

The Arctic Ocean Review, the Arctic Voice, and Dealing with the Interplay of Global and Regional Regimes

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Evidence from earlier regime effectiveness studies and niche-oriented analysis suggests that the Arctic Council and its member-states should use the Council's work to influence and shape action in other regional and international fora. The article highlights the need for the Arctic Council and its members to move beyond knowledge-building and norm-building to actively support regulatory advances in broader institutions by the establishment of a coordinated Arctic voice enabling Arctic states to provide collective leadership in global instruments with an Arctic agenda, such as finalizing the Polar Code. Such an approach would also be consistent with the recent Ministerial declaration of the Arctic Council. The Council's Arctic Ocean Review recommendations will serve as the example to illustrate the opportunities for member states to provide collective leadership in addressing those recommendations in international fora.

Introduction

The bounty of Arctic marine biodiversity and ecosystems services is of major importance to Arctic indigenous peoples, other Arctic residents and for humanity as a whole. The recognized fast pace and large scale of biophysical changes occurring today in the Arctic are opening the region to further industrial development and are challenging governance systems designed for a more inaccessible and less dynamic Arctic. The Arctic Council and its member governments decided in 2009 to initiate the Arctic Ocean Review (AOR) project under the leadership of the Protection of the Arctic Marine Environment (PAME) working group. The AOR phase I project considered existing global and regional measures that are relevant for the Arctic marine environment. The final AOR report delivered at the Kiruna Ministerial meeting of the Arctic Council in May 2013 outlined options and opportunities for strengthening global and regional efforts for the conservation and sustainable use of the Arctic marine environment.

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This article will focus on the AOR recommendations and discuss options and actions to support their implementation. It will pay special attention to recommendations pertaining to Arctic shipping in order to investigate the regime interplay in Arctic shipping governance as a case study. In order to successfully implement the recommendations of the Arctic Council, Arctic states must take into account that where implementation is proposed at the global level and that would bind non-Arctic states, appropriate existing international bodies would be responsible. Hence, we rely on the example of the AOR recommendations pertaining to shipping to illustrate the need for Arctic states to influence other institutions.

Welcome the Arctic Ocean Review report, undertaken to provide guidance to Arctic States on strengthening governance in the Arctic through a cooperative, coordinated and integrated approach to the management of the Arctic marine environment, **approve** its recommendations and **request** appropriate follow-up actions, and report on progress at subsequent ministerial meetings, (Kiruna Declaration, 2013)

In numerous statements and declarations, Arctic states and/or Arctic coastal states recalled that an extensive legal framework applies to the Arctic Ocean including, notably, the law of the sea, and that this framework provides a solid foundation for responsible management of this ocean (Tromsø Declaration, 2009). A plethora of global and regional instruments are listed in the Arctic Ocean Review Phase 1 Report all dealing with a specific sectoral issue such as Arctic marine operations and shipping, Arctic offshore oil and gas and Arctic marine science. The World Wide Fund for Nature (WWF) believes that their very multiplicity is a potential weakness. We believe there is a need to bring all existing legal instruments specifically targeting sectoral issues under a comprehensive umbrella implementation plan to enhance and strengthen coordination for the conservation and sustainable use of the Arctic marine environment in a place-based perspective. Since the Kiruna Ministerial meeting where Arctic states adopted a blizzard of policy recommendations and welcomed new Observer States, the Arctic Council is now further fueled by a newfound sense of political purpose. The acceptance of new observers will allow for a stronger influence in global affairs by including significant world powers. The adoption of the statement entitled *Vision for the Arctic* is another new development which should lead the Arctic States to create a coordinated approach to the management of the Arctic Ocean, including use of the Council's work to influence and shape action in other regional and international fora. This new vision requires actions, as a vision without actions is just a hallucination.

The Arctic Voice and Managing Institutional Complexity

There are many different institutions and organizations relevant to the integrated governance of the Arctic Ocean like the International Maritime Organization (IMO) Conventions and Protocols, the UN Framework Convention on Climate Change (UNFCCC), the Convention on Biological Diversity and the Convention for the International Trade in Endangered Species, to name a few (see AOR Phase I report, 2011).

In 2010, the Arctic Governance Project, an independent research project where preminent researchers, indigenous leaders, and members of the policy community joined to frame critical questions and issues of governance in the Arctic, identified the necessity of amplifying Arctic

voices by enhancing the ability of institutions to connect between governance levels. This was also recognized in the latest Arctic Council Kiruna Declaration (Kiruna Declaration, 2013).

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

The implementation of the AOR recommendations implies consideration of the 2009 Arctic Marine Shipping Assessment and the context provided by the Kiruna outcome documents. From WWF's perspective, the implementation of the AOR recommendations requires Arctic states to coordinate their approach in dealings with other international institutions. The state-of-the-art scientific assessments' findings and recommendations for policy-makers developed by the Arctic Council working groups must influence both national policies and regulations of the Arctic states and the global processes in order to remain policy relevant and to deliver conservation results. What happens in the Arctic has global implications, with the opposite also true since human induced climate change has affected the Arctic faster and harder than most other parts of the world. Historically, the work of the Arctic Monitoring and Assessment Programme (AMAP) with regards to Persistent Organic Pollutants (POPs) in the Arctic did influence a global level outcome, the Stockholm Convention on POPs delivering results on the Arctic ground by diminishing the presence of contaminants covered by the Convention. Other examples of successful Arctic coordination such as the Arctic states' leadership in the UNEP Mercury negotiation process where the Government of Sweden's interventions on behalf of the Arctic Council showcased the AMAP Mercury Assessment report (Kiruna Senior Arctic Officials Report to Ministers, 2013).

These successes in inserting Arctic Council outputs into international policy results could arguably be attributed to pre-existing common domestic policies among the Arctic states before the translation of that policy to international fora. In other words, it was not a common policy forged through the Arctic Council, but domestic policies that were already sufficiently similar to allow a common approach. The notorious failure of the Arctic states to coalesce around the recommendations of the Arctic Climate Impact Assessment (ACIA) and work together at the United Nations Framework Convention on Climate Change (UNFCCC) negotiations undermined the urgent need of those same states for a binding protocol, another legal instrument or an agreed outcome no later than 2015 to meet the agreed goal of limiting the increase in global average temperature to below 2 degrees Celsius above pre-industrial levels.

Failures such as the UNFCCC example raise the question of which institutional channels and practices can best ensure that all Arctic countries speak with one coordinated voice on the world stage. To identify the best institutional mechanisms to handle the creation of a coordinated common Arctic approach to global negotiations is critical for the future of Arctic governance. To strengthen the Arctic Council is to address the need to define and optimize the role for the Council within the array of institutions governing the region.

Institutional Interaction in Global Environmental Change

The theoretical platform this article uses to analyze the implications of the AOR recommendations is directly informed by the 1998 Science Plan of the research agenda of the Institutional Dimensions of Global Environmental Change (IDGEC) (Young et al., 1999, 2005). The IDGEC project carries forward a stream of research concerning institutional interplay. There are four core concepts that inform the understanding of inter-institutional influence and its consequences: international institutions, institutional interaction, interplay management and institutional complexes.

1. *International institutions* interacting in the context of environmental governance are many, such as the International Maritime Organization (IMO), the United Nations Environment Programme (UNEP), the World Trade Organization (WTO) and the Arctic Council amongst many others. Institutions are “persistent and connected set of rules and practices that prescribe behavioral roles, constrain activities and shape expectations” (Keohane, 1989: 3). In this article, we consider international processes and international organizations as international institutions and as a part of the research agenda on institutional interplay.

2. When one institution affects the development or performance of another institution, this situation is considered as ***institutional interplay*** (Oberthür & Schram Stokke, 2011: 4). For the purpose of this article, we will consider horizontal interaction for understanding the institutional interplay between the Arctic Council and the IMO as between regional and global institutions.

3. *Interplay management* refers to conscious efforts by any relevant actor or group of actors, in whatever form or forum, to address and improve institutional interaction and its effects (Stokke, 2001b; Oberthür, 2009). Member states of the Arctic Council, based on the Kiruna Declaration, created room for maneuver which they should use for consciously managing the interplay between the Arctic Council and IMO negotiations in order to enhance synergy and give priority to environmental objectives.

4. Individual international institutions not only interact with each other, they also form parts of broader ***institutional complexes***, and their interaction generates interlocking governance structures (Oberthür & Schram Stokke, 2011: 11). The Arctic global governance architecture requires moving from an analysis of the effects international institutions have on each other, to an exploration of how these institutions co-govern their overlapping area of governance (Oberthür & Schram Stokke, 2011: 11). The Arctic institutional complex is a spatial variant by starting out from a particular region, the Arctic, and examining the interplay of Arctic-specific institutions and those with a broader scope like the IMO, CBD, UNFCCC, CLRTAP and many others. The Arctic institutional complex is highly sophisticated and evolving; hence its study is neither the ambition nor the focus of the conceptual framework of this article. Further research analyzing the emerging division of labor between different institutions for governing a specific region, the Arctic, could inform the understanding of the international regime complexity of the Arctic.

This article aims to highlight the need to further investigate the relationship between the Arctic Council and other international fora by illustrating the case study of shipping governance in the Arctic. This article does not pretend to provide final answers but to trigger further related comprehensive research. This enquiry concerning the relationship between two international

institutions addresses the core question of how, and with what effects, the Arctic Council can and does influence IMO processes.

Institutional Interplay and the Establishment of an Arctic Voice

The mosaic metaphor for Arctic governance was introduced by Oran R. Young in 2005. The emphasis of this article on the need for Arctic states to coordinate their actions towards other international organizations, hence establishing an Arctic voice, is closely related to the research carried by Olav Schram Stokke, Research Professor at the Fridtjof Nansen Institute, examining the contribution of Arctic institutions including the Arctic Council by applying a niche-oriented approach to the cases of Persistent Organic Pollutants, Arctic offshore oil and gas, management of Arctic contaminants and port-state measures and illegal fishing (Stokke, 2011) and more recently to the case of Arctic shipping governance (Stokke, 2012). The remainder of this text recognized the specific contributions of the niche selection and interplay management and the related enhanced understanding of the Arctic institutional complexes based on the identification of the institutional features of the Arctic Council. Stokke also assesses the relative effectiveness of the Council in contributing to the management of the region by occupying and conducting generic tasks of governance; building knowledge, strengthening norms, enhancing problem-solving capacity, or enforcing rule compliance.

Based on interplay management assumptions, the establishment of an Arctic Voice will institutionalize the relationship between the Arctic Council and the global institutions as a deliberate effort by Arctic states to find common ground, and influence in a coordinated fashion global regimes. This will facilitate regulatory advances leading to an enhanced cross-institutional interplay and enable the achievement of regime effectiveness with regards to the larger institutional complex for the Arctic Ocean.

Drawing on this research, WWF argues that the Arctic Council should not only occupy a knowledge-building niche, but should institutionalize means to coordinate, promote and empower Arctic states' common positions on the Polar Code and updating other Arctic-specific instruments at the IMO with the ultimate goal of strengthening the Arctic international governance system for shipping.

So far, researchers have focused their efforts on grasping the drivers of change (PAME AMSA, 2009) in Arctic marine transport activities and have investigated corresponding regulatory gap analysis in existing governance complexes (Koivurova and Molenaar, 2009). As in Stokke's approach, we emphasize the need to better understand interplay management between the region-specific institution – the Arctic Council, and the global shipping regime.

The relationship between the IMO and the Arctic Council is a functional linkage among institutions addressing substantive problems linked in biogeophysical and socioeconomic terms; increased shipping activities in the Arctic. This interaction occurs because the Arctic states cannot address the protection of the Arctic Ocean without an institution which comprises a broader membership. Now, WWF deems time is ripe for the establishment of a political linkage involving the deliberate design of a permanent working relationship between the Arctic Council and the IMO.

The cutting-edge generation of knowledge from the Arctic Council Arctic Marine Shipping Assessment (AMSA) 2009 Report and the newly released AOR is embedded in a causal pathway through which institutional interaction may influence the effectiveness of the regimes involved. This *ideational* interaction relates to a “process of learning” (Stokke, 2001a: 10) and implies that the recommendations of Arctic Council serve as models for those negotiating another regime, i.e. the Polar Code. Hence, Arctic states should coordinate in order for the principles of the Arctic Council such as sustainable development, the precautionary principle and ecosystem-based management to be reflected in the relevant Arctic-specific shipping measures concerning safety and environmental protection.

During the last ten years of scholarly efforts to develop a theory of institutional interaction, researchers moved from classification to mapping a limited relevant number of causal mechanisms elucidating the pathways through which influence can travel from one institution to another. AMSA recommendations I(A), I(B), I(C), II(D), II(E), II(G), and II(H) all explicitly refer to the IMO as the institution to follow up on AMSA findings and recommendations. One of the four causal mechanisms is *cognitive interaction*, which assumes that institutional interaction can be driven by the power of knowledge and ideas and it is purely based on persuasion and may be conceived of as a particular form of inter-institutional learning (Stokke, 2001a: 10).

WWF argues that the Arctic Council must go further and not only rely on its asset of being a scientific cognitive forerunner and establish an Arctic Voice based on an institutional platform created by a decision of Senior Arctic Officials or Arctic Ministers. The AOR is also recommending to the Arctic states to support work at the IMO and other international organizations, but the negotiation process of the IMO sub-committees does not reflect a coordinated voice by Arctic states in international agreements; rather, individual Arctic states advance purely national interests.

Hindrances to such coordination are multifaceted. First, the experts participating in the work being carried out by PAME are not necessarily the experts involved in the IMO network. Second, there are no formal institutional venues which provide opportunities for coordination and this explains why Arctic states are not acting in concerted manner but rather as individual states at the global level. The Arctic Council should be or provide this venue.

The Council should move beyond the knowledge-building niche to policy brokerage since it has the institutional capacity to create specific high-level Task Forces such as the ones which delivered the binding regional agreements of 2011 and 2013. The Arctic Council has the proven institutional capacity to create negotiating spaces such as the ones which delivered the binding Arctic regional agreements of 2011 and 2013. The Arctic Council and its members should promote the creation of such negotiating spaces with a clear mandate to deal with the negotiation of agreed common positions based on AMSA and AOR reports, enabling where appropriate a formal representation where one Arctic state can speak on behalf of all eight Arctic states when negotiating global conventions or protocols. This process could also consider how Arctic Council member states may engage Observer states to strengthen the Arctic voice at the global level. These institutional coordination opportunities do not preclude Arctic Council working groups pursuing influence through other means. There are multiple opportunities for coordination at the Senior Arctic Official level and through other means like Expert Groups.

In order to strengthen the effectiveness of the target institution (IMO) and to promote the policy models of the source institution (Arctic Council), Arctic states should intentionally trigger a formal interaction with the IMO aiming to actively advance and shape the Arctic institutional complexes. Based on the premise that international commitments provide a driver for interaction, the latest decisions as per the Kiruna Declaration regarding the completion of work at the IMO to develop a mandatory Polar Code for ships, Arctic states have a responsibility to collectively coordinate their influence on the IMO's decision-making process and output.

Recognize the important ongoing work in the International Maritime Organization to develop a mandatory Polar Code on shipping and **decide** to strengthen our collaboration in that work toward its expeditious completion, (Kiruna Declaration, 2013)

This commitment is a step forward in recognizing the need to collaborate in comparison with the Nuuk Declaration of 2011 simply urging the completion of the Polar Code. However, it does not explicitly call for a unified position between the Arctic states. There are also clear limitations with respect to the scope of the Polar Code; it is limited to pollution issues and at this point, only pollution of the sea. Black Carbon, Heavy Fuel Oil and Oxides of nitrogen are not even included. Furthermore, it is likely that spatial measures such as routing areas to be avoided will be excluded.

Thus, Arctic Council member governments must create a coordinated response to update Arctic-specific shipping measures addressing the mutually dependent issues of environment and safety in relevant international instruments (e.g. MARPOL, SOLAS, and Ballast Water Management Convention). Meanwhile, Arctic states must develop a coordinated response ensuring that the provisions of the IMO Polar Code are consistent with the Arctic Marine Shipping Assessment Report and the Arctic Ocean Review Reports' findings and recommendations.

Critical Review of the AOR Recommendations

The AOR mandate:

“The overall goal of the AOR project is to provide guidance to the Arctic Council Ministers as a means to strengthen governance and to achieve desired environmental, economic and socio-cultural outcomes in the Arctic through a cooperative, coordinated and integrated approach to the management of the Arctic marine environment”.

Overall, WWF welcomes and supports the AOR findings and policy recommendations and will work with partners to follow up on them to attain the goal of ensuring that *the shipping industry in the Arctic operates sustainably and responsibly to ensure ecosystems are protected and local communities are assured a prosperous future.*

The concluding chapter of the AOR just listed policy recommendations from sectoral chapters and did not provide integrative analysis of Arctic Ocean governance. A most prominent aspect of Arctic governance that needs strengthening and that is partly accommodated by the synthesis chapter, is addressing rapid climate change in the Arctic. A search through the chapters reveals that ‘climate change’ is mentioned as a challenge, first and foremost in the ‘Indigenous Peoples and Cultures’ chapter and also in the ‘Marine Living Resources’ chapter, but there is a need to

clarify activities, processes, or mechanisms that address this challenge in the Arctic, for achieving desired outcomes.

In the functional category labeled as *coordination across institutions*, the recommendations remain ironically sector-focused. Sector integration is supposed to be covered by the Ecosystem-Based Management (EBM) recommendations, but while it provides a blueprint for such integration it doesn't refer back and map on concretely to the findings of the sector chapters, the fisheries resources among others. The latter is necessary to highlight the integrative feature of EBM and the concluding chapter failed to illustrate this.

All recommendations need to be focused on better implementation and further practical work and not predominantly on information exchange and new reports. This follows the general developments and recent discussions within the Arctic Council and should be the future of this intergovernmental process which WWF strongly supports. The AOR Report clearly identified a number of gaps in regulations and instruments. These gaps need to be recognized as an opportunity to increase the efficiency of collaborative management in the Arctic by Arctic states and openly identify, where appropriate, new instruments needed.

The AOR recommendations should more often include other stakeholders such as observers, non-Arctic states, and research organizations who are all part of the political landscape through which any policy must be navigated. The engagement of partners may significantly increase efficiency of the process and help to achieve better conservation results in the Arctic Ocean. The final set of recommendations seems to be more driven by “political acceptance” rather than by the overarching goal to ensure that Arctic marine ecosystems remain resilient in the face of rapid change Arctic states keeping a balance between the need for strong conservation results and the sustainable development agenda.

Implementation of the AOR Recommendations and Strategic Actions

The importance of outlining concrete strategic follow up actions on AOR policy recommendations through implementation plans will empower Arctic states to transparently monitor progress as well as collectively influence relevant global institutions. A number of AOR recommendations emphasize that the Arctic Council should promote interactions with the appropriate international bodies. Consequently, we offer some recommendations which may support the implementation of the AOR recommendations whilst enhancing the opportunity for the establishment of an Arctic Voice:

- Develop an AOR implementation plan and ensure that a plan for further work under the Arctic Council to support and implement its recommendations is developed, and that progress reports are delivered regularly.
- Launch systematic and efficient procedures and mechanisms for enhancing communication between the Arctic Council and other international organizations and treaty secretariats in order to monitor all activities of relevant bodies and arrange to intervene on behalf of Arctic states where appropriate when negotiations pertain to the Arctic.
- Establish spaces through the Council to negotiate common and agreed positions concerning global negotiations pertaining to the Arctic. While this may not always be

possible, good-faith efforts should be undertaken to find even the barest minimum of shared positions to strengthen those positions within negotiations.

- Empower the new standing Arctic Council Secretariat with the mandate and resources to monitor and plan coordination with other international organizations.
- Consider requesting observer status at international institutions.
- Strengthen the standing Arctic Council Secretariat through developing dedicated staff capacity to provide coordination support to members and permanent participants to negotiate common positions on specific issues.
- Task the Arctic Council to create a coordinated voice by Arctic states, circumventing their significant differences of interest concerning jurisdiction and regulatory ambition, in international agreements (Polar Code, Ballast Water Management Convention, MARPOL etc.) to update Arctic-specific shipping measures relevant to safety and environmental protection.
- Facilitate and coordinate efforts, including at the IMO, to advance conservation of marine biodiversity through special management measures for a designated network of areas of particular importance for biodiversity and ecosystem services building on the AMSA recommendation II(C) and II(D) reports, and assisting Arctic states that are party to the CBD to fulfill or exceed their commitments under the Aichi Targets to conserve at least 10 per cent of their coastal and marine areas by 2020.
- Work towards enhancing the safety of Arctic shipping lanes, including with the IMO, by conducting an analysis of existing and emerging Arctic shipping lanes and identifying gaps in infrastructure and mapping.
- Promote cooperation with non-Arctic states to address threats on the staging and wintering grounds and the migrating corridors of migratory species, for example through working towards multi-lateral and bi-lateral agreements under the Convention on the Conservation of Migratory Species of Wild Animals.
- Develop a mechanism to coordinate a common approach to the United Nations climate negotiations with the goal of a climate agreement by 2015 that will keep the global average temperature from rising by more than two degrees and engage observer states to support the Arctic position.

Conclusions – Challenges of Delivering Conservation Results

The question of how, and with what effect, the Arctic Council influences global governance processes is critical to keeping the Council relevant in the global arena. Arctic council ministers recognized this challenge in the Kiruna Declaration, when they spoke of the need to strengthen the role of the Council in international processes. Answering the challenge requires a research agenda which will help Arctic stakeholders to fully understand current and emerging management of institutional interplay.

WWF is ready to play a constructive role in supporting this effort and provide capacity for the Arctic Voice to materialize in order to manage Arctic regional and global institutional interplay and aiming for greater effectiveness in protecting the Arctic marine environment.

WWF's goal is to work with Arctic states, Arctic Indigenous peoples and observers to promote the closure of the 'governance gaps', protection and preservation of the Arctic Ocean and sustainable ecosystem-based management of its resources.

Broader international institutions are important to the comprehensive delivery of the implementation of the AOR recommendations because of the need for adequate actor coverage. The importance of examining interplay within larger complexes of institutions will enable the Arctic Council to retain leadership in the overall governance of the region. Regular reports on progress regarding implementation of the AOR recommendations as secured in the Kiruna Declaration are crucial to ensure follow-up activities and to communicate the relevance of the Council to the Arctic stewardship agenda. The following step will be to expand reporting to include review of national implementation efforts.

The time is ripe for the Arctic Council to change or expand its niche from knowledge-building activities to Arctic voice building efforts, ensuring that where possible Council members have common and unified positions to ensure a joint approach to the IMO and other international or regional negotiations. The establishment of a coordinated Arctic Voice will allow for management on an ecosystem level, which is the best tool for ensuring sustainable management of marine resources in the Arctic by promoting at the global level through different regulatory bodies the principles of ecosystem based management (Arctic Council EBM Report, 2013). There are many complications and political challenges to the provision of leadership by the Arctic Council to support advances in global-level negotiations, especially with regards to a mandatory Polar Code embedded in the Law of the Sea Convention, but the Arctic Council must equip itself with venues that provide opportunities to explore common ground and enact a coherent and strengthened Arctic-wide diplomacy, an Arctic Voice.

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