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THE LEGAL CHARACTER AND STATUS OF THE  
ARCTIC COUNCIL WITHIN THE FRAMEWORK OF  
INTERNATIONAL LAW OF THE SEA AND THE ARCTIC.  
THE ROLE OF INDIGENOUS PEOPLES IN THE ARCTIC  
COUNCIL AND ITS FUTURE DEVELOPMENT

1. INTRODUCTORY REMARKS

This article discusses the legal character and status of the Arctic Council (hereinafter AC). It analyses the subject from the perspective of international law, especially the International Law of the Sea. These problems are further re-assessed in the light of the role performed by the Indigenous Peoples in the AC and the potential development of their role in the AC. To that end, I decided to apply the ordinary workshop for writing a doctrinal legal dissertation. I include an analysis of the top-level sources of international law embodied in the 1982 Law of the Sea Convention; I consider the existing law, and offer suggestions of the changes which should be brought in. I also provide an interpretation and examine the legal reasoning to systematise and evaluate the legal provisions. Subsequently, I propose improvements in the areas I have considered.

The first mention of the Arctic Council as a concept was made by Gorbachev in a speech in 1987 and was further developed on the

grounds of the Arctic Environmental Protection Strategy of 1991.<sup>1</sup> The AC was established in its institutional form by the Declaration on the Establishment of the Arctic Council, which was concluded in Ottawa in 1996 (hereinafter the Ottawa Declaration). The Ottawa Declaration is a non-binding instrument, which means that the AC has no power to establish legally binding instruments of international law. The Ottawa Declaration does not prescribe the geographical extent of the AC, since there is no agreement on the extent of the Arctic. The AC makes its decisions on the basis of its member states' consensus.<sup>2</sup> In 1998 the AC adopted its Rules of Procedure, which regulate the work of the AC and are binding on all of its bodies. The objectives of the AC are listed in Art. 1(a-d) of the Ottawa Declaration. The AC is to focus on matters related to promotion of sustainable development, environmental protection and other "common Arctic issues"<sup>3</sup> by means of cooperation, coordination and interaction between the Arctic States, which involves the Arctic Indigenous Peoples.<sup>4</sup> The AC is the main entity that addresses regional matters in the Arctic, but security<sup>5</sup> and fisheries are beyond its competences. Under Art. 2 of the Ottawa Declaration, the Arctic States are the members of the AC.

There is no disagreement that the AC is a high-level intergovernmental forum.<sup>6</sup> It consists of eight member states, namely Canada, the Kingdom

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<sup>1</sup> M. POTO, L. FORNABIO, *Participation as the Essence of Good Governance: Some General Reflections and a Case Study on the Arctic Council*, *Arctic Review on Law and Politics*, V. 8, 2017, p. 148 and 149.

<sup>2</sup> E. MOLENAAR, *The Arctic, the Arctic Council and the Law of the Sea*, [in:] C. BECKMAN, T. HENRIKSEN, K. KRAABEL, E. MOLENAAR, J. ROACH (eds) *Governance of Arctic Shipping*, (Leiden, The Netherlands: Brill | Nijhoff, 2017) p. 45 and 46.

<sup>3</sup> Art. 1(a) of the Declaration on the Establishment of the Arctic Council, Ottawa, 19 September 1996.

<sup>4</sup> E. MOLENAAR, *Current and Prospective Roles of the Arctic Council System within the Context of the Law of the Sea*, p. 569.

<sup>5</sup> K. SCOTT, D. VANDERZWAAG, *Polar Oceans and Law of the Sea*, [in:] D. ROTHWELL, A. ELFERINK, K. SCOTT (eds), *The Oxford Handbook of The Law of the Sea*, 2015, p. 735 and 736.

<sup>6</sup> The AC makes this claim on its website, <https://arctic-council.org/index.php/en/> accessed on 7 May 2019, see also: A. CHARRON, *Canada and the Arctic Council*,

of Denmark (on behalf of Greenland and the Faroe Islands), Finland, Iceland, Norway, Russia, Sweden, and the United States. The AC includes permanent participants. Currently, six international organisations enjoy the status of permanent participants. They are: the Aleut International Association, the Arctic Athabaskan Council, the Gwich'in Council International, the Inuit Circumpolar Council, the Russian Association of Indigenous Peoples of the North, and the Saami Council. All the permanent participants represent Arctic Indigenous Peoples.<sup>7</sup> In May 2019 the chairmanship of the AC passed from Finland to Iceland

The AC is composed of six working groups, and conducts its activities through them. The working groups cover a broad scope of subjects, but all of them share a few common features, such as a specific operational mandate, a chairperson, a management board or steering committee, and a secretariat to help them with their activities. The AC's working groups are supported by task forces which are appointed at ministerial meetings and work within the AC framework. Their purpose is to carry out specific tasks within a prescribed time limit. The task forces may not perform their tasks outside the framework of the AC. Currently, there are two task forces, namely the Task Force on Marine Arctic Cooperation, and the Task Force on Improved Connectivity in the Arctic.<sup>8</sup>

Third parties may enjoy the status of observers. To become an observer, an interested entity must seek admission and fulfil certain criteria as laid out in the Declaration on the Establishment of the Arctic Council and the Arctic Council Rules of Procedure. Most importantly, observer status is open to non-Arctic states, inter-governmental and inter-parliamentary global and regional organisations (IGOs and IPOs), and non-governmental organisations (NGOs). Currently, 39 entities are approved observers, of which 13 are non-Arctic states, 13 are IGOs/

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Introduction; E. MOLENAAR. *The Arctic, the Arctic Council, and the Law of the Sea*, p. 22. However, it is not strictly intergovernmental, due to the participation of its "permanent participants."

<sup>7</sup> E. MOLENAAR, *The Arctic, the Arctic Council and the Law of the Sea* 2, p. 46.

<sup>8</sup> *Ibidem*, p. 47.

IPOs and 12 are NGOs.<sup>9</sup> In May 2019 at the 11<sup>th</sup> Ministerial meeting in Rovaniemi, Finland observer status was granted to the International Maritime Organisation.<sup>10</sup>

## 2. ROLE OF THE ARCTIC COUNCIL IN ARCTIC REGIONAL COOPERATION

The general role of the AC in Arctic regional cooperation may be encapsulated as the promotion of cooperation, coordination and interaction among the Arctic States, with regard to Arctic Indigenous Peoples, on matters related to the Arctic, especially sustainable development and protection of the environment, by means of non-legally binding measures, including recommendations, reports and best practice guidelines.

However, the AC has gone further towards policy-shaping and law-making roles. The environmental hot spot was the AC's Arctic Marine Shipping Assessment Report, which is considered a holistic assessment, and addresses the protection of the Arctic people and environment, emphasising the influence of global and regional economic challenges on Arctic environmental issues.<sup>11</sup> The Report, which was published in 2009, makes 17 recommendations for the improvement of governance arrangements and shipping in the Arctic. Its recommendations focus on the enhancement of an Arctic Search and Rescue instrument and the improvement of circumpolar environmental response capabilities. Following on from this, the AC appointed task forces to negotiate

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<sup>9</sup> Source of information: <https://arctic-council.org/index.php/en> accessed on 7 May 2019.

<sup>10</sup> Communication of the Arctic Council, *New Observer: The International Maritime Organization*, available <https://arctic-council.org/index.php/en/our-work2/8-news-and-events/535-new-observer-the-international-maritime-organization> 28/09/2019.

<sup>11</sup> L. BRIGHAM, *Environmental Security Challenges and the Arctic Council's Arctic Marine Shipping Assessment*, [in:] P. BERJMAN, A. VYLEGZHANIN (eds), *Environmental Security in the Arctic Ocean*. NATO Science for Peace and Security Series C: Environmental Security 2013, section 16.1.

regional agreements, and two regional arrangements were adopted, namely the Agreement on Cooperation on Aeronautical and Maritime Search and Rescue, and the Agreement on Cooperation on Marine Oil Pollution Preparedness and Response in the Arctic, concluded in 2011 and 2013 respectively. Both are independent of the AC.<sup>12</sup> Similarly, the Agreement on Enhancing International Arctic Scientific Cooperation was adopted in 2017. The AC has shown that it can create a legally binding instrument. However, due to the legal character of the Ottawa Declaration, it cannot exercise power over a legal instrument. The AC has been using the tools available to it in the right way to bring solutions to hot spots without exceeding its mandate and status. E. Molenaar has called this the Arctic Council System.<sup>13</sup>

In the Arctic Marine Shipping Assessment Report, the AC gives due credit to the United Nations Law of the Sea Convention (LOSC) as the fundamental legal framework for the governance of marine navigation and general marine use in the Arctic. Similarly, the AC recognises the authority of the International Maritime Organisation in matters related to international shipping.<sup>14</sup> The AC's role is limited by the powers of other legitimate instruments of international law which may provide for a general framework to establish the limits to the adoption of new measures, or exert an influence on some of the AC's powers, making cooperation necessary to achieve its goals. A good example is the AC's need to cooperate with the IMO in shipping and environmental protection. While the AC is authorised to promote environmental protection in the Arctic, the IMO has the power to institute the Polar Code, a legally binding instrument that regulates shipping and the environmental-friendly operation of ships in the Arctic.

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<sup>12</sup> K. SCOTT, D. VANDERZWAAG, *Polar Oceans and Law of the Sea*, [in:] D. ROTHWELL, A. ELFERINK, K. SCOTT (eds), *The Oxford Handbook of The Law of the Sea*<sup>2</sup>, 2015, p. 736.

<sup>13</sup> E. MOLENAAR, *The Arctic, the Arctic Council and the Law of the Sea*<sup>3</sup>, p. 55.

<sup>14</sup> L. BRIGHAM, *Environmental Security Challenges and the Arctic Council's Arctic Marine Shipping Assessment*, [in:] P. BERJMAN, A. VYLEGZHANIN (eds), *Environmental Security in the Arctic Ocean*. NATO Science for Peace and Security Series C: Environmental Security 2013, section 16.4.

### 3. THE DECISION-MAKING PROCESS

The AC's decision-making process is described in Art. 7 of the Ottawa Declaration and its details are given in the Rules of Procedure. The Declaration lays down that the AC's decisions are to be taken by consensus of its members. The Rules of Procedure take this requirement a step further. The AC's decisions are taken by the Arctic States at Ministerial or Senior Arctic Official (hereinafter SAO) Meetings. Rule 3 requires the presence of at least 6 Arctic States to constitute a quorum. Rule 7 imposes the requirement of consensus-based decision-making. Lack of full attendance at a meeting triggers a requirement of confirmation in writing of a decision for its validity. The confirmation must be submitted by the absent Arctic State within 45 days of the day on which it received notice of the decision. This condition is imposed only in relation to the absent State, and the specific meeting at which its absence did not cause the lack of a quorum, and for the particular decision taken at that meeting. If the absent state submits its confirmation after the 45-day deadline or does not submit a confirmation at all, it should be assumed that the absent state objects to the decision taken at the meeting. This is the interpretation of Rule 7 implied by the provisions of the Rules of Procedure that make the AC's decision-making consensus-based. In addition, the requirement of the absent state's confirmation in writing means that the Arctic States present at the meeting cannot assume its tacit approval. If the absent state does not meet the 45-day deadline, the decision will be invalid as of that date. On the other hand, if the absent party meets the deadline, the decision taken at the meeting will be declared valid as of that date on behalf of the state which was absent and the states which attended the meeting, unless provided otherwise.<sup>15</sup>

Art. 3 of the Ottawa Declaration and Rule 7 of the Rules of Procedure grant AC members the right to participate in decision-making. In other words observers and permanent participants are excluded from

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<sup>15</sup> This interpretation is favoured by the application *mutatis mutandis* of Art. 24.3. of the Vienna Convention on the Law of the Treaties.

decision-making.<sup>16</sup> However, the Rules of Procedure grant certain rights to permanent participants. The term “permanent participants” means the organisations described in Art. 2 of the Ottawa Declaration, which are responsible for the representation of the indigenous peoples of the Arctic. Rule 4 provides for their entitlement to participate in every AC meeting and activity. Rule 5 explains the term “Permanent Participation.” This category gives these organisations the right to active participation and full consultation within the AC. This means that permanent participants have established rights within the AC structure. They are to be consulted during the preparations for official meetings, because they can add issues to the agenda or suggest collaborative activities.<sup>17</sup> M. Poto recommends the indigenous Arctic people be given an authoritative status in the AC’s current structure.

E. MOLENAAR interprets “active participation” as participation in the literal sense. He also agrees that “full consultation” should be accessible to permanent participants, in the sense of supply of information and opinions. However, he is against a reading of Rule 5 as explicit grounds for the entitlement of permanent participants or an obligation on member states. Rather, by invoking the sense of consultation, Rule 5 creates an implicit entitlement for permanent participants which should be actively safeguarded and facilitated by member states, but in any event, decisions are made by member states and on their own accountability.<sup>18</sup>

The position of the permanent participants is precarious. It is subject to interpretation and depends on the good will of the member states. Permanent participants may use political tools to influence the final shape of decisions, but they cannot participate in making the decisions. It should be noted that the purpose of having permanent participants is not only to exercise the rights of the Arctic indigenous peoples, but

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<sup>16</sup> See also E. MOLENAAR, “Current and Prospective Roles of the Arctic Council System within the Context of the Law of the Sea,” *The International Journal of Marine and Coastal Law*, 2012, Vol.27 p. 590.

<sup>17</sup> M. POTO, “Participatory Engagement and the Empowerment of the Arctic Indigenous Peoples,” *Environmental Law Review* 2017, p. 40.

<sup>18</sup> E. MOLENAAR, *Current and Prospective Roles of the Arctic Council System within the Context of the Law of the Sea*2, p. 590 and 591.

also to endorse the legitimacy of the AC's decisions in matters involving the Arctic indigenous peoples, i.e. how to ensure the environmental protection of their traditional livelihoods and habitats. Such decisions may touch upon the fundamental rights of the Arctic indigenous peoples. Therefore, they should be invested with more powerful means of influence, at least equal in significance to the decisions that the AC may issue. A situation where a group of people may be subject to a decision-making body that determines their rights and duties without the proper representation of this group in the decision-making process, runs counter to the fundamental principles of democracy.

At the last ministerial meeting held in Rovaniemi in May 2019, the members summarised the two years of the Finnish chairmanship and elected a new chairman. Currently the AC is chaired by Iceland. All the member states and representatives of the indigenous peoples prepared their statements. According to the statement made by the chairperson, the AC accomplished many of its aims during this period. It enhanced cooperation between the members of the AC, welcomed various reports regarding the condition of the marine environment, and announced its future areas of interest.<sup>19</sup>

However, each Arctic State has its own interests, which it intends to safeguard. The interests vary, which in effect makes it more difficult for the AC to make decisions. For instance, Norway is interested in strengthening the Council's focus on marine issues and sustainable economic development, in particular the blue economy.<sup>20</sup> Meanwhile, the central focus of the United States of America relates to the cooperation of the Arctic States, especially in the light of new challenges, for example the presence and ambitions of non-Arctic states in the area.<sup>21</sup> The Saami Council has highlighted cooperation and co-management between the

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<sup>19</sup> Statement by the Chair, Minister for Foreign Affairs of Finland, Timo Soini On the Occasion of the Eleventh Ministerial Meeting of the Arctic Council Rovaniemi 6-7 May 2019.

<sup>20</sup> Ministerial Statement from Ms. INE ERIKSEN SØREIDE, Minister of Foreign Affairs of the Kingdom of Norway, 7 May 2019 Rovaniemi, Finland.

<sup>21</sup> Statement by Secretary of State MICHAEL R. POMPEO at the Arctic Council Ministerial Meeting May 7, 2019 Lappi Arena Rovaniemi, Finland.



Arctic States and the indigenous peoples as its primary end.<sup>22</sup> I need not invoke all the tendencies of the participants of the AC to give readers a good idea of the situation. The statements I have quoted show the difference of interests within the AC. Effectively, these differences exert a strong influence on the work of the Council. Good communication tools are needed to keep interested parties up-to-date with regard to the interests and tendencies of the AC's members and participants.

#### 4. EXTERNAL INFLUENCERS

The future of the Arctic does not depend solely on the will of the Arctic States. Other major players in the Arctic are the EU and China. They pursue their own policies and regulations concerning or affecting the Arctic region. The EU has its own Arctic policy, which relies on three pillars, namely 1) climate change and the Arctic environment, 2) sustainable development in the Arctic, and 3) international cooperation in Arctic matters.<sup>23</sup> In 2009 the EU banned the importation and marketing of seal products<sup>24</sup> and subsequently adapted its ban to WTO rules.<sup>25</sup> So the EU is playing an important role in shaping the law and politics concerning the Arctic. It may put pressure on matters relevant from its point of view, and has proved successful in doing so. The power of the EU cannot be disregarded.

China is mainly interested in exercising its rights and freedoms in the Arctic. The key topic for China is the use of technology in the Arctic and the potential for shipping that arises along with global warming. The

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<sup>22</sup> Statement by Ms. ÅSA LARSSON BLIND, President of the Saami Council, Eleventh Ministerial Meeting of the Arctic Council Roavvenjárga, May 7, 2019

<sup>23</sup> European Union External Action, *EU Arctic Policy*, 2017, Available: <http://bit.ly/zp20-1-4> accessed 8 May 2019. See also: *Joint Communication to the European Parliament and the Council, An Integrated Union Policy for the Arctic*, European Commission, Brussels, 2016.

<sup>24</sup> Source: <http://bit.ly/zp20-1-5> accessed 8 May 2019.

<sup>25</sup> European Communities – Measures Prohibiting the Importation and Marketing of Seal Products – Status report by the European Union – Addendum, 2015.

Chinese government has indicated its interest in the protection of the Arctic environment and its indigenous peoples. It wants cooperation, reciprocal respect, a win-win result and sustainability.<sup>26</sup> China is a big player interested in the Arctic region, and as such cannot be ignored. China is paying attention to the main issues related to the Arctic and has the means to participate in them. It also has a historical record of activities in the Arctic. It will be interesting to see the development of relations between China and the Arctic States.

## 5. THE FUTURE DEVELOPMENT OF THE ARCTIC COUNCIL

The AC is in a dynamic legal and political environment. This fact makes it necessary for the AC to readapt on a continuous basis or follow the spirit of current circumstances, in order to maintain its powers in the light of international standards. Specific information regarding the future needs of the AC is presented in the 2017 report of the Task Force on Arctic Marine Cooperation (TFAMC).<sup>27</sup>

The TFAMC was established to identify the “future needs for a regional seas program or other mechanism, as appropriate, for increased cooperation in Arctic marine areas,”<sup>28</sup> and on that basis provide further recommendations “on the nature and scope” of these mechanisms.<sup>29</sup> The TFAMC has received a mandate to provide any recommendations it considers necessary, and is expected to emphasise the necessity of launching negotiations “on a cooperation mechanism for Arctic marine areas.”<sup>30</sup>

The TFAMC report has identified the needs and grouped them into those which may be met by enhancing the AC’s existing powers, and

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<sup>26</sup> *China’s Arctic Policy*, The State Council Information Office of the People’s Republic of China, 2018, access <http://bit.ly/zp20-1-6> on 8 May 2019.

<sup>27</sup> *Report to Ministers of the Task Force on Arctic Marine Cooperation*, Arctic Council Task Force on Arctic Marine Cooperation, 2017.

<sup>28</sup> Iqaluit Declaration<sup>2</sup>, 2015, paragraph 43.

<sup>29</sup> Senior Arctic Officials’ report to Ministers, Iqaluit, Canada, 24 April 2015, p. 77.

<sup>30</sup> *Ibidem*.

those which are new and require a new range of powers for the AC. The TFAMC's position is the need to implement an ecosystem approach. For the legal framework of marine cooperation, the TFAMC relies on the provisions laid down by the Law of the Sea Convention, especially Art. 197, which binds member states to cooperate globally and regionally to protect and preserve the marine environment. The TFAMC is aware of the increased workload of the AC and the role of the Arctic States as the principal stewards of the Arctic, due to their geopolitical location.<sup>31</sup>

Pages 4 to 6 of the TFAMC report identify the needs, highlighting the need for more intensive regional cooperation and advocating an integrative approach to meet these needs. It recommends integration that is not impeded by jurisdictional boundaries, arguing that marine ecosystems are not bound by man-made borders. Hence, the right protection of the Arctic marine ecosystem calls for the waiving of jurisdictional boundaries.

Potential specialised sectoral mechanisms are identified on pages 6 and 7 of the TFAMC report. There is a need for holistic and integrated regional cooperation in the Arctic to complement these mechanisms. The TFAMC supports the idea of a new Arctic Council subsidiary body to handle marine cooperation subject to the AC's Rules of Procedure under the overall management of the SAOs. The TFAMC is ready to continue its work to prescribe the powers, function, duties and responsibility of such a body.<sup>32</sup>

## 6. CONCLUSIONS

The AC needs reform to be able to face future challenges. Its status merely as a high-level intergovernmental forum is insufficient. Its workload has increased, along with its responsibilities and expectations. Also, new scientific facts concerning the environment, environmental protection, and global warming have come to light. These changes have

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<sup>31</sup> *Report to Ministers of the Task Force on Arctic Marine Cooperation*2, Arctic Council Task Force on Arctic Marine Cooperation, 2017.

<sup>32</sup> *Ibidem*, p. 8-9.

launched the evolution of the international law concerning the Arctic environment and its protection. What is the most relevant today is the inclusion of the ecosystem approach into the management of the Arctic. Therefore, upgrading the status of the AC to a regional cooperation body with the authority to enact binding laws would be a good first step.<sup>33</sup> The AC would then be equipped with a stronger mandate. It would not be responsible only for the promotion of cooperation, coordination and interaction, but would have the power to prescribe and enforce provisions for cooperation, coordination and interaction. To implement such provisions more effectively, it should be empowered to exercise punitive measures, i.e. impose fines on the grounds of the principle of proportionality. However, there is doubt as to whether the AC should extend its subject matter. Common Arctic issues, especially sustainable development and protection of the Arctic environment, are broad fields of interest. In addition, there are other regimes, global or international, applicable in other fields. For example, shipping has its legal framework in the LOSC and depends on the IMO as the applicable international institutions. The AC will certainly perform its role better as a regional specialised body with powers to enact binding laws.

The AC's membership should be modified. There is no need to grant member status to other states, since all the coastal states of the Arctic region are members already. However, this status should be extended in a manner that would make current "permanent participants" true representatives of the Arctic indigenous peoples. The right kind of representation for the Arctic indigenous peoples would be particularly needed if the AC's powers were to be increased. These issues are interconnected. Otherwise the AC would be granted powers that would interfere to a certain extent with the Arctic indigenous peoples' right to self-determination, as regulated in Art. 3 in connection with Arts. 4, 19 and 20(1) of the United Nations Declaration on the Rights of Indigenous Peoples.<sup>34</sup> The AC's mandate to enact binding laws in

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<sup>33</sup> See also M. POTO, L. FORNABIO, *Participation as the Essence of Good Governance: Some General Reflections and a Case Study on the Arctic Council*2, 2017, p. 141.

<sup>34</sup> UN General Assembly, *United Nations Declaration on the Rights of Indigenous Peoples: Resolution / Adopted by the General Assembly*, 2 October 2007, A/RES/61/295.

matters of sustainable growth and environmental protection in the Arctic would interfere with a number of indigenous peoples' rights, including the aboriginal exemption on whaling or the imposition of environmental protection measures in areas traditionally inhabited by indigenous peoples. Therefore, it would be consistent with Member States' international obligations to grant member status to current permanent participants and open access to potential representatives of the Arctic indigenous peoples. This would make the legitimacy of the AC's decisions and legal acts incontrovertible.

The formalities imposed by Rule 7 seem to be well designed. There is no need to extend the 45-day confirmation period. However, since the number of members should change, the number required to attend to make up a quorum should be adjusted to cater for the new members. My suggestion is that the quorum should comprise at least 6 Arctic states and at least 50% of total number of Arctic indigenous peoples' organisations. A fixed number is not required, since the number of these organisations may change, especially if new ones are admitted as members. Decisions would still be taken by consensus. All the members would still be bound to confirm decisions in writing to make them valid. This would apply to decisions taken with a constituted quorum but without the full attendance of all the members.

These changes would have an influence on the AC's decision-making process. Currently, decisions are made by the consensus of all the (Arctic) member states. Permanent participants enjoy full participation and are fully consulted, but do not take part in the decisions. This formulation provides for an implicit right but is subject to interpretation. The Arctic indigenous peoples should enjoy proper representation and be entitled to participate in decision-making with a package of rights equal to those enjoyed by the Arctic States. Only this solution will let them fully exercise their right to self-determination. At any rate, this amendment must be introduced if the AC is upgraded to the rank of an international body with the power to enact internationally binding legislation.

THE LEGAL CHARACTER AND STATUS OF THE ARCTIC COUNCIL  
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THE ARCTIC. THE ROLE OF INDIGENOUS PEOPLES IN THE ARCTIC  
COUNCIL AND ITS FUTURE DEVELOPMENT

Summary

This article describes the legal character and status of the Arctic Council, focusing on the Council's structure and powers in regional cooperation in the Arctic and elaborating on the decision-making process and the role of the indigenous peoples, both currently and from the point of view of suggested new legislation. The Arctic Council is also presented as a body in the tangible world, where other states and organisations may have a certain extent of influence over the Council's capabilities. China and the European Union are good examples of such external agents.

The aim of this article is to analyse the role of the indigenous peoples and their organisations in the Arctic Council. The presence of representative bodies of the indigenous peoples within the framework of the Arctic Council is considered significant. I hold the view that an extensive range of powers should be granted to the organisations representing the indigenous peoples within the Arctic Council. My article elaborates on the details of these powers and their significance.

CHATAKTER PRAWNY I STATUS RADY ARKTYCZNEJ W ŚWIETLE  
MIĘDZYNARODOWEGO PRAWA MORZA I PRAWA MORZA W ARKTYCE.  
ROLA PRZEDSTAWICIELSTW LUDÓW TUBYLCZYCH W RADZIE  
ARKTYCZNEJ ORAZ MOŻLIWE KIERUNKI EWOLUCJI RADY ARKTYCZNEJ

Streszczenie

Artykuł opisuje charakter prawny i status Rady Arktycznej. Praca jest skupiona na strukturze i kompetencjach Rady w sferze współpracy regionalnej dla Arktyki. Artykuł opisuje proces podejmowania decyzji przez Radę i rolę odgrywaną obecnie przez organizacje ludów

tubylczych oraz *de lege ferenda*. Rada Arktyczna jest przedstawiona jako instytucja poddana zmianom geopolitycznym i prawnym. Mają one do pewnego stopnia wpływ na funkcjonowanie i możliwości Rady. Dobrymi przykładami państwa i instytucji wywierających wpływ są Chiny i Unia Europejska.

Celem artykułu jest analiza roli ludów tubylczych i ich organizacji w strukturze Rady Arktycznej. Obecność instytucji uprawnionych do reprezentacji ludów tubylczych w ramach Rady jest szczególna. Autor stoi na stanowisku wspierającym obecność tych organizacji w stopniu wysokim i przyznania tym organizacjom szerokich kompetencji w strukturze Rady. Artykuł opisuje te kompetencje oraz ich szczególność.

**Keywords:** The Arctic Council; indigenous peoples; the Arctic; the Law of the Sea; the Ottawa Declaration; Arctic cooperation.

**Słowa kluczowe:** Rada Arktyczna; ludy tubylcze; Arktyka; prawo morza; deklaracja z Ottawy; współpraca arktyczna.

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