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A GRAND ARCTIC STRATEGY: AN ANALYSIS OF CANADA'S ARCTIC POLICY

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Exercise Solo Flight

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INTRODUCTION

The geography and environment in the Arctic has experienced significant change in recent years as a result of receding ice. A new found optimism and potential prosperity due to exploration and economic development related to natural resources and trans-oceanic shipping, has competing challenges against a fragile eco-system in this diverse landscape. The Canada First Defence Strategy reinforces the roles and abilities of the Canadian Armed Forces (CAF) to operate in the Arctic and to act on a multitude of possible missions within the overarching security framework.¹ Overall, these roles and missions are footings supporting the cornerstones to broader government initiatives capped by national and foreign policy objectives that will ensure The True North remains Strong and Free.

Canada's National Foreign and Security Policy has traditionally been grounded in taking action abroad in order to prevent issues before they land on our shores. The immergence of the Arctic in supplying fossil fuels and trans Pacific-Atlantic sea lanes to regional and global commerce will change Canada's north in a similar manner that the Panama Canal changed a region over a hundred years ago. As the Panamanian state emerged from under a protectorate, Canada's north will emerge in prominence, not a panacea under globalization, a factor to which northern governments must be mindful.

This paper will demonstrate that Canada's deliberate and measured approach regarding policies in the Arctic bolsters Canadian sovereignty claims while responding to competing interests in the region. Canadian claims commit to multilateral processes under UNCLOS² while

¹ Department of National Defence and Canada. Minister of National Defence, *Canada First Defence Strategy* (Ottawa, Ont.: National Defence, 2008), 21.

protecting and positioning the Arctic as strategic centerpiece of national importance to Canada's future economic and maritime security.

This paper will first frame the context of Canada's outstanding claims in the region with reference to UNCLOS. The paper will then explore the status of Canada's case to the UN body and evaluate the weaknesses and potential areas for concern of Canada's claim. The paper will further expand on the future security environment for the region by exploring international economic and security issues as related to military power in order to protect Canada's sovereignty in our third ocean.

CAPSTONES AND CORNERSTONES TO CANADIAN CLAIMS

It is important to frame the context in which Canada's claims in the Arctic have been founded, without this context, the claim to UNCLOS regarding the Northwest Passage, internal waters debate and continental shelf extensions are baseless. The importance of setting conditions of the Arctic Foreign Policy can be supposed within a sort of grand strategy. This can be seen as first enacted by Canada in helping found the Arctic Council in 1995 and assuming first chair of the council from 1996-1998. This is important to recognize as Canada's governance in the region has been challenged through discreet incursions by US and Russian submarines operating in the high arctic and transits of US merchant vessels the *Northwind* and *Manhattan* in 1969 and again in 1985 with the *Polar Sea*, antagonizing Canadian Governments of barking without any discernable bite.

² UNCLOS – United Nations Convention on the Law of the Sea, is an international treaty that provides a regulatory framework for the use of the world's seas and oceans, inter alia, to ensure the conservation and equitable usage of resources and the marine environment and to ensure the protection and preservation of the living resources of the sea. UNCLOS also addresses such other matters as sovereignty, rights of usage in maritime zones, and navigational rights.

The Capstone of the GoC policies regarding Arctic economics and security is contained within the Arctic Foreign Policy.³ The Arctic Foreign Policy is apart from Canada's National Foreign and Security Policy captured within *Securing an Open Society*, and the follow-on update implemented between 2004/2005 however, parallels many of the same priorities regarding security and economics.⁴⁵ Within the nexus of the National Security Policy, the Arctic Foreign Policy captures cornerstone elements specifically related to the Arctic in which the creation of international conditions for sustainable development, trade and development opportunities are progressed and protected via GoC stewardship.⁶ Inherent with the GoC stewardship is an agenda to bolster layered governance within three pillars that focus efforts through ecosystem management and cornerstone federal acts such as the Oceans Act.⁷⁸ The establishment of national parks in marine sensitive areas, support to UN conventions (Convention on Biological Diversity, Migratory Bird treaties, Polar Bear conservation) and multilateral and bilateral agreements such as memorandums of understanding (MOU) with the US has continued to bolster governance.

The stitching together of all relevant actions since 1995 is important and validates studies that academia had previously published in a 1985 works by Michael Whittington titled *The*

³ Government of Canada, *Statement on Canada's Arctic Foreign Policy* (Ottawa, Canada: Government of Canada,[2010]).

⁴ Canada. Privy Council Office and Canada. Bureau du Conseil priv© b , *Securing an Open Society: Canada's National Security Policy* (Ottawa: Privy Council Office, 2004).

⁵ Canada. Privy Council Office and Canada. Bureau du Conseil priv© b , *Securing an Open Society: One Year Later : Progress Report on the Implementation of Canada's National Security Policy* (Ottawa: Privy Council Office, 2005).

⁶ Government of Canada, *Statement on Canada's Arctic Foreign Policy*, 4-29

⁷ The Act defines Canada's maritime zones as the internal waters, the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf. Within the internal marine waters and the territorial sea, all the laws of Canada apply. Within the exclusive economic zone, Canada has sovereign rights for the purposes of exploring and exploiting, and conserving and managing the natural resources, whether living or non-living.

⁸ *Canada's Oceans Strategy - Policy and Operational Framework for Integrated Management of Estuarine, Coastal and Marine Environments in Canada* , (2002): 1.

North.⁹ This progression has been sequenced through relevant study, policies, acts and focal areas to support a grand strategy that culminates with Canada's claims alternate to states such as Russia, Norway and Denmark that are also seeking extensions to submarine zones past continental shelves. As another portion to the grand strategy, this paper will focus on three priorities of the GoC action plan concerning Arctic Foreign Policy, namely: resolution of boundary issues (internal waters and status of the Northwest Passage), international recognition of extended continental shelf (EEZ extension beyond 200NM) and Arctic security. The GoC focus on the Arctic recognizes the impact of globalization, as well as this region's geopolitical importance to competing economies to exploit the potential abundance of untapped natural resources.¹⁰

STATUS OF CANADIAN CLAIMS

The Canadian Government has always maintained straight baselines¹¹ on coastal sections of sovereign lands as the premise to claimed waters extending seaward in accordance with Article 7 to UNCLOS. As Donat Pharand, contributor to *The North* and noted expert on Arctic issues explained, "there is no question as to Canada's full jurisdiction or sovereignty" based on transfer of title from Great Britain in 1870 and 1880. He also noted similarities to Canada's claim in all waters of the Arctic archipelago be considered as internal waters to the same regard as the Great Lakes Basin, Gulf of St. Lawrence or islands leeward of Vancouver Island. In the

⁹ Michael S. Whittington and Royal Commission on the Economic Union and Development Prospects for Canada, *The North*, Vol. 72 (Toronto: University of Toronto Press, 1985), 183.

¹⁰ Government of Canada, *Statement on Canada's Arctic Foreign Policy*, 4-29

¹¹ Straight Baselines are defined under UNCLOS as: The drawing of straight baselines must not depart to any appreciable extent from the general direction of the coast, and the sea areas lying within the lines must be sufficiently closely linked to the land domain to be subject to the regime of internal waters.
http://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf

past, Canada has not claimed the waters internal to the archipelago as internal waters because they were primarily ice choked and required the use of ice breakers for transit. As the requirement for ice breaking for safe passage was historically provided only by the GoC, namely the Canadian Coast Guard (CCG), the premise of state control was fixed to this requirement. As the waters in the Northwest Passage have become clear of ice for extended periods of the year, the requirement for the CCG to exercise control on behalf of the state has also been reduced as other states and commercial interests have taken advantage of the increasingly free access of routes that the north can now offer. A noted writer on the Arctic, Paul Waldie, recently published an article that refuted the importance of the Northwest Passage and provided information from industry that contends that commercial traffic movements are more likely to shift to South American markets thus, negating transportation through the north.¹²

With freedom of maneuver due to receding ice, states such as the People's Republic of China (RoC) have invested into ice capable ships and ice breaking in order to explore natural resources in the north as well as potential maritime shipping routes. The *XUE LONG* is a Polar Class (B1 rated)¹³ icebreaker capable of sailing through multi-year ice over one meter thick and since 1999, the vessel has conducted 5 missions in support of Arctic research for the RoC. As such, many of the activities provide data on ocean topography and geology that is potentially sensitive to Canada's sovereignty, economic and national security.

The interest by the RoC, non-arctic state actors and submissions by Russia, Denmark and Norway have prompted Canada to revise the application of Article 8 to UNCLOS with reference

¹² Paul Waldie, "A Reality Check on the Northwest Passage 'Boom'," *Globe and Mail*, sec. Global Trade, January 07, 2014, 2014.

¹³ B1 is the second strongest rating applied to ships with A-Class the strongest and D-Class the weakest rating assigned to vessels – Lloyd's of London <https://www.cdlive.lr.org/mainmenu.asp>

to the application of baselines and defining the internal waters to the Arctic archipelago, including the Northwest Passage in 2013¹⁴. Robert Dufresne authored a preliminary report to the Government of Canada in 2008 that provides a compelling argument with reference to historical title and application of Article 8 to UNCLOS in order to clarify Canada's application of UNCLOS. The report chronologically positions Canada's statement, as early as 1973, in which the archipelago was declared as internal. The report however, did not clarify the application of straight baselines. In Canada's 2003 ratification of UNCLOS, Canada clarified the application of Articles 15, 74 and 83 with respect to sea boundary delimitation in the arctic in order to protect the internal waters debate against international adjudication. Angelle Smith provided a compelling counter argument to the US Government with respect to Canadian claims in her 2011 article in which she described the internal waters conflict in terms of "regular use."¹⁵ She argues that the US has made use of the Northwest Passage regularly since 1969 with initially the *Northwind* and *Manhattan* and again in 1985 with the *Polar Sea* making regular usage of the Strait. This is an important statement as many claims are resolved through historic use, demonstrating rite of passage and/or usage.

It is assessed that the recent discovery of HMS ERABUS, in 2014, is an important counter argument to the US contending that the Northwest Passage not be regarded as internal waters. The discovery strengthens Canada's historic use and claim to the Northwest Passage being considered as internal waters and sovereign only unto Canada.

Another significant claim by Canada is in response to Russia's submission to UNCLOS regarding the extension of the outer limit beyond 200 nautical mile (NM) to include the

¹⁴ Robert Dufresne and Canada, Parliamentary Information and Research Service., *Controversial Canadian Claims Over Arctic Waters and Maritime Zones*, 2008).

¹⁵ Angelle C. Smith, "Frozen Assets: Ownership of Arctic Mineral Rights must be Resolved to Prevent the really Cold War," *George Washington International Law Review* 41, no. 3 (11, 2009), 651-680.

continental shelf in accordance with Article 76 of the Convention.¹⁶ Russia made claim to the extension in 2001, Canada had ten years from the signing of UNCLOS (2003) to respond under UNCLOS to contend the Russian submission. In Canada's case, submission was made in 2013, after considerable resources and study were contracted to argue extension to Canada's claim alternate to the Russia claim. Key to Canada's argument is the internal waters debate surrounding the arctic archipelago in which straight baselines have been set, as well as the study of the continental shelf and the submerged prolongation of the land mass of Canada extending seaward. Robert Dufresne's report to the GoC in 2008 as well as Angelle Smith's article clarifies the arguments pertaining to extensions to economic exclusion zones (EEZs) when the continental shelf is considered.¹⁷ Both academics contend that Canada's revised claims in the Arctic are secure as a result of dialogue as well as joint and combined scientific research expeditions.

As a result, Denmark and the US have recognized Canadian claims regarding the aforementioned issues regarding the internal waters and claims regarding the Northwest Passage as well as Canada's extension of EEZs to correspond to submerged prolongation of land mass from the Arctic archipelago. The importance of such extensions will protect "legal certainty" over Canadian "sovereign rights over the natural resources of the seabed and subsoil of the extended continental shelf, such as hydrocarbons and sedentary species."¹⁸ In addition, Canada will maintain jurisdiction over some activities, such as marine scientific research without impinging

¹⁶ Dufresne and Canada, Parliamentary Information and Research Service., *Controversial Canadian Claims Over Arctic Waters and Maritime Zones*

¹⁷ Smith, *Frozen Assets: Ownership of Arctic Mineral Rights must be Resolved to Prevent the really Cold War*, 651-680

¹⁸ Government of Canada, *Partial Submission of Canada to the Commission on the Limits of the Continental Shelf regarding its Continental Shelf in the Atlantic Ocean* (Ottawa, Canada: Her Majesty the Queen in Right of Canada, [2013]).

sovereign rights or jurisdiction over the water column beyond 200 nautical miles in which freedom of maneuver on the high seas is maintained by various state flagged vessels.

ARCTIC SECURITY

Arctic Security is premised on the overall GoC National Foreign and Security agenda. Inherently, a requirement to maintain Canada and Northerner's quality of life, through the use of economics, diplomacy, international influence and policy exists.^{19,20} In order to maintain national security, factors such as economic security, energy security and environmental security serve as dominating features in GoC policies regarding the north.²¹ Internal and external threats to national security highlight the requirements to focus on potential threats from other competing nations, non-state actors or multinational corporations in order to align national priorities for Canada's Defence and Security.

Canada's foremost relationship is with the US as this is vital to Canadian national and economic security. Former Finance Minister and US Ambassador Michael Wilson articulated in the Jan/Feb 2014 edition of *Foreign Affairs* that national security is of primary importance in the future relationship between the two countries into the next century.²² Trade with the US is the most dominant feature of economic security for Canada and the North and is augmented by focused domestic and international policies. Projects and international trade are key features as the GoC continues to posture economic diversity. The oft-maligned Mackenzie Valley pipeline

¹⁹ Department of National Defence and Canada. Minister of National Defence, *Canada First Defence Strategy*, 21

²⁰ Government of Canada, *Statement on Canada's Arctic Foreign Policy*, 4-29

²¹ Michael Wilson, "NAFTA's Unfinished Business," *Foreign Affairs*, no. January/February 2014 (February, 2014), 10 May 2015.

²² Ibid.

project to transport natural gas from the Beaufort Sea to Alberta and British Columbia is an example of a trade issue/national project that has significant impact on Northern Canada's economic security. The active participation of Canada in international forums such as the Arctic Council are examples of international trade, environmental and security issues related to the North that impacts governance. In context to a grand strategy, the GoC efforts target Northern Development strategies as a center piece to bolster governance and sovereignty.²³

In order to provide a base for the cornerstones for Arctic security, long term investments into infrastructure provide the final details to ensure Canadian claims are bolstered by GoC action. The strategy contained in the Arctic Foreign Policy provides investment into key government departments such as: Department of Foreign Affairs, Trade and Development, Department of Natural Resources, Department of Fisheries and Oceans, Parks Canada, Canadian Coast Guard and the Department of National Defence (DND) to exercise control in the region. Each of the Departments mentioned have strategic guidance that provides the foundation for whole of government action for Northern Development. Historical assessments by academics like Adam Lajeunesse, who's research, demonstrated GoC lack of action in the 1940's, 1950's and 1960's undermined Canada's sovereignty claims in the Arctic.²⁴ For departments like DND, the *Canada First Defence Policy*²⁵ provides the tools to ensure sovereignty is maintained through persistent surveillance and increased presence by all the services of the Canadian Armed Forces (CAF).

²³ Government of Canada, *Canada's Northern Strategy: Our North, our Heritage, our Future* (Ottawa, Canada: Department of Indian Affairs and Northern Development,[2009]).

²⁴ Adam Lajeunesse, "The Northwest Passage in Canadian Policy," *International Journal* 63, no. 4 (10, 2008), 1037-1052.

²⁵ Department of National Defence and Canada. Minister of National Defence, *Canada First Defence Strategy*, 21

By ensuring the footings that will support the security cornerstones are reinforced, the National Shipbuilding Procurement Strategy (NSPS) as well as the Royal Canadian Navy's (RCN) Strategy²⁶ and Executive Plan²⁷ emphasize the future security environment will include the Arctic as strategic line of communication for global commerce. The RCN's future planning considerations include more frequent deployments to persistently exercise Canadian sovereignty while providing credible options and contingencies with regards to environmental and natural disasters that may result due to increased human actions in the region. These burgeoning strategies for one element of the CAF, the RCN, mutually support the grand strategy of increasing Canada's sovereignty claims in the Arctic and demonstrate a balanced approach.

CONCLUSION

This paper has explored the historical evolution of the Arctic up to the creation of Canada's Arctic Foreign Policy as well as National Foreign and Security Policies in order to take into account this regions rising prominence. Throughout the research into the paper, a recurring theme regarding Canada's sovereignty has focused the GoC to take action on many jurisdictional claims regarding the definition of straight baselines, internal waters and an extended continental shelf in order to bolster sovereignty. A whole of government approach was summoned in 2004 in order to develop policies in the region with a priority of ensuring the north becomes viable economically from the resources. Canada's approach is challenged due to special considerations regarding the environment as a result of climate change. The myriad of opinions and priorities

²⁶ Canada. Chief of the Maritime Staff et al., *Securing Canada's Ocean Frontiers: Charting the Course from Leadmark* (Ottawa: Directorate of Maritime Strategy, NDHQ/Chief of the Maritime Staff, 2005), 50, 50.

²⁷ Norman M.A.G. Vice-Admiral, *Commander's Guidance and Direction to the Royal Canadian Navy*. 2013.

have resulted in some states desiring a global governance approach opposed to and in competition with forums such as the Arctic Council.

The paper focused on Canada's sovereignty claims with respect to international pressures surrounding claims made to UNCLOS regarding delimitation. The future security environment in the region will be fundamentally impacted by the resolutions and redefinitions. The deliberate and measured approach by the GoC has allowed national and international policies to provide a strong base in order to protect Canada's sovereignty and security. As a result, Canada's submission to UNCLOS is balanced, taking into account consultation and multilateral negotiations apart from the UN panel advising on Laws of the Sea.

Throughout the research, it was apparent that Canada's historic claims have always been challenged by competing states in attempt to undermine Canada's governance and sovereignty in the region. Accordingly, Canada's long term investment into a Grand Arctic Strategy is underpinned by security policies that aim to provide a strong foundation. Documents such as *The Canada First Defence Strategy* provide the impetus for investment and direction to DND and the CAF in order to bolster policies as well as quell international reservations.

In sum, Canada's foreign and security policies towards the Arctic are effective in garnering international support towards settling historic disputes of territorial claims while clarifying aspects considered under UNCLOS to ensure future economic and environmental security for the region. Consequently, this coherent, measured approach, has influenced other aspects of Canadian territorial claims which stand to benefit. The finalization other claims in the Beaufort Sea and the potential strengthening the Arctic Council to deal with emerging issues within the polar region will be the lasting legacy of a grand strategy. This will ultimately benefit

Canadians and Northerner's as well as project power in protecting sovereignty against global discourse and competing states that figure to gain in the following decades.

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