



The Sino-Canadian Exchange on the Arctic: Conference report

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ABSTRACT

The Arctic issues are no longer only of concern to the inter-Arctic, as regards regional matters, rather, they involve the interests of States outwith the Arctic and the overall interests of the international community. In 2018, China issued a White Paper on China's Arctic Policies, which is the first White Paper from the Chinese Government, concerning the Arctic Region. As a proactive actor in Arctic affairs, China is keen to participate in affairs concerning the Arctic, in seeking to build the, 'Ice Silk Road'. In May 2018, Dalian Maritime University organised the 5th Sino-Canadian Exchange on the Arctic, to bring together academics and policy makers, to discuss various issues in this field of research and concern. This brief report provides details of the key issues discussed during the conference which may assist in developing a better understanding, in order to achieve good Arctic governance.

1. Introduction

The 5th Sino-Canadian Exchange on the Arctic was held in the Dalian Jianguo Hotel, on May 20th and 21st, 2018. The conference was co-sponsored by the School of Law, Dalian Maritime University, the China Institute for Marine Affairs of the State Oceanic Administration and the China Society for the Law of the Sea. Nearly 50 scholars, from 16 research institutes and universities in China and Canada, gathered together to discuss issues concerning policy and cooperation as regards the Arctic.

The Arctic has a unique geographical location and from the perspective of economic globalisation and regional integration, the value of the Arctic in terms of strategy, economics, scientific research, environmental protection, shipping routes and resources, has long been recognised but more recently because of the implications of environmental and climate change, it has received widespread attention from the international community. The Arctic issues no longer only concerning inter-Arctic States and regional matters, rather, it involves the interests of States outwith the Arctic and the overall interests of the international community [1]. It has a global significance and international influence on the common destiny of human survival and development.

China is a potential, active stakeholder in the desire to develop the area, given the fact that the distance between Europe and China is much shorter through Arctic sea routes, than via the Suez Canal. A closer look at the shipping companies' strategies and China's Arctic interests, would seem to indicate that China's interest in the Arctic is significant. In 2018, China issued a White Paper on China's Arctic Policies, which is the first White Paper from the Chinese Government, concerning the Arctic Region. As a proactive actor in Arctic affairs, China is keen to participate in matters concerning the region and is seeking to build the, 'Ice Silk Road' [2], with the participation of the Arctic States. China's participation in Arctic affairs not only concerns the development and utilisation of the mineral resources in the area but also the effective protection of the Arctic eco-environment [3]. China's interest in Arctic affairs could prove to be a good opportunity for Canada to voice its

desire to foster cooperation in the region [4].

At the conference, Chinese and Canadian scholars exchanged views and opinions on Arctic governance and international cooperation, based on their research. The conference focussed on three notable issues, namely, recent developments in the Arctic, comparative studies of Chinese and Canadian Arctic policies, as well as strategic and policy cooperation.

2. Recent developments in the Arctic

Professor Aldo Chircop, Dalhousie University, Canada delivered a speech, entitled, *Current Polar Shipping Developments in the IMO and Arctic Council: Tacit or Concerted Cooperation?* He explored connections between initiatives involving the International Maritime Organisation (hereinafter IMO) and the Arctic Council, with respect to the governance of polar shipping. The IMO is an open membership, treaty-based special agency of the United Nations, with over 170 members and numerous organisations with consultative status. The Arctic Council is, however, a closed-membership political forum established by the 1996 Ottawa Declaration and adopted by regional States. The IMO does not have observer status or any other agreement with the Arctic Council. In the same manner, the Arctic Council does not have consultative status at the IMO [5]. Arctic States have frequently cooperated within the structure of the Arctic Council, to anticipate, facilitate and respond to initiatives of the IMO. Arctic States have also launched new cooperative initiatives to enhance best practice in ship safety and environmental protection, which further the goals of IMO regulation and can be expected to receive attention from the IMO for future measures in support of these initiatives, these including, regionalising the approach to port reception facilities in Arctic waters. The presentation concluded by suggesting that, even although the two organisations do not have a formal and structured relationship, they have had the effect of facilitating each other's work in the governance of Arctic shipping [6].

Professor Frédéric Lasserre, Laval University, Canada, examined Arctic shipping and its relationship with oil and gas exploration. He reported that, even although the transit traffic remains small in the

Northwest Passage, there has been an expansion of traffic in Canadian waters. Within this context, there is no clear correlation between ice and traffic volume. Melting ice is not driver but a strong enabler for Arctic shipping [7]. There seems a growing tendency for resource-driven traffic. It is perceived that, natural resource exploitation is likely to generate substantial traffic level. This is affected by three factors, namely, developing new sites, the speed of getting sites in production and world resource prices.

Dr. Yitong Chen, an Assistant Professor from the Ocean University of China, assessed the most recent negotiations conducted by the United Nations, concerning the biological diversity of areas beyond national jurisdiction (hereinafter, BBNJ). The geographic scope of this proposed new BBNJ agreement will cover all marine areas beyond national jurisdiction, including the high seas portion of the central Arctic Ocean. The environmental impact assessment is said to be the focal point for both China and Canada, which should include marine, genetic resources. Appropriate measures which should be taken, to retain the integrity of the area, including the provision of area-based management tools and capacity-building, as well as the transfer of marine technology [8].

Professor Kristin Bartenstein, Laval University, Canada delivered a talk entitled, *Between the Polar Code and Article 234: The Balance Struck in Canada's New Arctic Shipping Safety and Pollution Prevention Regulations*. She explained that the *International Code for Ships Operating in Polar Waters* (hereinafter *Polar Code*) has brought about a much awaited and long-negotiated new instrument. The *Polar Code* portends to be, a specific, internationally agreed upon and binding set of rules applicable to navigation in polar waters, Antarctica and the Arctic. As consequence, Canada repealed its *Arctic Shipping Pollution Prevention Regulations* and replaced them by the *Arctic Shipping Safety and Pollution Prevention Regulations*, which came into effect in January 2018. It is suggested that, the balance between the *Polar Code* and Canadian Regulations can be found from considering two classical, antagonistic goals pursued in the international law of the sea, with respect to international navigation. On the one hand, reconciling environmental protection and security interests, with the core principle of freedom of navigation, requires States to achieve a high level of regulatory uniformity. On the other hand, upholding of unilateral State powers appears to be crucial, not least because of State sovereignty and legitimate interests in determining the level of protection off the relevant coasts, is of great significance [9].

Dr. Mingfei Ma, an Associate Professor at Dalian Maritime University, addressed the issues from a different perspective, that of the protection of cultural heritage in the Arctic. It is perceived that, the cultural heritage in the Arctic can be categorised as having two origins. Firstly, there is indigenous heritage. Secondly, there is heritage which has its origins in differing cultures, usually involving individuals or smaller groups which moved north, mainly to exploit natural resources by means of hunting, trapping, fishing, whaling and mining. The best practice for protection and management consists of a legal or a suitably worded governance framework. The said framework will need to include a cycle of site planning, implementation, monitoring, evaluation and feedback, based on different cultural heritage sites. Outreach measures to educate locals, as well as visitors, will help to promote better understanding. Allocating appropriate financial support should strengthen the efforts to provide and enhance protection. In this respect, an accountable and transparent mechanism should ensure good governance [10].

Professor Hongyan Guo, the China University of Political Science and Law, discussed issues regarding the waterway of the Northwest Passage. Professor Guo concluded by suggesting that the Northwest Passage has the potential to significantly reduce voyage-time which, in turn, would not only be beneficial to the rational use of resources but also conducive to reducing energy consumption and improving navigation safety. The sovereignty issue is not and should not be an insurmountable obstacle, accepting that the history of such territorial

issues is not always encouraging. The Arctic States should discuss potential movement through the Northwest Passage, to combine commercial, as well as the protection of the environment. During this process, some lessons can be learned from the histories of the Suez and the Panama canals. It is also necessary to consider the right of innocent passage, when the Northwest Passage becomes commercialised [11].

3. Comparative studies of Chinese and Canadian Arctic policies

Suzanne Lalonde, a Professor at the University of Montreal, Canada, presented, *New Governance Initiatives in Canada's Arctic Waters*. A national oceans protection plan was introduced, covering the following areas: support safe and clean marine shipping, build partnerships with indigenous and coastal communities, increase economic opportunities for Canadians and improve marine safety, as well as protecting the marine environment. Furthermore, collaboration, partnership and co-management, as well-established concepts, have been the guiding principles for Canadian Arctic governance. An example of the effectiveness of the plan can be found as regards marine navigation, where no single regulatory organisation is responsible for all aspects of Arctic passenger vessel operations. Shipping in the Canadian Arctic, instead, falls under a 'joint-management model', whereby a variety of federal, provincial and territorial government departments and agencies, along with indigenous and local communities and regulatory boards, all play separate and important roles [12]. Some challenges have been identified as regards low-impact shipping corridors, such as post-glacial rebound, noise and odour affecting the marine mammal habitat and migratory patterns. Waves may hasten coastal erosion, as will the more obvious risks of oil spills and the discharge of ballast waters, in terms of potential invasive species [13].

Professor Whitney Lackenbauer, University of Waterloo, Canada, focused on, *The Trudeau Government's Emerging Arctic Policy Framework*. He reported that, the Trudeau Government has apparently no current thoughts as regards major changes to Canada's Northern strategy, but is rather increasing focus on indigenous rights, the mitigation of climate change and an emphasis on diplomacy and cooperation, as well as unobtrusive continuation of Arctic defence commitments. It is suggested that, Canada's integrated Northern strategy covers four aspects, namely, sovereignty, economic and social development and environmental protection, governance. It is also perceived that, science and technology underpin all four pillars. At the international level, Canada should strengthen its role as an Arctic knowledge leader and improve circumpolar scientific cooperation and understanding of indigenous and local knowledge, through improved science diplomacy [14].

Professor Yen-Chiang Chang presented a talk, entitled, *The Legal System of Ecological Environmental Protection in the Exploration of Mineral Resources in the Arctic Ocean—The Enlightenment to China*. Professor Chang indicated that, China issued a White Paper on China's Arctic Policies in 2018, which is the first White Paper from the Chinese Government, concerning the Arctic Region. His talk aimed to discuss practices and contributions China has made concerning the exploitation of marine mineral resources and the protection of the marine environment, on the continental shelf. The focus then turned to the adaptation of Chinese law regarding the Arctic Ocean. In this regard, some lessons can be learned from other State practices [15]. His speech concluded by suggesting that, China should actively participate in the Arctic Ocean's mineral resources development and ecological environmental protection work. There is also a need for China to improve laws governing the ecological environment protection obligations on Chinese and foreign enterprises, in order to provide a legal basis for the ecological environment protection of China's maritime areas.

Dr. Cheng Zhang, a Research Associate from Wuhan University, China, discussed the possibility for Sino-Canadian Arctic cooperation. It is proposed that, at the international level, cooperation should be conducted under the guidance of UNCLOS, the Arctic Council and the Polar Code, as well as by bilateral treaties. In addition, at the domestic

level, different types of cooperation can be introduced at the central government, local government and non-governmental levels.

Given the fact that, China supports initiating the ‘Polar Silk Road’, Zelin Wang, an Associate Professor from Northwest University of Political Science and Law, delivered a talk, entitled, *Co-building Polar Silk Road and Freedom of Navigation*. While China is hoping to work with all parties to build a ‘Polar Silk Road’, through developing the Arctic shipping routes, Arctic States have perceived the essence of freedom of navigation quite differently. There seems to be no treaty provision covering this issue and it is clear that there are different interpretations of what should be, some of which have already triggered some disputes. It is essential for all interested States to seek consensus and joint development over the Arctic shipping routes and freedom of navigation issues [16].

4. Strategic and policy cooperation

Professor David L. VanderZwaag, Dalhousie University, Canada, focused on fishery governance issues as regards the central Arctic Ocean. The main focus should be determining if there might be future commercial fisheries and if so, then making efforts to prevent unregulated commercial fishing in the central Arctic Ocean. Following on from the aforementioned, it is essential that the current unsettled legal situation and policy must be flagged. Firstly, it is necessary to resolve the future of central Arctic Ocean fisheries governance. Secondly, there is a need to decide on a course of action for the IMO. Thirdly, it is also required to establish the international law and policy framework, specifically for polar bear conservation, is adequate and robust. Fourthly, the issue of it will be determining the extended continental shelf boundaries in the Arctic and future seabed development, must be addressed. Fifthly, a legally-binding instrument, under UNCLOS, on the conservation and sustainable use of marine biological diversity in areas beyond national jurisdiction, requires unambiguous and robust regulation, not least because, history would indicate that, no matter the purported good intentions, in situations where there are political, commercial environmental considerations, it is essential that all these aspects receive equal treatment and any agreement must balance these aspects [17].

Associate Professor, Ray Tsung-Han Tai, Shandong University, China, delivered a speech, entitled, *Fishery Cooperation in the Barents Sea: A Window of Opportunity to the Scarborough Shoal*. There is a sovereignty rights dispute between Russia and Norway over the Barents Sea. As a result, three phases of cooperation have been concluded between the two parties. Phase one, a Joint Fishery Commission was established for the purposes of fishery conservation and management in the Barents Sea. Phase two, a Provisional Measure Zone was introduced for the purpose of resolving overlapping maritime areas in the Barents Sea. Phase three, politically oriented negotiation was conducted, aimed at resolving overfishing in the area under consideration. The, ‘Three Phases’ approach provides an excellent template for the Scarborough Shoal dispute, between China and the Philippines [18].

Dr. Adam Lajeunesse, the Irving Shipbuilding Chair in Canadian Arctic Marine Security Policy and an Assistant Professor at the Mulroney Institute of Government, discussed issues regarding Chinese marine traffic in the Northwest Passage. China has declared that, it respects the legislative enforcement and adjudicatory powers of the Arctic States in the waters subject to their jurisdiction [19], however, Canada regards the Northwest Passage as being historic/internal waters, defined by its straight baselines. The result of these differing views is that, there is no right of passage. Canada has, however, long desired increasing activity in the region, to encourage local development. Within this context, Canadian waters are open to Chinese maritime traffic, however, such activity must take place within the framework of Canadian sovereignty and jurisdiction [20].

Professor Jiayu Bai, the Ocean University of China, spoke on the necessary legal system required for Arctic cooperation, encompassing

the good governance ideal. Good Arctic governance requires the stakeholders to coordinate the interests of all concerned, through consultation and cooperation, as well as fully embracing the Arctic public interests. In order to achieve the aforesaid objective, there is a need to expand the bilateral and multilateral Arctic cooperation currently operated by stakeholders in the Arctic. The effective implementation of legal rules could be better performed via a platform, such as that offered by international organisations. China’s position on the Arctic governance has been gradually improved since it became a permanent observer of the Arctic Council in 2013. It is important for China to underline the principle of good faith and to commit itself to ensuring the effective implementation of legal rules regarding Arctic cooperation. There is also a need to emphasise the functions of the rule of law and improve the development of the legal system relating to Arctic cooperation [21].

5. Conclusion

This conference rotates every two years between Chinese and Canadian institutes and it has been in existence for 10 years, as at 2018. The arrangement encourages accepting the imperative of cooperation and continued academic discussion. It is encouraging to see scholarly communication between Arctic States and non-Arctic States. No single entity can achieve good Arctic governance alone and participation by all stakeholders is the only effective way of ensuring better performance and most importantly, better mutual respect and understanding. This established biannual conference demonstrates a collaborative way forward for Arctic communication and it is to be hoped that the venture will continue, for many years to come.

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