

# Toward an Arctic Way: Regimes, Realignments, and the ASEAN Analogue

Reid Lidow

*This paper explores the history behind today's Arctic governance architecture, potential areas for realignments, and the analytical efficacy of the Association of Southeast Asian Nations (ASEAN) as a guiding analogue. Calling upon a vast body of scholarly work on Arctic governing regimes, the author identifies weaknesses and voids limiting the ability of Arctic states and, most critically, the Arctic Council as the governing nucleus, from harnessing historic regional momentum. Grounded by international relations theories on regionalism, regional security, functionalism, and international law, the paper serves to instruct both the international affairs scholar and the regional policy-maker. Where previous papers have looked to the Circumpolar South and the Antarctic Treaty System as an analogue, the author instead finds value in the ASEAN analogue and the parallel structures, actions, and passions therein. The paper closes with various policy prescriptions for the Arctic Council in cooperation with Arctic states, indigenous peoples, and the region's vibrant epistemic community. The author's analysis seeks to answer this paper's guiding question: Considering the region's history alongside existing governing structures, what is the most instructive analogue to guide further regional integration in the Arctic and how can these lessons be best applied?*

## **Introduction: the Arctic's promise**

Driven in large part by newly accessible economic opportunities found in the resource rich region, the Arctic has emerged as a trending topic in international affairs. The prevailing vision of the Arctic as a vast tundra with little interest to the global community is yielding to a more dynamic image, that of a region both militarily and geopolitically active. But developing the Arctic is not just about unlocking the resources lurking below the ice; the real challenge is in developing the productive, yet nascent, governing regimes<sup>1</sup> on the surface (Krasner 1983: 2). Up to this point, the Arctic states, indigenous groups, and scientific community have done a remarkable job avoiding conflict and seeking out cooperation. However, existing structures have failed to integrate the region into a cohesive whole, and a broader regional identity is absent. It is the aim of this paper to explore other regional analogues and perspectives that are instructive when approaching how best to expand the capacity of existing governing regimes.

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Reid Lidow is a Gates Cambridge Scholar at the University of Cambridge where he is pursuing an MPhil in Development Studies.

The first part of this paper explores the history behind, and structure of, current governing arrangements in the Arctic. When considering relevant governing analogues, scholars often turn to the Antarctic Treaty System. This author argues the comparison is inappropriate. Competing resources claims, territorial disputes, differing governing priorities, and fundamental geography make the two regions polar opposites, or as phrased by Oran Young, “antipodes in more than geography” (Young 1992: 184).

The second part of this paper identifies five areas for governing realignments; these concepts are drawn from the region’s history, existing structures, and tactics already employed. Covered in the discussion are *ad hoc*, bilateral and multilateral governing structures, functional strategies, regional seas agreements, and a comprehensive Arctic Treaty.

The second part of the paper primes the analogue introduced in part three – the Association of Southeast Asian Nations (ASEAN). With the introduction of the ASEAN analogue, a relevant regional model is introduced. Sharing similar high-political stresses (military tension, resource and territorial disputes) and low-political norms (a zone of peace doctrine, a non-legal governing personality) with the High North, ASEAN’s success in achieving peaceful regional integration holds tremendous promise for the Arctic. The need to view challenges in the Arctic beyond the domestic political lens makes the analogue valuable as ASEAN leaves the domestic political escape hatch open; states are free to step away from the multilateral table where they see independent comparative advantages. It should go without saying that obvious features make Southeast Asia and the Arctic distinctly different regions; however, distinct similarities merit scholars’ attention and consideration. Making the leap from theory to practice, the paper closes offering a series of policy prescriptions – ostensibly derived from the ASEAN analogue – for Arctic policy-makers. From working toward an Arctic economic community to adopting a declaration of non-interference, it becomes evident that shared issues with tried solutions unite Southeast Asia and the Arctic.

The desire for cooperation in the Arctic is both genuine and demonstrated. When a non-regional perspective and a globalized attitude are adopted, it quickly becomes evident Southeast Asia offers instructive prefabricated structures that are ready for adoption in the Arctic. It is the intention of this paper to make some of those key linkages both evident and accessible.

## **The Antarctic analogue**

As touched on in the introduction of this paper, Antarctic governance has been called upon, in both academic and policy-making circles, as an analogue for Arctic governance. Specifically, the Antarctic Treaty of 1959 is brought into focus as a worthy analytical frame through which Arctic regimes can be considered. Most critically, the locus of the Antarctic Treaty System (ATS) is a declaration in Article I that “Antarctica shall be used for peaceful purposes only” (ATS 1959). Keeping in mind that the Antarctic Treaty was signed while the Cold War was in full swing, the front-and-center emphasis placed on peaceful activity should not come as a surprise. A second defining feature of the ATS can be seen in Article IV with the declaration “No new claim, or enlargement of an existing claim, to territorial sovereignty in Antarctica shall be asserted while the present Treaty is in force” (ATS 1959). In effect, what Article IV succeeded in doing was freezing Antarctic territorial boundaries so as to avoid any tectonic geopolitical shifts. Even if such a provision were to be introduced in the Circumpolar North, it would be unreasonable to

draw the conclusion that a military draw-down would ensue as the Arctic falls within the territorial confines of five littoral states.

So how does the Antarctic Treaty specifically relate to the Arctic? While the ATS stands as the *letter* of the law in the Circumpolar South, components of the treaty – with a special emphasis on Articles I and IV – have underpinned the *spirit* of the law in the Circumpolar North. Specifically, elements of the Antarctic Treaty System are evident in the Ilulissat Declaration of 2008, mapping of underwater ridges, and Arctic Council declarations. Polar law scholar Sébastien Duyck is bullish on the analytical value the ATS holds in the Arctic, particularly with respect to regional environmental regimes, although he concedes, “As the two polar regions differ in many respects, we do not claim that there can be a one-size-fits-all model for Polar governance” (Duyck 2011: 683). Moreover, the governance flag follows the dollar as Arctic and Antarctic “regional governance regimes have evolved under similar economic characteristics,” namely a presumed financial windfall from natural resource rents (Duyck 2011: 684).

While the Antarctic Treaty System has earned its place in any discussion on Arctic governance as the ATS serves as the *de facto* analogue, it is the belief of this author that any comparisons between the mature ATS and a nascent Arctic governance regime are misguided. In terms of geography, economic potential, competing territorial claims, and – most critically – indigenous population considerations, the Arctic and Antarctic could not be more different. The ATS is a document that cleared the way for an Antarctic scientific community, and any agreement in the Circumpolar North will need to move away from the low-political nature of the ATS and instead confront the high-political challenges in the High North. As captured by Oran Young, “There is a natural temptation to compare the Arctic with other remote areas and, consequently, to suppose that it is both desirable and feasible simply to demilitarize the whole region” (Young 1992: 207-8). With an increasingly intransigent Russia in mind, it is impossible to confront Arctic governance from a non-militarized standpoint; an armed Arctic, which does not necessarily presuppose conflict, is a reality that must be accommodated. Moreover, even if the littoral Arctic states were willing to pass a sweeping regional agreement on the same scale of the ATS, the terrestrial differences and competing visions of the two poles would necessitate an entirely new treaty defined by new priorities. So while it is responsible to cover the ATS in this discussion, we will dispense with any comparisons as the analogical efficacy is minimal at best. The two regions, in terms of geography and political challenges, are truly polar opposites.

### **Options for governance realignments**

Despite major policy breakthroughs in Arctic governance, there is substantial pressure on Arctic states to both streamline and expand regional governing arrangements. As Arctic ice sheets retreat, there is an increasing urgency to address interests and concerns from regional and non-regional actors. Regimes in the Circumpolar North, in their present configurations, are not equipped to confront opportunities and challenges ahead. Simply put, the Arctic is having growing pains. As framed by Arctic Institute Director Kathrin Keil, “institutional cooperation [in the Arctic] depends on keeping this cast of characters only ‘as-big-as-necessary,’ rather than ‘as-big-as-possible,’” or what this author identifies as a tension between *inclusion* and *efficiency* (Keil 2014). Despite this limitation, the last half-century of Arctic governance has revealed a variety of governing arrangements worthy of discussion as Arctic states consider governance realignments.

### ***The Ilulissat approach***

Following the controversial 2007 Russian scientific expedition to the North Pole which saw a flag planted on the seabed, nationalist fervor amongst the Arctic states peaked. The Arctic Ocean Conference, held in Ilulissat, Greenland in May 2008, was the natural outgrowth of this geopolitical discomfort. At the Conference, the five littoral Arctic states affirmed their “commit[ment] to this legal framework [UNCLOS] and to the orderly settlement of any possible overlapping claims” (Ilulissat Declaration 2008). The concern guiding the conference was the Arctic moving from Gorbachev’s “zone of peace” to a “zone of conflict,” and the language of the Ilulissat Declaration was designed to dispel these fears. The Declaration also concluded that with UNCLOS as a guide, there is “no need to develop a new comprehensive international regime to govern the Arctic Ocean” (Ilulissat Declaration 2008). The Ilulissat Declaration has gone on to be hailed as evidence that the Arctic can remain a conflict-free region, but we should not rush to agree with this conclusion.

Despite the seemingly successful nature of the Arctic Ocean Conference, there was a major deficiency; some, not all, Arctic states were parties to the agreement – Sweden, Finland, and Iceland were excluded due to geographical technicalities. For Alun Anderson, this exclusion crystallizes the point that “Even within the Arctic nations, not all are equal. [...] The Ilulissat meeting was a reminder that the Arctic coastal states see the Arctic Ocean as their own lake” (Anderson 2009: 120). But the affront extended beyond the exclusion of the three residual Arctic states; the Declaration intimated that the international community, most notably those states in Asia with a heightened interest in the Arctic, should direct their political activism elsewhere.

### ***Unilateral, bilateral, and multilateral approaches***

As evidenced by the absence of armed conflict in the Arctic, the Circumpolar North has, up to this point, been a region of cooperation. Undertaking an inventory of Arctic strategies, Lassi Heininen observes that “International cooperation, largely multilateral [...] has emerged and expanded since that time, at which there was less cooperation” (Heininen 2011: 80). Multilateral cooperation has proven to be the most common variety of Arctic cooperation, especially in areas of scientific research. The Arctic Council member and observer states have been active participants in the International Arctic Science Committee (IASC) and its issue-specific working groups; another bright spot can be found in the Arctic Monitoring and Assessment Program (AMAP).

The international cooperation found in the Arctic is couched by the “sovereignty and national security” priorities defining the unilateral strategies of the five littoral states (Heininen 2011: 81). The Arctic states and other groupings have been active in issuing strategy documents (Anderson 2009: 104). Given that these White Papers are often built at the domestic level without bi/multilateral considerations, the conclusions are traditionally out of lockstep with the priorities of other Arctic states and unions leaving any cleavages to be reconciled on an *ad hoc* basis, as was the case with the Ilulissat approach. Oran Young attributes the limits of cooperation in the Arctic to the fact that “no state has a clear-cut decision-making process for Arctic matters, much less a coherent policy” (Young 1992: 188).

In spite of the deficiencies found in unilateral White Papers, there have been notable bilateral successes where policy priorities align. Project LORITA, a joint effort by Denmark and Canada

in Lomonosov Ridge bathymetry, “will benefit from a joint plan for the investigation of the Lomonosov Ridge saving cost, sharing personnel resources and maximising the outcome of data” (LORITA 2006). So long as unilateral policy directives remain stunted due to policy incoherence, bilateral cooperation within specific issue areas will be the direct beneficiary.

### ***Functional multilateralism***

Within the international relations discipline, the theory of functionalism is often cited as a model for regional integration. Tracing its roots to Western European international integration, the functionalism model is well situated – both geographically and analytically – lending itself to any discussion of potential Arctic governance realignments. Broadly defined, functionalism is understood as “working together in common institutions helps to create political community at the popular level; within this community there is a working peace system: war is less likely because of functional cooperation” (Taylor 1996: 290).<sup>2</sup> The “peace in parts” system exemplified by functionalism is recognized and has a proven track record (Nye 1971). Two unique phenomena occur as an outgrowth of functionalism. The first, *spillover*, occurs when cooperation is successful and “popular support presses for further integration and more common institutions” (Taylor 1996: 290). *Spillback*, the second, takes place when cooperative regimes fail to achieve their designed goal – these are typically economic failings – and countries believe more successful outcomes can be achieved on an individual basis. The father of functionalism, David Mitrany, suggests that the “essential principle is that activities would be selected specifically and organised separately – each according to its nature, to the conditions under which it has to operate, and to the needs of the moment” (Mitrany 1992: 502). Put into practical terms, functionalism – when the nature and needs of an activity are synthesized – results in a system that is not internally competitive being established. It should be evident that the functionalism regional integration model has not only played a major role in Arctic development to date, but also holds clues as to the nature of future cooperation.

Examples of functionalism are readily available when considering Arctic governance; both the Nuuk and Kiruna Declarations illustrate areas of functional cooperation targeting a particular issue. Moreover, knowledge sharing between Arctic states through institutions such as IASC and AMAP highlight scientific integration within the region. The reason for Arctic functional cooperation is self-evident: the Arctic states are entering into functional agreements only where all parties see clear benefits. And therein lies the current dilemma. Cooperation in the Arctic in 2014 is slowing – not speeding up – and we are seeing functional cooperation cresting the natural carrying capacity. This timid spillover can be attributed to what Kathrin Keil calls the “exclusive club” principle, or, put more directly, “the eight Arctic states will be the ones most active in their Arctic areas, and it will be they who are most directly affected by any activities, possible accidents and environmental threats” (Keil 2014). This is not to advocate that only the Arctic eight should play an active role in Arctic affairs; rather, it must be acknowledged that the first on scene will always be those states holding territory in the region.

Thus, within the “exclusive club” of Arctic states we see a narrow topography of issues where issues align for all states. Returning to Mitrany’s words, “We have already suggested that not all interests are common to all, and that the common interests do not concern all countries in the same degree” (Mitrany 1992: 501). Mitrany’s point highlights a weakness in the Arctic

governance structure today; there are not nearly enough cooperation contact points for the Arctic states to see that the A-level issues at hand are uniting, and not dividing, topics.

### ***Regional Seas Agreement***

One of the more creative solutions that has surfaced as a potential Arctic governance realignment is a regional seas agreement. The concept of a regional seas agreement in an area of geopolitical tension is not without precedent; both the 1974 Convention on the Protection of the Marine Environment of the Baltic Sea (Helsinki Convention) and the 1976 Convention for the Protection of the Mediterranean Sea Against Pollution (Barcelona Convention) are analogues (Young 1989: 183). In 2008, Rob Huebert and Brooks B. Yeager published a policy paper suggesting a regional seas agreement in the Arctic. The paper emphasized “The capacity of the Arctic nations to manage the Arctic Ocean environment through an ecosystem approach could be considerably strengthened by the development of a regional seas agreement” (Huebert & Yeager 2008: 29). The authors took this argument a step further and suggested the Arctic Council evolve “into a regional environmental management convention” (Huebert & Yeager 2008: 35). Considering that the Arctic Council has a footprint extending far beyond the environmental realm, it would seem that Huebert and Yeager’s suggestions are capacity limiting rather than capacity building.

While regional seas agreements can be, and often are, productive, such a move in the Arctic would fail to capture the dividends that forthcoming prescriptions could capture. Notably, regional seas agreements tend to focus on low-politics topics as illustrated by the Helsinki and Barcelona Conventions where the environment is the focus. The challenges facing the Arctic are many, and while environmental degradation is problematic, a regional seas agreement would not be a complete solution. The legal inviolability of a regional seas agreement is questionable; Michael Byers notes that while agreements can be backed by UNEP’s Regional Seas Programs, “it may be questioned whether the mere existence of a regional sea creates legal obligations” (Byers 2013: 214).

### ***Arctic Treaty***

Returning to the point that opened this discussion – the Antarctic Treaty System as an analogue for Arctic governance – there have been high-level calls for such realignments. In October 2008, the European Parliament (EP) held discussions on Arctic governance and passed a resolution suggesting, “the Commission should be prepared to pursue the opening of international negotiations designed to lead to the adoption of an international treaty for the protection of the Arctic, having as its inspiration the Antarctic Treaty...” (European Parliament 2008). The calls for an Arctic Treaty were situated within the context of the 2007 Russian North Pole flag planting; domestic political conditions within the European Union demanded a firm response to Russia’s overstepping. The EP’s suggestion was not well received by the US; similar to UNCLOS, the US objects on the basis of sovereignty infringement.

Feedback from the epistemic community<sup>3</sup> of Arctic observers also conveyed a lack of enthusiasm for an Arctic Treaty. Rather than issuing a wholesale dismissal of the idea, Oran Young crafted a comprehensive response where he argued “legally binding agreements are attractive to the extent that they generate a greater normative pull than more informal

arrangements affecting the actions of those expected to comply with their provisions” (Young 2010: 181). What his comment brings to the fore is that Arctic governing arrangements, as situated around the Arctic Council, do offer a considerable “normative pull” as evidenced by recent declarations passed and actors hoping to join as observers. Rather than using valuable political capital to pass what will be a dead-on-arrival Arctic Treaty, “we should make every effort to maintain and even enhance the effectiveness of the Arctic Council” (Young 2010: 184). But to achieve this, the conversation needs to shift.

The challenges confronting Arctic states are largely viewed as domestic issues. This is problematic because the Arctic ice retreat, overlapping territorial claims, natural resources, and other topics are not confined to one state. And while domestic political discussions matter, the conversation needs to change to one defined by foreign policy articulation and implementation. This is where the analytical value of considering a regional analogue, such as ASEAN, can be found. Successful regional institutions, such as ASEAN, leave the domestic political escape hatch open; once international cooperation has been exhausted, states are not constrained in retreating from multilateral discussions. The concept of *subsidiarity* best illustrates the capacity of a state to pull back from an issue area, being approached by a variety of states and actors, and instead confront the topic alone (Van Kersbergen 2007). Having the ability to step away from the table in an area where a state has a comparative advantage, while simultaneously being engaged at the multilateral level in various other issue areas, is a powerful position for a state to be in. Having two feet firmly planted across issue thresholds is how cooperation can be reconciled with control.

### **The ASEAN analogue**

In exploring how best to expand the governing capabilities of states and regimes in the Circumpolar North, Southeast Asia may seem a strange place to look for an analogue. But today’s hyper-globalized world forces us to consider other regional perspectives, and the Association of Southeast Asian Nations (ASEAN) stands as a worthy analytical frame through which potential Arctic governing realignments can be considered. Despite “differing histories, cultural traditions, resource bases, and political-economic systems,” ASEAN has succeeded in integrating Southeast Asia into a “coherent whole” (Dayley et al. 2013: 3). Not only can the Arctic Council learn from ASEAN’s creation of a highly-functioning regional organization, but Arctic states stand to benefit from closer interaction with their Southeast Asian counterparts expressing an ever-increasing interest in Arctic affairs. History is not proprietary, and the forthcoming discussions of ASEAN’s work – while far from exhaustive – will highlight the decisions and structures that hold so much promise for the Arctic states, Council, and broader region.

#### ***Founding ASEAN***

In the early-1960s, the thought of a regional association of Southeast Asian states was anything but natural. With diverging political, economic, and cultural priorities, and a flat-lining South East Asia Treaty Organization (SEATO), any sort of region-wide cooperation was thought to be unlikely. But by the mid-1960s, several factors changed the calculus. With the Vietnam War raging, the Cold War in full swing, and – most critically – a rising China casting an increasingly tall shadow into the region, the need for an informal regional organization was identified. In

August 1967, Indonesia, Malaysia, Singapore, Thailand, and the Philippines established the Association of Southeast Asian Nations. As enunciated in the Bangkok Declaration, the first purpose of the association was to “accelerate economic growth, social progress and cultural development in the region through joint endeavors in the spirit of equality and partnership in order to strengthen the foundation for a prosperous and peaceful community of South-East Asian nations” (ASEAN 1967). With the establishment of “a weak subregional security regime whose members agreed not to pursue their disagreements by force, the five founding ASEAN states, if only for a brief moment, overcame the “Balkans of the East” portrayal of the region (Buzan et al. 2003: 135).

Yet ASEAN’s future was anything but auspicious. Similar to the Arctic Council, ASEAN was established with certain foundational constraints that limited the scope of the young association’s actions. At its core, ASEAN aspired to be a conflict prevention organization – everything else, from economic development to human security concerns, would be a lower priority. But in ASEAN’s case, the association “had to avoid military cooperation in order not to be perceived as a front for the West, or a SEATO through the back door” (Acharya 2009: 55). As all international relations students learn, conflict prevention requires conflict (i.e. military) cooperation. Complicating matters were cross-cutting cultural cleavages; far from a monolith, the region was not a naturally occurring cultural formation. The great challenge for ASEAN became integration; “Since cultural and political homogeneity could not serve as an adequate basis for regionalism, the latter had to be constructed through interaction” (Acharya 2009: 54). This too should strike a chord with Arctic scholars – in terms of politics, economy and culture, Russia has no more in common with the US than Singapore with Burma (Myanmar). Despite differences, ASEAN brought a region together.

### ***The regionalism challenge***

The regional glue that binds ASEAN is anything but natural, and many Southeast Asia scholars question whether the region is in fact distinct from the East Asian regional complex. Similar questions arise in the Arctic, a region long regarded as a minute sliver between American, European, and Asian spheres of influence. But the picture of the Arctic is changing, and as the region thaws and comes alive a broader discussion of regionalism is appropriate. While geography is an important factor in regionalism, other variables exist adding a level of complexity to any discussion. On the topic, Donald K. Emmerson defines regionalism as a “process” where “proximate states, societies, or economies” work together with the end goal of “forming or nourishing a shared identity, improving conditions and solving problems, or projecting influence beyond the region” (Emmerson 2008: 12).<sup>4</sup>

As evidenced by the latter portion of Emmerson’s definition, hard power plays a central role in regionalism. When security considerations begin to dominate intraregional linkages, another phenomenon, known as a “regional security complex (RSC),” emerges. Here a second definition is necessary. Barry Buzan and Ole Wæver make the case for a Southeast Asian RSC noting “In order to qualify as an RSC, a group of states or other entities must possess a degree of security interdependence sufficient both to establish them as a linked set and to differentiate them from surrounding security regions” (Buzan et al. 2003: 48). While a Southeast Asian RSC may be more easily visible than an Arctic RSC, we should be careful not to overlook the fact that military activity is taking place beneath Arctic ice. Furthermore, as ice levels decrease, the High North



only becomes more distinct from neighboring RSCs. ASEAN proved a region could be constructed where one previously did not exist, and this example should resonate with Arctic policy-makers.

### ***Non-interference and conflict resolution***

Founded as a regional association and not as a formal rule-based organization, ASEAN has succeeded in crafting a normative mosaic that is forceful yet non-invasive. One could describe ASEAN membership as an “outpatient procedure” with respect to sovereignty protections. The core norm written into the ASEAN Declaration is that of non-interference; the Association is “determined to ensure their [member states] stability and security from external interference in any form or manifestation” (ASEAN 1967). This doctrine was taken a step further in 1971 with the five founding ASEAN states proclaiming “South East Asia as a Zone of Peace, Freedom and Neutrality (ZOPFAN), free from any form or manner of interference by outside powers” (ASEAN 1971). Clearly the rhetoric has aligned with reality; since 1967, no armed conflict has emerged between any of the ASEAN member states. The parallel could be drawn between ZOPFAN and Gorbachev’s Murmansk speech where he argued for: “a radical lowering of the level of military confrontation in the region. Let the North of the globe, the Arctic, become a zone of peace. Let the North Pole be a pole of peace” (Gorbachev 1987). However, more can be done and the Arctic Council would be wise to consider a non-interference declaration.

While ASEAN has made inroads in realizing its vision of a conflict-free region, it would be naïve to assume that Southeast Asia is dispute-free. Quite the contrary, both ASEAN and its member states have had to contend with decades of disputes – such is the cost of constructing an association in a region lacking socio-political cohesion. So how has ASEAN ensured that disputes do not boil over into trade embargoes, or worse armed conflicts? The answer is two-fold: pressure and/or adjudication. When a dispute extends beyond formal territorial boundaries, ASEAN takes an active roll in bringing aggrieved parties to the negotiating table. In certain circumstances, a written rebuke in a joint communiqué can be issued at the annual summit.

Where legal intervention is necessary, ASEAN has been effective in nudging states to take disputes to the International Court of Justice (ICJ). Consider the Pedra Branca Island dispute between Singapore and Malaysia; after an initial debate in 1979, both states agreed to take the case to the ICJ and vowed to honor the outcome (Ting 2008). When the ICJ ruled in favor of Singapore, the matter was closed. Arctic states have, on occasion, adopted a similar approach as seen with Denmark/Greenland and Canada’s dispute over Hans Island, but a deepened commitment to ICJ adjudication should be considered.

The enthusiasm for these governance additions in the Arctic must be disciplined. It is easy to suggest that participation within the Arctic Council and broader region should be expanded, and also straightforward to suggest that adjudication take place through the ICJ, but great power resistance – from forces such as Russia and the US – make these developments challenging and unlikely. While a region-wide doctrine of non-interference could assuage fears of sovereignty violations, the very nature of ICJ adjudication makes it difficult to see great power involvement. However, that does not mean the prescription should not be put forth. Additionally, for every easy example of ASEAN cooperation cited, there certainly exists a complicated one, and it is impossible not to acknowledge ASEAN’s hobbled approach to recent tensions in the South

China Sea. Far from being an issue leader, ASEAN has been in the passenger seat on the issue of South China Sea conflicts. Hiding behind the veil of non-interference, ASEAN – pulled in different directions by the constituent states – has failed to leverage its position and serve as a force for reconciliation in the region. Similar challenges have, and will always face, regional institutions, and the Arctic is not exempt.

### ***The “ASEAN Way” and Charter***

The words and norms that underpin ASEAN do not always go far enough. Recently, ASEAN has come under fire for sweeping conflicts under the rug instead of pushing for lasting resolutions. This has led the ASEAN Way, widely understood to be “informality, organization minimalism, inclusiveness, intensive consultations leading to consensus and peaceful resolution of disputes,” to be downgraded (Acharya 2009: 78). In its place, Southeast Asia observers and policy-makers have pushed for an ASEAN Charter to formally and legally codify the Association’s informal structures. The goal of a charter would be to transform “ASEAN from being a non-binding association to becoming an international organisation with a legal personality” (Acharya 2009: 267). In November 2007, such a vision was realized with the adoption of an ASEAN Charter ratified by all member states. Beyond offering a formal legal foundation for ASEAN, the Charter also expanded ASEAN’s institutional reach making it possible to develop new working groups, increase ministerial meeting frequency, and expand the Secretary General’s governing power.

### ***A defining difference***

Before closing with Arctic policy prescriptions, it is incumbent upon the author to acknowledge a principal difference between the Arctic and ASEAN: structure. As has been discussed, while ASEAN has enjoyed superpower engagement – often from the US or China – this is of a *peripheral* nature as the superpowers must work with a light footprint when seeking to influence regional policy. Blocking for the economic outliers (i.e. Singapore and Brunei), at ASEAN’s *core* are a collection of developing countries. On the other hand, the Arctic’s cast list is composed of heavyweights; the US, Russia, Canada, and a league of highly developed middle powers (i.e. Nordic states) set the regional policy agenda. What is more, not only are the Arctic states at the core of the regional governance structure, but they are also the rule-makers in the broader international system. The same cannot be said for ASEAN’s constituent states. These differences do not negate the ASEAN analogue case for the Arctic made in this paper. However, before suggesting policy prescriptions derived from ASEAN’s experience, responsible analysis demands this structural difference be acknowledged.

### **Prescriptions for the Arctic Council and states**

While there is no single ready mix analogue solution for the current challenges confronting the Circumpolar North, there are measures ready for adoption that would prime the region for continued stability and future dynamism. As the previous section illustrated, the Association of Southeast Asian Nations, and the broader regionalism narrative therein, may offer added relevance and value to the Arctic than the oft-cited Antarctic governing analogue. While this paper lacks the space for an in-depth history of ASEAN, the critical moments or inflection points discussed capture the relevance of Southeast Asia’s regional integration model. Where

most papers would end, the author believes that making the leap from theory to practice – from policy to prescriptions – is a critical step in advancing the existing body of scholarly work. The following policy prescriptions are directed toward the Arctic Council in cooperation with Arctic states, indigenous peoples, and the region’s vibrant epistemic community.

### ***Recommendations for policy shifts***

#### *Adopt a doctrine of non-interference*

The Arctic Council does not actively involve itself in the foreign affairs of member states and, pursuant to the Ottawa Declaration of 1996, security (i.e. military) related matters are not policy topics. However, it is impossible to remove the military variable from the Arctic governance equation. Passing a non-interference declaration would serve two purposes. First, as seen in Southeast Asia, ASEAN’s non-interference declaration is “the key factor as to why no military conflict had broken out between any two member states since 1967” (Acharya 2009: 70). In addition to extinguishing the potential for conflict, a declaration would reaffirm sovereignty protections. To an increasingly intransigent Russia and a more inward-focused US, such sovereignty guarantees would be well received. Furthermore, an Arctic doctrine of non-interference has the potential to motivate a US ratification of UNCLOS, although at the present time domestic political constraints in the US make this unlikely.

#### *Conflict resolution through the ICJ*

When disputes between states arise in the Arctic, as they have and inevitably will, the Arctic Council should act as a mediator. To best accomplish this, the AC can establish a “Conflict Resolution Working Group” staffed by international law scholars, scientists, and policy-makers – in sum an Arctic epistemic community microcosm. In the event that an amicable agreement cannot be reached, the states should agree to have their case heard by the International Court of Justice requiring an understanding that the verdict, whichever side it falls, will be upheld and respected. Conflict resolution through the ICJ has been an effective mechanism in ASEAN as evidenced by the Pedra Branca outcome, and the recent Hans Island resolution highlights the promise of the ICJ model for the Arctic region. As noted earlier in this discussion, the resistance such a policy shift would face from great powers in the region would be considerable, but this structural challenge should not strike the idea from the policy menu.

#### *An Arctic Council of 8, not 5+3*

The Ilulissat Declaration was, without question, a major policy achievement for the Arctic states; however, the exclusion of Sweden, Iceland, and Finland was a major policy misstep. By excluding the three non-littoral states from the Declaration, the scope of the agreement was not only reduced and weakened, but positive relations with three major stakeholders in the Arctic suffered. As seen in Southeast Asia, ASEAN grew from five states to ten, and this expansion committed more states “to the regional code of conduct on territorial integrity and peaceful resolution of disputes” (Acharya 2009: 139). In the future, the Arctic Council should be a forum for multilateral gatherings as this will serve to strengthen and legitimize the preeminent governing body in the region. As an outcome of utilizing the AC as a forum, the Arctic Eight,

not to mention permanent and *ad hoc* Observers, will all be contributors in discussions and stakeholders in outcomes.

*Elevate appointments to the Arctic Council*

The degree of importance the Arctic Council holds, and nature of the issues that should be approached, varies from actor-to-actor within the regime. Canada's Arctic Council Chairmanship (2013-2015) confirms this assertion as the Honorable Leona Aglukkaq, an Inuk from Nunavut, serves as Chair reflecting Canada's "commitment to ensur[ing] that the region's future is in the hands of Northerners" (Canada 2014). For the United States, it is impossible not to remove traditional security and sovereignty concerns from Arctic Council initiatives, hence the appointment of Admiral Robert Papp (Ret.), a longtime Coast Guard Commandant, as US Special Representative for the Arctic (United States 2014). And the Arctic Council leadership picture only becomes more complicated when Permanent Participant indigenous groups are thrown into the mix. While it is impossible to assign a uniform rank for all AC representatives, all members should endeavor to appoint representatives to the Council who have a wealth of regional knowledge. The success of ASEAN has made representative status within member states a coveted position, and, one hopes, the same will be true for all Arctic Council participants.

*Building an Arctic defense community*

One of the bright spots in Circumpolar North regional cooperation is surely scientific knowledge sharing, but then again, nobody is talking about a scientific security dilemma. The Arctic states, through the Arctic Council, should move to deepen defense cooperation in the region. Looking at ASEAN, joint military exercises and the exchange of intelligence across state lines have served to deepen cooperation while securing the region. Even though intelligence sharing within ASEAN is often mere window-dressing, having a structure in place for unifying emergencies – such as the disappearance of MH370 – alone justifies the cooperation. Moreover, direct military cooperation provides a front-row seat to another state's capabilities; thus, there is a compelling case from the defense hawk corner as well. Alongside the Arctic's scientific community, an intelligence community should be constructed with an Arctic Intelligence Forum at its core. Properly constructed, this forum should serve to transparently display security developments across the region, not just through a military lens but also a military-industrial one. Where possible, Arctic states should also engage in joint military exercises. And finally, as use of the Northern Sea Route increases, both tourism and trade are bound to increase in lockstep. To help coordinate efforts across the region, an Arctic Coast Guard, bringing together the resources and manpower of the eight Arctic states, would be the strongest showing of cooperation yet.

*Arctic regional forum*

Lowering the barriers to entry and bringing in a diverse set of voices to complement those of stakeholders has been the hallmark of ASEAN as exemplified by the ASEAN Regional Forum (ARF). When the forum is held, dozens of states join in consultation to discuss the region's defining issues. As framed by former Australian Foreign Minister Gareth Evans, ARF succeeds in building "security with others rather than against them" (Acharya 2009: 199). Arctic states and the Arctic Council have endeavored to be more inclusive through rhetoric, but in reality there

remains a void. As discussed in the third policy prescription, Arctic cooperation needs to do a better job including non-littoral states. Similarly, the Arctic states, again working through the Arctic Council, should strengthen communication and cooperation with non-regional actors expressing interest in the region. Asian states, as diverse as China, Singapore, and India, have sent ministers to the Circumpolar North to build partnerships, and often these overtures are met with a cold reception. The present Arctic governing culture viewing interest by non-regional actors with suspicion should be replaced by a culture of tempered trust, and an Arctic Regional Forum can help to break down those barriers through constructive engagement.

#### *Arctic Economic Community*

Hardly unique to Southeast Asia, but certainly a defining economic feature of the region, is an integrated economic community. Arctic states need not look that far for an economic exemplar – functionalism thrives in their backyard through the European Union (EU). Building on the EU model, Oran Young has suggested the creation of an “Arctic Development Bank,” especially when considering that “Arctic communities exhibit a number of features that are characteristic of less-developed economies” (Young 1992: 222). While the establishment of such a bank would have to be parallel to, and not within, the Arctic Council governing nucleus, such economic cooperation could help to lift the tide of poverty found in indigenous communities. Not only helping to improve the condition of depressed communities, an Arctic Development Bank would share fiscal risk across Arctic states. Thus, a mutually assured (financial) destruction system would persist whereby if one state becomes intransigent, all parties will suffer economic repercussions. Spillover and biased options of this nature will help to secure the region.

#### *Closing Thoughts*

Taken together, these policy prescriptions should build governing linkages in the Arctic region that expand, strengthen, and reinforce the current governing structure. The author remains committed to the Arctic Council serving as the core governing nucleus in the region; however, cooperation does not know boundaries and cannot remain a regional undertaking. Elegant regimes are not constructed overnight – ASEAN took a half-century to get where it is today – and Arctic states should take advantage of the momentum driving interest in the region. Through the same informality and minimalism that has allowed ASEAN to accumulate regional sway, the Arctic states should work toward formalizing a nascent “Arctic Way” defined by inclusiveness, non-interference, and peaceful cooperation.

### **Conclusion: toward an Arctic way**

There is great potential above the Arctic ice, not just below. Within the space of three decades, the Arctic Council, states, indigenous groups, and epistemic community have done a remarkable job of creating a robust governing structure. These regimes have the flexibility to grow; yet there has been an aversion to creating parallel and synergistic governing structures in the region. Instead, loose cooperative arrangements between states, and a series of non-binding governing agreements, have come to populate the space. The Arctic community can, and will, do more, and hopefully these actions will parallel those suggested in this discussion. And while the prescriptions explored serve to reinforce existing structures and expand regional capabilities, we must recognize that there can be no silver bullet for the present lack of a cohesive Arctic vision.

This author identifies an “Arctic Way” as the end goal for all stakeholders in the region. Those who call the Circumpolar North home should work to rise above regional divisions and build a vibrant identity of inclusiveness and cooperation. An “Arctic Way” vision will live up to the promise the region holds and capture the spirit and hope – in a word momentum – that has so recently come to define the Arctic. Returning to the words of David Mitrany, “Peace will not be secured if we organise the world by what divides it” (Mitrany 1992: 503). The time has come to recognize – and organize – the Arctic by the shared passions that unite the region.

## Notes

1. A regime is defined as “implicit or explicit principles, norms, rules and decision-making procedures around which actors’ expectations converge in a given area in international relations” (Krasner 1983: 2).
2. Full definition: “Functionalism: Gradualist but not greatly concerned with details of decision-making; stresses way in which integration may attract popular support if it is seen as beneficial; working together in common institutions helps to create political community at the popular level; within this community there is a working peace system: war is less likely because of functional cooperation; popular support presses for further integration and more common institutions, which lead to more popular support in the political community, and so on: this is the integrative dynamic; form follows function, i.e. every task should be approached at that level and in that manner which is most appropriate to that particular task.”
3. An epistemic community is “a network of professionals with recognized expertise and competence in a particular domain and an authoritative claim to policy-relevant knowledge within that domain or issue-area” (Haas 1992).
4. Full definition: “Regionalism is a process. It is the intentional bringing together of physically more or less proximate states, societies, or economies, in various ways and to varying degrees, for ostensibly common purposes and activities – forming or nourishing a shared identity, improving conditions and solving problems, or projecting influence beyond the region whose nature is thereby purposely created or shaped.”

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