

# Carving up the Arctic:

## The Continental Shelf Process between International Law and Geopolitics

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*A new chapter in Arctic relations opened when Danish diplomats submitted five boxes of evidence to the UN's Commission of the Limits of the Continental Shelf (CLCS) in New York. Denmark's claim to 895,000 km<sup>2</sup> of Arctic seabed that includes the geographical North Pole surprised analysts by going all the way from Greenland's northern boundary to the border of the Russian EEZ. The claim is likely to overlap with future Canadian and Russian claims. Observers soon warned that this could lead to an unfortunate Russian reaction and spark tensions between Moscow and Copenhagen. This article examines how the Canadian, Danish, and Russian claims may spark tensions between the Arctic states, based on a review of the Arctic studies literature. How does the UNCLOS process fit within the political dynamics of the region and does the Ukraine crisis make a peaceful agreement less likely? The article argues that the claims process is largely disconnected from the geopolitical logic of the region and there is no reason to expect it to cause significant tensions between the High North states. As several authors have pointed out, most resources are located outside of the disputed areas. Instead, the process is driven by domestic concerns. Ownership of the Arctic is symbolically important in all three states, albeit in different ways. Whereas Arctic ownership is crucial for both Canadian and Russian audiences, in Denmark the claims process has more to do with the complex Danish-Greenlandic relationship. However, the Ukraine crisis may disrupt this peaceful state of affairs. The crisis may alter the Putin regime's power base and thus force Moscow to become more attentive to domestic voices that call for a more bellicose approach to the Arctic.*

A new chapter in Arctic relations opened on a cloudy December day last year, when a Danish delegation with five moving boxes arrived at the headquarters of the UN's Commission of the Limits of the Continental Shelf (CLCS) in New York. The boxes contained evidence that had been gathered over the last decade to support Denmark's claim to an 895,000 km<sup>2</sup> area - roughly the size of Germany and France - that stretches from the northern part of Greenland's Exclusive Economic Zone (EEZ), across the North Pole, to the Russian EEZ, overlapping an area claimed by Russia in 2001 (Danish Ministry of Foreign Affairs and Government of Greenland 2014: 8). In the coming years, three Arctic coastal states (Canada, Denmark, and Russia) will divide a large part of the central Arctic Ocean, including the North Pole, between them under the UN Convention on the Law of the Sea (UNCLOS). The claims are part of a wider delimitation process in the High North that also involves Norwegian and American continental shelf claims.

Some media outlets portray this process as an Arctic great game, a competition for virgin lands, ripe with untapped resources and opportunities, that comes with the risk of military conflict in the High North (Withnall 2014; Anonymous 2015c; Hopper 2014; Anonymous 2015b; Jacobson 2014). Most Arctic scholars believe that these warnings are overstated (Young 2009; Young 2011; Keil 2014; Brosnan, Leschine, and Miles 2011). They point to the 2008 Ilulissat Declaration, in which the coastal states declared that they would respect international law when settling the delimitation lines in the Arctic region (Ilulissat Declaration 2008). They also stress the fact that most of the resources in the High North are located along the coasts, in areas that have already been divided between the Arctic littoral states. However, as some scholars have emphasized, one cannot simply disregard the conflict potential in the Arctic by pointing to the current state of affairs (Huebert 2013). It is important to understand *why* the states currently cooperate and under what circumstances the delimitation process could ignite tensions between the High North states. This paper suggests that this can be done by examining how the delimitation process is shaped by the interaction between law and geopolitics. Geopolitics is not just static geographical facts about where states lie and what territories they occupy – geography has to be placed in a dynamic context with other political factors. Resources and territorial disputes must be understood together with the intricacies of international law and the immediate and long-term political goals and means of the great powers. Non-Arctic events, most importantly the Ukraine crisis, affect global politics and such changes may alter how Washington, Moscow, Copenhagen, Oslo, and Ottawa view the Arctic region and the delimitation process.

This piece examines how Canada, Denmark, and Russia are likely to approach the delimitation process around the North Pole through analyzing the interaction between international law and geopolitics. Specifically, it seeks to understand whether the UNCLOS process is likely to lead to tensions between the three states? It argues that Canada, Denmark, and Russia most likely will cooperate to divide the territory between them peacefully. Even from a purely *Realpolitik* point of view, the states have an interest in solving any disputes peacefully and international law provides procedures and rules that facilitate interstate coordination and an orderly settling of disputes. Domestic politics may complicate matters if governments or domestic political actors try to capture voters by following or demanding a more assertive course in the High North. The Arctic plays a symbolically important role in the national narratives of most of the states and domestic forces may pressure governments to problematize the process if outcomes do not match expectations. The Ukraine crisis exacerbates this potential and one cannot reject the possibility that future global political ruptures may cause problems down the line.

There are several types of territorial and legal logics at play in the Arctic. The present piece focuses on the extended continental shelf claims – that is, claims made by states based on article 76 through 85 of UNCLOS, specifically Canada, Denmark, and Russia's claim to area around the North Pole. The conclusions of the piece can easily be extrapolated to also be relevant for other continental shelf claims in the High North. Furthermore, the article only examines whether and how the claims process may lead to tensions between the states – it does not aim to predict how the claims themselves will be settled. The analysis of the legal structures in the following section only aims to unpack the relationship between international law and geopolitics. It does not provide a complete overview of the many complex intricacies of the UNCLOS sections on continental shelves.

The argument progresses in three steps. The first section examines how international law structures the Canadian, Danish, and Russian claims and where one finds the boundary between law and geopolitics. The second section focuses on the geopolitical reasoning that guides how the states approach the delimitation process. The final section then uses international law and geopolitics to outline the current state of the claims process.

### **International law: the principles of delimitation**

The continental shelf process is dictated by both legal and political considerations. UNCLOS provides a structure for allowing the states to make claims to the Arctic sea-bed, based on its geological and geographical features. As stated in UNCLOS' Article 76 (1),

The continental shelf of a coastal State comprises the seabed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to the outer edge of the continental margin, or to a distance of 200 nautical miles from the baselines from which the breadth of the territorial sea is measured where the outer edge of the continental margin does not extend up to that distance (UNCLOS 1982: 76(1)).

Within 200 nautical miles, states can demand the right to exploit the sea-bed as defined by the EEZ regime (Byers 2014: 94). Canada, Denmark, and Russia have already extended their EEZs to the 200 nautical miles line under this regime, so the current process revolves around the section that allows states to claim rights over the continental shelf that extends as “the natural prolongation of its land territory” beyond 200 nautical miles. Claiming the continental shelf thus entails detailed geological analysis to show that it is indeed a natural prolongation of the state's land territory.

If a sea high is determined to be a natural prolongation of a state's land territory, the size of the claimable areas depends on whether the sea highs are submarine ridges or submarine elevations. The former entitles the states to claim an area up to 350 nautical miles from the baselines drawn at the coast; while the latter entitle the states to also claim areas that are within 100 nautical miles of the 2,500 isobath of the continental shelf. In other words, states can potentially claim a larger area if they can argue that a sea high is a submarine elevation and not a submarine ridge. Determining the type of sea high involves relatively complex criteria, including the crust type and connection to the continental margin and CLCS emphasizes that it determines how to evaluate the evidence on a case by case basis. The distinction between the two types is also debated amongst international lawyers (Byers 2014: 99–104). Both principles are relevant for the Arctic claims.

The rights that states have over the continental shelf are quite limited. They have rights to the soil and subsoil, but not the water column or the airspace above the continental shelf. They can exploit certain living and dead resources (oil, gas, minerals, and “organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil”) found in the soil and sub-soil. Because they have no rights over the water column or the airspace, they cannot regulate or interfere with civilian and military traffic (UNCLOS 1982: 77–82; Byers 2014: 93).

States can block the UNCLOS process if they find that it is in their best interest to do so. UNCLOS only provides a set of rules for how much territory states *can* claim, while determining

the final delimitation lines depends on political agreements between the states. One state can disrupt the process by challenging the content of other states' claims or by refusing to compromise at the negotiation table. In that sense, the process depends largely on political considerations (McDorman 2002).

The role of CLCS is to evaluate the scientific validity of the states' claims, before the states can sit down at the negotiating table. CLCS does not determine the legality of the states' claims, but only determines whether the scientific evidence provided by states supports their claims regarding the nature of the continental shelf. CLCS's power lies in the legitimacy that states assign to its recommendations. This power enables it to facilitate a facts-based process by supplying information to other potential parties and thus decreasing transaction costs for states. CLCS also limits the extent of the claims that states can reasonably make, because it forces the states to present scientific data to show the legality of their claims (McDorman 2002).

The claims process basically runs through three phases: submission of claims, evaluation of claims, and recommendation from CLCS. First, states submit their claims based on scientific data. Norway, Denmark and Russia have made claims to the Arctic Ocean, while Canada has yet to submit its claims to CLCS (Danish Ministry of Foreign Affairs and Government of Greenland 2014; The Russian Federation 2001; The Russian Federation 2015; Kingdom of Norway 2006). Norway does not claim the North Pole and there are only minor overlaps with other nations' submissions (Kingdom of Norway 2006; The Russian Federation 2015; Danish Ministry of Foreign Affairs and Government of Greenland 2014).

Second, the CLCS then evaluates the scientific assertions in the claims. CLCS can only make recommendations if other nations do not make claim to the same area and protest against CLCS considering the evidence. States can thus use this mechanism to disrupt the process. For instance, when Russia submitted its first claim in 2001, several of the other states argued that the Russian submission did not provide enough data to allow them to form an opinion (Permanent Mission of Canada to the United Nations 2002; Permanent Mission of Denmark to the United Nations 2002). The states have since agreed to allow CLCS to consider their claims (The Russian Federation 2015; Danish Ministry of Foreign Affairs and Government of Greenland 2014).

Third, CLCS provides its recommendations, based on the evidence provided by the states. If a state is dissatisfied with its findings, the state can submit new evidence. Once CLCS recommendations have been reached, the involved states can use them to negotiate a final settlement of any overlapping claims. Non-involved states can probably influence the process by protesting against any final boundaries. Control of territory ultimately depends on state recognition and protest would show that the protesting state does not recognize the claims as legitimate (Byers 2014: 125–26).

In sum, international law provides the states with rules and processes that allow them to transfer information in an orderly fashion. The states can disrupt the process, but UNCLOS and CLCS are both considered to be legitimate and unpartisan institutions and doing so thus comes at the loss of reputation for states (Mercer 1996; Downs and Jones 2002; Brooks & Wohlforth 2005: 514–17). The key question is if states' interests in disturbing the process outweigh these political costs. One cannot understand the delimitation process without considering why states have a geopolitical interest in a peaceful settlement of the Arctic delimitation question.

## Geopolitics makes states adhere to international law

Geopolitics link the geographical features of a specific area with economics and international and domestic politics to understand state behavior within that area. Understanding the Arctic's importance entails understanding its material production value, its military and symbolic importance, and existing domestic and international political dynamics.

At Ilulissat, the coastal states agreed to follow international law when dividing up Arctic territories and to cooperate through regional institutions (Ilulissat Declaration 2008). Of course, declarations are but mere words and it would count for little were it not for the fact that it rests on a foundation of shared state interests. As the following sections will show, even when viewed from a purely *Realpolitik* point of view, the states have much to gain from adhering to the UNCLOS set-up and this has so far kept the process on track. Basically, the geopolitical logic behind this support consists of geo-economic, grand-strategic, and domestic dynamics. In the following, each of these dynamics is analyzed separately to show that the states have an incentive to divide the territory peacefully, but that domestic politics may disrupt the process.

### *Arctic geo-economics*

There is no established consensus about the meaning of the term “geo-economics” and definitions include the economic effect of geopolitics, the geopolitical effects of economic phenomena, and the geographical distribution of economic activity (Luttwak 1990; Dicken 1998; Baru 2012). In this piece, I define the term narrowly as the subset of geopolitics concerned with the economic potential of geographical features, including transport routes, minerals, energy resources, and animal stocks. That is, geo-economics tells us how certain territories enable the production of wealth.

The geo-economics of the Arctic indicate that the UNCLOS process should be relatively unproblematic, as the undistributed areas are unlikely to contain significant resources and even if they do so, they will be very difficult to exploit. As mentioned above, the process does not give states rights over some of the most important Arctic resources, such as fish stocks or sea lanes. Instead, a geo-economical analysis should focus on resources found on the seabed or in the subsoil beneath, the most important of which are oil and gas. Any analysis of the resources in the undistributed areas will be based on estimates based on sparse data, but available analyses indicate that the vast majority of Arctic hydrocarbons are located along the coasts, within the existing boundaries of the High North states (Gautier et al. 2008). Minerals or other valuable resources may be found on the bottom of the sea, but they are still very difficult to exploit, as the sea floor is covered by 500 to 4,200 meters of water and an ice-sheet that is unlikely to disappear for decades.

Of course, the very possibility of finding exploitable resources at some point in the future gives the states an incentive to maximize their piece of the Arctic territory. The value of potential future gains is, of course, not the same as the value of a certain gain in the present. The uncertainty of their very existence is the first major problem. Even if they do exist, their value is also time-discounted, meaning that resources that may lie centuries down the road have a lower value for two reasons: first, the time-value concept of money tells us that the present value of an asset decreases as the time to potential exploitation increases. Second, events in the meantime

may prevent states from actually exploiting those resources, feeding into the uncertainty argument.

Thus, states must consider how pursuing uncertain and highly discounted resources stacks up against the certain and undiscounted political costs of pursuing a large stake at this point in time. Claiming Arctic territory entails an effort to substantiate the validity of the claim and the risk of creating animosity in other states. States will be unwilling to incur political costs, if they gain from political cooperation. The political costs are determined by the grand strategic goals of the states in question, which will be analyzed in the following section. Arctic policymakers have previously shown that they are willing to compromise in order to avoid incurring political costs. For instance, concerns for the stability of Arctic cooperation and an unwillingness to incur political costs played a key role when the Arctic states decided to give six non-Arctic states, including China, India, and Japan, Observer status in the Arctic Council. Russia was skeptical at the onset, but Moscow was eventually convinced to widen the circle of Observers, because Russian diplomats feared that blocking the decision would complicate Arctic governance and hurt Russia's reputation in the Council (Solli, Rowe & Lindgren 2013: 262–63).

In sum, the unclaimed territories may have some geo-economic value, as they may contain resources that are exploitable at a future date. However, this geo-economic value is rather miniscule. It is uncertain if there are any resources and even if resources are to be found, they are almost impossible to exploit even in the long term. As the following section shows, the Arctic states gain from regional cooperation and they will thus typically be unwilling to suffer unnecessary political costs.

### ***Grand strategy and the Arctic***

Just pointing out that the areas contain few exploitable resources does not necessarily show that states are likely to respect the UNCLOS process. Instead, the states may have a *grand strategic* interest in disrupting the process if it enables them to gain political power in the international system. Grand strategy is the “national policies in peace and war that both set out the goals of the state in international politics and prescribe how a broad range of national resources should be utilised in pursuit of those goals” (Kitchen 2010: 121). It enables analysts to understand how states rank certain ends vis-à-vis other ends. A brief review of the grand strategies and regional strategies of the states involved in the Arctic before the Ukraine crisis shows that they all had an interest in preserving the status quo that outweigh the benefits of disrupting the UNCLOS process.<sup>1</sup>

Russia's long-term goal is to remain a great power and a dominant state in its near-abroad. It stands somewhat outside of the current global order and has shown in Georgia and Ukraine that it is willing to pursue revisionist policies to achieve those ends (Tsygankov 2010). Russia wants to retain the ability to survey and operate militarily in the region. Russia also has significant geo-economic interests in the Arctic that make Moscow interested in keeping the peaceful regional order that currently defines the High North. The Russian economy depends on the continuous exploitation and export of oil and gas, which make up half of government revenues, and the Arctic off-shore make up a crucial new frontier for the energy industry (Laruelle 2014: 254; Gustafson 2012: 456-73; International Energy Agency 2011; Henderson & Loe 2014). Oil and gas dwarf all other Russian economic interests in the region, including minerals, fisheries, and the

new sea-route through the North-East Passage. Even though these interests are, of course, important for the Russian state, they are not essential for Moscow's long-term position in the international system. This need for hydrocarbons makes Moscow dependent on the West. Russian companies, like Rosneft and Gazprom, lack the necessary capital, technology, and know-how to develop and explore these resources and they have consequently established partnerships with Western companies that can supply these elements (Henderson & Loe 2014; Gustafson 2012: 470-72; Bradshaw 2010). Military and political tensions in the Arctic may discourage Western companies from engaging in these partnerships and Russia consequently has an interest in supporting peaceful cooperation in the region.

The remaining coastal states are all part of the American alliance system that dominates the global order. The United States has few grand strategic interests in the High North. The American Arctic contains some hydrocarbons and mineral resources and the US generally has an interest in keeping shipping lanes open for global traffic and attaining domain awareness and military maneuverability in the region (White House 2013: 6-7). However, none of these interests are essential for American grand strategy in the same way as Russia's Arctic interests play a crucial role for Moscow. Instead, the High North is mainly important for political reasons. The US benefits immensely from the current global order and Washington aims to prevent potential rivals, like Russia and China, from pursuing revisionist policies by showing them that they too stand to gain from the status quo. In the High North, for example, China gets influence over regional decision-making and Russia gets access to partnerships with Western oil and gas companies. However, the White House can soon deny the two states access to these benefits if they pursue destabilizing policies.

Extra-regional powers, like China and Japan, have few interests and little influence in the region, but as long as the delimitation lines have not been settled, they can challenge the legitimacy of the UNCLOS process by disputing any agreements (Byers 2014: 125-26; Tonami 2014; Kai Sun 2014; Brigham 2014). This course of action would not bring these states any material benefits, but it could be part of a revisionist approach aimed at destabilizing the current world order. No extra-regional great powers currently show sign of going down the revisionist track, but world political currents can change fast and one cannot disregard the possibility that non-Arctic states will challenge the UNCLOS process.

The smaller Arctic coastal states also benefit from the current order and they support the American course, although they have some leeway to stake out an independent course. Denmark and Canada – the two smaller states with claims to the North Pole – are both integral members of NATO and they therefore both have an interest in maintaining the Western alliance and both countries' governments emphasize international cooperation in the region (Government of Canada 2010; Government of Denmark, Government of Greenland, and Government of the Faroe Islands 2011). Smaller states concurrently tend to prefer international cooperation and both Canada and Denmark should be more interested than the great powers in avoiding tensions in the High North. Denmark is smaller and located closer to Russia, so one would expect Copenhagen to be more willing than Ottawa to compromise with Moscow. In sum, the current constellation of interests supports a cooperative approach to Arctic politics and to the UNCLOS process.

### ***The Arctic in domestic politics***

Domestic politics also play an important role for the UNCLOS process. The polar region plays a crucial role in the national imaginaries of most of the coastal states and governments and domestic political forces can strengthen their own position by playing on these imaginaries. In Russian national identity, for instance, the Arctic forms a final frontier for civilization, a “Wild North” akin to the “Wild West” in the US. The High North represents a normative mission (to bring civilization to the North), while also serving an instrumental purpose for Russia as a region of wealth that will finance Russian greatness in the 21<sup>st</sup> century. Protecting Russia’s rightful claim to the Arctic is seen as part of a wider quest of protecting Russia as such from foreign encroachment (Laruelle 2014, 24-46). The 2007 planting of a Russian flag on the North Pole sea bed can be seen as a case in point (Chivers 2007). The event had no legal repercussions – states do not acquire territory simply by planting flags on it – and it should instead be seen as an attempt at shoring up support domestically (Laruelle 2014: 10).

Similarly, the High North plays a crucial role in Canadian identity, as a unique territory from which it derives national characteristics of ruggedness and manliness that separates it from other liberal, Anglo-Saxon states (Williams 2011). This emphasis of Arctic sovereignty has been strengthened during the current Harper government (Dodds 2011). As some authors point out, emphasizing Canada’s need to assert its sovereignty over the Arctic enables the conservative government to push for a strengthening of national defense and to appeal to nationalistic sentiments amongst segments of Canadian voters (Coates et al. 2008: 169-87). Some observers also argue that the sizeable Ukrainian diaspora in Canada explains Ottawa’s strong stance against Russia during the Ukraine crisis (Carlson 2014; Harper 2014; Hoppe 2015).

The High North also plays a role for Danish politics, albeit in a more indirect manner. While the Arctic plays only a marginal role in Danish political identity, the continental shelf question is a crucial component of the complex relationship between Denmark and Greenland, an autonomous territory within the Kingdom of Denmark. The Danish government has ultimate say in foreign and security policy matters, but it constantly has to reaffirm the legitimacy of this arrangement by showing that it works to further Greenland’s interests (Rahbek-Clemmensen 2011). According to at least one line of thinking, a minor claim designed not to antagonize Moscow could have weakened Copenhagen’s legitimacy in Greenland (Breum 2014: 186-91). However, little is known about how the continental shelf claim actually resonates in Greenland.

In sum, domestic politics has thus so far played a marginal role for the UNCLOS process, but it may disrupt the Arctic delimitation process in the future. Domestic forces may pressure governments to pursue a more demonstrative course, even though it is not in the best interest of the state. The Russian planting of a flag on the Arctic seabed in 2007 provides a case in point. The event, which was organized by leading members of the incumbent United Russia Party, did nothing to strengthen Russia’s claim to the pole, but it led to raised eyebrows in the other Arctic capitals (Chivers 2007).

The geo-economic features of the Arctic and the grand strategies of the Arctic coastal states thus support the UNCLOS process. The area around the North Pole probably contains very few, if any, exploitable resources and the states generally have an interest in keeping the region peaceful. Domestic politics is the great unknown in the strategic calculus. The question has significant



symbolical value for several of the coastal states and domestic forces may pressure Arctic governments to throw a wrench in the UNCLOS machinery.

### **The present and future of the delimitation process**

The states have so far accepted the conditions outlined in Ilulissat and they have allowed the UNCLOS framework to run its course. Before the Ilulissat meeting, in 2001, Russia made a claim that extended to, but did not include, the geographical North Pole (Russian Federation 2001). Canada and Denmark found that the claim lacked data and they were unable to form an opinion (Permanent Mission of Canada to the United Nations 2002; Permanent Mission of Denmark to the United Nations 2002). The US argued that the ridges that Russia claimed to be part of its continental shelf (the Alpha-Mendeleev Ridge and the Lomonosov Ridge) were, in fact, free-standing oceanic ridges and Washington recommended that the CLCS should request more data, if it was unsure about the Russian claim (Permanent Mission of the United States of America to the United Nations 2002). Norway accepted that CLCS considered the claim (Permanent Mission of Norway to the United Nations 2002; The Russian Federation 2015). Overall, CLCS found that the claim lacked sufficient data and requested a new submission (Russian Federation 2015; Byers 2014: 107-09).

Denmark's claim from December 2014 covers an 895,000 km<sup>2</sup> area and is more extensive than observers had expected. It overlaps with the previous Russian claim from 2001 as well as with the 2015 Russian claim and it will most likely overlap with future Canadian and Norwegian claims. None of these states have opposed to CLCS considering the Danish claim (Danish Ministry of Foreign Affairs and Government of Greenland 2014). For long, the Danish and Canadian governments worked to make a coordinated submission, where the two states would not make overlapping claims. However, Canada reportedly rescinded on the deal in 2013 as Canada would most likely claim territory that would overlap with the Danish claim. The deal would give Ottawa no claim to the geographical North Pole and observers speculate that the Canadian change of course was an attempt to shore up popularity by the government (Breum 2014: 189-91; Chase 2013).

Russia resubmitted its Arctic claim in August 2015. The new Russian claim covers an area of 1.2 million km<sup>2</sup>, including the geographical North Pole, and it is more extensive in the central Arctic Ocean than the 2001 claim (The Russian Federation 2015).<sup>2</sup> However, it still signals that Russia is willing to compromise with the Danes and the Canadians. Given that Denmark argued that the Lomonosov ridge was an extension of both Asia and North America, Russia could have claimed the entire ridge to North America. Having made a large claim would arguably give Moscow more room for compromise and would thus have been a sensible negotiation tactic for the up-coming talks with Canada and Denmark. By refraining to do so, Russia showed that it is dedicated to settle the delimitation process peacefully. If anything, Russia is more restrained than Denmark, when it comes to its claims to the central Arctic Ocean. The other Arctic coastal states have accepted that CLCS evaluates the Russian submission (Russian Federation 2015: 10-12). The Danish and Russian claims and the other states' reactions thus show that the Ilulissat consensus still remains intact.

Although the delimitation process has hitherto run peacefully, there are some clouds in the horizon that may complicate matters down the line. The Ukraine crisis is making Arctic politics

more confrontational and this may affect the UNCLOS process.<sup>3</sup> So far, the impact of the crisis has been mild in the High North, compared to its impact on other regions. Military tensions have increased as joint exercises have been cancelled (Østhagen 2014; Pettersen and Nilsen 2014). Russia and the West have shown their military strength in the region through exercises and military demonstrations (Nilsen 2014; Staalesen 2014; Anonymous 2015a). However, there have been fewer demonstrations in the Arctic than in other regions. For instance, Norwegian scrambles of Russian military planes have gone up 20%, compared to a 200% increase in NATO scrambles over the Baltics (Anonymous 2014; Ministry of National Defence, Republic of Lithuania 2014a; Ministry of National Defence, Republic of Lithuania 2014c; Ministry of National Defence, Republic of Lithuania 2014b; Ministry of National Defence, Republic of Lithuania 2014d; Ministry of National Defence, Republic of Lithuania 2015; Ministry of National Defence, Republic of Lithuania 2014e; Ministry of National Defence, Republic of Lithuania 2014f). None of the episodes that occurred between High North nations in the Arctic in 2014 are on par with the episodes from other regions, which include the alleged Russian abduction of an Estonian border guard, the alleged intrusion of a Russian submarine to the Stockholm archipelago, or several provocative incidents between military platforms in the Baltic Sea and the Black Sea (Frear, Kulesa & Kearns 2014; Frear 2015).

The crisis has also complicated diplomatic cooperation in the region. Sergey Lavrov, the Russian foreign minister, did not attend the 2015 Arctic Council Ministerial, thus missing his first Ministerial since 2004 (Myers 2015). Although Russia sent Sergei Donskoi, its minister of natural resources and the environment, it is difficult not to see Lavrov's absence as a Russian protest, caused by the events in Ukraine. Shortly before the meeting, Dmitry Rogozin, the controversial head of Russia's Arctic Commission who is banned from entering most Western countries, made a provocative visit to Svalbard. Although not a violation of the Norwegian sanctions of Russia, the visit led to audible protests from Oslo (Myers 2015; Pettersen 2015b). In 2014, Canada and the US boycotted an Arctic Council task force meeting that was scheduled to be held in Moscow (Mackarel 2014).

In spite of these controversies, Arctic cooperation continues. For instance, the aforementioned 2015 ministerial showed that the Arctic states agree to continue and expand the Council's project portfolio in the coming years. For example, the states agreed to implement several existing initiatives in areas such as climate protection, oil spill prevention, and marine protection and to take new initiatives, such as a telecommunications infrastructure experts group (Arctic Council 2015). Also, the Council deferred the controversial questions regarding the role of Observers and whether the EU should be granted Observer status to 2017 (Arctic Council 2015). This shows that the states were unable to reach an agreement about one of the more controversial matters in current Arctic Council politics and it seems reasonable to argue that the Ukraine crisis added an additional layer of complexity to the matter. However, had one of the states wanted to halt Arctic cooperation, protesting or blocking discussion of the Observer question altogether would have been a natural course of action. Bilateral cooperation also continues in spite of the crisis. For example, Norway and Russia still maintain non-military cooperation, including the annual Barents emergency drill (Pettersen 2014; Pettersen 2015a).

Most importantly, the Western sanctions of Russia deliberately target Moscow's oil and gas interests in the High North, making it impossible for Western energy companies to engage in

partnerships with their Russian counterparts (European Union 2014; United States Department of State 2014). The sanctions thus target the very backbone of the cooperative order in the Arctic and they may push Russia towards a more confrontational position for two reasons. First, the sanctions mean that potential partnerships with Western companies no longer function as a carrot for Russia. Moscow simply benefits less from Arctic cooperation, compared to the pre-crisis years, and one would expect that Russia would be less willing to make concessions to preserve the current order. Second, this downturn is destabilizing Putin's power-base. The Russian government has so far rested on a wide coalition that encompasses both moderates who care about economic growth and the nationalist right (Charap 2013). The combination of the sanctions and the drop in energy prices means that Russia may face years of economic stagnation, which makes it more difficult for the Putin regime to gain support from moderates. Moscow faces a choice between de-escalation and escalation in Ukraine. If it chooses the latter path, the Kremlin may decide to bolster its own domestic position by strengthening the nationalist right through a more bellicose and provocative foreign policy.

The UNCLOS process may prove to be the perfect arena for Russian posturing. The issue is symbolically important in Russia as well as in the other High North states and provocations are likely to result in harsh reactions from Ottawa and Copenhagen and perhaps even Washington. Russia's reaction to the Danish claim (which was made ten months after the beginning of the Ukraine crisis) shows that Moscow still respects the Ilulissat consensus. Although Russia disagreed with Copenhagen's interpretation, Moscow accepted that the claim was made according to the principles stipulated by CLCS and did not oppose that the commission considered the claim (The Ministry of Foreign Affairs of the Russian Federation 2014).

In sum, the delimitation process thus still runs peacefully and it seems reasonable to expect that state of affairs to continue in the future. However, policymakers and observers should be aware of the risk that domestic forces may push the states to disrupt the peaceful process and that that risk has been exacerbated by the Ukraine crisis.

## **Conclusion**

The purpose of this piece was to use legal and geopolitical theory to examine whether Canada, Denmark, and Russia's continental shelf claims are likely to lead to tensions between the three states. It showed that international law provides principles that the states have to follow if they want to claim Arctic continental shelves, but that states can also block this process. The core states currently stand to gain from the peaceful settlement of the issue, which has been reflected in the somewhat restraint shown thus far by the states.

Domestic politics is the big unknown. The Arctic plays a symbolically important role in the national narratives of all three states and it is not unlikely that domestic forces will pressure governments to make extensive claims or to block the UNCLOS process. The delimitation process thus entails managing domestic expectations. Furthermore, policymakers and observers should note that the Ukraine crisis may be changing Moscow's strategic calculus by making cooperation less beneficial, while concurrently strengthening the regime's dependence on nationalistic domestic forces. The Kremlin may decide to use posturing and a disruption of the UNCLOS process to stoke the flames of nationalism.

The delimitation process is still on track, but policymakers and observers should be aware of the bumps ahead and should plan their policies and reactions to avoid that the process gets derailed. *Timing* seems to be absolutely essential. Policymakers should – if possible – make claims and counterclaims at times when the tide of nationalism is ebbing and they should avoid stoking the flames of nationalism through provocations or posturing, when other states make their claims. Furthermore, they should not take foreign posturing too seriously, but rather strive to separate identity politics from actual concrete political measures. The current constellation of interests seems to favor a peaceful delimitation of the High North, but it requires cool heads in the Arctic capitals to ensure that favorable conditions lead to optimal outcomes.

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## Notes

1. The following review is based on Rahbek-Clemmensen 2015.
2. The 2001 claim included an area bordering Norwegian territory in the Barents Sea. Norway and Russia had settled this question in the meantime and this part of the claim was not included in the 2015 claim.
3. For a comprehensive analysis of the impact of the crisis on Arctic politics, see Rahbek-Clemmensen (2015).

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