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# Learning from the Ilulissat Initiative

State Power, Institutional Legitimacy, and Governance  
in the Arctic Ocean 2007–18

Jon Rahbek-Clemmensen  
Gry Thomasen

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## Masthead

### This report

This report is a part of Centre for Military Studies' policy research services for the Ministry of Defence and the political parties to the Defence Agreement. The purpose of the report is to examine how the Ilulissat initiative came about and how it and the cooperation between the A5 states affected the existing regional order in the Arctic. In doing so, the report analyses the fundamental driving forces shaping Arctic governance and how the Kingdom of Denmark can affect Arctic governance to promote Danish, Faroese, and Greenlandic interests.

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Authors:

Associate Professor, Dr. Jon Rahbek-Clemmensen, Royal Danish Defence College

Independent Consultant, Dr. Gry Thomasen

## Kolofon

### Denne rapport

Denne rapport er en del af Center for Militære Studiers forskningsbaserede myndighedsbetjening for Forsvarsministeriet og de politiske partier bag forsvarsforliget. Formålet med rapporten er at undersøge, hvordan Ilulissat-initiativet opstod, og hvordan det og samarbejdet mellem de fem kyststater (A5) har passet ind i den regionale orden i Arktis. Rapporten analyserer de basale dynamikker i det arktiske samarbejde (governance) og kommer med anbefalinger til, hvordan Rigsfællesskabet kan påvirke det arktiske samarbejde i en retning der styrker danske, færøske og grønlandske interesser

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Denne rapport er et analysearbejde baseret på forskningsmæssig metode. Rapportens konklusioner er ikke et udtryk for holdninger hos den danske regering, det danske forsvar eller andre myndigheder.

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Forfattere:

Lektor, ph.d. Jon Rahbek-Clemmensen, Forsvarsakademiet

Selvstændig konsulent, ph.d. Gry Thomasen

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# Abstract

In May 2018, 10 years will have passed since representatives from the five Arctic coastal states (Canada, Denmark, Norway, Russia, and the United States, collectively referred to as the A5) and the Home Rule government of Greenland met for the Ilulissat meeting in Greenland after a joint Danish-Greenlandic initiative. The meeting resulted in the Ilulissat Declaration, whereby the coastal states declared that existing international law provided a firm basis for handling Arctic Ocean issues, that the coastal states would settle disagreements peacefully and in accordance with international law, including the continental shelf issue, and that they would cooperate on a host of other issues through existing regional institutions, such as the Arctic Council.

This report examines how the Ilulissat initiative came about and how it and the cooperation between the A5 states affected the existing regional order in the Arctic. It uses the story of the Ilulissat initiative and the A5 to examine the fundamental driving forces shaping Arctic governance and how the Kingdom of Denmark can affect Arctic governance to promote Danish, Faroese, and Greenlandic interests. The Ilulissat Declaration helped calm international fears of an unregulated Arctic and it demonstrated that an Arctic Treaty modelled after the Antarctica Treaty was both unnecessary and unrealistic. The A5 cooperation continued after the Ilulissat meeting, which other states and NGOs criticized, believing it would undermine broader regional cooperation and the inclusion of non-coastal states and non-state actors. This criticism has waned over the past decade. Several critics have tacitly come to accept the A5 in practice, even though they continue to oppose it in principle. Similarly, as the Central Arctic Ocean fisheries negotiations illustrated, once included, the non-coastal states engaged with the A5 to find practical solutions to Arctic problems. The reduced contestation over the past decade is to some degree caused by the transformation of the A5 into a more limited and inclusive forum that did not compete with the Arctic Council.

The report illustrates how Arctic governance occurs at the nexus between state power and legitimate institutions. The Arctic order remains in flux as different actors continue to debate and disagree on the fundamental institutional structure in the region. Continued active Danish diplomacy remains important to maintaining Arctic cooperation in the coming years. The overall interest of the Kingdom of Denmark is to maintain the Arctic as a regional regime complex, where different institutions provide functional solutions to specific challenges and the A5 maintains influence over regional decision-making. Among the main challenges to the current setup is regime overlap, where the A5 may make agreements on issues that are already governed by existing agreements.

# Recommendations

The Kingdom of Denmark should consider the following initiatives:

- Work to preserve existing regional institutions through institutional reforms that strike a balance between maintaining existing institutions and pushing regional initiatives that strengthen the effectiveness and inclusiveness of the Arctic order.
- Work to preserve the A5 as a regional Arctic forum by maintaining its inclusive and pragmatic course to the extent possible, preserving and expanding existing cooperation in areas such as the delimitation of the continental shelf and high seas fisheries regulation in the Central Arctic Ocean, and actively setting the agenda to highlight its practical accomplishments and inclusive nature.
- Focus on avoiding institutional overlap in the Arctic Ocean, especially between the A5 and the Task Force on Arctic Marine Cooperation under the Arctic Council.
- Use the 10-year anniversary of the Ilulissat meeting as occasion to highlight the practical accomplishments and inclusive nature of the A5 over the past 10 years.
- Strive to place Arctic cooperation on the American foreign policy agenda by providing relevant information and explaining how the current Arctic order, including the A5, provides effective and inclusive solutions, specifically targeting the US Congress, media, and think tanks.
- Strive to place Arctic cooperation on the EU's foreign policy agenda by providing relevant information and explaining why the current Arctic order, including the A5, provides effective and inclusive solutions in EU institutions, especially the European Parliament and Commission.
- Strive to influence the foreign policy agenda in Russia, focusing specifically on explaining the need to reform existing institutions making them effective and inclusive.
- Update its Arctic strategy to explicitly state that the Kingdom of Denmark aims to maintain the A5 as a regional institution and to highlight the A5 as a pragmatic, inclusive, and functionally important forum that complements other Arctic institutions, including the Arctic Council. The Arctic Strategy should also explicitly make Arctic agenda-setting a key Danish priority.
- Actively involve Faroe Islands and Greenland in the design of agenda-setting messages.

## Dansk resumé

I maj 2018 er det ti år siden, at repræsentanter for de fem arktiske kyststater (Canada, Danmark, Norge, Rusland og USA) og Grønlands hjemmestyre deltog i Ilulissat-mødet i Grønland på dansk og grønlandsk initiativ. Mødet resulterede i Ilulissat-erklæringen, hvor kyststaterne fastslog, at eksisterende international regulering udgjorde et solidt fundament for samarbejdet om Polarhavet (det Arktiske Ocean), at de ville løse uenigheder på fredelig vis i overensstemmelse med international lovgivning, inklusive kontinentalsokkel spørgsmålene, ligesom de ville samarbejde om en række andre forhold gennem eksisterende regionale institutioner, såsom Arktisk Råd.

Denne rapport undersøger, hvordan Ilulissat-initiativet opstod og hvordan det og samarbejdet mellem de fem kyststater (A5) har passeret ind i den regionale orden i Arktis. Rapporten bruger historien om Ilulissat-initiativet og A5 til at forstå de basale dynamikker i det arktiske samarbejde (*governance*) og kommer med anbefalinger til, hvordan Rigsfællesskabet kan påvirke det arktiske samarbejde i en retning der styrker danske, færøske og grønlandske interesser. Ilulissat-erklæringen var med til at lægge en dæmper på internationale bekymringer for et ureguleret Arktis og demonstrerede, at en Arktisk Traktat, baseret på Antarktisk-traktaten, var både unødvendig og urealistisk. Efter Ilulissat-mødet fortsatte samarbejdet i A5, hvilket mødte kritik fra stater og NGO'er, som mente, at dette skete på bekostning af et samlet arktisk samarbejde mellem alle otte arktiske stater og inddragelse af ikke-statslige aktører. Over de seneste ti år er kritikken dog blevet mindre omfattende. Flere kritikere har stiltiende accepteret A5 som et praktisk, eksisterende forum også selvom man stadig er principielt imod en sådan konstruktion. På samme vis har ikke-kyststater samarbejdet med A5 om at finde løsninger på problemer, der vedrører Arktis, som forhandlingerne om en fiskeriaftale for det Arktiske Ocean viste. Den formidskede kritik af A5 over de seneste ti år kan i nogen grad forklares ved, at A5 har udviklet sig til et mere begrænset og inkluderende forum, der ikke konkurrerer med Arktisk Råd.

Rapporten viser, at det arktiske samarbejde sker i mødet mellem staters magt og legitime institutioner. Den arktiske orden er i stadig forandring, og stater og andre aktører er fortsat uenige om den grundlæggende institutionelle struktur i regionen. Et aktivt dansk diplomati er fortsat af afgørende betydning for at fastholde samarbejdet i Arktis. Rigsfællesskabets overordnede interesse er, at bevare den nuværende mosaik af institutioner i Arktis, hvor forskellige institutioner kan levere løsninger på specifikke udfordringer, og hvor A5 fastholder sin indflydelse på den regionale beslutningsproces. Udover en fornyet kritik af A5 er de primære udfordringer bl.a. at forhindre overlap mellem forskellige institutioners fokusområder.

# Anbefalinger

Rigsfællesskabet bør overveje at:

- Arbejde for at bevare de eksisterende regionale institutioner gennem institutionelle reformer, som balancerer mellem at fastholde de eksisterende institutioner og fremme regionale initiativer, der styrker den arktiske ordens effektivitet og inklusion.
- Arbejde for at bevare A5 som et regionalt arktisk forum ved at fastholde A5's inkluderende og pragmatiske kurs, bevare og udvide det eksisterende samarbejde om afgrænsningen af kontinentalsoklen og fiskeriregulering, samt at vise A5's praktiske resultater og inkluderende natur gennem aktiv diplomati.
- Undgå institutionelle overlap i Polarhavets institutioner, særligt mellem A5 og Arktisk Råds Task Force on Arctic Marine Cooperation.
- Benytte Ilulissatmødets 10 års-jubilæum som anledning til at markere A5's praktiske resultater og inkluderende natur.
- Stræbe efter at sætte det arktiske samarbejde på den udenrigspolitiske dagsorden i USA ved at bidrage med relevant information og forklare, hvordan den nuværende arktiske orden, herunder A5, leverer effektive og inkluderende løsninger på arktiske udfordringer. Danmark bør særligt fokusere på Kongressen, medier og tænketanke.
- Stræbe efter at sætte det arktiske samarbejde på EU's udenrigspolitiske dagsorden ved at bidrage med relevant information og forklare EU's institutioner, hvordan den nuværende arktiske orden, herunder A5, leverer effektive og inkluderende løsninger på arktiske udfordringer. Danmark bør særligt fokusere på Kommissionen og Parlamentet.
- Stræbe efter at sætte det arktiske samarbejde på Ruslands udenrigspolitiske dagsorden med særligt fokus på at forklare behovet for at reformere de eksisterende institutioner for at gøre dem effektive og inkluderende.
- Opdatere sin arktiske strategi, så det tydeligt fremgår, at Rigsfællesskabet vil fastholde A5 som en regional institution, og at A5 er et pragmatisk, inkluderende og et funktionelt vigtigt forum, der understøtter andre arktiske institutioner, herunder Arktisk Råd. Den arktiske strategi bør også eksplicit nævne, at det er en vigtig prioritet for Danmark at være dagsordensættende i Arktis.
- Aktivt involvere Færøerne og Grønland i udformningen af dagsordensættende budskaber.

## 1

## Introduction

Arctic diplomacy has become steadily more important in recent decades. Once mainly a theatre for great power competition between the United States and Soviet Union, the Arctic has become home to a mosaic of international institutions striving to handle the many new challenges that emerge as climate change and globalization are opening the region to human activity. Arctic diplomacy is not just important because it enables practical solutions to regional issues and reduces the potential for great power conflict in the region – Arctic institutions also have an impact that extends beyond the polar region, as they give Russia and Western diplomats an arena for communicating about broader non-Arctic questions, even as general East–West relations have grown strained since the Ukraine Crisis. Regional diplomatic cooperation between the Arctic states has largely continued after the Russian invasion of Crimea in 2014, partly because Russia has strong economic interests in maintaining peaceful Arctic relations. Northern forums therefore give policymakers a rare opportunity to meet and communicate.<sup>1</sup> Arctic diplomacy might be particularly crucial for the Kingdom of Denmark.<sup>2</sup> As Ambassador Peter Taksøe-Jensen argued in his 2016 review of Danish foreign policy, the Kingdom of Denmark’s status as one of the eight Arctic states and five coastal states gives Copenhagen opportunity to make its mark on a key region.<sup>3</sup> It is therefore crucial to understand the dynamics driving Arctic governance and how the Kingdom of Denmark can influence these processes.

The Ilulissat meeting on 27–29 May 2008, held between representatives from the five coastal states (Canada, Denmark, Norway, Russia, and the United States) and the Greenlandic government near the melting glacier in Ilulissat in Western Greenland, provides an excellent case for understanding both the importance and nature of Arctic governance and the Kingdom of Denmark’s diplomatic clout. The meeting was the result of a joint Danish–Greenlandic initiative and is often hailed as one of the most prominent examples of successful Arctic diplomacy. The initiative came at a perilous time, as global agenda-setters had discovered the changes unfolding in the north, but, lacking consensus about which institutions should govern regional issues, many feared that the Arctic was moving towards regional competition and conflict. Many voices – including NGOs, experts, media, and the European Parliament – called for an Arctic treaty that would remove responsibility from the Arctic states and give more influence to non-regional actors (see table 1). The Ilulissat Declaration responded to that uncertainty as the coastal states declared that existing international law provided a firm basis for handling Arctic Ocean issues (thus rendering new overarching legal structures redundant), that they would settle disagreements peacefully and in accordance with international law (including the delimitation of the continental shelf), and that they would cooperate on a host of issues through existing regional institutions. After Ilulissat, it became normal to talk about the Arctic Five (A5) as a regional forum distinct from the eight Arctic states mak-



ing up the Arctic Council (the A5 countries plus Finland, Iceland, and Sweden).

Table 1:  
The idea of an Arctic Treaty

An Arctic treaty denotes the occasionally proposed possibility of developing a comprehensive, binding, hard-law multilateral treaty under the UN that establishes rules and decision-making procedures for a wide range of policy areas, including environmental protection, resource management, and security issues in the Arctic or the Arctic Ocean, typically modelled after the 1959 Antarctic Treaty.<sup>4</sup> Among other things, the Antarctic Treaty and subsequent protocols prohibit military activity, territorial sovereignty claims, and non-scientific mineral resource activity on the entire continent.

Most governance analysts consider the idea of an Arctic treaty along the lines of the Antarctic Treaty to be unrealistic, citing several crucial differences between the Arctic and Antarctica as reasons why a similar regime would be difficult in the Arctic:

- Unlike Antarctica, the Arctic mainly consists of an ocean and not a land-mass and is therefore governed by different parts of international law (most importantly UNCLOS)
- Unlike Antarctica, the Arctic lands and coastal seas are under the jurisdiction of the Arctic states
- Unlike Antarctica, the Arctic has a population with rights under national and international law
- Unlike Antarctica, the Arctic has a lengthy history of extensive commercial and military activity<sup>5</sup>

Regardless of its feasibility, the idea of an Arctic treaty became important when academics, intellectuals, NGOs, and the EU Parliament began to push it, especially between 2007 and 2011. This interest in the idea of an Arctic treaty pressured the Arctic states to reform the regional order.

The idea of an Arctic treaty should be distinguished from less comprehensive legal arrangements based on existing international law. For instance, UNCLOS articles 122 and 123 provide a framework for managing certain issues in regional seas, which may be applicable in the Arctic, while UNCLOS article 234 gives states certain rights in ice-covered areas. It is also possible to extend the mandate of existing institutions into the Arctic or to create new regional institutions for specific issue areas, such as a regional fisheries management organization. Such arrangements are typically less comprehensive in geography (they rarely cover the entire Arctic), scope (they often only cover specific issues), or authority structures (they often give regional states a privileged position). Such less comprehensive legal arrangements already exist in the Arctic today and will more likely be applied in the region in the future.<sup>6</sup>

In May 2018, 10 years will have passed since the Ilulissat meeting. This occasion presents an opportunity to pause, look back, and consider how the initiative has affected Arctic governance and what we can learn from it. How did the Ilulissat initiative come about and how did it and the A5 fit into the existing regional Arctic order? More broadly, what does the story of the Ilulissat initiative and the A5 tell us about the fundamental driving forces shaping Arctic governance? How and to what extent can the Kingdom of Denmark affect Arctic governance to promote Danish, Faroese, and Greenlandic interests? These are the questions covered by this report. In his 2016 review of Danish foreign policy, Ambassador Peter Taksøe-Jensen recommended

that Denmark should host an event for the coastal states to mark the 10-year anniversary of the Declaration in 2018.<sup>7</sup> In its foreign and security policy strategy from June 2017, the Danish government stated that it 'will use the 10th anniversary of the Ilulissat Declaration to draw attention to the political obligations [of the Arctic states] and expand the practical collaboration for shared interests, based on a desire to ensure that the Arctic remains a region characterized by low tension and constructive cooperation'.<sup>8</sup> Furthermore, the Arctic Strategy of the Kingdom of Denmark is scheduled to be updated in 2018–19.<sup>9</sup> This report thus aims to provide the basis for debate on Arctic governance and the future of the principles of the Ilulissat Declaration in the hope that it might contribute to these processes.<sup>10</sup>

Obviously, this report cannot cover all of the questions related to Arctic governance. We do not pass normative judgement over the fairness of the initiative, instead mapping how key actors have viewed the initiative over the past decade. Furthermore, while our topic requires mention of various different types of governance permissible under international law, we refrain from thorough legal debate concerning the validity of the Declaration or the variety of legal solutions to different regional governance problems. There are many dynamics unfolding in Arctic governance, and the present report focuses on examining the dynamics that become visible when analysing the story of the Ilulissat initiative and the A5. Our recommendations focus on the opportunities available to the Kingdom of Denmark and are therefore based on Danish, Faroese, and Greenlandic interests.

The Ilulissat initiative illustrates how Arctic governance occurs at the nexus between state power and legitimate institutions. It enabled the coastal states to use their influence to strengthen their positions in the regional order by demonstrating that they could offer legitimate solutions to regional challenges within existing legal frameworks and by contributing to the reinvigoration of the A5 as a new regional forum. The A5 was challenged by other actors who feared that it would undermine existing regional institutions, such as the Arctic Council, and they only came to tacitly accept it as a functional part of the regional order as the coastal states moved it in a more inclusive, limited, and pragmatic direction. The Arctic order remains in flux as different actors continue to debate and disagree on the fundamental institutional structure in the region. Continued active diplomacy will therefore remain important to maintain cooperation in coming years. The coastal states, including the Kingdom of Denmark, have an interest in maintaining the Arctic as a regional regime complex in which different institutions provide functional solutions to specific challenges and the coastal states maintain influence over regional decision-making. The A5 is one of the forums that they should strive to preserve. The report provides recommendations for how the Kingdom of Denmark can contribute to such efforts.

The present report provides the first comprehensive study of the Ilulissat initiative and the role of the A5 in Arctic governance. It builds on the existing literature on Arctic diplomacy and governance that provides some pieces of the puzzle but has yet to put them together to form an overall image.<sup>11</sup> The existing literature does not provide all the necessary pieces – other parts of the puzzle required original analysis. We have therefore analysed relevant documents that provided unique insight into how different actors viewed the issues covered by the report. These texts include publicly available documents, internal correspondence, and papers from the Danish Ministry of Foreign Affairs covering the period leading up to the Ilulissat meeting.

We have also conducted extensive interviews with 24 current and former politicians, civil servants, NGO representatives, and experts who are working with or have worked with Arctic issues.<sup>12</sup> The interviews were conducted in 2016 and 2017. Some of the interviewees have been involved in the Ilulissat meeting, including the negotiations about the Declaration in the spring of 2008, and they primarily provided a historical perspective. Others are involved in current Arctic affairs and they primarily helped us map out its long-term implications. The interviewees spoke on the condition of anonymity. We are, of course, aware that our interviewees might have an individual or institutional interest in furthering a specific version of the story of the Ilulissat initiative. By comparing each interviewee's statements to the existing literature, official documents, and statements made by other interviewees with different backgrounds and giving special weight to interviewees who 'spoke against their own interest' (data and source triangulation), we believe that we have been able to reduce such 'noise'. Following previous interview-based studies, we acknowledge the analytical limitations of such research, but we have preferred to conduct an imperfect but achievable and relevant analysis.<sup>13</sup>

The report is presented in four sections, the first providing a brief overview of the principles of the Arctic institutional order. The second and third sections turn to the Ilulissat initiative, the former outlining the events leading to the Declaration and the latter examining how it and the A5 fared in the almost 10 years hence. The final section draws broader lessons from the Ilulissat initiative and provides an overview of the opportunities and challenges facing the Kingdom of Denmark.

Figure 1:  
The Arctic Ocean



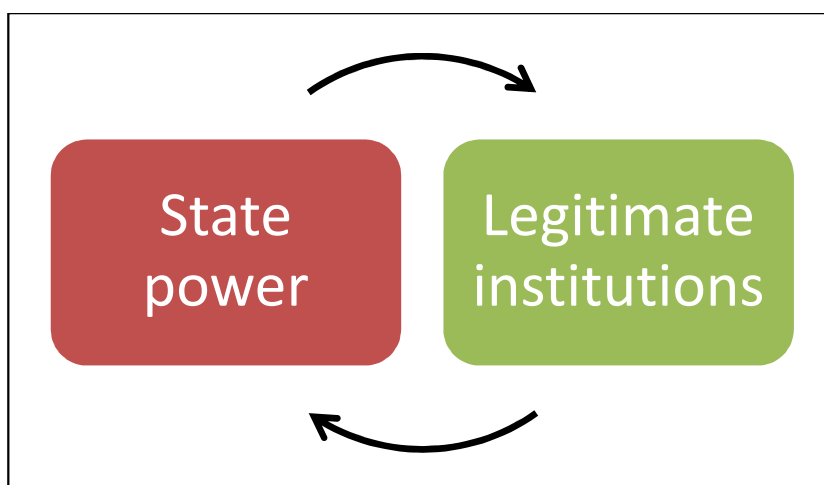
Source: Peter Hermes Furian / Alamy Stock Photo

## 2

## Arctic order between state power and legitimacy

The Ilulissat initiative and the A5 were crucial because they affected the Arctic order. Before examining their origins and impact, we must consider the basic driving forces of the Arctic regional order. Regional orders exist at the nexus between state power and legitimate institutions. A well-functioning regional order must be acceptable by the most powerful regional states; otherwise they will use their power to undermine the order.<sup>14</sup> This principle has shaped the existing Arctic order, where the eight regional states are the only members of the Arctic Council (a more detailed backgrounder describing the Arctic Council is available in the appendix). The Council's mandate was purposely designed to be rather limited, as specific issues, most importantly military security and fisheries, fall beyond its purview. Furthermore, decisions require interstate consensus and the states alone can effectuate them, which provides a large degree of control. It is, thus, more of a *decision-shaping* than a *decision-making* body.

Figure 2:  
The reinforcing cycle  
between state power and  
legitimate institutions



Once established, institutions facilitate international cooperation by enabling communication between states and establishing procedures that make compromises more feasible.<sup>15</sup> However, an institutional order can only be preserved if it remains legitimate in the eyes of key actors.

The concept of legitimacy can in turn be broken down into two sub-principles: effectiveness (output legitimacy) and inclusiveness (input legitimacy).<sup>16</sup> First, an institutional order must provide *effective* solutions to practical challenges, such as ensuring a safe environment, economic opportunities, infrastructure, peace, and individual and group rights. An ineffective order will likely lead to political resistance from businesses, civil society groups, political parties, and individuals, and institutions must therefore strive to deliver solutions to the challenges facing these groups. An institutional order creates ef-

fective solutions when institutions are tasked with detecting challenges and offering effective policies that are implemented by the relevant actors. Arctic institutions strive to reduce the environmental, social, and economic challenges facing northern societies, while also protecting the rights of indigenous peoples. For instance, the Arctic Council serves as a coordinating body where challenges facing the region can be detected and discussed, while specific issue areas, such as biodiversity, pollution, climate change, safety at sea, sustainable development, and marine environmental challenges, are dealt with in its six working groups and two task forces.<sup>17</sup> Though military security is not handled directly by Arctic institutions, they do reduce the conflict potential in the region indirectly, as Arctic diplomacy enhances the communication between governments and increases the opportunity costs of conflict. Institutional effectiveness wanes when regimes overlap (i.e., multiple institutions handling the same issue area), suffer from 'silo mentality' (when institutions do not coordinate their efforts despite obvious synergies), or become geographically confined (when institutions do not incorporate extra-regional dynamics affecting the region).

Second, a well-functioning order must also *include* relevant actors (e.g., non-regional states and entities, local indigenous groups, international organizations, NGOs) in regional decision-making.<sup>18</sup> Non-state interests are represented in Arctic institutions. For instance, indigenous actors played an important role in founding the Council and several indigenous peoples' organizations gained status as permanent participants with the right to be heard in the Arctic Council.<sup>19</sup> Non-Arctic states, including large Asian (e.g., China, India, Japan, South Korea) and European (e.g. the UK, Germany, France) states, have observer status in the Council, as do certain NGOs (e.g., WWF). One of the main debates in current Arctic governance revolves around the future role of the permanent participants and observers, many of whom want a larger say in regional decision-making.<sup>20</sup>

## 2.1

### **Danish and Greenlandic interests in Arctic governance**

The mutual relationship between state power and institutional legitimacy becomes apparent in how Denmark, the Faroe Islands, and Greenland approach the Arctic order. Maintaining the existing order and expanding cooperation helps the Kingdom of Denmark to gain international influence and reduce the administrative burden in the Arctic. Several recent government publications have therefore highlighted regional cooperation as a strategic goal for the Kingdom of Denmark, including its Arctic Strategy, Peter Taksøe-Jensen's 2016 foreign policy report, the Ministry of Defence 2016 Arctic Analysis, and the Ministry of Foreign Affairs 2017 foreign policy white book.<sup>21</sup>

First, as long as states remain at the apex of decision-making, the Kingdom of Denmark has a seat at the table in Arctic forums and opportunity to be a crucial gatekeeper for non-Arctic states with an interest in polar issues.<sup>22</sup> Meetings in Arctic forums offer ample opportunity for Danish ministers to meet and develop networks with their counterparts from some of the world's leading powers, such as China, Japan, Russia, and the United States.<sup>23</sup>

Second, the Kingdom of Denmark has a specific interest in avoiding political and military tensions in the Arctic, as heightened tensions would stretch the Kingdom's military and political capacities and enhance the American military presence in Greenland.<sup>24</sup> International institutions contrib-

ute to peaceful relations in the region, allowing states to communicate their intentions and strategies to one another and institute cooperation as a regional norm from which nations can only defect by incurring reputation costs.

Third, international cooperation also helps increase the effectiveness of the Kingdom of Denmark's Arctic activities via capability-sharing, coordination, and joint training. Maintaining a continuous presence on the Kingdom's vast polar territory and providing crucial services (e.g., search-and-rescue, environmental protection, fisheries management) continues to be a challenge for the Danish Armed Forces. International institutions, such as the Arctic Council, North Atlantic Coast Guard Forum, and, more recently, the Arctic Coast Guard Forum, as well as bilateral cooperation, help the states to take advantage of each other's skills and capabilities and to create region-wide regulation. For instance, the International Maritime Organization's Polar Code establishes standards for polar shipping that reduce the risk of accidents and lessen the burden placed on Arctic coast guards.<sup>25</sup>

The three constituent nations of the Kingdom of Denmark do not always share similar views on crucial issues. Complete independence for either the Faroe Islands or Greenland seems unlikely in the short to medium term. Greenland faces substantial economic challenges, including strong dependence on the annual block grant from Denmark, which renders independence unfeasible in the near future. The economic challenges on the Faroe Islands are less severe, but there is less public support for independence.<sup>26</sup> Both the Faroe Islands and Greenland therefore aim to achieve more limited policy objectives within the confines of the Kingdom of Denmark, most importantly expanding their sovereign control over crucial policy areas, participating in international forums, and attracting foreign investment and trade opportunities. The boundaries between Denmark, the Faroe Islands, and Greenland's authority spheres can be unclear, especially regarding the distinction between foreign and security policy (which falls within Denmark's purview) and other policy areas. Disagreements over the exact boundaries have led to spats between the three constituent nations. These challenges are exacerbated by the Faroe Islands and Greenland wanting to enhance foreign investment and trade, as these policy areas may have implications for foreign and security policy.<sup>27</sup> For instance, the Danish Defence Intelligence Service (DDIS) has warned that Chinese investments may enhance Beijing's influence in Greenland, thereby complicating Denmark's relationship to the United States.<sup>28</sup>

Compared to the Faroe Islands, Greenland's Arctic Ocean coastline gives it a stronger position and interests in the Arctic (the Faroe Islands have no territory north of the Arctic Circle and the Ilulissat meeting and the various A5 meetings covered in this report were mainly viewed as a matter concerning Denmark and Greenland). However, the Faroe Islands also have interests in Arctic governance and in matters related to the Arctic Ocean. The Faroe Islands strive to participate in the Arctic Council and other regional forums, where they can benefit from cooperation with other states and demonstrate their ability to act state-like. Though located far from the Arctic Ocean, the Faroe Islands have important fishing interests in these waters and Thorshavn favors the establishment of an effective fisheries regime in the Central Arctic Ocean (see section 4).<sup>29</sup>

Greenland shares some of the same interests in Arctic governance, which gives it opportunity to increase the effectiveness of its administration

and to act like a state in international forums, which is crucial to its nation-building project.<sup>30</sup> As a nation in the Arctic Ocean, Greenland has a strong interest in good governance in these waters, including the effective regulation of Arctic shipping, environmental cooperation, the peaceful delimitation of the continental shelf, and the establishment of an effective fisheries regime in the Central Arctic Ocean.

Greenland is occasionally caught between its identity as a semi-autonomous state and as an Inuit actor. As an Inuit nation, Greenland takes a strong interest in the Inuit cause, at times styling itself as a trailblazer – the only Inuit nation with a realistic path to independence. At other times, however, Greenland espouses a state-centric vision for the Arctic order that is at odds with that of other Inuit entities that generally prefer to enhance the importance of non-state actors (including Inuit NGOs). As a semi-autonomous state, Greenland has an interest in maintaining a strong position for the states in the Arctic. Greenland itself might one day become a state one day, in which case it would be beneficial to have an order where the states are in charge. Furthermore, the path to independence entails industrial development that contradicts the more environmentally-friendly vision promoted by some Inuit organizations. At other times, however, Greenland uses the very same post-Westphalian terminology and references to the special rights of the Inuit to further its own cause.<sup>31</sup>



# 3

## Getting to Ilulissat, 2007-08

The Ilulissat initiative occurred at a time of rapid change in Arctic governance, but the coastal states coming together and agreeing on basic principles for regional cooperation was no certainty. Instead, it took almost a year of diplomatic negotiations before the states could meet at Ilulissat. In this section, we examine the process between the five coastal states leading to the Ilulissat meeting in May 2008. What was the initiative meant to achieve? What were the obstacles that had to be overcome in order to produce a Declaration?

### 3.1

#### An Arctic governance gap

Throughout most of the Cold War, great power competition complicated regional diplomacy and limited the development of regional organizations and agreements. Very few regional institutions – the 1920 Svalbard Treaty and 1973 Agreement on Conservation of Polar Bears possibly the most prominent examples – existed when the Berlin Wall fell in 1989. In 1987, Mikhail Gorbachev held his now famous Murmansk speech in which he called for Arctic cooperation and disarmament, which signalled a new era of Arctic cooperation. Other governments took Gorbachev's cue and took initiative to several new institutions, such as the Arctic Environmental Protection Strategy in 1991, the Barents Euro–Arctic Council in 1993, and the Arctic Council in 1996. This development was helped by the de-escalation and end of the Cold War and a general increase in environmental awareness following the Chernobyl disaster.<sup>32</sup> The Arctic order created in the 1990s was not based on a single overarching institution, consisting instead of a mosaic of different institutions (a regime complex) that functioned as modest venues for practical, low-politics cooperation.<sup>33</sup>

There was a gap in Arctic governance in the mid-2000s, as several crucial issues were left almost unregulated even as climate change and globalization had begun opening the region to increased human activity. For instance, while the International Maritime Organization had established guidelines for ships operating in the unique and hazardous polar conditions, no international *regulations* existed specifically for these areas.<sup>34</sup> Similarly, international cooperation and regulations were limited in vital areas such as search-and-rescue, environmental protection, and economic development. Existing regional forums were just that: forums that could shape the agenda, but where decisions had limited impact.<sup>35</sup> For instance, many experts argued that the Arctic Council, the most likely venue for common initiatives, lacked the decision-making procedures and analytical capacity required to produce specific decisions for the benefit of the region.<sup>36</sup> The Council's biggest achievements at the time were likely the *Arctic Climate Impact Assessment*, a 2004 report that had been instrumental in alerting a global audience to the specific and severe consequences of Arctic climate change, and the *Arctic Human Development Report*, a 2004 analysis of the development challenges facing the region.<sup>37</sup>

The governance gap was not just a challenge for the people of the North; it also jeopardized the positions of the regional states. If they could



not handle the concrete governance challenges that the people of the Arctic and a global audience deemed important, the Arctic states risked criticism from many different angles. The only reason they were able to maintain the status quo was the insignificant global interest in the Arctic; while academics and NGOs criticized the governance gap, most of the issues at the time were too technical to truly capture the attention of global audiences and leading policymakers.<sup>38</sup>

On 2 August 2007, two Russian mini-submarines – MIR-1 and MIR-2 – with a Russian and international crew descended from a hole in the Arctic ice cap to the North Pole seabed, more than 4 km below the ocean surface. After having collected soil and water samples and before the two submarines began their ascent from the deep, MIR-1 left a titanium Russian flag on the sea-bed. Though inconsequential under international law – the Russian flag-planting did not mean ownership of the North Pole, just like the Apollo 11 mission did not give the United States ownership of the Moon – it was a powerful symbol, invoking memories of the great age of exploration, colonization, and geopolitical competition, and it stirred controversy across the globe.<sup>39</sup> This controversy was further exacerbated by numerous unsettled border disagreements, perhaps most importantly the territorial claims to the continental shelf seabed in the Central Arctic Ocean (see table 2), which strengthened the impression of an ungoverned region and impending competition for territory and resources.

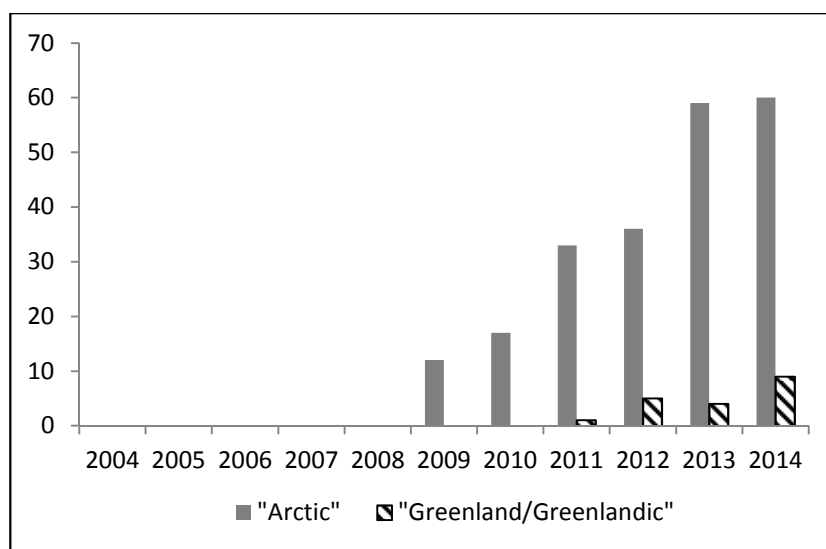
Table 2:  
Delimitation of the continental shelf in the Central Arctic Ocean

The UN Convention on the Law of the Sea (UNCLOS) article 76 allows a coastal state to claim entitlement over its continental shelf beyond 200 nautical miles insofar as the shelf comprises a 'natural prolongation of its land territory'. Under UNCLOS article 77 The coastal states has sovereign and exclusive rights to exploit its natural resources on its shelf. The rights of the coastal state under articles 76 and 77 does affect the legal status and the rights in the water column, water surface, or air space. The Kingdom of Denmark and Russia have made such claims in the Arctic based on geological analyses of their respective continental shelves. It is anticipated that Canada will file a submission in 2018. The UN Commission on the Limits of the Continental Shelf (CLCS) is currently evaluating the data. CLCS is expected to present their results in respect to the Russian submission within a couple of years, while the Canadian and Danish results are expected within the coming 15 years. The three states will negotiate the final boundaries between them. Canada, the Kingdom of Denmark, and Russia have cooperated to strengthen their respective submissions and have respected the legal procedures involved in the process.<sup>40</sup> Most analysts expect the delimitation process to unfold peacefully. The five coastal states hold regular meetings to discuss scientific and political matters (Arctic Ocean Workshop).<sup>41</sup>

If the governance gap and the existing expert analyses were the kindling, the Russian flag-planting was the spark that ignited the flames of global political and media attention, ushering in an era in which policymakers, experts, and media became significantly more interested in Arctic matters. Figures 3 and 4 illustrate the increased interest from public authorities and academics. In the spotlight of global attention, the governance gap lay bare for the world to see, giving the impression of an ungoverned region with a simmering great power conflict. 'Mineral War Begins after Russia Plants Flag 2 Miles

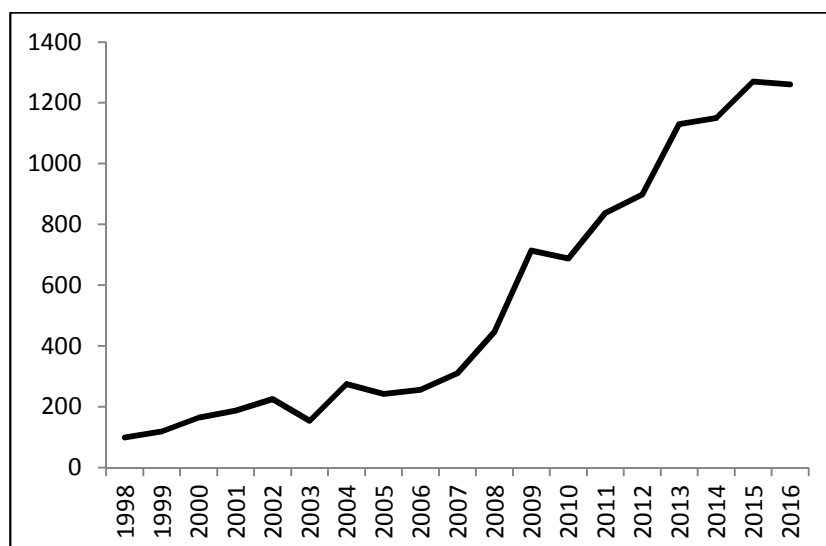
under Pole’ exclaimed a headline in *The Times* of London. *The Independent* described it as ‘A Giant Leap for the Kremlin, a Big Headache for Mankind’. Political reactions were equally harsh. ‘There is no question over Canadian sovereignty in the Arctic. We’ve made that very clear. We’ve established – a long time ago – that these are Canadian waters and this is Canadian property’, Canadian Foreign Minister Peter MacKay said, ‘You can’t go around the world these days dropping a flag somewhere. This isn’t the 14th or 15th century.’<sup>42</sup> Other actors besides the coastal states also became more interested in Arctic matters. While the EU had hitherto only paid marginal attention to the Arctic, the Commission, High Commissioner, and Parliament released three Arctic-related papers in 2008, two of which explicitly mentioned the Russian flag-planting as an illustration of the EU’s new strategic northern interests.<sup>43</sup> Similarly, both Greenpeace and WWF increased their activities in the Arctic after 2007. The European Parliament and several NGOs used the opportunity to join international academics and media in calling for an Arctic Treaty similar to the 1959 Antarctic Treaty.<sup>44</sup>

Figure 3:  
Use of terms in the Annual Intelligence Risk Assessments published by the Danish Defence Intelligence Service (2004–14)



Source: Rahbek-Clemmensen, 2017<sup>45</sup>

Figure 4:  
Annual scientific papers using the term 'Arctic Council' in Google Scholar (1998–2016)



## 3.2

**Fall 2007: An idea takes form**

The regional states promptly recognized the importance of the Russian flag-planting and the potential impact on the regional order, especially the increased pressure for an Arctic Treaty capable of undermining their regional position.<sup>46</sup> The Danish and Norwegian foreign ministries each began developing their own initiatives to signal that the Arctic already had a functioning order in place and that there was no need for a fundamental change in the status quo. In Denmark, Per Stig Møller, then Denmark's Minister of Foreign Affairs, asked his diplomatic corps to come up with a Danish initiative. They began developing ideas, quickly settling on a high-level meeting in late August and early September.<sup>47</sup>

Table 3:  
Key dates leading to the  
Ilulissat meeting

<p><b>2 August 2007:</b> Mini-submarine places Russian flag on Arctic seabed, triggering strong international reaction</p> <p><b>30 August 2007:</b> Norwegian invitation to meeting for Arctic civil servants in Oslo in October 2007</p> <p><b>10 September 2007:</b> Danish–Greenlandic invitation to Ilulissat meeting</p> <p><b>15–16 October 2007:</b> Norwegian meeting of Arctic civil servants in Oslo</p> <p><b>January–May 2008:</b> Coastal states discuss content of Ilulissat Declaration</p> <p><b>27–29 May 2008:</b> Ilulissat meeting held in Ilulissat, Greenland<sup>48</sup></p>
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The Danish initiative focused on arranging a meeting between the five coastal states. The idea of arranging meetings in an A5 format was not new but had remained relatively dormant for decades. In 1973, the five coastal states had agreed to the Agreement on Conservation of Polar Bears, and A5-nation civil servants met thereafter to discuss issues related to the agreement.<sup>49</sup> Similarly, during the Cold War and before the formation of the Arctic Environmental Protection Strategy (the precursor to the Arctic Council), the Soviet Union had toyed with the idea of enhancing regional cooperation in an A5 format.<sup>50</sup> For the Danes, the A5 offered the logical format for discussions on the continental shelf and other Arctic Ocean-related issues, where at least two Arctic Council members (Finland and Sweden) had no direct interests (Iceland was later very forceful in challenging the A5 format; see below).<sup>51</sup> The A5 format arguably also placed Denmark in the driver's seat. Norway held the chairmanship of the Arctic Council at the time, which would make Norway the natural head of any negotiations held there. The new format enabled the Danes to circumvent the Norwegians and maintain control over the process.

In late August, Norway invited Arctic coastal state diplomats and experts to an informal, closed meeting about Arctic cooperation to be held in late October. Danish diplomats feared that the Norwegian initiative would kill the more ambitious Danish initiative, and they moved swiftly in coordination with the Greenland Home Rule government to issue a joint invitation to the other four coastal states on 10 September. To overcome Norwegian scepticism, the Danish initiative was presented as a follow-up to the Norwegian October meeting, the importance of which was also acknowledged in the final document.<sup>52</sup>

It took some convincing to get the other coastal states on board, but it soon became obvious that the initiative could strengthen the position of the coastal states in the Arctic order and ward off claims regarding the need to redefine regional governance. By presenting a high-level declaration, the coastal states demonstrated the existence of a legal and institutional framework to the world and that new, overarching initiatives, such as an Arctic Treaty, were unnecessary. Furthermore, the Ilulissat process gave the coastal states a chance to reaffirm the rules for their mutual interaction, most importantly their dedication to a peaceful, orderly resolution of the continental shelf process in accordance with UNCLOS.

All of the coastal states were interested in preserving and extending regional cooperation, especially if maintaining the current order placed them at the apex of regional decision-making. The Russian Arctic contains massive energy resources that would be crucial for maintaining a long-term fiscal balance in the Russian economy but which can only be extracted with the assistance of Western companies, giving Russia an interest in long-term Arctic stability. For the Western coastal states, Arctic cooperation was important to the long-term stability in a region in flux as well as opportunity to improve effectiveness and exploit synergies.<sup>53</sup>

For Denmark, the Declaration was not just a potential feather in Copenhagen's cap that could increase Denmark's prestige as a constructive broker; it also served as another component in the general focus on climate change in Danish foreign policy, creating a venue for talking about such issues ahead of the COP 15 climate conference in Copenhagen in December 2009.<sup>54</sup> It also demonstrated the value of cooperation within the Kingdom of Denmark to the government in Nuuk. Greenland can potentially become an independent state, meaning that Nuuk occasionally (but not always) works against initiatives that could undermine the position of the coastal states in the region.<sup>55</sup> Like the coastal states, Greenland was against an Arctic Treaty that would challenge Greenland's regional influence by moving decision-making capacity away from the Arctic and potentially undermine Greenlandic policy priorities, such as the development of Arctic energy and industry. Furthermore, as a conference co-inviter, the Greenlandic government shared in the prestige gained by the initiative and Nuuk showed that it could be an important, responsible force in international politics. Though the final declaration was less bullish on indigenous peoples' rights than first envisioned, it highlighted several Greenlandic policy priorities, including the importance of economic development, environmental protection, and the role of indigenous communities.<sup>56</sup>

Some coastal states did not understand why Iceland (which has a very small coastline north of the Arctic Circle) was not considered a coastal state and excluded from the meeting, and they feared that the meeting would offend the non-coastal states unnecessarily.<sup>57</sup> Iceland voiced concerns through several channels, including démarches to all five coastal states in 2007, at a bilateral meeting with Danish Foreign Minister Per Stig Møller in March 2008, and in existing regional institutions.<sup>58</sup> The solution was to focus the meeting on the Arctic Ocean, only inviting states 'bordering on the Arctic Ocean', meaning that Iceland would not qualify.<sup>59</sup> Iceland could not accept this solution, and the A5 therefore had to deal with harsh Icelandic opposition throughout the process and in the following years.

Table 4:  
The Arctic Ocean

There is no single established definition of the Arctic Ocean. Some organizations use a broad definition that includes the so-called connecting seas (the Bering Sea, Greenland Sea, and Labrador Sea). The Ilulissat Declaration did not provide an explicit definition of the Arctic Ocean, but it was implicitly defined narrowly as the ocean surrounding the North Pole but excluding at least parts of the connecting seas. Iceland's Arctic coastline is in the Greenland Sea and therefore not included in this definition of the Arctic Ocean.<sup>60</sup>

The Arctic Ocean should be distinguished from the Central Arctic Ocean, which consists of the part of the Arctic Ocean not covered by the Exclusive Economic Zones of the Arctic Coastal states (see figure 6 in section 4).

### 3.3

#### Spring 2008: Negotiations lead to a fruitful meeting

The Danish initiative was originally intended to highlight the existence of a sufficient legal framework (UNCLOS) in the Arctic and to emphasize common goals regarding sustainable economic development, environmental protection, and the conditions for indigenous peoples.<sup>61</sup> This would strengthen cooperation between the five coastal states and send a strong signal to the rest of the world, calming fears of a looming Arctic conflict and deflating calls for an Arctic Treaty.

Several obstacles still had to be overcome for the initiative to flourish. First, the United States balked at some of the references made to UNCLOS in early drafts of the Declaration. The United States had not ratified UNCLOS and Washington worried that making it the framework of the Declaration would be problematic. This was solved by replacing explicit references to UNCLOS with a more generic evocation of 'the law of the sea'.<sup>62</sup> Similarly, the United States was critical of early versions of the Declaration that mentioned restrictions on scientific traffic and emphasized UNCLOS article 234, which authorizes coastal states to regulate ice-covered waters, thereby potentially challenging the American emphasis on the freedom of the seas.<sup>63</sup> Article 234 is especially problematic in the Arctic, as Canada and Russia can use it to justify their jurisdiction over the Northwest and Northeast Passages.<sup>64</sup> Several states, including the United States, oppose most Canadian and Russian claims of sovereignty over these passages, including the use of UNCLOS article 234. A compromise was found in which UNCLOS article 234 was not explicitly cited but where the protection of the marine environment 'in ice-covered areas' was mentioned.<sup>65</sup>

Second, the United States was opposed to the term 'indigenous peoples', which could be interpreted as reference to international efforts to give indigenous peoples special rights. The United States and Canada have historically been sceptical of such efforts. In 2007, they were two of only four states to vote against the UN Declaration on the Rights of Indigenous Peoples (UNDRIP; the other opposing votes were Australia and New Zealand – 144 countries voted for), which they believed provided a too vague definition of 'indigenous peoples' and undermined the universality of human rights that could create different classes of citizens and minorities. Such issues could lead to unforeseen domestic legal and political problems for liberal, multicultural societies with relatively large minority and indigenous populations and a history of indigenous disenfranchisement (e.g., Canada, the United States).<sup>66</sup> In the Ilulissat Declaration, the issue was solved by replacing the term 'indigenous peoples' with 'local inhabitants and indigenous communities'.<sup>67</sup>

In late May 2008, less than 10 months after the Russian flag-planting, the five Arctic coastal states sent seven national representatives – Canada’s Minister for Natural Resources Gary Lunn, Denmark’s Foreign Minister Per Stig Møller, Greenland’s Prime Minister Hans Enoksen, Greenland’s Foreign Minister Aleqa Hammond, Norway’s Foreign Minister Jonas Gahr Støre, Russia’s Foreign Minister Sergey Lavrov, and John Negroponte, US Deputy Secretary of State – to a meeting in Ilulissat in Western Greenland. The final Ilulissat Declaration (see appendix) basically presented four core messages. First, climate change is changing the Arctic Ocean, which would have both environmental and economic consequences for the people in and outside the region. The list of challenges was broadly and vaguely defined. In addition to the delimitation of the continental shelf between the five states, it included issues such as climate change, environmental issues, economic development, scientific activities, shipping, and the conditions for indigenous and local communities. As was the case with the Arctic Council, military issues were notably missing. Second, the five coastal states were ‘in a unique position to address those issues’, making A5 an informal collaborative forum, defined by the coastal states’ shared border with the Arctic Ocean. Third, existing international law provides a sufficient framework for handling Arctic Ocean issues. There was therefore ‘no need to develop a new comprehensive international legal regime to govern the Arctic Ocean’ (i.e. an Arctic Treaty), nor was there any general risk of conflict in the Arctic. Finally, the coastal states recognized the important work done by existing institutions (e.g., the Arctic Council and Barents Euro–Arctic Council) in the Arctic Ocean, declaring that they would continue to contribute to these efforts.

### 3.4

#### **Why was the Ilulissat initiative possible**

Four factors rendered the Ilulissat initiative possible. First and most importantly, the Declaration was in the interest of all the coastal states and although there were differences between them, these were minor compared to the need to solidify their position in the regional order.<sup>68</sup> Consequently, the five states could easily agree to do something to counter the rising calls for an Arctic Treaty. In the prelude to the Ilulissat Declaration, the main discussion points were about how to achieve that end: should there be a political declaration? If so, what should be the exact content?

Second, the initiative found a window of opportunity for the coastal states to redefine the principles of the regional order with minimal resistance. Many of the actors who might oppose it – the other Arctic states, NGOs, indigenous actors, and non-Arctic entities – had yet to realize the increasing importance of the Arctic, were unaware of the process and its implications, or lacked the resources to prevent it. Iceland managed to voice some of its concerns in 2007–08, but many of the other potential opponents remained silent throughout the drafting process.

Third, the initiative was somewhat the result of individual vision and perseverance, most importantly from Per Stig Møller, then-Danish foreign minister, as well as speed, luck, and timing. The fact that the Danish initiative was met with scepticism by the other coastal states and that Norway originally pushed a more limited scheme without a high-level political declaration demonstrates that neither the Ilulissat Declaration nor the reinvigoration of the A5 was inevitable. While one should obviously be careful with counterfactual speculation, a less ambitious initiative might well have resulted had it not been for the Danish insistence on a high-level initiative. The

Danes moved quickly to define their initiative and were lucky that it was timed just right to overtake the Norwegian initiative.

Finally, pre-existing networks between the legal officials of the five Arctic states meant that they knew and trusted one another, which helped overcome initial scepticism and obstacles along the way. These networks had been partly developed throughout the continental shelf delimitation process preceding the Ilulissat meeting. Furthermore, the Department of International Law in the Danish Ministry of Foreign Affairs had worked closely with their American counterparts for years on Denmark's strong involvement in the Global War on Terror, which several Danish interviewees highlighted as having created good personal relations and trust between the American and Danish legal officers who worked out the dents in the Ilulissat Declaration.

# 4

## After Ilulissat, 2008–18

The politics of the Ilulissat initiative did not end when the state representatives returned to their home countries. We have seen that the Ilulissat initiative was meant to have a dual effect on Arctic governance: signalling to the world that a framework for handling Arctic Ocean issues was already in place and reaffirming mutual cooperation between the five coastal states. It was uncertain whether the world would take heed of this signal, however, and it was unclear how the A5 would fit within the Arctic order. This section examines the impact of the initiative on Arctic governance. How did it deflate calls for an Arctic Treaty? How did the A5 interact with existing regional institutions, most importantly the Arctic Council?

### 4.1

#### Deflating the idea of an Arctic Treaty

The existing literature highlights how the Ilulissat Declaration sent an important signal to the world that an Arctic Treaty would be redundant, implicitly assuming that it would weaken or kill interest in an Arctic Treaty.<sup>69</sup> Our analysis reveals, however, that the truth is slightly more complicated in three ways. First, the impact of the Declaration was not felt immediately; interest in the idea of an Arctic Treaty actually continued for a few years *after* the Ilulissat meeting. Second, the Ilulissat Declaration was just one of several causes of this shift: other governance initiatives, learning by non-Arctic actors, and active bilateral diplomacy by the Arctic states also reduced the interest in the idea of an Arctic Treaty. Third, while calls for such a treaty continue to this day, they are only heard on the margins of the conversation about regional governance.

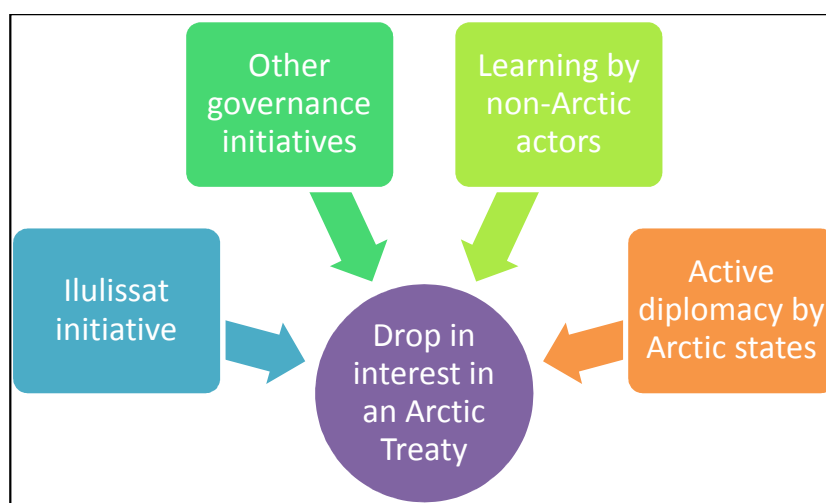
The Ilulissat Declaration did not immediately end the calls for an Arctic treaty. Instead, the real decline in momentum occurred from 2009 to 2011. In October 2008, almost six months *after* the Ilulissat meeting, the European Parliament issued its first resolution on Arctic governance, including a call for an Arctic treaty, and in 2009 it voted on a *Joint Motion for a Resolution on an International Arctic Treaty*.<sup>70</sup> The European Parliament moderated its position in the following years, abandoning the calls for an Arctic treaty in a 2011 resolution.<sup>71</sup> Similarly, several NGOs issued statements calling for an Arctic treaty in the same period, only to moderate their course over the following years.<sup>72</sup>

Three dynamics help to understand the time lag between the Ilulissat Declaration and the deflation of the Arctic treaty agenda. First, the Ilulissat Declaration was merely one of several initiatives that helped close the Arctic governance gap. Several of the other governance initiatives – most importantly the strengthening of the Arctic Council (after 2006) and development of the Polar Code (2009–15) – were only starting to pick up steam and had yet to hit full speed. Between 2006 and 2013, the Arctic Council chairmanship was held by Norway (2006–09), Denmark (2009–11), and Sweden (2011–13). The three countries worked together to push an informal but ambitious joint agenda (*The Umbrella Program*) in 2007 that aimed to reinvigorate the Council as the central axis in Arctic decision-making. Among other things, the Council's decision-making structures were stream-



lined, its institutional capabilities were strengthened through a permanent secretariat, and a new communication strategy and website gave it a more prominent voice vis-à-vis the outside world. Perhaps most importantly, two agreements on search-and-rescue (2011) and marine oil pollution (2013) were negotiated in the Council, thus proving its ability to facilitate decisions with a regional impact.<sup>73</sup> The reforms did not fundamentally alter the Arctic Council, which remained a consensus-based body with little independent decision-making capacity, but strengthening the Council nevertheless demonstrated that existing institutions were handling governance issues in the Arctic – a new governance framework was unnecessary.

Figure 5:  
Causes of the waning interest  
in an Arctic Treaty



Furthermore, from 2009 to 2015, the International Maritime Organization (IMO) developed a specific Polar Code regulating polar shipping to ensure safety and environmental protection. Effective for new ships from January 2017 and old ships from January 2018, the Polar Code replaced non-binding guidelines with regulations including rules for ship design, emergency and communications equipment, voyage planning, crew training, and rules for the discharge of waste and liquids.<sup>74</sup> Though criticized by environmental NGOs and insurance companies for not going far enough, critics and proponents alike agreed that the Code was an important strengthening of Arctic marine governance.<sup>75</sup> Proponents of the idea of an Arctic treaty viewed both the Arctic Council reforms that followed from *The Umbrella Program* and the Polar Code as important steps in the right direction, although they remain critical of the limited ambitions of both schemes.<sup>76</sup>

The Ilulissat Declaration also affected how these actors thought about the Arctic, although the reception was more mixed. Many regional actors were critical of the Declaration's reintroduction of the A5 as a regional forum, which they saw as an unnecessary disenfranchisement of the other Arctic and non-Arctic states and NGOs, as well as a threat to the Arctic Council (which will be covered in greater detail below). For instance, the European Commission, which otherwise opposed the idea of an Arctic treaty and served as a counterweight to the European Parliament's more activist course, was explicitly critical of the exclusion of Iceland, Sweden, and Finland.<sup>77</sup> However, the Declaration also signalled that UNCLOS was sufficient as a regional legal framework and that the A5 states would oppose a fun-

damental restructuring of regional governance. Both of these arguments appeared in debates about regional governance, pushing some of the proponents of the idea of an Arctic treaty to adopt more limited goals.<sup>78</sup> For example, in 2009–10, WWF published three thorough commissioned expert reports on regional marine regulation and governance that argued for a more limited, incremental approach to Arctic governance. Echoing the implicit argument of the Ilulissat Declaration, the reports argued that a global Arctic treaty modelled after the Antarctic Treaty would produce few concrete benefits over a more limited agreement and it ‘would not be acceptable to Arctic Ocean coastal states’.<sup>79</sup> The reports argued that WWF should still advocate for a more comprehensive Arctic regime but that it should be achieved at the regional level in dialogue with the A5. Similarly, in their Arctic policy statements, the EU institutions cited the possibility of resistance from the A5 as a factor to consider when designing the Union’s regional policy.<sup>80</sup>

Second, many of the proponents of the idea of an Arctic treaty were also relatively new to Arctic politics in general and they underwent a learning process through which they became familiar with the regional political dynamics, including existing institutional structures, new initiatives, and the political obstacles facing the idea of an Arctic treaty. For instance, the European Commission started almost from scratch in around 2008 when it began developing its Arctic policy and had to conduct several fact-finding missions merely to get a grasp of the fundamental political, geographical, and social issues facing the region.<sup>81</sup>

Third, active diplomacy by the Arctic states helped facilitate this learning process. In the case of the European Commission, for instance, especially Norway and, to a lesser extent, Denmark influenced the Commission by providing it with information about the region, while Sweden used its EU presidency in the second half of 2009 to shape the Commission’s position.<sup>82</sup> The Norwegian lobbying became so intense that Janos Herman, a leading Commission official, complained that he felt ‘surrounded by Norwegians’.<sup>83</sup> The Commission thus adopted a more restrained approach that emphasized existing regional institutions (as opposed to the idea of an Arctic treaty) and came to have a moderating influence on the European Parliament.<sup>84</sup> Several NGOs and the European Parliament underwent similar learning processes.<sup>85</sup>

The changes in regional governance did not completely quell the calls for an Arctic treaty. Some NGOs officially still push for such a treaty, albeit less forcefully than 10 years ago. From time to time, lone but prominent voices still raise the issue and advocate for an Arctic treaty, as for instance former Supreme Allied Commander Europe and commander of the US European Command James Stavridis, in 2015.<sup>86</sup> These voices are more scattered, however, and they lack the substantial institutional backing that the movement previously enjoyed.

## 4.2

### Defining the role of the A5

According to another standard narrative, the Ilulissat Declaration was an unquestionable success. ‘This Declaration should extinguish all talk of a race for the North Pole’, Per Stig Møller wrote in an op-ed shortly after the meeting.<sup>87</sup> According to the Kingdom of Denmark’s Arctic Strategy from 2011, the Declaration was ‘a landmark political declaration on the Arctic’s future... [that] sends a strong political signal that the five coastal states will act responsibly concerning development in the Arctic Ocean’.<sup>88</sup> This story ignores

how the Ilulissat initiative and the reintroduction of the A5 as a regional forum were controversial and met resistance from indigenous actors, NGOs, the EU, and the non-coastal states. These actors felt excluded from regional decision-making and feared that the A5 would undermine existing regional institutions, most importantly the Arctic Council. The Inuit Circumpolar Council (ICC), the organization for Inuit peoples across the Arctic, published *A Circumpolar Inuit Declaration on Sovereignty in the Arctic* that questioned the legitimacy of nation-state sovereignty by claiming that the Inuit were an indigenous people living across the boundaries of the polar states with rights enshrined in international law and existing international institutions, such as UNDRIP. The Inuit, the Declaration claimed, have rights of self-determination, not just as citizens of their respective states but also as an indigenous people, and the states were therefore obligated to consult and include them in decision-making. This view breaks with the traditional view of sovereignty, where a state is primarily obliged to its own nationals and a people typically lives within one state. The Inuit Declaration criticized the Ilulissat Declaration for failing to recognize the institutions that bestow indigenous peoples' special rights (e.g., UNDRIP) and for not creating a mechanism for Inuit involvement in A5 decisions.<sup>89</sup>

The non-coastal states offered a different type of challenge: unlike the ICC, they accepted states as sovereign actors with the authority to make binding decisions, but they challenged the principles by which they had been excluded from the A5 club and the expediency of creating a new forum that could undermine existing institutions, such as the Arctic Council. Of the three non-coastal states, Iceland was most vocal in its criticism of the A5, offering three lines of criticism.<sup>90</sup> First, Iceland argued that the distinction between coastal and non-coastal states was arbitrary. Iceland pointed out how Norway could only be a coastal state by the definition offered by the A5 (states bordering the Arctic Ocean) if the Norwegian Fisheries Protection Zone around Svalbard was included, but the legality of that zone is challenged by several states, including Russia and the United States.<sup>91</sup> Second, the Ilulissat initiative excluded Iceland from a forum that could potentially influence issues in which Iceland had vested interests (most importantly, fisheries). As described below, the Icelanders were correct in their presumption that the A5 would come to influence fisheries. Finally, Iceland also feared that the A5 could become a permanent regional forum that might undermine existing institutions, such as the Arctic Council. The Icelandic government did not mind the coastal states meeting to discuss issues related to the delimitation of the continental shelf in the Arctic Ocean, but they were puzzled by the Ilulissat Declaration calling for cooperation on a host of other issues, including climate change, environmental protection, search and rescue, indigenous communities' rights, and economic development – all of which were already handled by the Arctic Council.<sup>92</sup> These issues were raised on numerous occasions, souring relations in the Arctic Council.<sup>93</sup>

The A5 critics were not alone in suspecting that the A5 could become a permanent forum. There were ambiguities in how the coastal states defined the exact purpose of the A5 and its relationship to the Arctic Council. Was the Ilulissat meeting a one-time event or should the A5 become a new regional forum with regular meetings, similar to the Arctic Council? The official line during the negotiations leading to Ilulissat had been that the A5 was an ad hoc, one-time forum that should not continue after the meeting. Indeed, this was partly why all five states could agree to meet in the first

place, and it was used to calm protests by the non-coastal states, including at a March 2008 meeting between Per Stig Møller and Ingibjörg Sólrún Gísladóttir, his Icelandic counterpart.<sup>94</sup> Despite this official line, however, some A5 policymakers believed that the forum should have a more permanent role, perhaps even as a competitor to the Arctic Council. This ambiguity was captured at the internal deliberations in Ilulissat, where, according to Wikileaks, Per Stig Møller emphasized that there was no need for an additional Arctic policy forum, but, at same time, 'we cannot exclude the possibility of follow-up meetings of this group (of five)'.<sup>95</sup> Similarly, according to Wikileaks, at a bilateral meeting between the American and Norwegian delegations held in the hours before the beginning of the Ilulissat meeting, the American delegation criticized the general ineffectiveness of the Arctic Council, arguing that, in general, a 'smaller group such as the five states at this conference might be more conducive to political discussions.'<sup>96</sup>

This ambiguity became obvious when Canada invited the other coastal states to a second meeting in Chelsea, Canada, in March 2010. The Chelsea meeting faced steep odds from the onset. Not only was it condemned by the A5's general critics, who recognized that it might establish the A5 as a permanent regional forum, for many of the coastal states, the Chelsea meeting was unnecessary at best.<sup>97</sup> The Canadian government proposed that the meeting would end with a new declaration, which many coastal state policymakers feared might undermine the principles agreed upon in Ilulissat.<sup>98</sup> Perhaps most importantly, the change of government in the US seems to have changed the regional dynamics. The new Obama administration viewed the Arctic Council as the primary regional forum and was sceptical of the A5's value, partly because it excluded indigenous actors.<sup>99</sup> In a remarkable demonstration of her dissatisfaction with the Canadian initiative, then-Secretary of State Hillary Clinton left the meeting without attending the scheduled news conference, leaving behind only prepared remarks emphasizing that '[s]ignificant international discussions on Arctic issues should include those who have legitimate interests in the region'.<sup>100</sup>

The failure of the Chelsea meeting put the idea of the A5 as a political rival to the Arctic Council on hold but did not kill the forum. Instead, the A5 became more modest and inclusive in its approach and continued to play a valuable role as a low-level forum for practical issues, most importantly the continental shelf process and Central Arctic Ocean fisheries.

The negotiations concerning high seas Central Arctic Ocean fisheries illustrate this transformation. The Central Arctic Ocean consists of the portion of the Arctic Ocean not covered by the coastal states' Exclusive Economic Zones (see figure 6 below). Individual states cannot regulate fisheries in that area, which can only be done through an international agreement. Without such an international agreement, the Central Arctic Ocean risks becoming over-fished and depleted for stocks once it becomes ice-free. Many states, perhaps most importantly the United States, have therefore pushed for preventive mechanisms.<sup>101</sup> The issue had previously been discussed in the Arctic Council, but the A5 was ultimately deemed to be a more fitting forum for at least two reasons.<sup>102</sup> First, two of the Arctic Council states, Finland and Sweden, had few interests in the issue, as they do not border the Arctic Ocean and had turned over their fisheries management authority to the EU, which does not even have Arctic Council observer status. Second, several of the important fisheries states and entities that could be relevant to bring into the negotiations later – including four of the so-called '+5' (China, the EU, Ice-

land, Japan, and South Korea) – were neither members nor observers of the Arctic Council at this point, but were applying for observer status, which would further complicate Arctic Council negotiations.<sup>103</sup>

Figure 6:  
The Central Arctic Ocean (CAO)



Source: Pan and Huntington, 2016<sup>104</sup>

A negotiation process began in June 2010 and spanned several scientific and diplomatic meetings until the A5 countries could present a common declaration (The Oslo Declaration) in 2015.<sup>105</sup> Here, the coastal states banned fishing in the Central Arctic Ocean until the area was covered by a regional fisheries management organization, and they committed to monitoring activities in the area and to a joint program for scientific research. After reaching agreement amongst themselves, the A5 soon opened a negotiation process with the +5.<sup>106</sup> An agreement without these nations would be almost worthless, as their vessels could then simply fish in the Central Arctic Ocean without competition from vessels from the A5 states. In November 2017, the A5+5 countries reached an agreement banning vessels from the ten countries from fishing in the area for the coming 16 years.<sup>107</sup> The next step will be to establish an overarching regime – e.g., a regional fisheries management agreement or organization – that can regulate fisheries in these waters.<sup>108</sup>

The fisheries negotiations reveal how the A5 continues to have functional value for Arctic governance. As mentioned above, one likely alternative venue for negotiations, the Arctic Council, was less fitting as it would include parties with few interests in the issue while excluding crucial stakeholders. Another option might have been going straight to negotiations among the A5+5 parties. However, reaching a comprehensive agreement

with all of the relevant parties would have been difficult and a step-by-step approach beginning with an agreement among the A5 was more feasible. The A5 was simply the best venue in which to take the first step, as it only included a few states, all of which shared an interest in Arctic fisheries and a legitimate position in the region.<sup>109</sup> In that sense, the A5 arguably wound up strengthening the Arctic Council, as it provided solutions to issues not covered by the Council, which could then focus on other issues.<sup>110</sup>

The fisheries negotiations also illustrate how the coastal states used an inclusive approach to governance that gave voice to other actors. Most A5 critics were pleased with the substance of the Oslo Declaration as well as the coastal states' inclusive approach to the issue. Though they generally continue to view the A5 as an exclusionary and problematic forum, which they oppose on principle, the inclusive approach left them less motivated to resist the A5 and push for alternative institutional orders.<sup>111</sup>

# 5

## Learning from Ilulissat

We have seen that the Ilulissat initiative altered the regional order in the Arctic through two channels: by deflating the idea of an Arctic treaty and by contributing to the reinvigoration of the A5 as an informal regional forum. Having mapped the origins and immediate implications of the Ilulissat initiative, we now turn to the broader dynamics driving the Arctic order and the Kingdom of Denmark's room for manoeuvre within that order. What is the relationship between state power and legitimate institutions in the Arctic and what role does the A5 play in Arctic governance more broadly? What can the Kingdom of Denmark do to pursue its interests within that order?

### 5.1

#### State power

The Ilulissat initiative illustrates the immense importance of state power in Arctic governance. It only came into being because it was in the interest of all the coastal states and because the actors excluded from the process lacked the power or vigilance to hinder the process. Regional institutions are important in and of themselves, but they continue to be preconditioned by state power.

The Ilulissat initiative and the reinvigoration of the A5 also illustrate how states use regional institutions to enhance their own influence. First, by taking the wind out of the sails of the idea of an Arctic treaty, the initiative helped ensure that the states could maintain their central position in the regional order without having to deal with challenging opposition from NGOs and non-Arctic actors like the EU. This was an advantage for both coastal and non-coastal Arctic states, who maintained a more central position in regional decision-making.

Second, the A5 strengthened the coastal states' influence at the expense of all other parties, including the non-coastal states. The A5 not only gives the coastal states the opportunity to make decisions on issues not covered by other forums, such as the delimitation of the continental shelf, but, as Andreas Kuersten has argued, it can also give the coastal states leverage within other regional institutions. The A5 can be used to arrive at a settled position before negotiations with other parties begin, to define the starting point of regional negotiations, and to operate as a block once negotiations have started. This arguably occurred in the fisheries negotiations, where the Oslo Declaration issued by the five coastal states served as the starting point for the negotiations with additional parties. This dynamic can potentially also be used in other forums, such as the Arctic Council.<sup>112</sup>

The existence of the A5 also enables the coastal states to use *regime shifting* as a strategy of last resort:<sup>113</sup> if faced with a situation they do not favor in other regional settings, the coastal states can unilaterally move the issue to the A5, which elevates it to the same level as the Arctic Council as a central body for regional decision-making. Though highly controversial, potentially corrosive for the regional order, and arguably costly for all of the parties involved, even the possibility of such a move gives the coastal states additional leverage and a fall-back option in regional negotiations.<sup>114</sup> The story of the Ilulissat Declaration demonstrates the importance of ideas for



regional politics even if they are never executed. Just like the idea of an Arctic treaty led to the Ilulissat initiative and gave the states an incentive to strengthen regional governance, the possibility of the A5 as an alternative to the Arctic Council will continue to strengthen the position of these states in regional governance.

## 5.2

### Legitimate institutions

The Ilulissat initiative and the A5 also illustrate that even though it is possible for states to achieve results through regional institutions, the Arctic order remains rife with disagreements and conflicts that actors must bridge through skilful diplomacy and institution-building. First, when considering the *effectiveness (output legitimacy)* of the regional order, it seems reasonable to conclude that the Ilulissat initiative and the reinvigoration of the A5 helped make the regional order more effective, although their net benefit is debatable. The idea of an Arctic treaty modelled after the 1959 Antarctic Treaty was a *cul-de-sac* that did not improve regional decision-making capacity significantly, and the Ilulissat initiative therefore helped prevent an unnecessary distraction by pushing external actors away from that position.<sup>115</sup>

Furthermore, the A5 has become a functionally important supplement to the existing institutions and facilitated cooperation on certain issues, thereby arguably strengthening the Arctic order.<sup>116</sup> These issues do not include military security, obviously, which remains outside the regional institutions, but rather low-politics subjects like high-seas fisheries in the Central Arctic Ocean and the delimitation of the continental shelf. The A5 hold several advantages over the Arctic Council that render it useful as a forum for handling these issues. First, having fewer members means that the A5 has fewer potential veto points and, *ceteris paribus*, a simpler decision-making process than the Arctic Council. For instance, when the issue in question mainly concerns the coastal states, as was the case with the high seas fisheries negotiations, the A5 allows for negotiations without Finland and Sweden, neither of which have a direct stake in the negotiations but whose fisheries management authority was held by a non-Arctic Council body (the EU). Second, the Arctic Council's founding document, the 1996 Ottawa Declaration, defines the purview of the Arctic Council in a way that may limit it from handling certain issues, including the delimitation of the continental shelf. Third, the A5 can engage non-Arctic parties more easily than the Arctic Council, where non-Arctic states are only granted observer status and the definition of who has a voice at Council meetings is a politically contentious issue.<sup>117</sup> For example, it would most likely have been more complicated to involve the so-called +5 countries in the high seas fisheries negotiations if they were held in the Arctic Council where Iceland was a member, China, Japan, and South Korea were only observers, and the EU was applying for observer status. In that sense, the A5 has arguably come to strengthen the other regional institutions, including the Arctic Council, by providing solutions to challenges not covered by existing institutions.<sup>118</sup>

These immediate advantages of the A5 obviously do not mean that it offers the *optimal* arrangement for Arctic governance. Some NGOs and Arctic governance experts argue that the fragmented nature of the current order hampers its effectiveness.<sup>119</sup> For instance, it is not entirely clear which organization is meant to address the governance of the Arctic Ocean, as both the Arctic Council (through its Task Force on Arctic Marine Coopera-



tion) and the A5 seem to be addressing such issues simultaneously, thus creating problems of institutional overlap. Furthermore, many of the regional challenges can only be solved by engaging non-Arctic parties, as illustrated by the Central Arctic Ocean high seas fisheries negotiations, where an effective agreement requires approval from major fishing actors, such as the +5 parties. Solutions to these issues include the creation of a more comprehensive regime for Arctic Ocean governance (which can be achieved without creating an Arctic treaty), but one of the obstacles in this process is opposition from the coastal states, which will most likely resist schemes that undermine their privileged position in regional governance.<sup>120</sup> It is thus possible to argue, as do some NGOs, that the Ilulissat initiative solidified the coastal states' grasp on regional decision-making, which, in turn, blocked the development of more effective solutions to regional governance issues. However, one might also argue that this counterfactual is a pipe dream that severely underestimates the difficulties involved in regional regime development. Either way, the Arctic order obviously remains unsettled. New institutions will arise in the future and there will be a continuous need to define the boundaries between different institutions.

When considering the *inclusiveness (input legitimacy)* of the Arctic order, the Ilulissat initiative and the A5 obviously excluded non-Arctic entities, indigenous actors, and NGOs from certain decision-making structures, which remains an area of contestation, even if many of the excluded actors have tacitly come to accept it. Though the A5 remains controversial, most actors have come to accept it as a minor part of a relatively inclusive Arctic order, based on the Arctic Council, where the principles of inclusion and decision-making nonetheless remain debated and at times contested. As mentioned above, the Ilulissat initiative clearly strengthened the position of the coastal states in Arctic governance and reduced the influence of several other actors, who responded by criticizing the new state of affairs. However, it is important to remember that these critical actors represented multiple (and to some extent conflicting) visions of the Arctic order. For instance, the three non-coastal states arguably preferred a broader – but still state-based – order where they maintained a seat at the table (e.g., in the Arctic Council). The non-Arctic states remain sceptical of such an order, as it would keep them in a peripheral position in the region as Arctic Council observers. Other actors, including some NGOs and indigenous groups, pushed for an order with limited state power, but even these actors did not necessarily agree on what that meant. For instance, some NGOs pushed for the Arctic to become an environmental sanctuary – an idea that many indigenous groups would oppose. In that sense, the current order is not uncontested, but almost any alternative order would also entail strong contestation by different actors; moreover, these issues are not isolated to the A5. Arctic institutions, including the Arctic Council, face similar issues as non-state actors and non-Arctic states and entities push for more influence in decision-making.<sup>121</sup>

Both the coastal states and the A5 critics have changed their views on who should be included in Arctic decision-making over the past decade. Several critics have come to tacitly accept the existence of the A5 as a practically existing forum, even though they continue to oppose it in principle.<sup>122</sup> For instance, as we have already seen, the idea of an overarching Arctic treaty has been marginalized and several of the proponents of this idea have become more focused on more hands-on issues. Similarly, as the Central Arctic Ocean fisheries negotiations illustrate, once included, the non-coastal states

engaged with the A5 to find practical solutions (though only after having voiced its criticism of the A5). To some extent, this reduced contestation results from the transformation of the A5 to a more limited and inclusive forum, which alleviated some of the fears held by some A5 critics.

Furthermore, over the past decade since Ilulissat, several of the coastal states have come to place greater emphasis on the inclusiveness of the regional order. For instance, the United States has come to favour the Arctic Council as the preeminent regional forum and is placing more emphasis on the inclusion of indigenous peoples in regional decision-making. This policy shift was largely driven by the change of administration in 2009. While the Bush administration found the Arctic Council to be ineffective and considered using the A5 as a regional alternative, the Obama administration opposed such a move, partly because it entailed the exclusion of indigenous people, as exemplified by its opposition to the 2010 Chelsea meeting.<sup>123</sup> Furthermore, in 2010, the Obama administration announced its support of UNDRIP – a document that the Bush administration was one of only four nations to oppose. This more inclusive approach has largely continued thus far during the Trump administration.<sup>124</sup> The Trump administration has changed US Arctic policy by placing less emphasis on environmental and climate change-related policies and allowing oil and gas drilling in the Arctic National Wildlife Refuge in Alaska, but it has largely continued the Obama administration's approach to the Arctic Council and Arctic governance in general.<sup>125</sup>

### 5.3

#### **Future risks and policy recommendations for the Kingdom of Denmark**

In sum, the Arctic order is currently a mosaic of different institutions that largely fulfil unique functions (a regime complex) but where institutions sometimes overlap, leading to inefficiencies. The regional order is concurrently characterized by an ongoing debate about who should be included in regional decision-making. The regional states, especially the coastal ones, occupy a privileged position in that order, which they should aim to defend in coming years by striking a balance between two challenges: maintaining existing institutional structures while increasing institutional effectiveness and allowing other actors enough influence to maintain the legitimacy of regional institutions. The coastal states should aim to protect the A5 in the future as it helps them realize their regional interests while providing effective solutions to Arctic Ocean issues.

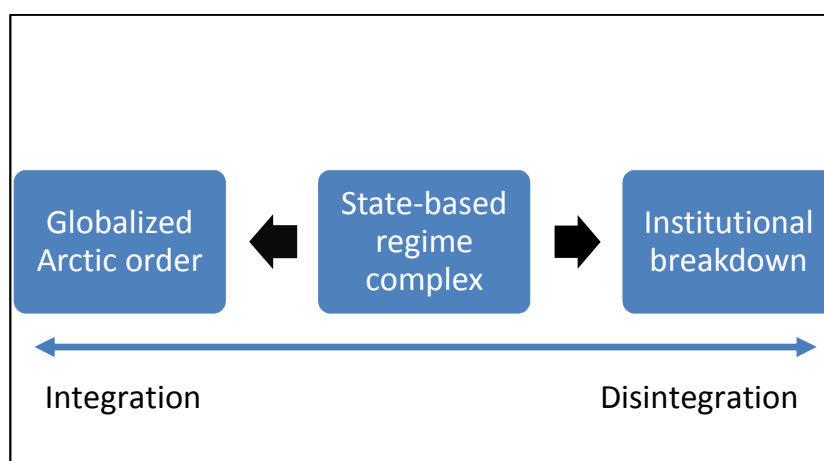
The Ilulissat initiative and the A5 illustrate how the Arctic order is in flux and that much can be achieved through vigilant diplomacy. In many ways, the story told is one of contingency and agency: it was not given that the Ilulissat initiative would occur nor that the A5 would become a regional forum – strenuous diplomatic effort from several governments was required. Though the Arctic order currently remains stable and largely isolated from potential spoilers, such as the geopolitical tensions between Russia and the Western countries, one cannot necessarily infer that the current status quo will continue in the future. The story of the Ilulissat initiative and the A5 highlights how a stable order requires constant diplomatic effort and shared interests by states and non-state actors, which may not be present in the future.

There are several dynamics that can potentially change the current regional order by nudging it towards either regional disintegration or a more

globalized Arctic order in which states hold less influence (see figure 7). First, conflict between the Arctic states may arise, either due to misunderstandings, disagreements about Arctic matters, domestic changes within one of the states, or because conflicts elsewhere sour the relations between the regional states. Such tensions could complicate regional diplomacy, leading to an institutional breakdown. Second, non-state or non-Arctic actors could become so dissatisfied with the existing order that they start challenging it by creating alternative institutions, which might potentially trigger an institutional breakdown.<sup>126</sup> Finally, key states could become convinced of the necessity of further regional integration, which might render it more difficult to maintain the A5 or possibly even create a new Arctic order in which the regional states have significantly less influence.

For the Kingdom of Denmark, the current order occupies a ‘Goldilocks zone’ of just the right amount of institutional integration to enable cooperation and prevent conflict, but not so much that influence is removed from the coastal states. Both of the alternative scenarios would be detrimental to the interests of Denmark, the Faroe Islands, and Greenland. An institutional breakdown would entail increased risk of conflict in the Arctic and fewer common solutions to the practical challenges facing the states.<sup>127</sup> By contrast, a globalized Arctic order (such as an Arctic treaty modelled after the Antarctic Treaty) would take influence away from the Arctic states, including the Kingdom of Denmark, and increase the likelihood of regional regulation that reduces opportunity for Arctic industrial activity. A sustained diplomatic effort for common foreign policy goals in the Arctic would not just further the interests of the three constituent parts of the Kingdom of Denmark – it would have the added effect of strengthening the relationship between Denmark, the Faroe Islands, and Greenland, as it would become apparent that they all benefit from the current set-up within the Kingdom of Denmark.

Figure 7:  
Scenarios for institutional  
development in the Arctic



The Kingdom of Denmark should therefore work to maintain the status quo in general and the A5 as a regional forum in particular by working to reform existing institutions and engaging in active agenda-setting. As outlined above, A5 fulfils a crucial functional role in Arctic governance as it facilitates cooperation around issues related to the Arctic Ocean that are not covered by other regional institutions, most importantly fisheries in the Central Arctic Ocean and the coordination of the delimitation of the continental shelves.

Furthermore, A5 gives the Arctic coastal states, including the Kingdom of Denmark, important leverage in other regional forums, as well as a fall-back option should cooperation in the Arctic Council stall. Debate on the structure of the Arctic order will continue in the years to come as non-state actors and non-Arctic entities attempt to define their respective roles in the region, and having additional leverage in the form of A5 will strengthen the position of the coastal states in these discussions.

First, the Kingdom of Denmark should strive to ensure that existing institutions remain legitimate in the eyes of Arctic and non-Arctic states, NGOs, and indigenous people. Doing so entails striking a balance between preserving existing institutional structures and, while reforming them, ensuring that they remain effective and inclusive. In other words, retaining the status quo may entail some integration insofar as it increases the legitimacy of existing institutions. One of the challenges facing the Arctic states is to avoid inefficiencies caused by overlap between institutions in the Arctic, especially between the A5 and the Arctic Council's new Task Force on Arctic Marine Cooperation. The task force was founded in 2015 with the aim of 'identifying future needs for strengthened cooperation for Arctic marine areas, as well as whether the Council should begin negotiations on a cooperation mechanism for Arctic marine areas'.<sup>128</sup> In this process, the Kingdom of Denmark should make it a priority to ensure that, if established, the purview of a more permanent mechanism is clearly delimited from that of the A5.

Furthermore, to the extent possible, the Kingdom of Denmark should strive to make the A5 include non-coastal states and entities, NGOs, and indigenous actors in discussions, as long as doing so does not undermine the fundamental nature of the forum. Because of the symbolically charged nature of the A5, many of the non-members have been reluctant to be involved in it for fear of legitimizing it. For instance, previous attempts at including the non-coastal states as A5 observers have been rejected.<sup>129</sup> In other instances, non-A5 members have been willing to interact with the forum when given a voice and influence over decisions. For instance, Iceland readily participated in the A5+5 negotiations when they were included as a party. Similarly, an ICC representative gave a presentation about Inuit matters at the actual Ilulissat meeting.<sup>130</sup> Enhancing the inclusivity of the A5 therefore entails giving the non-A5 members a real voice and influence to persuade them to interact with the forum.

Second, the Kingdom of Denmark should strive to influence the public perception of Arctic governance in general and the A5 in particular, highlighting how it has become an effective and inclusive forum. While the A5 may have turned into an effective and inclusive forum, the public perception of it has not kept pace. As the story of the Ilulissat Declaration revealed, states and entities do not always have fixed opinions about Arctic politics and engaged states can do much to shape the approach of these states. As we saw above, active agenda-setting by the Scandinavian countries was instrumental in shaping the EU institutions' approach to the Arctic and convincing them to oppose the idea of an Arctic treaty.

The Danish government should include the Faroese and Greenlandic governments in designing its agenda-setting message. Involving Greenland will be particularly important with respect to designing messages related to Arctic governance. As an Inuit-majority polity, Greenland is an example of how existing state-based structures can empower local and Inuit peoples of the North and thus provides an important alternative model to the standard

view of Inuit representation, furthered by some indigenous peoples' organizations, according to which state structures are viewed as repressive.<sup>131</sup> Including Greenland in its narrative strengthens the interests of Denmark and Greenland: For Denmark, it strengthens the legitimacy of the existing state-based order; for Greenland, it provides opportunity to further global awareness of Greenland as a semi-autonomous polity and, as previous studies have argued, such activities are important for Greenlandic nation-formation.<sup>132</sup>

As highlighted by both Peter Taksøe-Jensen's foreign policy review from 2016 and Denmark's 2017 foreign and security policy strategy, the 10-year anniversary of the Ilulissat meeting in 2018 gives Denmark important opportunity to highlight the A5's many achievements over the past 10 years.<sup>133</sup> Obviously, Denmark should be careful to avoid antagonizing the forum's critics when doing so. The A5 remains controversial among the NGOs, indigenous peoples, and non-coastal states that continue to oppose what they see as a symbolically important example of disenfranchisement as well as among some Arctic coastal states, such as the United States, that have adopted a more inclusive approach to Arctic governance over the past decade. Perhaps the best way to avoid any unnecessary clash over the A5 is to avoid arranging a demonstrative and symbolically charged event, such as a new official declaration, which would likely reinvigorate the memory of the Ilulissat meeting among the A5 critics and trigger a vociferous reaction. Instead, by focusing on the A5's pragmatic achievements – the Central Arctic Ocean fisheries negotiations and peaceful cooperation regarding the delimitation of the continental shelf – the Danish government would get the best of both worlds: strengthening the A5 as a regional forum without sparking unnecessary controversy. Many of the A5 critics have come to embrace these practical solutions and would be less likely to lash out against such an initiative.

The Kingdom of Denmark should also strive to put the Arctic (including the role of the A5) on the agenda by targeting politicians, administration officials, parliamentary civil servants, media, and think-tanks, especially in the United States, the EU, and Russia. The Arctic is a low-priority issue in both the United States and the EU, which gives small states ample room to affect policy-making processes by feeding information about Arctic affairs into the relevant policy circles. In the United States and the EU alike, the main challenge will be to maintain interest in Arctic matters in general and to ensure that the current state-based order is seen as legitimate. The past 10 years have demonstrated how domestic dynamics can change American and EU Arctic policy. For instance, such dynamics led Washington to prioritize the involvement of indigenous people and the preservation of the Arctic Council. While the new American policy is not in and of itself problematic, it illustrates the potential for change and the importance of supplying relevant information to the foreign policy circuits in Washington. Similarly, the European Parliament and Commission have changed their views on Arctic governance in this period, partly due to lobbying by the Scandinavian countries, thus demonstrating the importance of providing relevant information. The Kingdom of Denmark should work to ensure that domestic developments will not move American and EU Arctic policy away from supporting the current Arctic order.

Previous studies have shown that Denmark lags behind other Arctic nations when it comes to active Arctic agenda-setting in think tanks and the

US Congress.<sup>134</sup> The Kingdom of Denmark should supply relevant information about the Arctic and push its message regarding the importance of existing institutions through a dedicated effort that brings Danish, Faroese, and Greenlandic politicians, officials, and experts to Washington to engage in dialogue with the administration, think tanks, and Congress. In the EU, the Kingdom of Denmark should specifically target the European Parliament and Commission.

The Kingdom of Denmark should also strive to influence the agenda in Russia. Russia remains one of the key actors in the Arctic order in general and in the A5 in particular. Some of the Kingdom of Denmark's key interests, most importantly the delimitation of the continental shelf, entail sustained cooperation with Russia. Moscow has been one of the key proponents of the A5.<sup>135</sup> As such, the challenge for the Kingdom of Denmark in Moscow will be a mirror image of the challenge faced in Washington and Brussels: The Kingdom of Denmark should work to ensure that Russian policymakers recognize that maintaining the legitimacy of the A5 and the Arctic order in general may entail reforming regional institutions to ensure that they remain effective and inclusive.

Finally, the Kingdom of Denmark should highlight the importance of the A5 and agenda-setting in its Arctic Strategy when updating the strategy in 2018–19. The strategy should explicitly highlight the continued functional importance and inclusive nature of the A5. The strategy is not merely an internal document establishing goals for Denmark, the Faroe Islands, and Greenland; it is also read by other actors as an indicator of the Kingdom's regional priorities, providing opportunity to communicate Denmark's view of the A5 to other Arctic actors. The Kingdom of Denmark's existing Arctic Strategy from 2011 includes a brief section about the A5, describing it as 'a forum for issues primarily relevant for the five coastal states, currently the continental shelf issue'.<sup>136</sup> Elsewhere, the A5 is referred to as 'an essentially complementary regional forum' without expanding on what is meant by that.<sup>137</sup> The strategy was written in 2011, shortly after the Chelsea meeting, when the future role of the A5 remained unclear. As explained above, the A5 has since carved out a different role for itself as a pragmatic and inclusive forum that can complement existing institutions, such as the Arctic Council. The section about the A5 should be expanded significantly to highlight how the forum has become inclusive and functionally important for both the continental shelf and fisheries negotiations and that it supplements existing institutions. Furthermore, in order to facilitate an enhanced focus on Arctic agenda-setting, the strategy should make it an explicit strategic goal.

# 6

## Conclusion and recommendations

The purpose of this report was to investigate how the Ilulissat meeting in 2008 came about and how it and the A5 affected the existing regional order in the Arctic. More broadly, the report examined what the story of the Ilulissat initiative and the A5 tell us about the fundamental driving forces shaping Arctic governance and the extent to which the Kingdom of Denmark can affect Arctic governance in ways that favour Danish, Faroese, and Greenlandic interests. The Arctic order remains driven by states, especially the coastal states, although NGOs, indigenous peoples' organizations, and non-Arctic states and entities also yield crucial decision-making influence. Building legitimate institutions is a crucial part of the coastal states' strategy to maintain their current position in the order, which means ensuring that institutions remain effective and inclusive. Furthermore, though currently characterized by an unstable and moving equilibrium based mainly on a consensus between the regional states, the Arctic order remains in flux as different actors continue to debate and disagree about the fundamental institutional structure in the region. Continued active diplomacy will therefore remain important to maintain cooperation in coming years.

The Ilulissat initiative and the A5 illustrate these dynamics. The Ilulissat initiative came about because all the coastal states shared an interest in it and the entities that could oppose it were either unaware of its importance or lacked the necessary influence to prevent it. It strengthened the positions of the coastal states by helping to close a governance gap in the Arctic, thus demonstrating that the existing state-based order could handle the challenges facing the region and closing down calls for regional reform that could have moved influence away from the coastal states. The Ilulissat initiative also helped reinvigorate the A5 as a regional forum, which strengthened the position of the coastal states in regional decision-making. However, due to resistance from NGOs, indigenous actors, and non-coastal states and entities, as well as political changes in some of the coastal states, the A5 had to limit its role to become a minor and more inclusive forum that handles a host of Arctic Ocean issues not covered by existing institutions, such as the delimitation of the continental shelf and regulation of high seas fisheries. Critics of the A5 have started working together with it, tacitly accepting it as part of the regional order in the Arctic, while in principle continuing to oppose it.

For the Kingdom of Denmark, the current order lies in a 'Goldilocks zone' between too little and too much integration. The current institutions are strong enough to offer solutions to practical challenges facing the region, facilitating cooperation between the states, and strengthening the position of the coastal states, but not so strong that they can make independent decisions without state consent. Copenhagen should therefore continue to use institutional reform and agenda-setting to maintain the status quo, especially the A5 that serves an important purpose for the Arctic coastal

states. When pushing for institutional reform, the Kingdom of Denmark should strike a balance between protecting existing institutions and enhancing their legitimacy through reforms that diminish institutional overlap and ensure the inclusion of NGOs, indigenous peoples' organizations, and non-coastal and non-Arctic states and entities. More specifically, the Kingdom of Denmark should work to diminish the overlap between the A5 and the Arctic Council's Task Force on Arctic Marine Cooperation.

The Kingdom of Denmark should also work to influence the global agenda about Arctic governance, especially highlighting how the A5 has become a pragmatic, inclusive, and functionally important forum. The Danish Ministry of Foreign Affairs should make sure to include the Faroese and Greenlandic governments when designing its agenda-setting message. The Kingdom of Denmark should use the 10-year anniversary of the Ilulissat meeting in May 2018 as occasion to tell the story of the A5, thus strengthening it as a regional forum. In light of the principled opposition against the A5 by other actors, however, the Kingdom of Denmark should refrain from making an overt statement about the A5's position in the regional order, focusing instead on emphasizing the A5's practical accomplishments (e.g., the delimitation of the continental shelf and high seas fisheries negotiations in the Central Arctic Ocean) and the inclusive nature of the forum. The Kingdom of Denmark should also actively try to raise awareness of the Arctic and the A5 among other nations and entities, especially the United States, the EU, and Russia. Finally, when the Kingdom of Denmark's Arctic Strategy is updated in 2018–19, the importance of Arctic agenda-setting should be highlighted. The Kingdom's position vis-à-vis the A5 should be explicated and the forum's pragmatic, inclusive, and functionally important nature, as well as its complementarity with the Arctic Council, should be emphasized.



# Appendix 1: The Ilulissat Declaration

Available at:

[http://www.oceanlaw.org/downloads/arctic/Ilulissat\\_Declaration.pdf](http://www.oceanlaw.org/downloads/arctic/Ilulissat_Declaration.pdf)

## **Arctic Ocean Conference**

Ilulissat, Greenland

27–29 May 2008

At the invitation of the Danish Minister for Foreign Affairs and the Premier of Greenland, representatives of the five coastal States bordering on the Arctic Ocean – Canada, Denmark, Norway, the Russian Federation and the United States of America – met at the political level on 28 May 2008 in Ilulissat, Greenland, to hold discussions. They adopted the following declaration:

The Arctic Ocean stands at the threshold of significant changes. Climate change and the melting of ice have a potential impact on vulnerable ecosystems, the livelihoods of local inhabitants and indigenous communities, and the potential exploitation of natural resources.

By virtue of their sovereignty, sovereign rights and jurisdiction in large areas of the Arctic Ocean the five coastal states are in a unique position to address these possibilities and challenges. In this regard, we recall that an extensive international legal framework applies to the Arctic Ocean as discussed between our representatives at the meeting in Oslo on 15 and 16 October 2007 at the level of senior officials. Notably, the law of the sea provides for important rights and obligations concerning the delineation of the outer limits of the continental shelf, the protection of the marine environment, including ice-covered areas, freedom of navigation, marine scientific research, and other uses of the sea. We remain committed to this legal framework and to the orderly settlement of any possible overlapping claims.

This framework provides a solid foundation for responsible management by the five coastal States and other users of this Ocean through national implementation and application of relevant provisions. We therefore see no need to develop a new comprehensive international legal regime to govern the Arctic Ocean. We will keep abreast of the developments in the Arctic Ocean and continue to implement appropriate measures.

The Arctic Ocean is a unique ecosystem, which the five coastal states have a stewardship role in protecting. Experience has shown how shipping disasters and subsequent pollution of the marine environment may cause irreversible disturbance of the ecological balance and major harm to the livelihoods of local inhabitants and indigenous communities. We will take steps in accordance with international law both nationally and in cooperation among the five states and other interested parties to ensure the protection and preservation of the fragile marine environment of the Arctic Ocean. In this regard we intend to work together including through the International

Maritime Organization to strengthen existing measures and develop new measures to improve the safety of maritime navigation and prevent or reduce the risk of ship-based pollution in the Arctic Ocean.

The increased use of Arctic waters for tourism, shipping, research and resource development also increases the risk of accidents and therefore the need to further strengthen search and rescue capabilities and capacity around the Arctic Ocean to ensure an appropriate response from states to any accident. Cooperation, including on the sharing of information, is a prerequisite for addressing these challenges. We will work to promote safety of life at sea in the Arctic Ocean, including through bilateral and multilateral arrangements between or among relevant states.

The five coastal states currently cooperate closely in the Arctic Ocean with each other and with other interested parties. This cooperation includes the collection of scientific data concerning the continental shelf, the protection of the marine environment and other scientific research. We will work to strengthen this cooperation, which is based on mutual trust and transparency, inter alia, through timely exchange of data and analyses.

The Arctic Council and other international fora, including the Barents Euro-Arctic Council, have already taken important steps on specific issues, for example with regard to safety of navigation, search and rescue, environmental monitoring and disaster response and scientific cooperation, which are relevant also to the Arctic Ocean. The five coastal states of the Arctic Ocean will continue to contribute actively to the work of the Arctic Council and other relevant international fora.

Ilulissat, 28 May 2008

## Appendix 2: Official Arctic Council backgrounder

Taken from the Arctic Council website, 22 January 2018

Available at

[https://oaarchive.arctic-council.org/bitstream/handle/11374/2076/2017-09-25\\_Arctic\\_Council\\_Backgrounder\\_PRINT\\_VERSION\\_NO\\_LINKS.pdf?sequence=1&isAllowed=y](https://oaarchive.arctic-council.org/bitstream/handle/11374/2076/2017-09-25_Arctic_Council_Backgrounder_PRINT_VERSION_NO_LINKS.pdf?sequence=1&isAllowed=y)

### The Arctic Council: A backgrounder

What is the Arctic Council?

The Arctic Council is the leading intergovernmental forum promoting cooperation, coordination and interaction among the Arctic states, Arctic Indigenous communities and other Arctic inhabitants on common Arctic issues, in particular on issues of sustainable development and environmental protection in the Arctic.

Who takes part?

The *Ottawa Declaration* lists the following countries as Members of the Arctic Council: Canada, the Kingdom of Denmark, Finland, Iceland, Norway, the Russian Federation, Sweden and the United States. In addition, six organizations representing Arctic Indigenous peoples have status as Permanent Participants. The category of Permanent Participant was created to provide for active participation and full consultation with the Arctic Indigenous peoples within the Council. They include: the Aleut International Association, the Arctic Athabaskan Council, Gwich'in Council International, the Inuit Circumpolar Council, the Russian Association of Indigenous Peoples of the North and the Saami Council.

Observer status in the Arctic Council is open to non-Arctic states, along with inter-governmental, inter-parliamentary, global, regional and non-governmental organizations that the Council determines can contribute to its work. Arctic Council Observers primarily contribute through their engagement in the Council at the level of Working Groups.

The standing Arctic Council Secretariat formally became operational in 2013 in Tromsø, Norway. It was established to provide administrative capacity, institutional memory, enhanced communication and outreach, and general support to the activities of the Arctic Council.

What does it do?

The work of the Council is primarily carried out in six Working Groups.

- The Arctic Contaminants Action Program (ACAP) acts as a strengthening and supporting mechanism to encourage national actions to reduce emissions and other releases of pollutants.
- The Arctic Monitoring and Assessment Programme (AMAP) monitors the Arctic environment, ecosystems and human populations, and provides scientific advice to support governments as they tackle pollution and adverse effects of climate change.
- The Conservation of Arctic Flora and Fauna Working Group (CAFF) addresses the conservation of Arctic biodiversity, working to ensure the sustainability of the Arctic's living resources.
- The Emergency Prevention, Preparedness and Response Working Group (EPPR) works to protect the Arctic environment from the threat or impact of an accidental release of pollutants or radionuclides.
- The Protection of the Arctic Marine Environment (PAME) Working Group is the focal point of the Arctic Council's activities related to the protection and sustainable use of the Arctic marine environment.
- The Sustainable Development Working Group (SDWG) works to advance sustainable development in the Arctic and to improve the conditions of Arctic communities as a whole.

The Council may also establish Task Forces or Expert Groups to carry out specific work. The Task Forces operating during the Chairmanship of Finland (2017-2019) are:

- Task Force on Arctic Marine Cooperation (TFAMC)
- Task Force on Improved Connectivity in the Arctic (TFICA)

During the 2017–19 Finnish Chairmanship there is also one Expert Group operating:

- Expert Group in support of implementation of the Framework for Action on Black Carbon and Methane (EGBCM)

What are some of its accomplishments?

The Arctic Council regularly produces comprehensive, cutting-edge environmental, ecological and social assessments through its Working Groups. The Council has also provided a forum for the negotiation of three important legally binding agreements among the eight Arctic States. The first, the *Agreement on Cooperation on Aeronautical and Maritime Search and Rescue in the Arctic*, was signed in Nuuk, Greenland, at the 2011 Ministerial Meeting. The second, the *Agreement on Cooperation on Marine Oil Pollution Preparedness and Response in the Arctic*, was signed in Kiruna, Sweden, at the 2013 Ministerial meeting. The third, the *Agreement on Enhancing International Arctic Scientific Cooperation*, was signed in Fairbanks, Alaska at the 2017 Ministerial meeting.

How does it work?

Arctic Council assessments and recommendations are the result of analysis and efforts undertaken by the Working Groups. Decisions of the Arctic Council are taken by consensus among the eight Arctic Council states, with full consultation and involvement of the Permanent Participants.

The Chairmanship of the Arctic Council rotates every two years among the Arctic States. The first country to chair the Arctic Council was Canada (1996–1998), followed by the United States, Finland, Iceland, Russia, Norway, the Kingdom of Denmark, and Sweden. The second cycle of Chairmanships began in 2013. On 11 May 2017, the second United States Chairmanship concluded, and the second Chairmanship of Finland (2017–2019) began. The next country to assume the Chairmanship will be Iceland (2019–2021).

What doesn't it do?

The Arctic Council is a forum; it has no programming budget. All projects or initiatives are sponsored by one or more Arctic States. Some projects also receive support from other entities.

The Arctic Council does not and cannot implement or enforce its guidelines, assessments or recommendations. That responsibility belongs to each individual Arctic State.

The Arctic Council's mandate, as articulated in the *Ottawa Declaration*, explicitly excludes military security.

## Notes

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