIC), and the Canadian Security Intelligence Agency (CSIS).[32] The CCG operates several vessels in the North, although not on a continuous basis, with a mandate focused on escorting and maintaining community re-supply routes. The RCMP operates as the northern policing authority and maintains a presence throughout the northern

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[30]Department of National Defence, *Challenges and Commitments: A Defence Policy for Canada:* (Ottawa: Supply and Services, 1987), n.p.

[31]Pierre LeBlanc, "Canada and the North – Insufficient Security Resources", (8 April 2001), 3.

[32]Canadian Directorate of Defence, Arctic Capabilities Study, 1948-3-CC4C (DGSP) June 2000, 5.

communities. The other agencies provide some limited services but only maintain a presence in major locations, such as Whitehorse, Yellowknife and Iqualuit.[33]

Recently, attention to northern affairs has increased within DND. Canadian Ranger patrols have increased and the promise of upgrading their equipment has been offered. Serving Canada since 1947, the Ranger Force now includes over 4,000 aboriginal militiamen who provide a military presence in Northern communities while conducting over 165 yearly patrols.[34] To Canada, these Rangers represent the successful mix of national security and sovereignty needs with community-based activities and local management.[35] Other capabilities have also been improved, including the 1985 update to Canada's Distant Early Warning (DEW) line of radar sites to provide renewed surveillance support to NORAD and the recently launched RADARSAT II to provide a space-based wide area surveillance capability to DND and others.[36] Other minor capabilities stemming from surveillance patrols by the Aurora, intermittent visits to the FOLs by the Hornets, and periodic Arctic Exercises by the Army have also seen renewed interest. A major improvement is tied to the pending replacement of the aging SAR aircraft, especially if the capability is expanded to cover the whole Arctic region. Collectively, these assets do provide some limited traditional capability; however, they do not meet Canada's evolving security demands. Overall, Canada's current military capabilities in the North remain limited and varied, and after several announcements by successive governments of new

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[33]LeBlanc, "Canada and the North…4.

[34]Whitney Lackenbauer, "The Canadian Rangers: A 'Postmodern' Militia that Works", *Canadian Military Journal* (Winter 2005-2006): 51.

[35]*Ibid*., 49.

[36]Major P.J. Butler, "Project Polar Epsilon: Joint Space-Based Wide Area Surveillance and Support Capability", Directorate of Space Development, National Defence Headquarters, n.d., 1.

initiatives - including three new armed icebreakers in support of Stephen Harper's proclamation of a *Canada First* northern policy - little financial commitment has been made.[37]

Addressing traditional security needs will require not only increased attention and commitment to Canada's military, but a significant evolution in how other governmental agencies cooperate and function in the North. One initiative in this pursuit is the Arctic Security Interdependent Working Group (ASIWG) which began holding bi-annual meetings in 1999 to discuss and coordinate policy and planning activities. Membership has expanded extensively since then to include officials from DND, RCMP, CCG, Revenue Canada, CSIS, Department of Foreign Affairs and International Trade (DFAIT), CIC, Transport Canada, Health Canada, Natural Resource Canada, Indian Affairs and Northern Development, and all three territorial governments. One of the most important security instruments available to the Canadian government, ASIWG meetings have had major impacts on the evolution of security in the North by fostering intergovernmental relationships, providing a means for coordinating efforts, and providing a forum for open and frank discussion.[38] A second initiative stems from the federal government's release of Canada's International Policy Statement (IPS) and the corresponding Diplomacy and Defence documents, where Arctic security figures predominantly in the protection of North America.[39] In these policy documents, the government acknowledges the new challenges to traditional security and places the onus on the military to provide the

[37]Byers, "Canadian government cannot afford…22.

[38]Huebert, Renaissance in Canadian Arctic…23.

[39]*Ibid*., 25.

capabilities for surveillance and control, search and rescue, and dealing with the potential asymmetric threat.[40]

Northern Security Considerations

Addressing security in the North requires an understanding of the unique nature of the territory, its people and the impacts that an increased level in human activity can have. Melting ice and exploration discoveries have drastically increased development activities especially with respect to diamonds and fossil fuels. As a result, the dimension of national security has evolved in the North beyond traditional security to include aspects of human, social, and environmental protection. Human security issues in the North include illegal immigration, smuggling, trafficking, and most forms of personal security that normally demand police oversight including those pertaining to organized crime. Social security issues range from impacts on aboriginals to addressing conditions faced by all Canadians working in the North. Environmental security ranges from controlling impacts of melting permafrost on roadways and within communities, to addressing impacts from pollution in this hyper-sensitive environment.[41] Effective overall security management means balancing self-government and self-policing needs with national regulations and procedures and continuing to ensure aboriginal concerns and rights are accounted for. Furthermore, all northerners must be provided with a standard level of government support services including medical, dental, and social support, along with financial incentives and educational opportunities.

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[40]Department of National Defence, *Canada's International Policy Statement: A Role of Pride and Influence in the World Defence* (Ottawa: 2005), 17.

[41]Margaret Munro, "The big melt: Canada's North on the frontline of change", *Canada.com* (January 16, 2007), 1; available from http://www.canada.com/components/print.aspx?id=8851d940-Ob3e-4ef2-93ba;8ddaOff1836b&k=64479; Internet; accessed 15 March 2007.

Economic impacts need consideration when addressing sovereignty and security solutions. Losing sovereignty rights to petroleum deposits under the Beaufort Sea means losing billions of revenue dollars since the Sea is estimated to contain between 4 and 12 billion barrels of commercially recoverable oil and between 13 and 63 trillion cubic feet of natural gas.[42] Notwithstanding this loss, less-tangible costs would impact Canadian society and its political system in the form of anti-American sentiment and protectionist policies. Should this lead to a pure-Canadian solution to security in the North, the cost to Canada would be astronomical considering a non-cooperative America. Complicating the economic challenge further is the international recognition that the ice is melting much faster than was expected in the 1990s with recent studies suggesting a rate of 10 percent of volume per decade.[43] Although there is doubt about whether this increased rate will impact when the NWP will be commercially navigable, there is firm evidence that commercial development in Arctic waters has increased dramatically.[44] This new demand has increased the pressure on both governments to resolve the legal stalemate.

ADDRESSING THE CHALLENGE

The Benefits of Diplomacy

Addressing the multitude of northern security needs with diplomacy will strengthen Canada's sovereignty argument. Neighbouring northern States share similar security concerns

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[42]Robert M. Bone, *The Geography of the Canadian North: Issues and Challenges* (Oxford University Press, USA, June 1, 1992), 3.

[43]Ron Huebert, "The Shipping News, Part II, *International Journal* (Summer 2003), 295. Prof. Huebert cited Richard A. Kerr, "A Warming Arctic Means Change for All", *Science 297* (30 August 2002), 1490-2.

[44]Killaby, "Great Game in a Cold Climate"…3.

and experience similar affects from the changing environment. Canada, with its tradition of mastery at international diplomacy benefits from tangible rewards in collective defence, political clout, and economic rewards. The diplomatic approach to northern challenges began in earnest in 1996 with Canada's leadership in forming of *The Arctic Council* as an intergovernmental forum to discuss common threats and concerns related to the environment, sustainable development, and other social and economic considerations. Consisting of the circumpolar nations - Canada, Denmark, Finland, Norway, the Russian Federation, Sweden, and the United States - the Council has established a number of initiatives, including the Arctic Environmental Protection Strategy to share scientific information and to promote protection of the environment, and the Arctic Monitoring and Assessment Program to study impacts from anthropogenic pollutants.[45] Although discussing physical security is specifically beyond their mandate,[46] participating in the Arctic Council with like-minded States has provided the federal government with an essential diplomatic forum for debate and has indicated tangible resolve in Canada's assertion of its sovereign claim.

The relationship with the United States is Canada's utmost diplomatic concern. As America remains Canada's main trading partner and joint partner in the collective security and defence of North America, diplomatic measures taken to bolster their legal arguments could have significant impact in other areas of their unique relationship. In 1996, Canada was able to balance conflicting needs by spearheading the Arctic Cooperation Agreement. This bilateral agreement with the United States represents a promising beginning by facilitating a recognized,

[45]Charron, "The Northwest Passage in Context"…46.

[46]Huebert, Renaissance in Canadian Arctic…22.

unhindered transit of American CG icebreakers through the NWP.[47] With support to NORAD from both nations expanded to include the sharing of surveillance information from both maritime approaches and internal waters, the atmosphere of bi-lateral cooperation remains one of optimism.[48] Significant opportunity now exists to expand the scope of the Arctic Cooperation Agreement to include all American vessels, thus bolstering Canada's chances of attaining affordable security without undermining its legal principles. To start, Canadian politicians must aim negotiations at resolving the sovereignty dispute by taking advantage of America's focus on anti-terrorism. Byers, a Canadian Defence analyst, suggests that America will support Canada if "in return for Washington recognizing Canada's claim, Ottawa . . . offer[s] firm commitment to open access for all U.S. vessels, active support to international shipping, and immediate investment in the necessary equipment and personnel to monitor and police the NWP year-round."[49] This belief is supported by indications in 2004 by Paul Cellucci, the U.S. Ambassador to Canada, that Washington's recognition of Ottawa's claim might actually enhance U.S. security.[50] Resolving Canada's sovereignty dispute with America through diplomacy would remove the tension tied to legal posturing and enable both nations to pursue a symbiotic solution to northern security. Realistically, beyond this capstone diplomatic victory, Canada's existing security requirements must still be met with tangible assets and commitments.

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[47]Charron, "The Northwest Passage in Context…46.

[48]Byers, "Canadian government cannot afford…22.

[49]*Ibid.*

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[50]*Ibid.*

Meeting Northern Security Needs

The preferred security solution must address threats that undermine Canada's legal position on sovereignty by accounting for issues that relate to precedence, diplomacy or economics. To address both security and sovereignty issues, the final solution rests with addressing the common requirement of regional control.[51] A current challenge to Canada's sovereign pursuit is the voluntary nature under the NORDREG agreement for vessels to report their position while in Canada's Arctic waters.[52] Although seen as a means of at least having some functional control in northern waters, the legal risk of this voluntary system is that it provides countries specific opportunity to demonstrate that they do not believe they are bound by Canada's claim, thus undermining the premise of international custom. A second issue is that since Canada must ensure that all known incursions are considered and dealt with as infringements to sovereign rights, the capability to enforce regulations must be made available. This is a critical situation for Canada since any violation undermines its legal position on numerous levels. As such, the current voluntary system must be either ceased or made mandatory.[53] Although mandatory reporting would enhance security significantly and should be the ultimate goal, it would not result in legal victory but simply prevent the establishment of any undermining precedence that could jeopardize Canada's sovereign claim. What's essential is a change to Canada's current NORDREG policy.

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[51]Huebert, "Renaissance in Canadian Arctic…21.

[52]Department of Fisheries and Oceans – Canada, *Vessel Traffic Reporting Arctic Canada Traffic Zone (NORDREG)*; available from http://www.ccg-gcc.gc.ca/cen-arc/mcts-sctm/mcts-services/vtrarctic_e.htm,; Internet; accessed 10 April 2007.

[53]Charron, "The Northwest Passage in Context…45.

Initial security concerns stem from the need to address existing northern challenges to Canada's current capabilities. From an environmental and social perspective this means providing funding to communities already threatened by climate change, where melting permafrost is causing erosion, heaving infrastructure and damaging ecosystems.[54] This includes the need to rebuild and expand upon the network of roadways and runways that not only support economic development in the North, but provide the re-supply lifeline to northern communities. Communities on the McKenzie Delta, such as Tuktoyaktuk, remain at risk to severe flooding and storm surges.[55] While consideration must be given to relocating the town, a viable military response to this type of natural disaster must be developed. Other investment is needed to foster the use of renewable wind energy to reduce demand to ship fossil fuels and to empower communities with more self-sufficiency. Ultimately, expending clean energy will reduce the impacts from pollutants on the sensitive ecosystems.[56] Increasing the funding for scientific research for programs such as the *Polar Continental Shelf Project* - a Canadian team of 800 researchers that operates 12 bases and an ice-breaker while conducting over 150 annual experiments - would reap cost-effective solutions to address environmental security challenges.[57]

Military solutions are essential to support traditional security requirements. Immediate, first-priority requirements center on developing two capabilities: a search and rescue capability to include responding to a major air disaster and a humanitarian aid response to natural and other disasters. With an emphasis on response, Canada's military must be able to provide these

[54]Munro, "The big melt…1.

[55]*Ibid.*

[56]*Ibid.*

[57]Dennis Bevington, "Arctic sovereignty not just a military concern, it's more than that," *The Hill Times*, 16 October 2006, 24.

services across the northern region. This means expanding the NRHQ and providing both airborne and land-based assets to the eastern region in Iqualuit and re-vitalizing the four FOLs with sufficient infrastructure to allow any of them to convert to a command post and medical staging area. The Twin Otter replacement must be capable of providing essential services throughout the Arctic, operating permanently from both eastern and western locations and supporting the airlift of casualties as well as military personnel and supplies. Fixed-wing, rotary-wing, or a combination of the two must be considered as viable options. Complimenting the airborne capability is the requirement for a deployable, air-droppable land-based response. Air-droppable, this capability is an essential element to provide physical contact and to extract casualties, and includes the capability to drop both supplies and soldiers - including qualified Rangers from a much-expanded Ranger Force - in adverse weather situations. For "top-cover" capabilities, either CP-140 or CP-140A aircraft provide persistent, long-range, cost-effective capabilities including on-scene control, surveillance, and long-range communication services.[58] Finally, other enablers would include expanding the footprint of the Rangers to include members from all communities and providing air disaster training during combined Exercises to personnel from DND and the other applicable agencies.

Second-priority capabilities, which also need immediate attention, consist of systems that would require significant time to reach initial operational capability or that would support the implementation of more critical capabilities. These systems support the capability to monitor, detect and challenge either airborne, surface, or subsurface contacts. Cost-effective solutions able to provide a functional presence should be given priority. In this light, several options deserve consideration. The proposed hardened ice-breakers are essential to provide a year-round

[58]Alternately, these capabilities could be provided cost-effectively by a long endurance unmanned vehicle.

capability to meet the future seaborne challenges linked to the opening of the NWP. Early acquisition would provide time to develop procedures and expertise. Fitted with a "for-but-not-with" armament capability, the vessels should be allocated to the CCG initially to expand their year-round community support capability. While expanding the mandate of the CCG to include armed intervention deserves consideration, transferring the vessels to the Navy for enforcement duties should be delayed until warranted. Regardless, selected future naval vessels must be hardened to permit operations within regions where ice conditions prevail. To detect and monitor traffic in the North several options warrant consideration. One centerpiece capability available later this year will be synthetic aperture radar imagery from RADARSAT II, which Canada's Space Agency's recently launched. The space-based polar-orbiting system will support northern security by providing the military with near-real-time land and maritime surveillance information through Project Epsilon.[59] A surface-based high frequency radar system would expand capability to monitor for surface and airborne contacts and provide a level of control directly to the military. This land-based system could be substantiated as a dual-use system by supporting NORAD requirements for polar surveillance.

Third-priority capabilities need analysis for future consideration. These systems are linked more-specifically to new demands tied to the eventual opening of the NWP. These solutions include conducting dedicated army training for northern operations, expanding the mandate of the Rangers to include positions as formalized instructors, the acquisition of an underwater detection system to provide the capability for detecting submarines in the NWP, and the acquisition of unmanned vehicles able to provide persistent intelligence, surveillance and

[59]Butler, "Project Polar Epsilon…1.

reconnaissance capabilities throughout the North. Finally, the proposed deep-water ports would provide a cost-effective way to support increasing naval operations as well as provide a potential economic stimulus to adjacent coastal communities. What remains critical to the overall security solution, according to Robert Hubert from the Canadian Centre for Strategic Affairs, is that "we have to be able to stop anyone from entering the waters without permission, and [be able to] take action against people who are doing things against Canadian interests".[60] In this light, Canada must be prepared to control its northern land, sea and skies and to meet all possible confrontation with tangible assets and capabilities.

CONCLUDING REMARKS

Interest in the Canadian Arctic continues to broaden as a result of global warming and economic development. The prospect of a navigable NWP has rekindled international sovereign disputes over ownership of northern territories, interconnecting waterways, and underlying Continental Shelf. The unique nature of the Arctic broadens the dimension of national security beyond traditional measures to include aspects of human, social, and environmental protection. As such, thoughtful consideration of conflicting initiatives is essential for Canada to determine the balance of capabilities needed to meet its northern security requirements.

Internationally recognized sovereignty over northern waterways remains Canada's ultimate goal, so security options supporting this pursuit must take precedence. To start, the voluntary nature of Canada's NORDREG agreement must be either ceased or made mandatory.

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[60]Robert Huebert, VOX Poluli on Canada's North and Arctic Sovereignty. CBC News (August 13, 2006) Highlighted in *The Hill Times*, 16 October 2006.

While diplomatic measures offer the most promise of a cost-effective security capability, especially if full collaboration with the United States is realized, military solutions remain essential to support traditional security requirements. For example, a robust northern search and rescue capability and the ability to provide humanitarian aid in the event of a natural disaster require immediate attention. Prioritizing other essential capabilities must favour assets that provide a functional presence and enablers that support the common requirement of surveillance and control. Although the need for resources to fill this capability deficiency is still developing, decisions are needed today so essential actions to produce timely results can occur tomorrow. More than the security of Canada's expanding coastline is at stake.

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