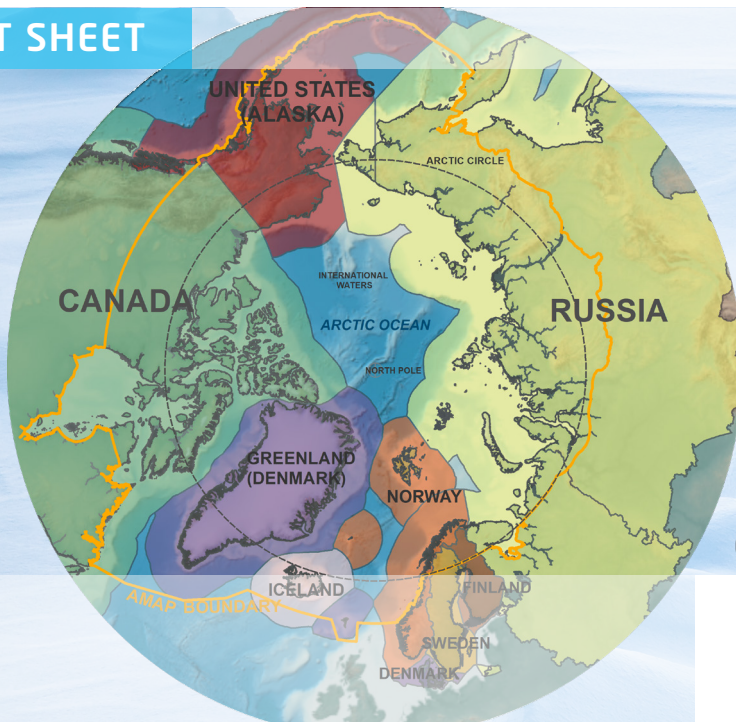


FACT SHEET



CURRENT KNOWLEDGE ON THE THEME

Arctic Governance

Human-induced climate change is affecting the Arctic much faster and stronger than any other region. For the past 50 years the Arctic has been warming at more than twice the rate of the rest of the globe. This unprecedented transformation of the Arctic has profound implications for Arctic people, ecosystems, and resources. Changes in the Arctic also affect the rest of the world, not only through the Arctic's contribution to sea-level rise, but also through the region's role in the global climate system, its influence on ocean circulation, and its impacts on mid-latitude weather. At present, it is estimated that the Arctic Ocean could be largely free of sea ice in summer as early as the late 2030s, less than two decades from now.^{1, 2, 3}

One major consequence of these biophysical changes is a rising interest in the Arctic on the part of global actors motivated by economic opportunities that involve commercial shipping, oil and gas development, mining, fisheries, and tourism. The result is a tightening of the economic and geopolitical links between the Arctic and the rest of the world.^{4, 5}

In light of this increasing interest and awareness of the global significance of the region, questions about stewardship and governance of the Arctic are being asked more frequently. Governance structures suitable for effectively addressing the challenges and opportunities facing the circumpolar North are becoming more relevant than ever. To inform discussion on these issues, this factsheet gives an overview of the legal regime of the Arctic and outlines the existing Arctic governance structures.

Fig. 1: The Arctic (yellow boundary line) is defined as the terrestrial and marine areas north of the Arctic Circle (66°32'N), north of 62°N in Asia and 60°N in North America including elements of the Arctic Circle, political boundaries, permafrost limits, and major oceanographic features (Definition by the Arctic Council Working Group "Arctic Monitoring and Assessment Program (AMAP)"²). The buffer zones⁶ show the economic exclusive zones of each Arctic State.

Who owns the Arctic?

The Arctic is not the subject of a precise, internationally agreed legal definition for all purposes⁷. The most common, basic geographic definition of the region comprises the area above the latitude of the Arctic Circle (66°32'N) (see Fig. 1) and covers about 8% of the Earth's surface. However, this definition is often modified, considering geopolitical boundaries and other features. As a whole, the Arctic is highly diverse in biophysical, socioeconomic, and cultural terms. It encompasses land territories within the jurisdiction of eight Arctic States - Canada, Kingdom of Denmark, Finland, Iceland, Norway, the Russian Federation, Sweden and the United States - and is home to approximately four million people, 10% of whom are indigenous. About 70 per cent of the Arctic population lives in the Russian Federation and with the exceptions of Greenland and northern Canada, Indigenous Peoples are a minority. Across the Arctic, the environment is of paramount importance to its inhabitants and the region is home to ecosystems and livelihoods that are particularly vulnerable to impacts from industrial activities and climate change.^{8, 9}



Five of the Arctic States – Canada, Denmark (via Greenland), Norway, Russia, and the United States – are the coastal states of the Arctic Ocean, hence have their sovereignty, sovereign rights, and jurisdiction in maritime zones extending into the Arctic Ocean. Accordingly, the Arctic region comprises

- land territories of the Arctic States,
- maritime zones of Arctic Ocean coastal states, and
- high seas areas.^{10, 11}

Is there an Arctic Treaty?

Unlike the Antarctic, the Arctic is not governed by a comprehensive international treaty, body or regime. Instead, the region's governance landscape is more complex and consists of a suite of domestic laws and policies of Arctic States, international treaties and norms of customary international law.^{12, 13, 14}

How do Arctic governance structures look like?

The Arctic has a long history of ingenious local, bilateral, transnational, and international forms of collaboration. By international standards, the region has been a leader in pushing the edges of governance innovation. Much of this process has been driven by the complexity of the issues facing the region and its peoples.¹⁵

Two of the most important changes to occur in the last 40 years in the area of governance in the Arctic have been the decentralization of authority to regional governments and increasing legal and political empowerment of Indigenous Peoples. Both trends have only intensified in the last decade and meaningful engagement with Indigenous Peoples represents today one of the

most prominent features of Arctic international affairs. Similarly, the inclusion of representatives of Indigenous Peoples Organizations as *Permanent Participants* in the Arctic Council (AC) with a strong voice in AC's activities remains a notable and largely unprecedented innovation in intergovernmental relations.^{16, 17}

Many institutions and organizations are relevant to meeting the needs for governance in the Arctic. These range from

- global framework arrangements (e.g., the UN Convention on the Law of the Sea, UNCLOS, see below), through
- multilateral environmental agreements (e.g., the UN Framework Convention on Climate Change, UNFCCC, and the Convention on Biological Diversity, CBD) and
- international economic arrangements (e.g., the WTO) to
- regional arrangements (e.g., the Arctic Council, the Convention for the Protection of the Marine Environment of the North-East Atlantic, OSPAR),
- sub-regional arrangements (e.g., the Norwegian/Russian fisheries regime for the Barents Sea, the Saami Parliamentary Council),
- national arrangements with transboundary effects (e.g., co-management regimes for wildlife management in Canada), and land claims agreements dealing with the rights of Indigenous Peoples.

This, in turn, brings into play a wide range of administrative bodies, including

- UN agencies and programs (e.g., International Maritime Organization, IMO; United Nations Environmental Program, UNEP),
- regional bodies (e.g., regional fisheries management organizations),
- Arctic-specific bodies (e.g., the working groups of the Arctic Council),
- Indigenous Peoples Organizations,
- sub-national bodies (e.g., the Northern Forum), and
- non-governmental organizations (e.g., International Arctic Science Committee, WWF).^{10, 15, 18, 19}

Who is who in Arctic Governance?

Among the main institutions, organizations and policies contributing to Arctic governance are:

Arctic Council²⁰

» The primary intergovernmental forum dedicated to discussions and work on Arctic issues, primarily environmental protection and sustainable development. It brings together eight Arctic States, six Indigenous Peoples Organizations, and numerous state and non-state Observers. Even though the AC has no independent legal personality, it has recently catalyzed

three legally-binding agreements among Arctic States (see below and Fact Sheet "[Arctic Council](#)").

Barents Euro-Arctic Council (BEAC)²¹

» Forum for intergovernmental cooperation on issues concerning the Barents Region and its sustainable development. The members of BEAC are Denmark, Finland, Iceland, Norway, Russia, Sweden and the European Commission, with Germany and 8 other countries as Observers.

Nordic Council (NC)²²

» The official body for formal inter-parliamentary co-operation among the Nordic countries as well as the autonomous areas of the Faroe Islands, Greenland, and the Åland Islands. The NC is one of the world's most extensive forms of regional collaboration.

Northern Forum (NF)²³

» International organization composed of sub-national or regional governments from nine northern countries. The NF is a regional voice on the current Arctic agenda and an Observer to the Arctic Council.

Northern Dimensions (ND)²⁴

» Joint policy of four partners: the European Union (EU), Russian Federation, Norway and Iceland, with EU member states also participating in their national capacities. The ND aims at supporting stability, well-being and sustainable development in the region and focuses, i.a., on environment, transport and logistics.

Standing Committee of Parliamentarians of the Arctic Region (SCPAR)²⁵

» Standing body of the biennial Conference of Parliamentarians of the Arctic Region representing the eight Arctic countries and the European Parliament.

Which international agreements apply to the Arctic?

What happens in the Arctic is heavily affected by decisions made elsewhere, including under the provisions of intergovernmental agreements, like the Montreal Protocol on Substances that Deplete the Ozone Layer, the UNFCCC, the CBD, the Stockholm Convention on Persistent Organic Pollutants (POPs), and the Minamata Convention on Mercury. In addition those, there are also other Arctic- and/or polar-specific agreements. Those listed below include some of the most recent ones and relate primarily to marine and maritime issues.



United Nations Convention of the Law of the Sea (UNCLOS) (1982)²⁶

- » There is no overarching treaty covering the Arctic Ocean and in the Ilulissat Declaration²⁷ from May 2008, the Arctic Ocean coastal states rejected a need and possibility for such a treaty. The governance of the Arctic Ocean takes place within the framework set by UNCLOS and the customary international law of the sea.
- » Within that framework, the Arctic Ocean and adjacent seas are largely subject to sovereignty and sovereign rights of the coastal states, including in states' exclusive economic zones (EEZ), covering the waters and the seabed up to 200 nautical miles. Waters beyond states' EEZs constitute high seas (areas beyond national jurisdiction, ABNJs), and the deep seabed beyond states' continental shelves is a part of the international seabed ("the Area").
- » The Arctic Ocean coastal states are still in the process of defining the extent and boundaries of their continental shelves which could expand their rights to the seabed beyond their EEZs. This process is taking place via the UN Commission on the Limits of Continental Shelf (CLCF). Most Arctic States have already made submissions to the CLCF and, thus far, the process has proceeded in a generally cooperative manner. It may, however, still take many years, if not decades, before the limits of continental shelves (that is boundaries between shelves and the international seabed) are established and the complete delimitation of shelves is agreed. The specific marine boundaries between the Arctic States are subject to bilateral negotiations.

Agreement on Cooperation on Aeronautical and Maritime Search and Rescue (2011)²⁸

- » The first ever agreement negotiated under the auspices of the Arctic Council, and made legally binding by the ratifications of the Arctic States, coordinates international search and rescue (SAR) coverage and



„There is no single Arctic. The many regions with their characteristics and actors lead to an extremely diverse governance and legal framework. This makes it difficult to find coherent answers to the present challenges, but also offers many approaches to develop and implement local and regional solutions.“

Arne Riedel, Ecologic Institute

response in the Arctic. In particular, it establishes the area of SAR responsibility of each Arctic State.

- » The Arctic SAR agreement is based on the globally-applicable 1979 International Convention on Maritime Search and Rescue (SAR Convention) and the 1944 Convention on International Civil Aviation (the Chicago Convention), to which all Arctic States are parties.
- » The AC has also facilitated establishment of the related body, the Arctic Coast Guard Forum, in 2014.

Agreement on Cooperation on Marine Oil Pollution Preparedness and Response in the Arctic (MOSPA) (2013)²⁸

- » The objective of the second legally-binding agreement negotiated under the auspices of the AC is to strengthen cooperation, coordination and mutual assistance among the Arctic States on preparedness and response to oil pollution in the Arctic, in order to protect the marine environment from such pollution.
- » To facilitate further cooperation in the field of offshore petroleum safety, the AC helped to create the Arctic Offshore Regulators' Forum in 2015.

Agreement on Enhancing International Arctic Scientific Cooperation (2017)²⁸

- » The third legally-binding agreement among the Arctic States is to enhance cooperation in scientific activities in order to increase effectiveness and efficiency in the development of scientific knowledge about the Arctic (Fig. 2).
- » The agreement aims to facilitate access to research areas, platforms, infrastructure, facilities, materials, samples, data and equipment; it fosters data sharing across the North, addresses education, career development and training, traditional and local knowledge, and cooperation with parties other than the eight Arctic States.

International Code for Ships Operating in Polar Waters, or Polar Code (2015)³⁰

- » The additional set of mandatory requirements and non-binding recommendations to existing International Maritime Organization (IMO) conventions that address the additional hazards to ships of operating in polar waters, including low temperatures, sea ice, remoteness, and high latitudes.
- » It is implemented through a set of amendments to three IMO Conventions: SOLAS (ship safety); MARPOL (prevention of pollutions from ships); and the STCW (crew training) (see Fact Sheet [„Shipping in the Arctic“](#)).

Agreement to Prevent Unregulated High Seas Fisheries in the Central Arctic Ocean (2018)^{31, 32}

- » Signed by five Arctic Ocean coastal states (Canada, Kingdom of Denmark via Greenland, Norway, Russia and the United States), Iceland, the European Union, Japan, Korea and China to prevent commercial fishing from occurring until adequate scientific information is available to inform management measures concerning the fish stocks in the Central Arctic Ocean (CAO).

What role does Germany play in the Arctic?

Environmental and climate protection and international cooperation are the key elements of the German government's Arctic policy²⁹. Germany has a strong profile in polar research, political engagement and active participation in discussions about the future and sustainable development of the Arctic, including non-state actors such as research institutes and environmental NGOs.

Germany is an Observer to the Arctic Council, an international actor in the High North and supports the activities and legal frameworks of the Arctic Council, IMO, World Meteorological Organization and the UNCLOS. The federal government cooperates with all Arctic States in bilateral and multilateral projects both on land and in the Arctic Ocean. Germany is committed to improving the exchange of information and cooperation between German Arctic stakeholders from academia, politics and business to base the political decision-making process on scientific knowledge²⁹.



Fig. 2: Negotiations of the Agreement on Enhancing International Arctic Scientific Cooperation, Ottawa 2016.

- » The signatories committed to a joint program of scientific research and monitoring to improve understanding of the ecosystems in and surrounding the Arctic Ocean.
- » Another process relevant to the Arctic are ongoing negotiations of a new international legally-binding instrument under the UNCLOS aimed at the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction (BBNJ), the outcome of which may have significant consequences for the future governance of the CAO.

What is the future of Arctic governance?

Since the founding of the Arctic Council in 1996, the Arctic has moved from the peripheries closer to the center of international relations and turned from a remote and isolated region to a global hotspot of climate change with a heightened interest on the part of global actors motivated by economic opportunities and the strategic importance of the increasingly accessible circumpolar North. The result is a tightening of the economic and geopolitical links between the region and the rest of the world, and the globally interconnected Arctic with impacts stretching far into the southern latitudes.

The rapidly advancing climate change remains one of the biggest challenges to the region and, combined with lifestyle changes, profoundly affects northern local communities and Indigenous Peoples, their cultures and languages. There is a strong need to find balance between ensuring the environmental protection of vulnerable Arctic ecosystems and the right to sustainable development of Arctic peoples under the conditions of rapid change. Regarding the future of Arctic governance, it is important to recognize the complex web of existing instruments and mechanisms. While there is no single treaty

to govern the Arctic, there is a growing number of issue-specific governance arrangements, the functioning of which needs to be enhanced in mutually supportive ways, rather than on the basis of solely sectoral needs and interests.

While the Arctic is often portrayed as an area of military expansion and potential conflict, throughout its existence the Arctic Council has served to promote peace among Arctic States, prosperity for Arctic peoples, and the Arctic as a place of stability and collaboration. With the increasing impacts of changing climate and the ongoing economic and geopolitical developments, including current differences between the Arctic States over references to climate change, however, maintaining that spirit may prove more challenging than before and requiring enhanced efforts by all parties.

In light of the above, some pose the question if it is “time for a reset in Arctic governance” and if the Arctic Council might be the authority to facilitate such a reset³³. With climate change further accelerating, possibly resulting in an ice-free Arctic Ocean in the summer months 20 years from today, this question will become even more important in the future and requiring careful attention both from Arctic and non-Arctic actors alike.



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