

ARCTIC GOVERNANCE IN AN EVOLVING ARCTIC REGION

A Proposal by the Standing Committee of Parliamentarians of the Arctic Region

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1. INTRODUCTION

The Arctic is changing. The peoples of the Arctic are facing great challenges because of these changes. For many years, the Arctic as the last wilderness was the main image portrayed. However, over the last decade, that image has taken on new dimensions. While the wilderness remains a prominent part of it, the peoples of the Arctic experience tangible realities such as climate change, melting ice, increased industrial activities and the possible development of the region's rich natural resources. This development has significantly diversified how the Arctic is viewed.

In addition, the Arctic Ocean is fast becoming an open sea. Cruise ships now enter Arctic waters. New commercial shipping routes are being actively tested. As the Arctic waters warm up, the current fishing stocks are changing their migration patterns, while southern fish populations are starting to venture northward. The fishing industry is moving further north than ever before.

The rich natural resources of the Arctic are becoming accessible. Mines are opening up; the potential for rare earth metals is being scrutinized and assessed. Oil and gas deposits are being explored and developed.

The melting of the sea ice and of the Greenland ice cap will have global impacts, and will influence the planetary climate system in several ways, among these being rising sea levels and the decreasing reflection of solar radiation. Climate change is influencing the livelihood of northern peoples in both positive and negative ways.

These changes, and the new development opportunities they have created, have turned the Arctic into an increasingly important region in political terms. All Arctic states meet these challenges by developing national Arctic strategies, while also the European Union is developing its Arctic policy, and non-Arctic countries are showing an increased interest in the region.

With an increased international focus on the Arctic the states and peoples are challenged on their governance structures. This in turn brings us to the Arctic Council, created in 1996 by the eight Arctic states as a high-level inter-governmental forum, established to ensure coordination and interaction among them, with the direct involvement of Arctic Indigenous Peoples.

The Arctic Council became the logical outcome of the discussions that took place among the Arctic states in 1989. At the first ministerial meeting in Rovaniemi, Finland, in 1991, the Arctic Environmental Protection Strategy (AEPS) was adopted. In the same year, Canada made a proposal

for broad Arctic cooperation, which eventually led to the establishment of the Arctic Council in 1996, and the integration of the AEPS into the scope of the Council.

Today, the Arctic Council is the main political forum for cooperation on Arctic issues, and can be viewed as a success in new governance. The cooperation among governments, the indigenous peoples and the scientific community has broken new ground in both structure and results.

However, the Arctic Council must now adapt itself to the new reality of the rapidly increasing political and economic importance of the Arctic Region.

This said, the future governance of the Arctic must continue to rely and build upon the strength of its existing institutions.

The eight Arctic countries should remain the core members and leaders of Arctic cooperation. The Indigenous Peoples of the Arctic must retain their special status and role as Permanent Participants within the framework of that cooperative undertaking. Their participation at all levels must be secured as a vital part of Arctic cooperation. Moreover, the participation of Observers must be welcomed as an important element of that cooperation.

Finally, the development of the Arctic poses a great opportunity to the peoples of the Arctic and the rest of the international community, to continue the development of a whole region of the World in a peaceful manner and low tension. The Arctic Council and its unique structure is an important framework for the continuation of this development.

In taking stock of the experience and lessons of the Arctic Council over the last fifteen years, and viewing the major challenges which lie ahead, the Standing Committee of Parliamentarians of the Arctic Region (SCPAR) feels it is timely to seek answers to the following central and specific question: **How can the Arctic Council best respond to the rapidly-changing evolution of the Arctic Region and its peoples?**

In seeking answers to this question, the Standing Committee has consulted a number of leading experts on the Arctic. We would especially like to thank Professor Niels Einarsson, Dr Lassi Heininen, Dr David Hik, Professor Timo Koivurova, and Professor Oran Young for their important contributions to this initiative. The Standing Committee will also consult the Indigenous Peoples' Organizations affiliated as Permanent Participants to the Arctic Council before concluding this document.

The original draft initiative for consideration by the SCPAR was prepared by Clifford Lincoln with assistance from Dr David Hik and Karen Kraft Sloan. SCPAR greatly appreciates the initiative and the cooperation with this group during the process of preparing this paper on Arctic governance.

2. SCPAR and PROPOSAL OVERVIEW.

The Standing Committee of Parliamentarians of the Arctic Region (SCPAR) was founded in 1994 as an initiative of the Nordic Council, to promote cooperation and interaction among parliamentarians of the Arctic states and the European Parliament, Indigenous Peoples' representatives and inter-parliamentary regional bodies (the Nordic Council and the West Nordic Council).

The idea behind the creation of SCPAR was that it should be a non-partisan body, joining parliamentarians of diverse political views and allegiances, whose common goal would be the well-being of the Arctic and its peoples. The cooperation with the Indigenous Peoples, especially Saami Parliamentary Council and RAIPON, is important.

Because of its non-partisan nature, SCPAR has been able over the years to become an objective and credible voice within the Arctic region. SCPAR has neither the funds nor the means to implement projects or carry out field activities. However, through the significant collective support of its parliamentary base, it acts as an important catalyst to promote ideas and proposals for the sustainability of the Arctic region.

From its inception, SCPAR became a key supporter of the proposal to establish the Arctic Council. Likewise, it played an important role in promoting the creation of the University of the Arctic. The Arctic Human Development Report was one of its initiatives, adopted in 2002 by the Arctic Council at the start of the Icelandic chairmanship. Through its Conferences, the SCPAR also provided an important forum for the Arctic Climate Impact Assessment (ACIA), led by Dr Robert Corell.

SCPAR does not intend this document to be either an in-depth research paper on Arctic issues, or a searching analysis of the Arctic Council and its subsidiary bodies. Nor is our objective to intervene or immerse ourselves in any way in the valuable work achieved and being achieved on so many fronts by various parties on Arctic governance issues, but rather to complement this body of work in a strictly defined and pragmatic approach.

This is why we are intent on keeping to a narrow and precise focus, namely that of specific aspects of Arctic Council governance. SCPAR has believed from the start that the Arctic Council should be the paramount structural body for ensuring decisive and effective coordinated leadership on Arctic issues.

At SCPAR parliamentary conferences, governance issues have frequently come to the fore. In 2006, governance was one of the main items on the agenda. In 2008 the Conference asked for annual ministerial meetings of the Arctic Council, and for a strengthened legal and economic base for the Arctic Council. The need for such a strengthened base was reiterated at the 2010 Conference, in addition to the call for an active dialogue with non-Arctic states, and the suggestion of an "Arctic

Summit”. SCPAR has also long stressed the importance of an adequate and stable budget for the Arctic Council, funded by its member states.

At its 2010 Conference, SCPAR recommended the establishment of a panel to create a vision of the Arctic in 2030.

SCPAR fully recognizes the importance of the United Nations Convention Law of the Sea (UNCLOS) in the governance of the Seas such as the Arctic Ocean. UNCLOS provides the legal framework for clarifying issues related to jurisdiction and management in the Arctic sea areas. This was also confirmed in the Ilulissat Declaration between the 5 coastal states in 2008.

The Arctic Council is there to make a difference in the Arctic. SCPAR believes that for the Arctic Council to achieve its leadership role in the most effective way, its governance structure must be amended and enhanced in a few precise areas, hence the proposal outlined below.

3. PROPOSAL: A MORE EFFECTIVE ARCTIC COUNCIL

We are conscious that some of the ideas addressed here have been advanced by other parties and other reports. However, we propose to focus on a few central elements, which we consider crucial to ensure a more decisive and effective leadership role for the Arctic Council.

The Arctic Council is now a high-level forum established to promote cooperation and coordination among the eight Arctic states, with the involvement of six Permanent Participants representing Arctic Indigenous peoples.

It also provides Observer status to non-Arctic states, to inter-governmental and inter-parliamentary organizations, as well as non-governmental organizations.

It coordinates and monitors the work of six working groups, themselves supported by scientific and technical expert groups. These working groups are:

- Arctic Contaminants Action Program (ACAP)
- Arctic Monitoring and Assessment Programme (AMAP)
- Conservation of Arctic Fauna and Flora (CAFF)
- Emergency Prevention, Preparedness and Response (EPPR)
- Protection of the Arctic Marine Environment (PAME)
- Sustainable Development Working Group (SDWG)

The Chairmanship of the Arctic Council revolves every two years among the eight Arctic states, with ministerial meetings held at the end of its chairmanship by the country concerned. Traditionally the Arctic Council Secretariat has moved every two years, to the country holding the chairmanship. However, under the Norwegian, Danish and Swedish mandates, the three chair countries agreed to co-host a common Secretariat in Tromsø, Norway, from 2007 to 2013.

At its May 2011 Ministerial Meeting in Nuuk, Greenland, the Arctic Council decided to make Tromsø, Norway, the permanent site of the Secretariat.

The first binding legal agreement between the Arctic states was signed at the Nuuk Ministerial Meeting. Not only is the Search and Rescue Agreement important in itself, it is also a first step to giving the Arctic Council decision-making authority. The task forces set up by the Council to negotiate agreement on Arctic marine oil pollution, preparedness and response, and the Task Force on Short-Lived Climate Forcers have been welcomed by the Arctic parliamentary cooperation. SCPAR will play a constructive role in exploring beneficial new ways of taking advantage of this decision-making instrument.

These are SCPAR's recommendations:

(i) AN ESTABLISHED INTERNATIONAL ORGANIZATION

To be truly effective and autonomous, the Arctic Council needs to be more than a coordinating instrument acting by consensus of its members.

It should become a fully fledged international organization, with an autonomous treaty mandate sanctioned by its members, with a permanent secretariat and an adequate and stable budget. The permanent participants of the Arctic Council must be included in the negotiating and decision making process in line with the traditions of the Arctic Council to have the voice of the indigenous peoples heard.

In advancing this recommendation, we need to move with caution. The process should be conducted in parallel with the normal work of the Council, and with preparatory meetings held, for example, in the margins of Arctic Council meetings. It can take years to negotiate a treaty and it is important to ensure that such a protracted process does not have a delaying and adverse effect on the actions and activities of the Arctic Council. Once this process has been concluded and the member states are ready to turn the Council into a fully fledged international organization, an interim period could be envisaged to enable the remaining structures from the old organization to be merged into the new one.

The members of SCPAR discussed this issue at length, examining and weighing up both sides of the question, i.e., whether to maximize the potential of the Arctic Council through its present structure, or to move toward a strengthened inter-governmental organization by means of a treaty sanctioned by its member states.

Certain members of SCPAR felt the need to clarify the following point, in order to avoid any misunderstanding or confusion. What is proposed here is not an international treaty on the Arctic, but strictly an exclusive treaty among the eight Arctic states to give themselves more formal inter-governmental binding powers.

In conclusion of the discussion, SCPAR decided to reiterate its recommendation that the Arctic Council become in the future a fully fledged international organization through a treaty sanctioned by its member states.

(ii) A PERMANENT SECRETARIAT

SCPAR has consistently recommended that the Secretariat become a permanent one, in a fixed location.

SCPAR congratulates the Arctic Council on having decided at its Nuuk Ministerial Meeting in May, 2011, to establish a standing Arctic Council Secretariat to be based in Tromsø, Norway.

SCPAR strongly recommends that the personnel of the Secretariat should reflect the membership of the Arctic Council, by including representatives of member states and of indigenous peoples.

(iii) AN ADEQUATE AND STABLE OPERATIONAL BUDGET

SCPAR has consistently advocated that the Arctic Council should endorse the creation of an adequate and stable budget to support the activities of the Council, and thus eliminate the vagaries and unpredictability of the current system of piecemeal funding.

SCPAR reiterates this recommendation, which it deems of essential importance.

(iv) AN ARCTIC VISION AND A TEN-YEAR STRATEGIC PLAN

At the present time, the incoming chairmanship selects its strategic plan and priorities for the next two years. We appreciate that the working groups ensure the ongoing scientific and technical work of the Council, and thus its operational continuity. However, at the critical political and decision-making level the focus and goals may, and do, vary from one chairmanship to the next.

We believe that at the political and policy levels, continuity in strategic planning is essential.

SCPAR recommends that the Arctic Council establish a panel to provide an assessment on how the Arctic nations can prepare for new opportunities and challenges as a result of the changing Arctic, and on the basis of such a study, create a vision of the Arctic in 2030. The panel should include representatives of indigenous peoples' and northern community organizations, the science community, parliamentarians, the business community, regional and other northern community organizations.

In order to achieve this vision, SCPAR recommends a strategic plan be adopted by the Arctic Council to cover a term of five chairmanships, namely ten years. This would be updated on a rolling basis to ensure an overall and ongoing coordinated vision, in a region where its need is becoming increasingly important, indeed urgent.

Within the ten-year strategic plan, priorities can be established, from which chair countries can select for follow-up and implementation as they access their mandates.

SCPAR finds the decision from the Arctic Council Deputy Minister Meeting in Stockholm 15 May 2012 very encouraging. The Deputy Ministers mandated the Senior Arctic Officials to start negotiating a statement to be adopted at the next Ministerial Meeting in May 2013. The statement shall be strategic and visionary about the future Arctic and the Arctic Council. This is very much in line with the proposals put forward by the Arctic parliamentary cooperation at the Conference in 2010 and also promoted in this paper. The Arctic parliamentarians will continue to seek influence on content of the Kiruna statement up to the Ministerial Meeting in 2013.

SCPAR further believes it would be beneficial to hold an Arctic Summit involving the heads of state or government of the Arctic Council member states, as well as the heads of the permanent participants. This idea was endorsed by the Conference of Parliamentarians of the Arctic Region, held in 2010.

SCPAR is not committed to one option or another, provided that whatever process is adopted, the idea of long-term strategic planning becomes firmly established within the Arctic Council – instead of programs and projects which too often depend on the particular priorities and strategies of the incoming two-year chairmanship.

While discussing this issue, SCPAR members felt it important to reiterate their consistent call for annual Ministerial meetings of the Arctic Council at a Ministers of Foreign Affairs' level. In addition SCPAR recommends regular meetings of other key relevant ministries such as the Environment; Education and Research; and Health and Social Affairs.

(v) NEW AREAS FOR LEGALLY BINDING INSTRUMENTS

The Nuuk Ministerial Meeting marked the beginning of a new era for the Arctic cooperation when the countries signed the agreement on Search and Rescue. This way of cooperation is likely to continue and is supported by the Arctic parliamentary cooperation. However, one should have in mind that this way of cooperating traditionally only involves states, and that the cooperation structure in the Arctic Council will not necessarily be used in process. It is therefore important to have in mind that the role of the Permanent Participants, the Working Groups and the observers will be different in this kind of cooperation.

SCPAR is of the opinion that several fields of cooperation could be suitable for legally binding agreements between the Arctic states, but would especially like to highlight two areas:

Arctic research and education

The International Polar Year has given Arctic research an important boost. It is essential to manage the heritage of the IPY wisely. We must use the momentum to further develop the cooperation and

continue to enhance our understanding of the Arctic. Through a coherent approach to education, research, innovation and policy making, we will create sustainable societies in the North.

In order to learn the lessons of the International Polar Year 2007/2008 and prepare for a polar decade, cooperation among the countries within such fields as the financing of common projects and sharing of data needs to improve.

This is why SCPAR recommends exploring the possibilities for an Arctic research and education agreement. Such an agreement could facilitate circumpolar projects, with the opportunity for non-Arctic countries to participate, and smooth student exchange. SCPAR proposes to negotiate an agreement among the Arctic countries and other interested nations with the objective of securing access to data and sharing information about Arctic research.

Tourism

The Arctic is a beautiful place with a fragile environment. Arctic tourism is developing and has a huge potential for forging strong local communities. Building on the existing legislation such as the search and rescue agreement as well as the possible agreement on oil spill prevention and response, the Arctic countries should consider negotiating an agreement on how to develop and secure sustainable and eco-friendly tourism.

(vi) PERMANENT PARTICIPANTS

The participation of the indigenous peoples is one of the main reasons behind the success of the Arctic Council. As Permanent Participants to the Arctic Council, they offer valuable contributions as the principal trustees and protectors of their Arctic heritage.

Traditional knowledge has been an important element in preparing the assessments put forward for consideration to the Arctic Council. Furthermore, the indigenous peoples have served as an essential link in communicating the evolution of the Arctic to the rest of the world.

Funding for the participation of Permanent Participants to the meetings, as well as for preparation to them, is limited today. Traditional knowledge and modern science must collaborate as never before to find new ways of understanding the vast changes so rapidly happening to the Arctic, and their consequences. As the role and significance of the Arctic changes within the global perspective, it is essential that the participation of indigenous peoples must not only be ensured, but secured.

The key role of the Permanent Participants must not be diminished or compromised by an influx of new observers within the Arctic Council. The participation of Permanent Participants must remain an integrated part in the Arctic Council structure and decision-making processes. The unique

structure of the Arctic Council, with the inclusion of indigenous peoples' representatives through permanent participation at all levels of the council's work must be upheld by the states.

The University of the Arctic (UArctic) recently elected a Vice-President for Indigenous Issues, and through its mandate has developed a strong link with the indigenous peoples of the Arctic. At a meeting in Stockholm in March 2012 UArctic and the Permanent Participants signed a Memorandum of Understanding to further improve the cooperation. SCPAR recommends that the Arctic Council explore the possibility of using UArctic, through its members, to assist the Permanent Participants in their important role and mission.

As the activities and importance of the Arctic Council increase SCPAR is of the opinion that the Permanent Participants must have sufficient financial resources as well as the human capacity to mirror this development.

(vi) OBSERVERS

As a long-time observer to the Arctic Council, SCPAR has found its dialogue with the Arctic Council beneficial to both parties, to the Arctic and its peoples. Representing the people of the Arctic countries, SCPAR appreciates the special role the parliamentary cooperation has been given among the observers to the Arctic Council. This special role should be maintained for the future.

Today the Arctic is increasingly attracting the active and concerned interest of well-meaning countries and country blocs. The Arctic Council now gives observer status to non-Arctic states, inter-governmental and inter-parliamentary organizations, and non-governmental organizations.

What happens to the Arctic environment, with the continuing rise in temperatures and resultant climate change, has wide-ranging consequences for the global environment. SCPAR has always held the view that bona fide parties, accepted as observers, could bring significant scientific, financial and other contributions to the Arctic Council, as long as they commit themselves to respect the criteria set by the Council.

SCPAR, for example, finds it positive to count the European Parliament as one of its initial and actively contributing members. At their Conference in 2010, the Arctic Parliamentarians also took note of the European Union's efforts to develop an Arctic Policy, and encouraged the Arctic Council to consider granting the EU Commission permanent observer status in the Council, in order to strengthen cooperation between the Council and the European Union.

In addressing the above, SCPAR is keenly conscious that the issue of observer status remains both challenging and polarizing. SCPAR notes that at the Nuuk Ministerial in May 2011, the Arctic Council adopted the recommendations of the SAO report that set out provisions on the role and criteria for pending applicants for observer status. SCPAR hopes that this will allow for finding common ground between the concerns of the Arctic States and the aspirations of non-Arctic states with a clear interest in the region. With regard to Arctic governance, this will be a major challenge

during the next few years, and an issue that needs to be resolved in a way that will also allow non-Arctic states to make a constructive contribution to the work of the Council. Accommodating new observers is also likely to lead to new working practices for the Council, in which the role and position of member states, permanent participants and different types of observers is more clearly defined than today.

It is, however, essential to ensure that the role and participation of the Permanent Participants be in no way diminished by a disproportionate influx of observers.

The issue of observers led to an animated discussion among SCPAR members. Members understand and accept the political reality posed by the emerging interest in the Arctic by the world's major power blocs. It is, however, of paramount importance that the well-being, as well as the values and rights, of the peoples of the Arctic region remain the focal priority. The consensus was that the Arctic must not become a setting for activities through which major powers influence forms of development prejudicial to either the long term interests, rights and obligations of the peoples of the Arctic, or the sustainability of the region. Thus, the Council should continuously be aware of the number and role of observers in order to maintain transparency and a structure based on the needs of the peoples of the Arctic.

The conclusion reached by SCPAR was that observer status should be granted cautiously and judiciously, and should always take into account the paramount long-term integrity of the Arctic and its peoples.

