

Briefing Note

The Agreement on Enhancing International Arctic Scientific Cooperation: From Paper to Practice

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For a long time, science has been one of the major platforms for collaboration in the Arctic – both during the Cold War and increasingly after its end. Organizations like the International Arctic Science Committee (IASC) and initiatives such as the International Polar Year 2007/2008 have been essential in bringing together scientists working on the Arctic from all over the world, enabling them coordination of international polar research activity on a large scale. That cooperation consequently contributed to the advancement in scientific understandings of the effects of climate change and transformations occurring in the region.

Recognizing the importance of cooperation in scientific research across the circumpolar Arctic to its own work, the Arctic Council (AC) decided at the Ministerial Meeting in Kiruna in 2013 to establish a Task Force to work towards an arrangement on improved scientific research cooperation among the eight Arctic States (the Scientific Cooperation Task Force, or SCTF). While the Arctic states initially considered adopting a Memorandum of Understanding, it soon became clear that to effectively address issues such as access to research areas and movement of people and equipment across borders, a legally binding agreement might be needed. The negotiations of such a text were successfully completed in July 2016 and in May 2017 at the tenth Ministerial Meeting of the Arctic Council in Fairbanks, Alaska foreign affairs ministers of the eight Arctic states signed the “Agreement on Enhancing International Arctic Scientific Cooperation.” This briefing note reflects on the process leading to and the provisions of the Agreement as well as on the implications it might have for the cooperative international research in the Arctic. Moreover, as the third legally binding instrument negotiated under the auspices of the Arctic Council, the Agreement is worth consideration from the broader perspective of Arctic governance and its meaning to the Council itself.

Introduction

On 11 May 2017, the ministers of foreign affairs of the eight Arctic states signed the “Agreement on Enhancing International Arctic Scientific Cooperation” at the tenth Ministerial Meeting of

the Arctic Council in Fairbanks, Alaska. The text negotiated within the Arctic Council's (AC) Task Force for Enhancing Scientific Cooperation in the Arctic (SCTF) is the third legally-binding instrument brought about under the auspices of the AC. It is also a primary example of science diplomacy, where delegations from Arctic countries comprised both of diplomats and scientists from various national agencies and institutions involved in Arctic research, to jointly negotiate conditions to facilitate the conduct of international scientific research in the region. While at present the document awaits ratification by the Arctic states, it is the right time to reflect on the rationale of the this new legally binding instrument, the process that led to its fruitful completion and implications it might have for Arctic scientific cooperation and governance.

From the IPY 2007-2008 to the Arctic Council Task Force for Enhancing Scientific Cooperation in the Arctic

For a long time, science has been one of the major platforms for collaboration in the Arctic - both during the Cold War and increasingly after its end. Science is critical to understanding drivers and consequences of the rapidly advancing climate change in the region. It is also a source of key insights to sustainable development of the Arctic as well as of the rest of the planet. We know today that the Arctic plays a critical role in the Earth's climate system and serves as an indicator of global changes. However, our comprehension of complex processes that unfold in the region and how they are interconnected with global weather, ocean circulation and carbon cycle remains still limited. Filling those gaps in our knowledge is essential and even more urgent considering the pace of changes that the Arctic is undergoing.

Yet, gaining scientific knowledge about the polar regions presents great challenges and the scale of operations in the demanding, remote conditions oftentimes exceeds capacity of any single nation, making international collaboration of paramount importance. Initiatives like the International Polar Years (IPYs) serve the purpose of facilitating such cooperation and the fourth IPY (2007-2009) was the largest, most comprehensive coordinated campaign ever mounted to explore the Earth's polar regions. Right upon its completion, the discussions began in international fora on means of ensuring a coordinated follow-up of the long-term observations and research launched during the initiative. The World Meteorological Organization (WMO) put forward the idea of the International Polar Decade (IPD), later renamed to the International Polar Initiative (IPI). The concept of the IPI supported the necessity of a systematic coordinated approach to polar research activities that would help address issues such as lack of resources for continuous polar observations, lack of adequate information systems in the region and much needed transition from research to action. It was during the first meeting of the SCTF in Stockholm in December 2013 that Russia argued that the Arctic Council should play an active role in the development of the International Polar Initiative and that this work should become one of the main objectives of the AC Scientific Cooperation Task Force.

It was, however, not the first time that the AC was engaged in discussions of international Arctic scientific cooperation. The International Polar Year 2007-2009 coincided with the Norwegian chairmanship of the AC (2006-2009) and the IPY was an important element among common objectives presented by Norway, Denmark and Sweden for their consecutive AC chairmanships (2006-2012). In their joint program three Nordic states provided political support for the efforts of the IPY and for ensuring that its results would be taken into account in policy-making. They

also committed themselves to work to enhance relations between the Council and the international Arctic science community. The rationale for the AC's engagement in that regard was the importance of science to the Arctic region in general, to the work of the Council itself as well as the role of science in decision-making on most of the issues before the AC and its members (Arctic Council, 2009).

While the IPY had great value to the work of the AC, it was also recognized that the Council through its members provides significant contributions to development of science in the region and can also play an active role in fostering sustained legacy of the fourth International Polar Year. The issue was actively undertaken during the Norwegian term at the helm of the AC and at the meeting in Svolvær in April 2008, where the Senior Arctic Officials (SAO) discussed the idea of an IPY legacy initiative. The project "Maximizing the Legacy of the IPY" was endorsed by the SAOs a few months later, and the final report delivered before the AC Ministerial meeting in Tromsø, Norway in April 2009 identified several areas where the AC could contribute to converting IPY results into societal benefit and sustaining scientific cooperation in the region – among others, by encouraging enhanced international access and coordination of the member states' infrastructural and research facilities in the Arctic (Arctic Council, 2009).

It was against this background, the follow-up of the IPY and the development of the International Polar Initiative actively promoted by Russia, that the Arctic Council decided at the Ministerial Meeting in Kiruna, Sweden in May 2013 to set up the Task Force for Enhancing Scientific Cooperation in the Arctic (SCTF) co-chaired by the United States, Russia and initially Sweden. The objective of the task force was to work towards an arrangement on improved scientific research cooperation among the eight Arctic States and to deliver its results to Arctic Ministers in 2015 (Arctic Council, 2013b).

Toward a Legally-binding Agreement

The SCTF held nine meetings from May 2013 through July 2016. Its work could be divided into two phases covering two consecutive AC chairmanships: of Canada (2013-2015) and of the United States (2015-2017). Following the initial discussions about already existing mechanisms for coordination of Arctic research priorities, members of the Task Force quickly decided to focus on removing existing obstacles to scientific collaboration in the region and to support efficiency of collaborative Arctic research. They identified several key areas calling for improvement in the conduct of international science projects in the North such as facilitating the movement of people, samples and equipment across borders for research purposes; facilitating access to research sites and infrastructure; and sharing of data and metadata. While the task force initially considered a high-level agreement, and discussed a draft Memorandum of Understanding (MoU) on the above issues, it soon came to conclusion that in order to effectively address them, a legally binding instrument might be needed. The SCTF members recognized that to facilitate obtaining visas and clearances for scientists, entry and exit of persons and materials, and access to research facilities, a wide range of ministries and government agencies within Arctic states would need to be involved and to make them conform to the policy, it should be preferably of binding character. At the same time, the binding nature of the agreement was sought for domestic reasons by some Arctic states, including Russia which argued that such a document would have the weight needed to provide the opportunity to improve coordination among relevant Russian ministries and government units (Shibata & Raita, 2016). Toward that end,

Arctic ministers extended the mandate of the SCTF at their meeting in Iqaluit, Canada in 2015 to include work towards a legally-binding agreement on scientific cooperation to be completed during the US Chairmanship of the Council (Arctic Council, 2015).

During the next meetings members of the task force negotiated the text of the agreement, moving through multiple rounds of revisions to find compromise and agree on issues such as geographic scope of the accord, inclusion of traditional and local knowledge, access to data and intellectual property rights, and the definition of “participants.” Since the agreement was now to become a legally binding agreement under international law, the issue arose regarding its relationship to non-parties, so non-Arctic states, many of which are observers to the Arctic Council. Recognizing their importance and input to Arctic research as well as already existing partnerships between Arctic and non-Arctic states and research organizations, the AC Observers were invited to present comments on proposed drafts and they were actively involved throughout the negotiation process. The final text of the Agreement was approved at the last meeting of the SCTF in Ottawa in July 2016 and signed by foreign ministers of eight Arctic states at the AC Ministerial Meeting in Fairbanks in May 2017.

The newly adopted Agreement on Enhancing International Arctic Scientific Cooperation aims to enhance cooperation in scientific activities to increase effectiveness and efficiency in the way the scientific knowledge about the Arctic is developed (Article 1). Toward that goal, the Agreement facilitates access by scientists of eight Arctic states to Arctic areas that each state has identified for purposes of the Agreement and which are described in its Annex 1. The facilitation includes entry and exit of persons, equipment, material, data and samples (Article 4); access to national civilian research infrastructure, facilities and logistical services (Article 5); and access to terrestrial, coastal, atmospheric and marine research areas. The parties shall also facilitate access to scientific information; open access, distribution and sharing of data and metadata, and encourage publishing results with minimum time delays (Article 7). Furthermore, the Agreement promotes education and training opportunities to build capacity and expertise of future generations of Arctic researchers (Article 8) and it encourages utilization, as appropriate, of traditional and local knowledge in the planning and conduct of scientific activities (Article 9). It also obliges its parties to designate their competent national authority or authorities as the responsible points of contact for the Agreement – all listed in the Annex 2 (Article 13). Importantly, regarding co-operation with non-Parties, or non-Arctic states, the Agreement provides that if scientists coming from those countries are partnering in a project with an Arctic state, they would effectively benefit from the provisions of the Agreement (Article 17). The Agreement will enter into force for the period of five years 30 days after the date Denmark receives the last written notification from Arctic states that they have completed their internal procedures required for the Agreement’s entry into force (Article 19). No later than within one year from that moment, eight Arctic states shall convene a meeting to review the implementation of the Agreement – possibly in conjunction with the meetings of the Arctic Council including inviting the AC Permanent Participants and Observers - and from then on as decided by the parties (Article 12) (“Agreement on Enhancing International Arctic Scientific Cooperation,” 2017).

Implications of the Agreement on Enhancing International Arctic Scientific Cooperation

So, what are the implications of the Agreement? Arguably, they could be divided into two categories – one regarding those for the scientific community, another for the Arctic Council itself. Regarding the former, the Agreement presents indeed an improvement in the legal environment for conducting scientific activities in the Arctic and goes, in that respect, beyond what is provided by general international law, including the law of the sea as to marine scientific research, and other relevant regional and bilateral agreements. For example, it grants facilitated access to land research areas of Arctic states (as listed in Annex 1), which is normally not included in the bilateral science and technology cooperation agreements (Shibata & Raita, 2016). It is also the first agreement on scientific collaboration on the Arctic including all eight Arctic states, where most of the joint research activities have been based so far on the two-side arrangements.

Regarding the latter, the Agreement signed in May 2017 is the third legally-binding instrument negotiated under the auspices of the Arctic Council. As Evan Bloom, the co-chair of the SCTF, explains, it will “take the Council another step in the direction of (...) establishment of legal norms and activities of regulatory character” (Bloom, 2016: 223). Conceivably, though, the Agreement on scientific cooperation stands apart in two respects from the two prior legally-binding instruments – the Agreement on Cooperation on Aeronautical and Maritime Search and Rescue in the Arctic (2011) (SAR) and the Agreement on Cooperation on Marine Oil Pollution Preparedness and Response in the Arctic (2013) (MOSPA). First, it creates a new set of obligations for the Arctic states, which were not codified in the previously existing international agreements on scientific cooperation – as it was the case both for SAR and MOSPA in their respective subject areas. What it means is that no formerly tested arrangements are in place to ensure the implementation of the Agreement, but they all must be built upon the provisions of the new legally binding instrument signed in May 2017 in Fairbanks, and the appropriate social practices need to be established and developed to put the Agreement in practice (once it enters into force). Second, when it comes to the institutional aspect, both SAR and MOSPA found their ‘home’ in the Arctic Council’s Emergency Prevention, Preparedness and Response (EPPR) Working Group. The EPPR has been tasked with the follow-up to the two agreements, undertaking projects in their support, coordinating SAR and Oil Spill Response international exercises and addressing relevant findings from them. However, when it comes to the scientific cooperation agreement, no such ‘home’ exists within the current structure of the Arctic Council and while the purpose of the Agreement is relevant to work of many of the AC working groups, none of them appears to be well suited to oversee or coordinate its actual implementation. The Scientific Cooperation Task Force that was mandated with developing the agreement completed its work with the successful conclusion of the negotiations and, in accordance with the AC rules of procedure, was disbanded upon fulfilling its mandate. At present, as described, the Agreement provides for meetings of the parties that might be convened in conjunction with meetings of the Arctic Council. There is, however, no mechanism linking the agreement with the AC nor is it evident at the moment whether parties would report on the status of the implementation to the Council and if so, in which manner. Strictly speaking, there is no such obligation, seeing that the agreement is not the ‘Arctic Council agreement,’ but the one adopted by the governments of eight Arctic states and merely negotiated under the auspices of the AC. So too are the SAR and MOSPA agreements, yet their connection with the EPPR has provided for a clear overview of

their follow-up. The lack of it in the case of the scientific cooperation agreement means there is a certain risk that the next steps in its implementation might not be sufficiently exposed to all the interested parties.

Conclusions

Scientific activities, including Arctic science, do not occur in a legal vacuum. Instead, they are carried out within established legal frameworks that regulate their conduct (Shibata, 2016). The Agreement on Enhancing International Arctic Scientific Cooperation certainly presents a significant step toward improving of such a legal environment. The successful completion of its negotiations is also a very good example of science diplomacy, where the effort was orchestrated hand in hand by Russia and the United States despite their otherwise tense relationships following the annexation of Crimea by Russia in March 2014. Yet, to make a real difference and increase the effectiveness and efficiency with which we generate scientific knowledge on the Arctic, provisions of the new Agreement must be put in practice and followed. One coming opportunity to facilitate the conduct of Arctic research could be possibly the MOSAiC (the Multidisciplinary drifting Observatory for the Study of Arctic Climate) project, which will be the first year-round expedition into the central Arctic over the winter 2019-2020. With a total budget exceeding 60 million Euro, MOSAiC is the major international initiative exploring the Arctic climate system that presents not only great research potential, but also a huge logistical challenge that could be alleviated by the implementation of the Agreement. At the same time, one might well argue that such grand initiatives, which enjoy both political and financial support from ministries of science and education of many Arctic and non-Arctic countries, might well move forward even without the Agreement in place. The question that arises are the implications of the Agreement for much smaller in scale, international research projects, which do not have the leverage to influence different governmental and local authorities tasked with issuing required permits and clearances, and which are yet critical to gaining scientific knowledge on the changing circumpolar North. Should the Agreement make a difference in facilitating their conduct, its success would be undisputable along with a confirmed role of the Arctic Council as a forum for negotiating and setting legally-binding norms for the Arctic states and Arctic cooperation.

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