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## **Canada Needs to Exercise Control in the Northwest Passage**

**Lieutenant-Commander Scott Whyte**

### **JCSP 48**

#### **Service Paper**

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**Canada Needs to Exercise Control in the Northwest Passage**

**Lieutenant-Commander Scott Whyte**

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## CANADA NEEDS TO EXERCISE CONTROL IN THE NORTHWEST PASSAGE

### AIM

1. This service paper aims to investigate the challenges and shortcomings of the Canadian Armed Forces (CAF's), but more so, on a broader scale, the Government of Canada's abilities, to currently provide and maintain effective awareness and control of the Northwest Passage. What are the implications (both positive and negative) on Canada's Arctic Sovereignty and territorial claims over the waterways of the Northwest Passage? The current capabilities Canada has available for exercising domain awareness and influence over the claimed territorial areas will be highlighted (their successes and shortcomings) as well as the potential implications of not being able to exercise those effectively. Finally, potential recommendations for Canada moving forward will be identified and offered.

### INTRODUCTION

2. Whether one believes in the science of climate change or not, the facts are undeniable in the North, the sea ice is retreating, and the navigable seasons in the Arctic are getting longer<sup>1</sup>. The possibility of a viable shipping lane through the Northwest Passage could have large-scale implications on the Global Trade and Economy. The ability to conduct a Trans-Pacific-Atlantic transit via the Northwest Passage could reduce the transit from Asia to the East Coast of the United States by as much as 8,000 Kilometers<sup>2</sup>.

3. The increasing accessibility of the Arctic, more specifically the Northwest Passage, has led to an increase in annual traffic in the Canadian Arctic. Ecotourists and adventurers, scientific research, internal Canadian shipping to increase resupply frequencies to the Northern Communities have all increased in frequency and numbers. Joint military exercises to improve CAF operational capacities within the environment and promote Canada's Sovereignty now, are also conducted on an annual basis (some years more frequently)<sup>3</sup>. To quote J.R. Parkey "Canada [must] make preparations for a rapid expansion of Arctic shipping ... the ships are coming."<sup>4</sup>

4. Canada's claim over the international status of the Northwest Passage is an issue that the International Community has contested in the past, and as these areas become more of a viable option for the world economy, the noise of these challenges is likely to continue. The straight baseline method that Canada has utilized to declare the Northwest Passage "internal Canadian territory" is contrary to article 8 of the United Nations Law of the Sea Convention (UNCLOS).

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<sup>1</sup> Whitney P. Lackenbauer, *Canadian Arctic Sovereignty and Security: Historical Perspectives* (Centre for Military and Strategic Studies: University of Calgary, 2011), 383.

<sup>2</sup> Ibid., 391.

<sup>3</sup> Ibid., 384.

<sup>4</sup> Jeffrey R. Parker, "Assessing Institutional Alternatives for Future Northwest Passage Governance." *The American Review of Canadian Studies* 43, no.2 (2012), 172.

Signed by Canada in 1982 (four years prior to the declaration of the Canadian baseline claim), Lackenbauer has noted this fact in works on Canadian Arctic sovereignty and security that:

.... a State can not close an international strait by declaring straight baselines. Therefore, the Canadian government's claim that drawing straight baselines gives it the international legal right to claim jurisdiction over international shipping in these waters is also unlikely to withstand an international challenge<sup>5</sup>.

5. This paper will not dive into the legal intricacies of the Northern Territorial Claims. The importance of exercising the appropriate level of engagement and control of the Northwest Passage with regards to domain awareness, ability to respond to human or environmental emergencies, enforce environmental and cultural protection policies and demonstrate CAF reach and capabilities within the operating environment cannot be understated in not only supporting Canada's legal claims but also in meeting the NATO and NORAD commitments as outlined in Strong Secure Engaged: Canada's Defence Policy.<sup>6</sup>

## DISCUSSION

6. Before including the Harry DeWolf Class (HDW) into the RCN inventory, there was no legitimate "Arctic" capability within the organization. While the Kingston Class Coastal Defence Vessels, do in theory, have the same ice classification on their hulls (the KIN Class have a re-enforced 'ice bib' around the front sections of the hull) as the HDW Class, the limitations in propulsion systems power outputs, and the configuration of the output (Lips azimuthing thrusters)<sup>7</sup> severally limit the Arctic capabilities of that Class. The HDW Class gives enhanced capabilities to the Government of Canada (GoC) to extend its presence into regions such as the Northwest Passage, as demonstrated when HMCS Harry DeWolf circumnavigated Continental North America in 2021.

7. While the HDW Class does improve the GoC's abilities to exercise control within the Arctic Regions, it is still limited in its abilities. The unclassified Command and Control Systems, lack of Air and Sea Surveillance equipment comparable to the Canadian Parole Frigate (CPF) and limitations to first-year ice of one meter in thickness still do not give Canada the ability to exercise the same level of control in the Arctic Domain, as on the Pacific and Atlantic coasts. Another factor to keep in perspective is that the ice capabilities of the HDW Class (with the current ice conditions) have only increased the RCN's Arctic Navigable seasons by a few months.

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<sup>5</sup> Whitney P. Lackenbauer, *Canadian Arctic Sovereignty and Security: Historical Perspectives* (Centre for Military and Strategic Studies: University of Calgary, 2011), 388.

<sup>6</sup> Department of National Defence, "Strong, Secure, Engaged: Canada's Defence Policy," (2017), 79. Strong, Secure, Engaged. Canada's Defence Policy. (publications.gc.ca)

<sup>7</sup> Royal Canadian Navy. "Maritime Coastal Defence Vessels." Last modified August 27, 2021. Maritime Coastal Defence Vessels | Fleet & Units | Royal Canadian Navy (forces.gc.ca)

8. The Royal Canadian Air Force (RCAF) also has limited abilities at current to support the GoC's exercise of control within the Arctic Region.<sup>8</sup> The Aging CP140 Fleet is in the process of a modernization period. Employment conflicts resulting from competing demands for the platform in the Pacific and Atlantic Domains with the limiting impact of air-crew availabilities, the aircraft is sparsely available to conduct consistent surveillance taskings within the Arctic. The Classified nature of the embarked C2 and Domain Reporting features of the CP140 and the unclassified nature of the systems of the HDW Class make data sharing and coordination between the CP140 and the HDW a challenge at best when operating in a Joint Arctic context.

9. Other assets of the RCAF located throughout the Arctic, either due to their limitations in capabilities, or sparsity of location, do not adequately support the GoC's initiatives to support the exercise of Control or Canadian Sovereignty.<sup>9</sup> A critical application of exercising control within the region is responding to emergencies. The Search and Rescue responsibilities (arguably a pre-requisite if Canada wishes to legitimately stand by the claim/position that the Northwest Passage is an internal Canadian Waters) are paramount. The GoC has not made upgrading these capabilities a priority.<sup>10</sup> Canada currently relies on four Twin Otter aircraft based out of Yellowknife, C-130 Hercules flying from Trenton, Ontario, and CH-149 Cormorants flying from either Comox, British Columbia, or Newfoundland and Labrador. The importance of upgrading and maintaining a creditable Search and Rescue capability is not only crucial for Canada to live up to its emergency response responsibilities, but through these capabilities, there is also the secondary effect of assertion of Canadian control and sovereignty, as Byers and Lalonde noted:

“Improving search-and-rescue capacity in the Northwest Passage would also facilitate the enforcement of Canadian laws and thus the credibility of Canada's legal position...

Basing one or more of these aircraft in the North, initially during the summer months, would constitute an important part of any serious policy aimed at enforcing Canada's Northwest Passage claim.”<sup>11</sup>

10. While many of the critical departments tasked with the security and protection of Canada's sovereignty in the north have seen reductions in funding to build and maintain these capabilities,<sup>12</sup> the Canadian Rangers have seen an expanded financial commitment to increase their overall numbers. The perhaps the most reliable means for maintaining and building the Human Intelligence (HUMINT) contributions to the domain awareness of the Arctic. However, due to the nature of the organizational structure of the Northern Rangers and their lack of access to command and control and reporting systems that feed the broader national domain picture, the Rangers lack the ability to pass real-time data to the appropriate operation or reporting centers. Therefore, their data and information is not ordinarily accessible in creating and maintaining the common arctic operating picture and provides a more historical context.

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<sup>8</sup> Michael Byers and Suzanne Lalonde, “Who Controls the Northwest Passage?” *Vanderbilt Journal of Transitional Law* 42, no.4 (2009), 1197.

<sup>9</sup> *Ibid.*, 1198.

<sup>10</sup> *Ibid.*

<sup>11</sup> Whitney P. Lackenbauer, *Canadian Arctic Sovereignty and Security: Historical Perspectives* (Centre for Military and Strategic Studies: University of Calgary, 2011), 394.

<sup>12</sup> *Ibid.*

“HUMINT within the Canadian North is problematic due to the lack of infrastructure and communication networks. As previously mentioned, the HUMINT function is currently conducted in an ad hoc fashion by the Rangers. Unfortunately, without a reliable and rapid means of passing this information into the MDA network the information cannot be acted upon. This issue will have to be addressed for Canada to have an effective northern MDA structure.”<sup>13</sup>

11. The importance of maintaining an accurate representation of the domain awareness in the Northern Environment is key to the GoC’s ability to respond to threats or emergencies as well as exercise control and maintenance of Canadian Sovereignty. “Devoid of a sense of awareness, the Government’s ability to make sound decisions and to coordinate action is non-existent.”<sup>14</sup> The utilization of the RADARSAT Constellation as part of the Polar Epsilon project by the Canadian Space agency contributes to and has increased Canada’s ability to build better and maintain domain awareness. This project is an example of success in Canada’s abilities to build the Common Operating Picture (COP). However, the issue becomes who or what is available in the Canadian inventory to act on the information provided in Canadian law enforcement, security and Sovereignty, or emergency response.

12. Building on the initiatives of the Canadian Space Agency and Canada’s commitments to upgrade and reinvigorate the Northern Warning System (NWS), and the modernization of Canadian infrastructure supporting NORAD, as outlined in Strong Secure Engaged,<sup>15</sup> all represents a renewed focus to the security of North America. However, these upgrades fall short in supporting the GoC’s ability to physically exercise effective control of areas in the north, such as the Northwest Passage. While the United States has a vested interest in working with Canada to develop and upgrade infrastructure to prevent North American military and security threats, Canada’s claims of the Northwest Passage as an Internal Canadian Waterway are not mutually beneficial. Canada must continue to build upon the assets in its inventory so that the fusion of available data in generating the domain awareness can be physically acted upon in a reasonable period to assert Canadian control and sovereignty within the Northwest Passage.

13. Within the Canadian Government, other departments such as the Canadian Coast Guard, the RCMP, and Border Services all have contributing roles in asserting Canadian Control in the Arctic, especially within the Northwest Passage. These other departments, also like the DND and CAF, have been subject to fiscal reallocations or outright cuts, which have limited and reduced their capabilities within this area of operation.<sup>16</sup> While current procurement projects and modernization have previously been approved, the question and considerations now are what will the future of these projects look like with the financial burdens of both the COVID-19 pandemic and the growing cost to safeguard critical infrastructure from the effects of climate

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<sup>13</sup> David C. Gardam, “The Northwest Passage: A Prudent Management Strategy: (National Security Studies Programme Course Paper, Canadian Forces College, 2007), 34.

<sup>14</sup> Ibid., 39.

<sup>15</sup> Department of national Defence, “Strong Secured, Engaged: Canada’s Defence Policy,” (2017), 79. . Strong, Secure, Engaged. Canada's Defence Policy. (publications.gc.ca)

<sup>16</sup> Whitney P. Lackenbauer, *Canadian Arctic Sovereignty and Security: Historical Perspectives*, (Centre for Military and Strategic Studies: University of Calgary, 2011), 392.

change being added to the federal financial equation. To what scale will these procurement projects be maintained, and what limitations will this have on an organization like the coast guard?

14. At this time, the Canadian Coast Guard does not have the capabilities to operate within the Northwest Passage year-round.<sup>17</sup> Additionally, the ability of the GoC to enforce compliance with policies such as the Canadian Shipping Act, the Marine Transportation Act, the Northern Regulations, the Navigable Waters Protection Act, Marine Liability Act, naming but a few,<sup>18</sup> is sporadic and limited at best. The ability to enforce Canadian policy, law, and regulations physically and reliably within the Northwest Passage are essential in Canada's case to claim it as their internal waterway, and Steve Dobransk highlights the risks to not being able to do this:

“If Canada is unwilling to shift or produce enough resources to create a sufficient Arctic force that is capable of fully securing the region over the three thousand miles of waterways, plus above and beneath the surface, then it opens up the possibility that other forces outside the region may move in and claim the trillions of dollars in natural resources.”<sup>19</sup>

15. The GoC has taken steps to increase Canada's ability to exercise control within the Arctic, the projects to add Arctic Capability via the HDW to the RCN, the modernization of the Canadian Coast Guard, the establishment of the Arctic Training Centre and the Naval Facility at Nanisivik are all positive initiatives. However, these initiatives do not address the issue of exercising control of the Northwest Passage as they are focused on areas that are not internationally contested. Canada's inability to have a “mature” internal conversation about national security combined with the resulting failure to articulate the importance of action in the Arctic to the Canadian Public has resulted in insufficient public support to drive the procurement and action plans required for Canada to better legitimize its claims in the Arctic. As a result, the achievement of many Arctic and Northern directives, as identified in Canada's Defence Policy,<sup>20</sup> will be a challenge.

## CONCLUSION

16. While it is clear that within the departments tasked with enforcement, security, and control of the Canadian Arctic and specifically the Northwest Passage, understand the importance of the ability to physical project Canadian control in these areas, and the relationship of action in in supporting any legitimate Canadian claims to the area. The same level of priority does not seem to be echoed by other levels of the Government or the public. The addition of other current pressures resulting from the COVID-19 Pandemic and the emergence of the climate

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<sup>17</sup> Michael Byers and Suzanne Lalonde, “Who Controls the Northwest Passage?” *Vanderbilt Journal of Transitional Law* 42, no.4 (2009), 1191.

<sup>18</sup> Ibid.

<sup>19</sup> Steve Dobransky, “Military Security, Energy Resources, and the Emergence of the Northwest Passage: Canada's Arctic Dilemma.” *American Diplomacy* no.6 (2012), 11.

<sup>20</sup> Department of National Defence, “Strong, Secure, Engaged: Canada's Defence Policy,” (2017), 79-82. Strong, Secure, Engaged. Canada's Defence Policy. (publications.gc.ca)

change crisis has overshadowed Arctic Sovereignty and has taken over as the top priorities of the day.

17. There is a false sense of security that Canada has relied on prior to the Cold War, that the presence of the ice itself would counter any threats to Canadian sovereignty or territorial claims within the Arctic. Canadian control in the Arctic requires a whole of government approach. Many positive advancements have been made within the last decade to increase the available detection, surveillance, and overall domain awareness capabilities but the ability to provide a physical response to either a security challenge, military threat, or emergency is in question and severally limited. As noted by Adam Lajeunesse, Canada risks the following consequences:

“... as many significant security/sovereignty challenges [arise] that this activity, if ignored, had the potential to lead, in the long term, to an erosion of Canada’s sovereignty in the North. There were also wider concerns that unregulated traffic could lead to environmental degradation, trespassing, illegal immigration, piracy, and even foreign exploitation of Canada’s Arctic resource.”<sup>21</sup>

18. Canada is not in a position right now to provide awareness and control of its Northwest Passage reasonably and effectively. For the GoC to do this, and if Canada is truly serious about Arctic Sovereignty, there needs to be a change in attitude or posture and the government, and the Canadian public must understand that the concerns being brought forward are not alarmist; they are the reality.

## RECOMMENDATIONS

19. The Messaging from the CAF and the other agencies and departments responsible for the security and physical responses in the Arctic, specifically the Northwest Passage, needs to change. Increased spending to develop military or enforcement capabilities is not a popular discussion topic in Ottawa or with the public, especially in the current political environment. Articulating other non-military or non-enforcement-related capabilities that can indirectly influence the GoC’s ability to exercise control in the Northwest Passage should be prioritized. The RADARSAT Constellation Project, while it provides scientific and weather data, contributes to surveillance capabilities. The push to increase Search and Rescue and Humanitarian and Disaster Relief assets in the north not only meets a public safety demand but can also augment capabilities to conduct surveillance, compliance checks for regulations, and be used as transportation or support vehicles for DND, the RCMP or CBSA to conduct their enforcement operations. Additionally, as a GoC asset, they are exercising Canada’s projection and maintenance of territorial sovereignty by their presence alone and offering the GoC capabilities in the short term while working in the long term to support the legitimacy of Canadian Claims over the Northwest Passage.

20. Previous Governments have expressed the need to establish operational HUBS within the Arctic area of Responsibility. There have been initiatives to deploy forward equipment to support

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<sup>21</sup> Adam Lajeunesse. “Canada’s Arctic Offshore and Patrol Ships (AOPS): Their History and Purpose.” *Marine Policy* 124, (2021), 2.



Disaster and Emergency response capabilities and augment the sustainment of operations with the development of Naval Fuel Station Nanisivik. An Option to further capitalize on this would also be establishing a forward operating base that could support search and rescue Helicopter operations, “Northern Response Detachment” that would or could operate out of one of the local communities, in the vicinity of the Northwest Passage during the navigable season; to improve the GoC’s SAR response capabilities. Having a forward-deployed air asset would also be capable of secondary uses to support the maintenance and enforcement of GoC control of the Northwest Passage.

21. To be blunt, Canada cannot control the Northwest Passage at this time and based on Canada's history of limited and pained financial support of its enforcement and military capabilities, a massive influx of money, people, and equipment to bolster the GoC's capabilities in the Northwest Passage is unlikely. The international community's unwillingness (including the United States) to support and recognize Canada's Arctic claims illustrates that the time is now for Canada to move on from its "all or nothing position." Canada must accept that if it cannot assert its control of the Northwest Passage, Canada will likely lose any legal claims to the Northwest Passage when challenged in the International Court. Canada should continue developing cooperative policies, agreements, and regimes with like-minded allies (such as the United States and Denmark) to safeguard the Arctic from exploitation by less than friendly competitors like Russia and China.

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