

Strengthening the Capacity of the Arctic Council:

Is the Permanent Secretariat a First Step?

Belén Sánchez Ramos

The Arctic Council was created in 1996 as a high level intergovernmental forum to promote cooperation, coordination and interaction between the Arctic States. It has two primary objectives: i) to promote environmental protection; ii) sustainable development in the Arctic region. The Arctic Council is the primary forum for international cooperation in the region, and the Permanent Arctic Council Secretariat was created with the aim of responding to the different challenges it faces. According to its Terms of Reference “the Secretariat will enhance the work of the Arctic Council through the establishment of administrative capacity and by providing continuity, institutional memory, operational efficiency, enhanced communication and outreach, exchange of information with other relevant international organizations and to support activities of the Arctic Council”. So while a Permanent Secretariat has been created, no changes have been made to the structure of this intergovernmental forum (i.e. working groups) and the way the decisions are taken. We believe that the main question to be explored is to what extent this change will be sufficient in order to reinforce the capacity of the Arctic Council, or if it would be desirable to go even further, with the creation of an international organization. It is also necessary to analyze the new criteria for admitting observers and their involvement in the Arctic Council. In this case, the European Union applied to become an observer to the Arctic Council on 1 December 2008.

Introduction

Since 1996, when the Arctic Council (AC) was created, the environmental situation in the Arctic has changed dramatically. Today, strengthening the capacity of the Arctic Council is essential in order to reduce the effects of climate change in the Arctic region. Over the last few years, a significant decrease in the amount of sea ice has been reported due to increased global and regional temperatures.¹ One of its consequences is that seasonal freight routes are beginning to be accessible for longer periods each year. It also means easier access is available to natural resources such as oil, gas, marine species and various raw materials. Moreover, the Arctic is itself

Belén Sánchez Ramos is a Senior Lecturer in International Public Law at the University of Vigo, Spain.

an area of growing strategic importance. In this context, the structure of the Arctic Council has evolved slower than problems caused by climate change have arisen: “the founding values, objectives and commitments of the Arctic Council will continue to be the North Star that guides our cooperation” (Vision for the Arctic, Kiruna, 2013: 3).

This article studies how to strengthen the AC in order to face up to these new scenarios by means of the “package solution” and, consequently, the creation of the Arctic Council Secretariat, the role of observers and the nature of the decisions taken in the Arctic Council.

The Arctic Council: From the Ottawa to the Kiruna Declaration

In 1999, Evan Bloom pointed out that “the Arctic Council is the only major intergovernmental initiative for the Arctic involving all eight Arctic States” (Bloom, 1999: 712). This idea² was recently reaffirmed in the Kiruna Declaration adopted in Sweden, 15 May 2013, which reminds us that “the Arctic Council is and continues to be the primary forum for Arctic cooperation”³ (Senior Arctic Officials’ Report to Ministers, Kiruna, 15 May 2013: 3).

Although the AC is still the only intergovernmental forum for circumpolar cooperation, we should ask whether this initiative – with a structure that has remained virtually unchanged since its creation – should evolve, and how, in order to face up to the challenges of the coming years.

The AC was created in 1996 as a “high level forum” to “provide a means for promoting cooperation, coordination and interaction among the Arctic States, with the involvement of the Arctic indigenous communities and other Arctic inhabitants on common Arctic issues” (Declaration on the establishment of the Arctic Council. Ottawa Declaration, 1996). Therefore, from a strictly legal point of view, the AC is a high level forum⁴ and not an ‘International Organization’. This has important consequences for both its international configuration and its external dimension, namely its capacity to interact with other international subjects. Internally, the AC is an intergovernmental forum characterized by the participation of indigenous peoples, and where the States have a very wide-ranging capacity to define the AC’s goals and to make decisions that are not legally binding for its member states. However, its legal nature also implies important limitations in the external field: it cannot participate as a member in other International Organizations, nor can it sign international agreements with other subjects, as established in the Vienna Convention on the law of Treaties, and the Vienna Convention on the law of Treaties between States and International Organizations.

Therefore, although it is clear that the AC is the only major intergovernmental initiative for the Arctic involving all eight Arctic States, the question is whether its current configuration, as a political forum, allows it to develop and play its role in the global governance in the Arctic. This governance has an internal dimension – involving relations between the Arctic states, the Permanent Participants and the observers – and also an external dimension, as many of the issues in the short, medium and long term go beyond the jurisdiction of its states, and are of interest to the international community as a whole. In this sense, we believe that the fundamental issue is the capacity of the AC to play its role in the global governance of the Arctic in both its internal dimension – with weaknesses derived from its structure and the non-legally binding nature of its decisions – as well as in global terms, and, specifically, developing an external action in line with its objectives.

The “Package Solution”⁵ to Strengthening the Arctic Council

At the Deputy Ministers’ meeting held in May 2010, it was decided to work on four main issues with the aim of strengthening the AC in order to face the rapidly changing circumstances in the Arctic that have increased the challenges and opportunities in both volume and complexity⁶: 1) the role of observers and configuring their participation; 2) the question of a permanent secretariat; 3) the question of budgeting expenditure; and 4) the nature of the decisions taken in the AC and the increased use of task forces.

As we will explain, a series of decisions about these questions were developed and adopted at the AC’s Ministerial Meetings held in Nuuk (2011) and in Kiruna (2013). In order to study if and how these new decisions strengthen the role of the AC, we will summarize them in three sections: 1) the establishment of the Permanent Arctic Council Secretariat; 2) the role of observers in the AC; and 3) the nature of the decisions taken at the Arctic Council.

The Establishment of the Permanent Arctic Council Secretariat: Changing the AC’s Structure after Fifteen Years

The establishment of an Arctic Council Secretariat (ACS) is the only reform of its structure⁷ that has been carried out in the AC since its creation in 1996. The aim of reinforcing its role was already present in the Tromsø Declaration (2009) in two ways: 1) the political role of the Arctic Council by having a meeting at deputy Minister level, with representatives of Permanent Participants, in order to discuss emerging issues between Ministerial meetings; and 2) a further consideration on the best way of structuring the Arctic Council in order to fulfill its objectives stated in Ottawa Declaration, that is, “sustainable development in the Arctic region, including economic and social development, improved health conditions and cultural well-being and affirming concurrently our commitment to the protection of the Arctic environment, including the health of Arctic ecosystems, maintenance of biodiversity in the Arctic region and conservation and sustainable use of natural resources”. In this sense, the rapid evolution of the effects of the climate change on this area⁸ required a strengthening of the AC⁹ by means of the creation of a Permanent Secretariat, and four new Task Forces: 1) on arctic marine oil pollution prevention (TFOPP); 2) for action on black carbon and methane (TFBCM); 3) for enhancing scientific cooperation in the Arctic; and 4) to facilitate the creation of a circumpolar business forum.

Finally, the decision on the creation of the ACS was adopted on the occasion of the seventh Ministerial Meeting of the Arctic Council (Nuuk Declaration 2011: b2) as one of the elements that should contribute to the strengthening of the AC. In this sense, the Nuuk Declaration states that members “(...) decide to strengthen the capacity of the Arctic Council to respond to the challenges and opportunities facing the Arctic by establishing a standing Arctic Council Secretariat”. The headquarters of the ACS is in Tromsø, Norway and officially opened in June 2013 after the Eighth Ministerial Meeting of the Arctic Council in Sweden.

At the same time as taking the decision to create the ACS, the *Task Force for Institutional Issues*¹⁰ (TFII) was established, as the creation of the ACS implies a change in the structure of the AC involving an adaptation of the *Rules of Procedure* (Iqaluit: 1998), as well as approving the necessary instruments for the functioning of the ACS. Accordingly, the activity of the TFII focused on two areas:

1. Reviewing the AC's Rules of Procedure that were adopted at the first of the AC's Ministerial Meetings (Iqaluit: 1998). These rules were revised for the AC at the eighth AC Ministerial Meeting (Kiruna: 2013). The revision deals with the Chairmanship – meaning the Arctic State that chairs the Arctic Council during the particular 2-year period in question – and the Arctic Council's Secretariat, located in Tromsø, as well as the criteria for admitting observers and their involvement in the AC, as discussed below.
2. Providing a legal framework to establish the Arctic Council's Secretariat in Tromsø. This included developing the AC Secretariat's *Terms of Reference*, *Staff Rules*, *Financial Rules*, *Roles and Responsibilities of the Director* and the *Work Plan and Budget for 2013* (all of these documents were adopted by the Arctic Council's Deputy Ministers in May 2012). The TFII is also engaged with the Host Country on the legal relationship between the Host Country and the Secretariat, including the extension of appropriate privileges and immunities, and the review of any corresponding Host Country Agreement. The Host Country Agreement was signed in Tromsø on 21 January 2013 (SAOS Report to Ministers, Kiruna 2013: 62)

The basic functioning of the ACS is detailed in the *AC Secretariat's Terms of Reference* and the *Roles and Responsibilities for the AC Secretariat Director*¹¹. The main aim is to “enhance the work of the Arctic Council through the establishment of administrative capacity and providing continuity, institutional memory, operational efficiency, enhanced communication and outreach, exchange of information with other relevant international organization and to support activities of the Arctic Council” (Terms of Reference of the Arctic Council Secretariat, 2012: point 1). In order to achieve this goal, article 2.2 states that the ACS will perform the following functions: 1) administrative and organizational support; 2) communication and outreach; 3) finance and Human Resources; 4) other services and functions as may be required and directed by the AC and its Chair; and 5) language questions.

In the author's opinion, three of these functions – administrative and organizational support; communication and outreach, and other services and functions as may be required and directed by the AC and its Chair – have a significant potential to contribute towards improved coordination and coherence in the internal and external dimension of the governance of the Arctic.

With regard to its internal governance, we believe that the ACS becomes a “kind of link” between the different working groups and task forces that operate in the AC, as well as the observers and the Chairmanship. For this reason, the ACS will probably be the only structure aware of the projects being carried out by each of these bodies, becoming a permanent channel of information between the different categories of participants of the AC (members, PPs and observers) as well as the different working groups. In other words, the ACS will contribute towards achieving greater coherence in the functioning of the AC¹² with a view of avoiding any overlapping thematic projects and discussions.¹³

With respect to global governance, the ACS can contribute towards positioning the AC in international forums and organizations operating in areas that have an influence on the Arctic. Here the Director of the Secretariat can play an important role, because as stated in point 3.4 of the *Terms of Reference of the ACS* “(...) they will represent the Secretariat externally when directed by the SAO Chair”. Although this potentially external role is a positive step, we believe that a more relevant involvement is desirable, in order to be the visible head of the AC under the

supervision of the Chairmanship or the SAO Chair. It is important to note that point 11 of the *Rules of Procedure of the AC* (Kiruna, 2012) states that “the Chairmanship, an Arctic State, or other subsidiary bodies may undertake communications on AC matters with other international fora as may be agreed to in advance by the Arctic States”. Accordingly, any of these parties – the Chairmanship, an Arctic State or other subsidiary bodies – could speak in the other international forums or organizations on behalf of the AC. However, it seems clear that this multiplicity of external representatives can hardly contribute towards the visibility and coherence of the AC in its external actions.¹⁴

Neither should we forget that under the supervision of the Chairmanship, the ACS has a key role in implementing the communication strategy of the AC, as derived from the *Terms of Reference of the ACS* and the *Communication Strategy for the Arctic Council*¹⁵, another element that may contribute towards strengthening the AC. This Communication Strategy has both an internal and international dimension: 1) the internal dimension focuses on facilitating cooperation, creating synergies and avoiding overlaps in communication work (Communication Strategy: 141: 2) the international dimension focuses on ensuring that the AC is present at meetings where issues concerning the Arctic region are discussed. As the SAO pointed out, “by improving internal and external communications and procedures, the AC has been able to act more coherently and effectively” (Senior Arctic Official’s Report to Ministers 2013: 3).

Because the ACS has only recently opened its doors (in June 2013) – it is impossible to evaluate its contribution towards strengthening the AC. At first glance, we believe that the ACS may indeed contribute towards reinforcing the role of the AC, although the scope of this contribution will depend on the determination of the different parties involved (member states, PPs, Observers, working groups, task force, etc.), as a permanent exchange of information is required in this process.

In conclusion, as the Nuuk Declaration states, “efforts have been devoted to strengthening the institutional framework of the Arctic Council. The establishment of a standing secretariat in Tromsø (...) is the most important achievement” (Senior Arctic Officials’ Report to Ministers, Kiruna, 2013: 3). In this sense, the Permanent Secretariat is always an essential “institution” in the work of International Organizations through its visibility.¹⁶

The Role of Observers¹⁷

The Observer is a classic figure in International Law, providing access to an International Organization (IO) or to International Conferences or Forums to parties who cannot be involved as members, but who have an interest in the activities that the IO carries out.¹⁸ However, although these figures are quite common, the only characteristic they share is their lack of voting rights. Their capacity to act differs from one IO to another, and even from one organ to another within a given organization.¹⁹

The AC regulates observers’ status in the Ottawa Declaration: (a) non-Arctic States; (b) global and regional inter-governmental and inter-parliamentary organizations, and (c) non-governmental organizations.²⁰ At a later stage, matters associated with admission criteria and their ability to act in the AC were developed and included in the *Rules of Procedure* (Iqaluit: 1998). After the adoption of these Rules, several States, International Organizations and Non-Governmental Organizations have been admitted as permanent observers, a process requiring the consent of all eight member

States.²¹ Regarding their capacity to participate in the work of the AC, it should be noted that: 1) observers may be invited to Ministerial meetings and/or other meetings and activities of the Arctic Council; 2) they may make statements at the discretion of the Chair and submit relevant documents to the meetings; and 3) any observer that engages in activities which are at odds with the Council Declaration shall have its status as an observer suspended.²²

However, distrust in this figure by member States²³ and PPs²⁴ led to a breakdown of the admission process, as “ministers were unable to articulate a shared vision on observers” (Canada as an Arctic Power, 2012: 6), stating on the occasion of the sixth Ministerial Meeting that they “decide to continue discussing the role of observers in the Arctic Council” (Tromsø Declaration 2009: 9). In this case, Young pointed out that:

[G]iven the profound links between the Arctic and the outside world, it makes no sense to relegate outsiders (for example Britain, China, France, Germany, the European Union) to the status of observers who seldom even get to speak at council sessions. Since the actions of these states are critical to efforts to regulate global processes (for example climate change, globalization) that will affect the Arctic profoundly, any procedure that leaves these actors increasingly frustrated and unhappy in their dealings with the council will be counterproductive (Young, 2009: 80).

On the occasion of the seventh Ministerial Meeting of the AC, the Ministers representing the eight Arctic States adopted the recommendations of SAOs on the *Role and Criteria for Observers to the AC* and decided to apply these criteria to evaluate pending applicants for observer status. In our opinion it is interesting to highlight three points of these criteria for admitting observers and their involvement in the AC: 1) that the observers may recognize Arctic States’ sovereignty, sovereign rights and jurisdiction in the Arctic (this criterion is somewhat surprising, as respect of a state’s sovereignty is one of the basic tenets of International Law); 2) that decisions at all levels in the AC are the exclusive right and responsibility of the eight Arctic States with the involvement of the Permanent Participants (again, the inclusion of this statement is surprising as it was already included in the Ottawa Declaration²⁵); and 3) that observers may propose projects through an Arctic State or a Permanent Participant, but financial contributions from observers to any given project may not exceed the financing from Arctic States, unless otherwise decided by the SAOs (Senior Arctic Officials Report to Ministers, 2011: 50). In this author’s opinion, these criteria demonstrate mistrust in the role that observers can play in the AC, and in particular in the possibility that they may acquire a greater role than Arctic States and PPs. These criteria focus on achieving a balance firstly between the necessary participation of observers, who cannot be absent in the only forum that promotes the cooperation in the Arctic, especially if we consider that we are referring to non-Arctic States or IO who, for different reasons, are especially interested in this zone; and secondly, the role of the Arctic States who, together with the PPs, are the “leading actors” of this Forum of cooperation.

Therefore, on the basis of the above-mentioned *Role and Criteria for Observers to the AC*, on the occasion of the Eighth Ministerial Meeting of the AC, China, India, Italy, Japan, the Republic of Korea and Singapore were admitted as new observer States²⁶ (Kiruna Declaration, 2013: 6). By contrast the AC “(...) receives the application of the EU for observer status affirmatively, but defers a final decision on implementation until the Council ministers are agreed by consensus that the concerns of Council members, addressed by the President of the European Commission

in his letter of 8 May are resolved, with the understanding that the EU may observe Council proceedings until such time as the Council acts on the letter's proposal". Catherine Ashton, High Representative of the European Union for Foreign Affairs and Security Policy and EU Commissioner for Maritime Affairs and Fisheries, Maria Damaniki, made the following statement with regard to this decision:

The EU welcomes the Arctic Council's decision on the EU's application for permanent observership. The EU considers the Arctic Council a primary international forum for Arctic cooperation and looks forward to stepping up its engagement with the Arctic partners in tackling the challenges faced by this region of increasing importance. Further to previous exchanges with the Canadian authorities, the EU will now work expeditiously with them to address the outstanding issue of their concern.²⁷

Here the question is whether or not the AC should deny the status of observer to the European Union. To a certain degree, the European Union is already represented in the AC through its members and observers which, in turn, are members of the EU; however, taking into account its competences and the diverse actions adopted about this region, "the EU as a legal person should be distinguished from its member states" (Koivurova, Kokko, Duyck, Sellheim and Stepien, 2012: 368).

Finally, it is important to mention the adoption of the *AC Manual for Subsidiary Bodies* (Kiruna, 2013). While an examination of this Manual goes beyond the scope of this article, it should be noted that its goal is to establish the role of observers with a fundamental purpose: to maintain the direction of the AC for its members and PPs, as defined from the Ottawa to the Kiruna Declarations. In particular, point 6 states that "the primary role of observers is to observe the work of the AC. Furthermore, observers are encouraged to continue to make relevant contributions through their engagement primarily at the level of working groups".

The Nature of the Decisions Taken in the Arctic Council

The SAOs pointed out in their Report to Ministers (Nuuk 2011: 49-50) that "the AC will continue to work towards solutions to address emerging challenges in the Arctic utilizing a wide range of approaches, including scientific assessments; policy statements; guidelines, recommendations; best practices; and new legally binding instruments. Working Groups will remain the principal means for advancing the substantive work of the AC, including the organization of activities to follow up on findings and recommendations of assessments".

Although the nature of the decisions taken in the AC and the increased use of task forces were one of the issues of the "package solution" aimed at strengthening the AC, they do not contain anything new. Firstly, there is no change in how decisions will be adopted: all of the Arctic Council's decisions will be adopted through the consensus of all eight Arctic States²⁸, and secondly, they are not binding decisions. However, the Task Forces are very important for two reasons: firstly, their number and specialization and secondly, the type of decisions that can be adopted. As the SAO pointed out "Task Forces may be necessary for specific initiatives that require unique expertise and, in those instances, the composition and mode of operation of the Task Force would be determined on a case-by-case basis" (SAO Report to Ministers, Nuuk, 2011: 49-50).

If we examine the Kiruna Declaration (2013), we see that four new Task Forces have been created for the period 2013-2015: 1) the Task Force for action on Black Carbon and Methane; 2) the Task Force on Arctic Marine Oil Pollution Prevention; 3) the Task Force for enhancing scientific Cooperation in the Arctic; and 4) the Task Force to Facilitate the creation of a Circumpolar Business Forum. We would draw attention to the last Task Force, as its main objective is:

to advance circumpolar business development by creating a Circumpolar Business Forum (CBF) to bring circumpolar business perspectives to the work of the AC, providing value to Arctic States and Permanent Participants. The CBF will focus initially on responsible resource development, and would provide a venue for industries, and indigenous businesses operating in the Arctic to advance Arctic-oriented business interest, share best practices, forge partnerships, and engage in deeper cooperation.²⁹

This is the first time that the AC has proposed the idea of creating another forum for cooperation between the Arctic States, meaning the existence of *two* forums of circumpolar cooperation. Although each of these forums will have its own field of competence, several crucial questions will arise concerning their functioning (such as their objectives and governance structure), and also the link between the AC and the CBF: will the new Forum contribute towards the global governance of the region? Would a new body in the AC be more effective and coherent than the CBF? The forthcoming drafts from the Task Force will provide us with the answers to these questions.³⁰

Finally, it should be noted that under the auspices of the AC (more specifically, two Task Forces) the *Agreement on Cooperation on Aeronautical and Maritime Search and Rescue in the Arctic* (Nuuk Declaration, 2011) and the *Agreement on Cooperation on Marine Oil Pollution Preparedness and Response in the Arctic* (Kiruna Declaration, 2013) have been negotiated and signed by the eight Arctic States. These are normal international treaties, negotiated under the auspices of the AC. Yet, even if negotiated under the AC auspices, it is the customary law of treaties that applies to these conventions as codified by the Vienna Convention on the law of treaties.

Conclusions

This article analyzes how to strengthen the AC by means of the “package solution” and, consequently, the creation of the Arctic Council Secretariat, the role of observers and the nature of the decisions taken in the Arctic Council. In addition to various considerations set out in the main body of text, we would like to point out that, in view of the Kiruna Declaration, the ACS is not an end point on the path towards strengthening the AC:

The work of the AC continues to evolve to respond to new challenges and opportunities in the Arctic, request Senior Arctic Officials to recommend ways and means to strengthen how the work of the AC is carried out including identifying opportunities for Arctic States to use the Council’s work to influence and shape action in other regional and international fora as well as identifying approaches to support the active participation of Permanent Participants, and to present a report on their work at the next Ministerial meeting in 2015 (Kiruna Declaration 2013: 6).

The open question is where these changes are heading. Today we do not have an answer to this question, but there are several alternatives that would help to strengthen the AC. We would suggest two: 1) to continue strengthening the AC by means of external action (for example, the International Maritime Organization (IMO) is working on a binding Polar Code, although the AC does not participate in this Organization) or by means of greater coordination between its participants; 2) we believe that the creation of an International Organization is the best way to improve the global governance of the Arctic. In this sense, the AC needs to take a further step towards being an International Organization, in a similar way as the step taken in the past from the Arctic Environmental Protection Strategy (AEPS) to the Arctic Council. The objective of this International Organization would be the strengthening of the cooperation between the Arctic States, given the special characteristics of that area. There is no single model for International Organizations, so the Arctic States could choose a flexible design according to their interests and goals. However, the recent creation of the Task Force to facilitate the creation of Circumpolar Business Forum indicates that the changes are heading in another direction.

Acknowledgments

I am grateful to two anonymous referees whose comments and suggestions substantially improved this article. Remaining errors are the sole responsibility of the author.

Notes

1. In 2012 alone, a new minimum for the extent of Arctic sea ice was set in September, eclipsing the dramatic previous new low set only five years before in 2007; the sea surface temperature on the ice margins continued to exceed the long-term average; the Greenland ice sheet experienced melting over some 97 per cent of its expanse in a single day; and massive phytoplankton blooms were measured below the Arctic summer sea ice, an indication that biological production may be lower than originally estimated. The reduction in sea ice extent bears emphasis: the last six years, 2007-2012, have produced the “six lowest sea ice minimum extents since satellite observations began in 1979”. See Arctic Ocean Review Project 2009-2013. Final Report-Phase II 2011-2013. 8th Arctic Council Ministerial Meeting, Kiruna, Sweden, 15th May 2013.
2. In this sense Graczyk and Koivurova (2013) pointed out that “established in 1996, the region’s primary forum today is the Arctic Council, which has reached a turning point and is undergoing important changes to combat rising challenges posed by climate change and globalization” (1).
3. Although in May 2008 the five coastal States (United States, Canada, Norway, Russia and Denmark/Greenland) established an ad hoc institution in form of occasional foreign minister meetings (see Ilulissat Declaration), we believe that the AC is the primary forum in the region, because it includes all Arctic States, indigenous representatives and observers.

4. “The establishment of the Arctic Council as a forum without legal personality, and thus not as an ‘international organization’ as that term is understood under international law was and objective of the United States and is consistent with a tendency in recent American diplomatic practice to seek an informal cooperative structure when the structure is adequate for the purposes of the issues involved” (Bloom 1999: 712).
5. Expression used by the *Senior Arctic Officials. Report to Ministers*, Nuuk, Greenland, May 2011.
6. See Senior Arctic Officials (SAO) Report to Ministers, Nuuk, Greenland, May 2011: 48. In this sense, the Tromsø Declaration on the occasion of the Sixth Ministerial Meeting of the Arctic Council (the 29 of April, 2009) pointed out some of the changes that should be undertaken: 1) regarding human induced global climate change as one of the greatest challenges facing the Arctic; 2) deeply concerned by the escalating rate of warming of the Arctic climate, which will likely also affect the rest of the world; 3) noting the extensive reduction of sea ice coverage and thickness resulting in increased marine access to the Arctic, and acknowledging the stress being placed upon sea-ice dependent and other species; 4) noting that the trans-boundary pollutants, including air pollutant emissions, heavy metals and persistent organic pollutants continue to be a major concern. Moreover, the Nuuk Declaration (2011) states that “recognizing that rapidly changing circumstances, in particular the changing climate, have increased the challenges and opportunities facing the Arctic in both volume and complexity, and underscoring the importance of strengthening the Arctic Council to address this change”.
7. We would like to point out that, although new working groups were incorporated, the structure remains unchanged. However, we believe that the Permanent Arctic Council Secretariat entails a change.
8. In this sense, the Senior Arctic Officials Report to Ministers (Kiruna, 2013) establishes that “the Arctic is changing rapidly. These changes are a source of both challenges and opportunities. Climate change affects not only the environment but all Arctic inhabitants, and especially the traditional way of life and cultures of the indigenous peoples. At the same time, the business community’s growing interest in the region may create opportunities for more economically advantageous living conditions”.
9. “As we embark on the second round of chairmanship, we will continue our work to strengthen the Arctic Council to meet new challenges and opportunities for cooperation, and pursue opportunities to expand the Arctic Council’s roles from policy-shaping into policy-making”, *Vision for the Arctic* (Kiruna, 2013: 3).
10. See *Mandate for Task Force for Institutional Issues (2011-2013)*. SAO Report to Ministers, Nuuk, 2011: 56.
11. See also, AC Secretariat Staff Rules (DMM02-15May 2012-Stockholm, Sweden); AC Secretariat Financial Rules (DMM02-15May 2012-Stockholm, Sweden), AC Secretariat Work Plan and Budget for 2013 (MM08-15May 2013, Kiruna, Sweden).
12. “By improving internal and external communications and procedures, the AC has been able to act more coherently and effectively”, SAO Report to Ministers, Kiruna, 2013: 3.

13. Emerging Challenges in the Arctic. Arctic Council Deputy Ministers' meeting on May 27, 2010 Ambassador Hannu Halinen SAO – Finland.
14. The external representation is a very complex issue, even in those cases where a designed framework exists. The European Union is a good example. See, Sánchez Ramos, B (2011). La representación exterior de la Unión Europea tras el Tratado de Lisboa. En busca de la Unidad, eficacia y coherencia in Sobrino Heredia, J.M (dir) Innovación y conocimiento. IV Jornadas Iberoamericanas de Estudios Internacionales, Lisboa 23, 24 y 25 de noviembre de 2009: 481-490.
15. See SAO Report to Ministers, Nuuk, 2011 and Communication Strategy for the AC. SAO Official Report to Ministers, Annexes, Kiruna 2013.
16. In this sense, Selheim (2012) says that “therefore, it can be expected that the Arctic Council Secretariat, which supports the Chair of the Arctic Council, after taking its new permanent form is expected to be of a similar character as other secretariats. This will allow the Arctic Council to pursue its purpose on a solid administrative basis that will allow it to develop in a stable and efficient manner”, 64-65.
17. The aim of this section is to study the contribution of observers to the strengthening of the AC. Other aspects such as the admission process, function, etc, are beyond the scope of this work.
18. For example, the European Union has observer statute in a number of International Organizations such as United Nations' the WHO or the OIT.
19. For example, the European has observer status in some organs of United Nations like the General Assembly but not in the Council of Security. See, Sánchez Ramos, B (2004): La Unión Europea y las Relaciones Diplomáticas, edit. Tirant lo Blanch, Valencia; Smith, K.E (2013): “The European Union and the Politics of legitimization at the United Nations”, *European Foreign Affairs Review* 18, nº 1.
20. We believe that it is relevant that Ottawa Declaration designates the possible observers because other Forum and International Organizations don't specify them.
21. AC Rules of Procedure, art. 37 (Iqaluit: 1998).
22. AC Rules of Procedure, arts. 37 and 38 (Iqaluit: 1998).
23. Graczyk and Koivurova (2013) pointed out that “Arctic states' reluctance to engage with external entities stems from a preoccupation with their own interests, as well as added anxiety surrounding the notion that powerful, global players could be able to jeopardise the current consensus on governance principles established by the Ilulissat Declaration (...) Moreover, these concerns are supported by PPs who are anxious because of Outsiders' lack of understanding regarding their culture and traditions, as shown, for instance, by the EU's ban on seal products”, 5.
24. “(...) solve the observer question while maintaining the key role of the Arctic States and Permanent Participants”. SAO Report to Ministers, Nuuk, 2011: 3.
25. In this sense, Graczyk and Koivurova (2013) pointed out that “this can be perceived as a response to the joint statement made by state observers, delivered during the November 2008 SAO meeting in Kautokeino, Norway, which articulated how observers wished to contribute not only on matters of science but also with regard to decision making”, 8.

24. By contrast, the AC did not consider the application of Greenpeace.
25. Joint Statement by EU High Representative Catherine Ashton and EU Commissioner Maria Damanaki regarding AC decision on EU's observer status, Brussels, 15 May 2013. A 255/13.
28. "In the even that a Ministerial SAO meeting is held without the attendance of all eight Arctic States, consistent with Rule 3 (six of the Arctic States shall constitute a quorum for purposes of holding a Ministerial or Senior Arctic Official meeting) decisions may be taken by a consensus of all Arctic States present, subject to confirmation in writing by the absent Arctic States within 45 days after receiving notice of the decision. Decisions of working groups, task forces or other subsidiary bodies may be adopted by consensus of all Arctic States present, subject to any objection in writing by an absent Arctic State with 30 days after receiving a report containing the decision". So, Permanent Participants and Observers do not participate in this process. See AC Rules of Procedure (Kiruna, 2013).
29. SAO Report to Ministers, Kiruna, 2013, 73-75.
30. The Arctic Circle was created in April 2013. It aims to support, complement and extend the reach of the work of the Arctic Council by facilitating a broad exchange of ideas and information at an open gathering held in mid-October of each year. The first meeting will be held in October 2013. The mission of the Arctic Circle is to facilitate dialogue and build relationships to address rapid changes in the Arctic. Participants in the Arctic Circle include a range of global decision-makers from all sectors, including political and business leaders, indigenous representatives, nongovernmental and environmental representatives, policy and thought leaders, scientists, experts, activists, students and media. This annual assembly, organized as a nonprofit, is a new mechanism for existing institutions, organizations, forums, think tanks, corporations and public associations to reach a global audience in an efficient way.

References

- Arctic Council. (1996). *Declaration on the Establishment of the Arctic Council*. Ottawa, Canada. Retrieved from <http://www.arctic-council.org>.
- Arctic Council. (2009). *Tromsø Declaration*. Tromsø, Norway. Retrieved from <http://www.arctic-council.org>.
- Arctic Council. (2011) *Nuuk Declaration*. Nuuk, Greenland. Retrieved from <http://www.arctic-council.org>.
- Arctic Council. (2013). *Kiruna Declaration*. Kiruna, Sweden. Retrieved from <http://www.arctic-council.org>.
- Arctic Council. (1998). *Rules of Procedure* as adopted by the Arctic Council at the first Arctic Council Ministerial Meeting, Iqaluit, Canada. Retrieved from <http://www.arctic-council.org>.

- Arctic Council. (2013). *Rules of Procedure* as adopted by the Arctic Council at the first Arctic Council Ministerial Meeting, Iqaluit, Canada, *revised by the Arctic Council at the Eighth Arctic Council Ministerial Meeting*, Kiruna, Sweden. Retrieved from <http://www.arctic-council.org>.
- Arctic Council Secretariat. (2013). *Senior Arctic Officials Report to Ministers*. Kiruna, Sweden. Retrieved from <http://www.arctic-council.org>
- Arctic Council Secretariat. (2013). *Vision for the Arctic*. Kiruna, Sweden. Retrieved from <http://www.arctic-council.org>
- Arctic Council (2013). *Observer Manual for Subsidiary Bodies*. Kiruna, Sweden, from <http://www.arctic-council.org>
- Arctic Council. (2012) *Communication strategy for the Arctic*. Final draft. February 2012 DMMO2-15 May 2012-Stockholm, Sweden; and ACSAO SE-02 Stockholm, March 2012.
- Axworthy, T. S., Koivurova, T. & Hasanat, W. (Ed.). (2012). *The Arctic Council: Its place in the future of Arctic governance*. Munk-Gordon Arctic Security Program. Available at <http://gordonfoundation.ca/publication/530>.
- Bloom, E. (1999). Establishment of the Arctic Council. *American Journal of International Law*. 93(3): 712-722.
- Cinelli, C. (2012). *El ártico ante del derecho del mar contemporáneo*. Tirant lo Blanch. Valencia.
- Dodds, K. J. (2013). Anticipating the Arctic and the Arctic Council: pre-emption, precaution and preparedness. *Polar Record* 49(249): 193-203.
- Exner-Pirot, H-E. (2012). New Directions for Governance in the Arctic Region. In L. Heininen. (Ed.) *Arctic Yearbook 2012* (pp. 224-246). Akureyri, Iceland: Northern Research Forum. Available from <http://www.arcticyearbook.com>.
- Graczyk, P, Koivurova, T. (2013). A new era in the Arctic Council's external relations? Broader consequences of the Nuuk observer rules for Arctic governance, *Polar Record* 49: 1-11.
- Koivurova, T. (2009). Limits and possibilities of the Arctic Council in a rapidly changing scene of Arctic governance, *Polar Record*, 46(2): 1-11.
- Koivurova, T, Molenaar, E. (2010). "International Governance and Regulation of the Marine Arctic". *Three reports prepared for the WWF International Arctic Programme*, 2010. Available from <http://arcticgovernance.custompublish.com/home.132703.en.html>; <http://arcticgovernance.custompublish.com/international-governance-and-regulation-of-the-marine-arctic-overview-and-gap-analysis.4640536-142902.html>.
- Koivurova, T, Vanderzwaag, D. (2007) The Arctic Council at 10 years: retrospect and prospects. *UBC Law Review*. 40(1): 121-194.
- Koivurova, T., Kokko, D., Duyck, S., Sellheim, N. & Stepien, A. (2012). The present and future competence of the European Union in the Arctic, *Polar Record* 48(247): 361-371.
- Nowlan, L. (2001). Arctic Legal regime for environmental protection. *IUCN Environmental Policy*

and Law Paper. 44: 1-85.

- Pareja Alcaraz, P. (2007). El artículo como espacio de cooperación: evolución, contenido y límites; in Sobrino Heredia, J.M (ed.): *Mares y Océanos en un mundo en cambio: tendencias jurídicas, actores y factores*, Tirant lo Blanch, Valencia.
- Sánchez Ramos, B. (2011). *La representación exterior de la Unión Europea tras el Tratado de Lisboa*. En busca de la Unidad, eficiencia y coherencia. In J.M. Sobrino Heredia. (Ed.) *Innovación y conocimiento*. IV Jornadas Iberoamericanas de Estudios Internacionales. (pp. 481-490). Lisboa.
- Sánchez Ramos, B. (2004): *La Unión Europea y las Relaciones Diplomáticas*. Tirant lo Blanch, Valencia. Please see:
http://www.usq.edu.au/library/referencing/apa-referencing-guide#Journal_and_newspaper_articles
- Selheim, N. (2012). The Establishment of the Permanent Arctic Council Secretariat: challenges and opportunities. In T.S. Axworthy, T. Koivurova & W. Hasanat. *The Arctic Council: Its Place in the Future of Arctic Governance* (60-82). Toronto: Munk-Gordon Arctic Security Program.
- Smith, K.E. (2013). The European Union and the Politics of legitimization at the United Nations. *European Foreign Affairs Review*. 18(1): 63-80.
- Young, O. R. (2009). Whither the Arctic? Conflict or cooperation in the circumpolar north. *Polar Record*. 45(232): 73-82.
- Young, O.R. (2011). If an Arctic Ocean Treaty is not the solution, what is the alternative? *Polar Record*. 47(243): 327-334.
- Young, O.R. (2009). The Arctic in Play: Governance in time of rapid change. *The International Journal of Marine and Coastal law*. 24: 423-442.