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Interests and international regimes: Explaining cooperation in Arctic disputes

MA thesis

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I have written this Master's thesis independently. All viewpoints of other authors, literary sources and data from elsewhere used for writing this paper have been referenced.

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Abstract

Since the end of the Cold War international politics in the Arctic have been characterized by unusual level of cooperation among states. More recently, climate change has allowed the states to increase their presence and activity in the region, making the Arctic increasingly relevant in world politics. This process has been reflected by growing attention from the academia to the dynamics of conflict and cooperation in the region. In order to contribute to the existing knowledge on the dynamics of conflict and cooperation in the Arctic, this thesis studies three disputes regarding delimitation in the Barents Sea; continental shelf claims in the central Arctic Ocean and the status of the Northern Sea Route. The thesis aims to explain why nations cooperate during disputes in the Arctic. The expectations, that the states cooperate based on compatibility of interests, while international regimes facilitate cooperation, are drawn from the functional theory of international regimes developed by Robert Keohane. Using qualitative content analysis, Arctic strategy documents of the countries are studied to determine the interests of the countries in the region in general and in regards to the disputes in particular. The same method is used to analyze the United Nations Convention on the Law of the Sea as an international regime. Using the results from those steps, developments of the three disputes are analyzed to find out if the states had complementary interests relevant to the disputes, if the states cooperated and if so, if the regime contributed to cooperation during the dispute. The thesis finds that the states had complementary interests relevant to the disputes in all three cases. The states cooperated and used the functions provided by the regime in those cases where the regime was available and they did not cooperate when the regime was not available. The findings confirm the expectations of the theory.

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List of Abbreviations

AC	Arctic Council
CLCS	Commission on the Limits of the Continental Shelf
EEZ	Exclusive Economic Zone
EU	European Union
ICJ	International Court of Justice
NATO	North Atlantic Treaty Organization
NSR	Northern Sea Route
UN	United Nations
UNCLOS	United Nations Convention for the Law of the Sea

Introduction

The Arctic is an area located to the north of a line of latitude called the Arctic Circle. This vast area consists of the Arctic Ocean, adjacent seas and parts of the following eight countries: Canada, Denmark, Finland, Iceland, Norway, Russia, Sweden and the USA. Since the end of the Cold War until not long ago geographic marginality of the Arctic was matched by the loss of relevance of the region in international politics. More recently, due to climatic changes the region has started to become increasingly accessible. With the retreat of the ice cover, more and more parts of the region became accessible for navigation for a longer period of time throughout the year. Meanwhile the resources available in the Arctic are also becoming more accessible.

These processes have increased the usage of the Arctic Ocean as well as the amount of attention paid to the political processes developing in the region. Soon, as the nations started to establish more active presence in the Arctic, the academia started to more actively discuss what should be expected from the resurgence of interest in the region. The Arctic had for some time been characterized as an area of exceptional level of peace and cooperation or as Gorbachev has referred to it “a zone of peace” (as cited in Åtland, 2008, p. 290). Recent processes of increased state presence and activity, increased scale of exploitation of resources and boundary delimitation has sparked interest in whether we should be expecting a continuation of predominance of peace and cooperation or will the international politics in the region become more confrontational.

The objective of this thesis is to contribute to an academic debate regarding whether conflict or cooperation should be expected to be prevalent in the Arctic. To do so, I will be trying to analyze factors that explain cooperation during disputes in the region.

The question of whether conflict or cooperation will predominate in the Arctic is of global political significance. Any serious escalation of relations between countries can have disastrous effect on international stability considering that all Arctic coastal states members of EU or NATO except for Russia. Moreover, any war in the Arctic would have dire consequences for the already fragile environment in the region. Academically the is

significant first of all for those who study Arctic politics and also for those who study international cooperation. For example, testing theories of international cooperation on the cases in the Arctic might be very relevant and interesting since the region has recently gained much more significance in the view of the states as well as much more attention from academia.

The existing literature on the subject can be divided between those authors who are optimistic about continuation of peaceful international politics in the Arctic and those who are more cautious or expect more confrontation to occur in the region in near future. The former often point at the conditions that fuel cooperation like harsh climate (Olesen, 2017), common interest in development of the region (Hong, 2012) and existing international framework governing political processes in the region (Sharp, 2012). The latter point at the conditions that might lead to conflict such as the recent militarization of the region (Huebert, 2012) and the disagreements regarding delimitation process (Carpenter, 2009) as well as Russia's questionable motives considering the country's foreign policy in other parts of the world (Flake, 2015).

Based on the literature review the puzzle that this study aims to deal with is the following: The authors observe two main patterns that define exceptional level of cooperation in the region; the dynamics and disputes of the Arctic countries regarding matters outside of Arctic do not affect relations in the region. The disputes in the Arctic do not escalate and do not have negative influence in other areas of cooperation in the region. Why this is the case is what requires explanation. Explaining these will be relevant for the academic literature as well as for political processes in the region in general. My study tries to explain the latter of the two patterns. Why disputes in the Arctic do not escalate, why states cooperate during these disputes?

In order to contribute to this literature I will be studying three Arctic disputes and trying to understand why states cooperated during these disputes. Finding out about the factors that contributed to cooperation, I will be able to contribute to the literature about conflict and cooperation in the region. My three cases will be the following: 1. Dispute between Russia

and the United States over the legal status of the Northern Sea Route. 2. Maritime boundary dispute between Russia and Norway on the Barents Sea and the Arctic Ocean that was resolved by a treaty in 2010. 3. Dispute between Canada, Denmark and Russia concerning overlapping claims for the extended continental shelf margins.

The research question is “What explains cooperation during the disputes in the Arctic?” The hypothesis will be that “complementary interests and availability of an international regime on issues of dispute explain cooperation between states during the disputes in the Arctic.”

Complementarity of interests is an independent variable. Cooperation is a dependent variable. Availability of a relevant international regime is a conditional variable. It cannot cause cooperation by itself without complementarity of interests. but it facilitates in achieving cooperation in case of existence of complementarity of interests.

I will be using Functional theory of international regimes as the theoretical framework of the thesis. The theory was developed by Robert Keohane and asks the question “How can cooperation take place in world politics in the absence of hegemony?” (Keohane, 1984 p. 14). The expectation for my cases will be that if the countries have complementary interests and if the contribution of the regime towards cooperation is available than cooperation will take place.

Cooperation is expected in the Barents Sea dispute and in the dispute regarding continental shelf margins but not in the dispute regarding the Northern Sea Route as the US is not able to use the contribution provided by the international regime towards cooperation.

To answer my research question, I will analyze the Arctic strategy documents of the states to find out what did the states consider as their interests and priorities in the region. I will use qualitative content analysis to this end. Afterwards, I will look at how the dispute unfolded to see if the cooperation took place or not and to see how the United Nations Convention on the Law of the Sea (UNCLOS) contributed to the dispute.

The thesis has four chapters. The first chapter is dedicated to a review of relevant literature. The current state of academic debate is presented and a gap is pointed out which this thesis aims to fill. The second chapter introduces the functional theory of international regimes as a theoretical framework of this thesis and briefly demonstrates how UNCLOS is considered the international regime relevant for the cases. The third chapter is dedicated to methodology. Here questions related to research design, research methods, data, timeframe and operationalization are discussed. The fourth chapter presents the analysis of the Arctic strategies of the countries and the analysis of cooperation during the disputes selected for this thesis. Lastly, the thesis ends with a brief conclusion.

Literature review

In this section, I will review the literature relevant to my research question. Literature on conflict and cooperation in the Arctic and literature on the role of UNCLOS in the Arctic disputes will be reviewed in this section. The gap in the literature is that even the authors who consider UNCLOS effective and try to show how exactly the regime contributed to the occurrence of cooperation, they focus only on the positions in the dispute at hand but not at wider interests and priorities. Castonguay comes closest to filling this gap. However, he also does not study general interest and priorities of the states in the Arctic and this causes him to neglect some of the possible explanations of the eventual resolution of the Barents Sea delimitation dispute (Castonguay, 2017).

Conflict and cooperation in the Arctic

The literature on conflict and cooperation in the Arctic is more general than the branch of literature discussed in the following chapter. This is the branch that I aim to contribute to with this thesis. The authors who write about conflict and cooperation ask themselves why cooperation is dominating modern Arctic politics. Some go further to analyze whether current situation will continue or whether we should expect more confrontation between states or in fact a switch to conflictual relations is to be expected. What unites them and also places my research in this category of works is that these authors are analyzing factors that lead to either cooperation or confrontation in the Arctic.

The positions of these authors can be divided as optimistic and pessimistic. Most authors that I am aware of hold optimistic view of the prospects of Arctic politics. They recognize the reasons why international politics in Arctic has mostly been cooperative and consider that these reasons and factors will not change soon. Those who emphasize and predict cooperation mainly provide numerous explanations that can be grouped in three main arguments: Cooperation is in the interest of the Arctic states as they have much more to gain from it than from conflict (Brosnan et. al, 2011; Hong, 2012; Borgersson, 2013; Palosaari, 2012; Sharp, 2011; Koivurova, 2011; Olesen, 2017 Keil, 2014). Arctic institutions and governance structures ensure cooperative relations (Palosaari, 2012;

Young, 2008; Sharp, 2011; Koivurova, 2011; Dolata, 2015). Harsh climatic conditions push states for more cooperation as it is very difficult to make use of the territories in the Arctic (Olesen, 2017; Exner-Pirot and Murray, 2017). Many of these authors, just like the ones that are more pessimistic about prospects of cooperation in the region are focusing their research on Russia (see, for example, [Roberts, 2010] and [Roberts, 2015] among others). These authors claim that Russia has in fact the most to gain by cooperation and peaceful development of the Arctic as she holds by far the biggest share of territory as well as resources, most of which are concentrated in the uncontested parts of her territory (Hosltmark, 2009; Rowe, 2009). Crucially, Russia needs cooperation to make use of her enormous resources in the Arctic as she is dependent on foreign investment and technology (Exner-Pirot and Murray, 2017; Keil, 2014).

Olesen starts the analysis by discussing interests and capabilities of the countries in the Arctic. He focuses on conflict potential between Russia and NATO as it is the case with many other authors (see, for example [Hosltmark, 2009] or [Byers, 2017]). He claims that Russia has the most military capacity in the Arctic but it also has the most to lose in if conflict was to occur. Russia has increased its defense capacity to show that it is ready to defend but it has also mostly followed the rules due to its interest in cooperative politics. Part of this interest stems from Russian dependence on western technology in the field of resource exploitation (Olesen, 2017). He is optimistic regarding peace in the arctic as he believes it is currently in the states interest. This is explained by difficult natural conditions and the fact that the biggest share of resources are in uncontested areas (ibid). This article is an example of the works in which both state interests as well as sovereign disputes are examined. However, this article does not involve analysis of international institutions.

Roberts also concentrates on Russia and claims that although in some cases Russia demonstrated assertiveness, it is not in their interest to go back to a situation like the one during the cold war. He agrees to the idea prevalent in the literature that Russia's aims do not tell us that we should be expecting an escalation of confrontation (Roberts, 2010). He explains this by claiming that Putin and Medvedev chose to follow pragmatic foreign policy and although they are aiming at the great power status, they are focusing on energy

to achieve this goal. Therefore, it makes sense for them to avoid confrontation (ibid). This article focuses on Russia's interests and adds the discussion about threat perception by explaining that Russia "has created a security dilemma of sorts by generating insecurity about its motives among its neighbors" which has led to the other states to being more cautious of Russia's intentions (Roberts, 2010 p. 975).

Borgersson admits that in late 2000s he, like many others was quite pessimistic about potential of armed confrontations in the Arctic and that he was wrong. He emphasizes that Arctic states are all in healthy economic situation and an economic boom awaits Arctic that will create even more willingness to cooperate (Borgersson, 2013). As for the disputes and UNCLOS, he claims that UNCLOS has been used to settle them however he does not explain in which way UNCLOS has helped them to achieve cooperative outcomes or in fact what were the interests of the countries regarding the disputes. Rather, he generally states that UNCLOS was used as a basis to resolve delimitation disputes (ibid).

Holtsmark argues against the view that there is a race for resources in the region. He also claims that rule-based cooperation is in Russia's interest and that despite provocative rhetoric, the Russians want Arctic politics to go follow the international law (Holtsmark, 2009). He argues that overwhelming concentration of NATO forces in the region should be avoided not to cause a negative reaction. However some defensive capacity is needed on the slim chance that conflict with Russia does happen. Holtsmark talks about the potential contribution of UNCLOS in the potential resolution of the disputes in terms of what rules and procedures UNCLOS provides. However, he does not discuss whether cooperation happened in the cases that he mentions. He does not talk about instances of cooperation through UNCLOS but just outlines how UNCLOS could help in resolving disputes. Also, since this article was written in 2009, quite a few instances of cooperation happened in the arctic disputes so in terms of reviewing the role of UNCLOS in the disputes the article is outdated (ibid).

Hong analyzes the possibility of conflict and cooperation in context of changing arctic. Specifically, he is of opinion that increased interest from non-Arctic states will pull the

Arctic states together towards more cooperation (Hong, 2012). He is in agreement with many other authors in that high cost of operation in the Arctic as well as the existing natural riches there will increase the incentives to cooperate (ibid).

Young criticizes authors who predict conflict in the arctic. He explains that claims regarding the Arctic shelf are made based on the international law and this process does not amount to confrontation or conflict. He also said, disputed territories are unlikely to become source of conflict anyway as they hold no significant resources while undisputed areas of the countries are quite rich (Young, 2008). He mostly concentrates on the need of legal regime ruling the region. He claims that a legally binding treaty is neither feasible, nor necessary and calls for creation of separate, issue-specific agreements instead (ibid).

Koivurova argues that the processes currently underway in the Arctic regarding continental shelf claims are following UNCLOS procedures, are lawful and therefore should not be interpreted as a prelude to conflict. He claims it is rational for the states due to temporal limitations set by UNCLOS to make claims now and to make as big claims as possible. This is what they are doing and there is no reason to think that this process is confrontational (Koivurova, 2011). He does, as we have seen, touch upon how UNCLOS has influenced the disputes but he is not concerned with the utility of UNCLOS for resolution of the disputes or for promoting cooperation between states. His focus is on whether what is happening should be considered confrontational and whether conflict is likely (ibid). He claims that the reason why states are following UNCLOS procedures is simply because it favors them and that they will gain legitimacy for the shelf extensions by following the rules (ibid).

Brosnan studied Arctic strategy documents of the coastal states to identify what can be possible areas of cooperation. He does this by identifying areas of interest of the states and how they can benefit from cooperation in these areas. He also says that in his analysis it is assumed that the states will follow the rules set by UNCLOS (Brosnan, 2011). By doing this, he comes to a conclusion that there are more areas where cooperation is possible than areas where conflict should be expected. Therefore, he advises to concentrate more on

studying possibilities for cooperation rather than predicting conflict (ibid). While his approach in studying strategy documents and identifying areas of common interest is similar to mine, he does not analyze disputes. Although he advises that it is better to focus on possibilities of cooperation, I think an analysis of this direction would benefit from identifying areas of potential conflict and trying to analyze how areas of complementary interests would help in resolving the disputes.

Palosaari criticizes pessimistic evaluations of potential for conflict in the arctic. He uses two theoretical perspectives of international relations: state sovereignty and international governance and argues that following the logic of both, cooperation is more likely to continue than conflict to occur (Palosaari, 2012). Based on the first perspective, he emphasizes that it is in the interests of the states to cooperate in order to benefit from the wealth produced by exploitation of natural resources. Based on the second perspective, he emphasizes that the threats facing the states are mostly common, such as environmental issues (ibid).

Byers argues that before the annexation of Crimea by Russia the states in the Arctic had achieved a state of complex interdependence in the region. Because of this Arctic politics were shielded from confrontations outside of the region, however after the annexation this has changed in most fields of relations (Byers, 2017). He nevertheless expects cooperative politics to continue due to arctic environment that puts great strain on technology and makes the resources difficult to use and distances difficult to navigate (ibid).

Exner-Pirot and Murray use theoretical framework of the English School to argue that there is an international society in the arctic “deliberately negotiated in a way that promotes cooperation” (Exner-Pirot and Murray, 2017, p. 47). They argue that the states has compatible interests and cooperation and development is a common interest. (Exner-Pirot and Murray, 2017) They claim that extreme climatic conditions and difficulty of navigating vast areas of the arctic has contributed to making the region disconnected with the disputes and confrontations that occur outside of the region. That think that aggressive behavior is possible but certainly not expected as the negotiated international society has been quite

successful (ibid). Authors think it is especially in the interest of Russian to maintain cooperative relations as they are relying on international cooperation for benefiting from the Arctic's vast resources (ibid).

The authors who predict competition and conflict mostly focus on increased access to resources (Lee, 2009), increased militarization (Åtland, 2014; Huebert, 2013) and resulting threat of security dilemma (Åtland, 2014) and on Russia and warn about Russia's intentions and capabilities (Flake, 2015). This is logical, as Russia currently is far ahead in Arctic military capacity and also other Arctic countries are members of NATO, EU or both and conflict between them is less likely due to reasons not connected to arctic politics.

Lee discusses how climate change leads to conflict by creating scarcity of different resources and inequality due to changed scarcity or abundance of resources. Some resources in some areas become scarce; others in other areas become abundant. Both processes lead to more potential for conflict (Lee, 2009).

He considers the Arctic as one of the areas that has greater probability of occurrence of conflict as it is one of the most affected areas by climate change. He mentions the Northwest Passage and the Northern Sea Route as examples of areas where increased utility due to climate change can lead to conflict (ibid). While this logic of analysis differs from the rest of the articles discussed here and thus adds to the debate, it does not really touch upon current interests of the states as well as current architecture of international regimes in the Arctic. Therefore, in the end Lee does not show how or when for example, relations between NATO allies, Canada and US will become more conflictual.

Åtland claims that although the Arctic is currently characterized by lack of conflict, current situation can develop into a security dilemma that will lead to increasing threat perception and increased possibility of conflict. He considers the concept of security dilemma relevant for the Arctic because there is no longer overlay that was stabilizing the situation during the cold war. Also, as the Russians are increasingly militarizing the regions others feel more threatened while Russia itself views growth of military capacity as a defensive measure (Åtland, 2014). He proposes measures such as arms control, confidence building measures

and solving the disputes as ways of decreasing the risk of development of a security dilemma (ibid).

Huebert argues that unlike the rhetoric of cooperation Arctic countries are becoming more willing to militarize. This is due to the fact that the region is becoming more used and more relevant, therefore the states consider that they need to be present. They do not necessarily have aggressive intentions but are surely increasing their defensive capabilities (Huebert, 2013). The exceptional levels of cooperation and insulation from outside conflicts in the region will change as “the Arctic Ocean is becoming more like an ocean like any other ocean” (Huebert, 2013 p. 196).

Role of UNCLOS in the Arctic disputes

These articles focus on the effect that UNCLOS has had on the disputes. UNCLOS is related to the problems of security in the Arctic in following ways; As a convention on the law, it sets out rules on what conduct is legitimate and what conduct will be considered rule-abiding. Moreover, as we saw in the section above, competition over resources, problems with delimitation and militarization of the ocean are the major risks for security in the Arctic. UNCLOS provides governance over these problems. Its rules as well as why and to what extent states follow them have direct effect on the state of security in the region. Therefore, it is interesting how importance and effectiveness of UNCLOS is evaluated by authors. As this thesis attempts to contribute to literature on security and international relations in the Arctic and not to the literature on international law, here also I will focus on works in the field of security and more broadly, international relations, rather than international law. Even though some authors referred to here as well as throughout the thesis are specialists of international law (for example, Byers and Carpenter, among others).

The authors in this category can be generally divided between those who consider UNCLOS effective and those who do not. I have tried to mention representatives of different perspectives on the issue. The authors who consider UNCLOS effective in reaching cooperative solutions, focus on the state interests, meaning that the states follow

the rules set by UNCLOS because it suits their interests (Carlson et al, 2013) and on the tools and incentives UNCLOS provides that make it either easier for states to cooperate or give incentive to states to cooperate (Castonguay, 2017). The authors who consider UNCLOS ineffective criticize its methods and provisions (Rajabov, 2008; Carpenter, 2009; Roth, 2011; Poulson, 2009) and recommend that states use other channels for cooperation (Rajabov, 2008).

Carlson et al (2013) ask the question of whether the states will follow rules and procedures of UNCLOS to solve the disputes or are we headed to an unlawful and conflictual race for resources. The authors are concerned that in changing conditions where the Arctic is becoming more relevant and the Arctic resources are becoming available, the seabed claims can eventually lead to armed conflicts (ibid). After reviewing overlapping claims, authors come to conclusion that the conflictual rush to Arctic will most probably be avoided as the states are explicitly recognizing UNCLOS and following its procedures. They do so because it serves their interests. UNCLOS meanwhile have provided the rules of legitimate action and means of resolution of disputes (ibid). These findings are close to mine. However this article concentrates on different issues and does not discuss neither wider interests of the countries engaged in the disputes, nor what constitutes cooperation and whether the Arctic countries changed their positions in the process of following UNCLOS procedures. Not discussing wider interests and priorities of the states and only concentrating on their positions in the dispute itself does not allow to answer the questions like whether the nations compromise and change their positions to arrive to agreements and if so, why, which interests were they pursuing?

Castonguay analyzes the effectiveness of the Arctic Council and UNCLOS in arctic dispute resolution. He comes to conclusion that the Arctic Council with its focus on environmental issues is not effective in dispute resolution. As for UNCLOS, he analyzes the Barents Sea dispute between Russia and Norway and Beaufort Sea dispute between Canada and the US (Castonguay, 2017). He claims that Commission on the Limits of the Continental Shelf (CLCS) gave incentives to Norway to resolve the issue as it recommended the resolution of the dispute in order to approve Norway's claim for the continental shelf. As for Beaufort

Sea dispute, the same could not have happened as the US is not part of UNCLOS and cannot use the mechanisms of CLCS (Ibid).

His findings are remarkably similar to mine although he arrived at these findings on a different case in case of Beaufort Sea dispute and in a different way in Barents Sea dispute (ibid). The difference with our findings about the Barents Sea dispute case is the mechanism in which we consider UNCLOS to have contributed to the resolution. As I relied on the text of the agreement and the strategies of the countries, I arrived to a conclusion that it was willingness to improve bilateral relation together with resource development that played a key role while UNCLOS provided a measurement principle. Castonguay, meanwhile considers that together with the willingness of resource development it was specifically Norway's CLCS submission that played a key point (ibid). Overall, I think we are in agreement in principle of how UNCLOS contributed to cooperation but we emphasized different mechanisms. Besides that, I concentrated on the disputes that Russia is involved in due to reasons explained in chapter 3. It looks like Castonguay did not share that aim.

Carpenter (2009) claims that an Arctic treaty is necessary due to inability of UNCLOS in enforcing its decisions on the continental shelf disputes and ineffectiveness of the Arctic Council regarding problems of global warming. He claims that as the commission on the continental shelf cannot stop a state from resource extraction on any area of the shelf even if it decides that the shelf does not belong to that state's continent. Due to Russia's assertive actions in the Arctic and beyond, he considers that we might end up having a war in Arctic unless an Arctic treaty is negotiated (Ibid). This position is contrary to that of most authors that write about Arctic politics. As we saw above, most authors consider Arctic countries to have common interest in cooperation including in order to profit from the existing resources (see, for example, [Exner-Pirot and Murray, 2017]; [Keil, 2014]). In this article the interests and priorities of the states in the Arctic is not considered beyond the existing disputes. That might be the reason why the author arrives at such conclusion.

Paulson (2009) analyzes different disputes in the arctic and comes to a conclusion that UNCLOS dispute settlement mechanism is ineffective because of imperfections and lack of clarity of Article 76. Specifically, she criticizes UNCLOS for imperfect method of delimitation of continental shelf and “lack of binding dispute resolution mechanisms” (Paulson, 2009 p.367). Therefore, she suggests that the Arctic states should work on resolving disputes independently of UNCLOS (Paulson, 2009).

Rajabov (2008) is equally critical of the method of delimitation and offers ways of dispute resolution by UNCLOS. He criticizes both International Court of Justice (ICJ) and interstate arbitration as inadequate, slow and ineffective. Instead he recommends the arctic disputes to be resolved via multilateral treaties. He does not deal with the question of how UNCLOS affects the states willingness to cooperate outside of the process of offered ways of dispute resolution (Rajabov, 2008).

Roth analyzes procedures offered by UNCLOS and criticizes its mechanisms for dispute resolution for ineffectiveness. He claims these mechanisms take too long to reach a solution, often exclude important shareholders and prevent parties from using “creative solutions” because of the rules and procedures prescribed by UNCLOS (Roth, 2011, p 879). He proposes looking for solutions to Arctic disputes outside of the UNCLOS framework and suggests mediation as an alternative mechanism of dispute resolution (Roth, 2011).

Theoretical framework - Functional theory of international regimes

In order to study conditions for cooperation in the Arctic I will use functional theory of international regimes as a theoretical framework of my work. The theory was developed by Robert Keohane in his book *After Hegemony: Cooperation and discord in the world political economy* originally published in 1984. Since Keohane's theory belongs to neoliberal institutionalist tradition and to the theories of regimes, let us first have a look at how these contributed to the theoretical developments in IR.

Neoliberal Institutionalism was developed largely in response to realism, which was a dominant theory after the Second World War. The main contributions of neoliberal institutionalists are the following: Paying more attention than realists to non-state actors in international politics; developing knowledge on other forms of power than military power; theorizing interdependence and its effects on interstate relations and focusing on cooperation as well as on conflict (Milner and Moravcsik, 2009:4). Early works focused on the problems of power and interdependence and change in international politics (Keohane and Nye, 1977). Based on realist views, change in international politics was explained by changes in relative power. Hegemonic stability theory (Kindleberger, 1973) and explanations based on cyclical change (see, for example, Gilpin, 1981; Modelski, 1987) would be some of the examples of this realist logic. Neoliberal institutionalists argue that institutions in world politics change based on their success and failure in dealing with the issues because of which they were created (Milner and Moravcsik, 2009:9).

In the 80s the focus shifted to studying conditions under which cooperation would be expected to occur. Many of these authors relied on game-theoretic explanations (see, for example, Axelrod and Hamilton, 1981; Snidal, 1985); Most used game-theory but incorporated other, non-game-theoretic explanations as well (Axelrod and Keohane, 1985; Oye, 1985; Keohane, 1984). Their interest in game theory can be explained by the fact that they were interested in problems of cheating (Mearsheimer, 1994:14) as an obstacle to cooperation as well as the importance of payoffs in the process of achieving cooperation

(Oye, 1985). Partially, this could have been a response to the interest realists studying security had in game-theoretic explanations (for example, Jervis, 1978).

Some authors claim that neoliberals see more cooperation in international politics than realists and neorealists. This view however, is criticized as a misrepresentation of a debate between the two theories by authors who argue that two theories in fact are in disagreement over how much conflict is avoidable or “unnecessary” (Jervis, 1999).

In the 90s, the issue of absolute and relative gains and its relevance to the problem of cooperation became more important for neoliberal institutionalists. Realists criticized them for neglecting the difference between absolute and relative gains and argued that states’ focus on relative gains diminish possibilities of cooperation (Grieco, 1988). Neoliberal institutionalists argued that absolute gains were very important in most situations (Keohane and Martin, 1995), especially (as it usually is in the real world), where there are many actors in world politics and in situations where absolute gains are big enough (Snidal, 1991).

Of course the importance and effect of international regimes has always been central to the research agenda of Neoliberal institutionalists (For example, Ruggie, 1982) They argue that regimes help nations in cooperating (Johnson and Heiss, 2013) and influence the states in several ways, including by changing their interests and calculations (for example, Keohane, 1984; Stein, 2008). The main questions that the regime literature tackles are of definition as well as creation, change and longevity of regimes. Influence of regimes on politics and their effectiveness are also central issues dealt with by the authors (Jönsson and Tallberg, 2001).

There are several often cited classifications of literature on regime theory that can help us map this branch of academic literature. Based on Hasenclever et al. three schools of primary importance can be identified in regime literature; Neoliberalism focuses on interests, neorealism focuses on power and cognitivism focuses on knowledge (Hasenclever, et al. 2000). For example, than, hegemonic stability theory would be a realist regime theory, functional theory of international regimes would be a neoliberal theory

while Oran Young's extensive work on emergence, change and longevity (Young, 1982) and effectiveness (Young, 1999) would fall under the cognitivist tent of literature on international regimes.

Just as in case with neoliberal institutionalism (Richardson, 2008), Keohane's work is widely considered as the most important in regime literature (see, for example, [Bradford, 2007]; [Jönsson and Tallberg, 2001]).

Key concepts and definitions

Keohane starts with a realist assumption of states being rational and self-interested actors and asks the following question: "How can cooperation take place in world politics in the absence of hegemony?" (Keohane, 1984:14) He explains that cooperation is possible when states have complementary interests and claims that existence of institutions or "international regimes" is a condition for cooperation between rational, self-interested actors. (Keohane, 1984)

He starts with criticizing realist vision of world politics as a state of war, where each state judges only by their own interest and in the state of anarchy everyone is engaged in competition, or as he puts it himself in discord, that is a result of mismatching interests ([Waltz, 1959] and [Tucker, 1997] cited in Keohane, 1984). In his view, if such a vision of international politics was correct, the states would only be engaged in cooperation out of balance of power calculations (Keohane, 1984). Therefore, he considers that realists fail to explain system-wide cooperation that happens between countries that do not belong to the same alliances. Especially since such cooperation benefits many states at the same time (ibid). Keohane believes that even if we take the realist assumption of states being self-interested, egoistic and rational, we can still explain the said system-level cooperation as rational actors might consider that it is in their own interest to adjust policies to the preferences of others and to cooperate (ibid).

He criticizes realists for overreliance on power and interest in their effort of understanding cooperation. In his view, it is not possible to understand cooperation in world politics without understanding the role of international institutions. Even so, he does not reject

many of the realist views and believes that realism needs to be “supplemented, though not replaced, by theories stressing the importance of international institutions” (Keohane, 1984 p. 14). For instance, it is still important to understand power dynamics in hegemonic cooperation, because it will have impact on how and on what terms cooperation plays out. But a hegemon also has to adjust its policies to fit the interests of other, much weaker countries. In fact, a hegemon needs to provide the system with international institutions, rules and principles which other countries have to accept (Keohane, 1984). Keohane demonstrates this with an example of US hegemony after the Second World War. The US had to adjust its policies and convince other countries that its hegemonic position was beneficial for them. To this aim, US contributed resources to building up international institutions through which it would try to set rules but also provide benefits to the other members of the regime. Some of the benefits of US hegemony to the rest of the world that Keohane lists are “1) Stable international monetary system... 2) Provision of open markets for goods... 3) Access to oil at stable prices”(Keohane, 1984 p. 139).” In short, even in the extreme case of discrepancy in power, even a hegemon needs to adjust and cooperate and also to create international institutions using which the nations will cooperate on a system-level.

Existence of complementary interest as perceived by the states themselves is necessary condition for cooperation based on this theory as there can be no mutually beneficial cooperation in complete absence of complementary interests. However, complementary and even common interests are often not enough for cooperation due to reasons like but not limited to uncertainty over intentions of other actors. When international regimes are in place there is a better understanding of what others will do or what they expect one to do and the calculation on what is a rational decision for attainment of ones goals changes (Keohane, 1984).

International regime is described in the book as a “set of implicit or explicit principles, norms, rules and decision-making procedures around which actors’ expectations converge in a given area of international relations” (Krasner, 1983 p. 2 as cited in Keohane 1984 p. 57). The definition does not belong to Keohane but is as he writes, “a collective definition,

worked out at a conference on the subject” (Keohane, 1984 p. 57). According to the initial collective definition (Krasner, 1983 p. 2 as cited in Keohane 1984 p. 57),

principles are beliefs of fact, causation, and rectitude. Norms are standards of behavior defined in terms of rights and obligations. Rules are specific prescriptions or proscriptions for action. Decision-making procedures are prevailing practices for making and implementing collective choice”.

Keohane is not fully content with this definition but claims that it “provides a useful starting-point for analysis” (Keohane, 1984 p. 57). He goes on to describe by himself each of the four attributes that together make up an international regime. Starting from the most general, he clarifies that principles define general purpose of the regime. As an example he mentions the principle of non-proliferation regime that “the spread of nuclear weapons is dangerous” (Keohane, 1984 p. 58). Norms are defined in terms of general responsibilities and obligations. They provide information to the members of the regime about what is a legitimate form of action and what is not. Turning to his example of non-proliferation regime we are told that the norm of this regime is “not to act in ways that facilitate nuclear proliferation” (ibid). Continuing towards the more specific attributes, Keohane describes rules as detailed and “specific rights and obligation of members”. They are less fundamental to the regime and therefore are easier to change than principles and norms. Lastly, procedures are more self-explanatory. They are defined as “ways of implementing principles and altering rules” (ibid).

Keohane concedes that even after his clarifications to the collective definition, some questions remain. For example, even though rules are more specific than norms, they are still often hard and sometimes impossible to distinguish (Keohane, 1984). Even though some of the four attributes may be vague or difficult to distinguish from another, Keohane points out that these attributes are at different levels of specificity and they are all necessary to understand what a regime is. They should all be taken into account, although some are more important for the regime and more difficult to change, while others are not so fundamental and can easily be changed without changing the regime itself (ibid).

Let us now move on to the definition of cooperation. Cooperation is defined as “active attempts to adjust policies to meet demands of others” (Keohane, 1984 p. 12). Cooperation only exists when there is some conflict or potential for conflict as otherwise there would be no need to adjust based on positions of other actors. If we talk about cooperation than existence of opposing interests and existing or potential conflict is already implied.

Cooperation represents “efforts to overcome conflict, real or potential” (Keohane, 1984 p. 54). Cooperation is contrasted with harmony. The latter is a situation in which “policies of actors *automatically* facilitate the attainment of others' goals” (Keohane, 1984 p. 51, original emphasis). Therefore, no cooperation or in fact no political interaction is required. The actors are free to completely disregard each other's actions and preferences.

Cooperation, on the other hand, requires that active measures while taking in consideration interests of the other actors. “Cooperation occurs when actors adjust their behavior to the actual or anticipated preferences of others, through a process of policy coordination” (ibid). Process of coordination often involves negotiations, but it is not a strictly necessary condition. Moreover, in some cases a country might even adjust its policy “in the direction of another's preferences without regard” of how this action will affect the other country (Keohane, 1984 p. 52). Still, Keohane considers that type of behavior to be an act of cooperation as long as the action of active adjustment is being made towards the preferences of the other actor (ibid).

Lastly, building up on the definition of cooperation, it is distinguished from discord. If there is potential conflict or mismatch of interests and no attempts are made to adjust policies, we arrive at discord. If attempts are made and policies become more compatible with preferences and interests of others, cooperation has taken place (Keohane, 1984).

Causal mechanism

Now that we have discussed the main concepts of the theory, we can look at the causal mechanisms that the theory explains. As Keohane writes, his main argument is that “cooperation can under some conditions develop on the basis of complementary interests, and that institutions, broadly defined, affect the patterns of cooperation that emerge” (Keohane, 1984 p. 9).

First, let us look at how regimes contribute to cooperation and why the states follow the rules of the regimes. A crucial point, which I would like to start with, is that members of the international regimes value the regimes. If we go along with realist assumptions of states being sovereign, self-interested and rational as Keohane does, we should note that for a regime to be affective or in fact to be established, the states have to value it. They have to believe that they have more to gain first by being part of the regime and also by following its rules. Therefore, the states choose to create and join the regimes and cooperate as part of the regime because of their utility. In other words, and this is where the name of the theory comes from, the states create the regimes and act as their members because they value the functions that the regime provides to its members.

Keohane divides the reasons for why states believe that it makes sense to them to cooperate through a regime in three categories: “legal liability, transaction costs and problems of uncertainty” (Keohane, 1984 p. 88). Keohane explains that because states value sovereignty so much, it is often impossible to create international institutions that will be able to regulate state behavior by the regimes directly or by means of legislation. It does sometimes happen (legislation on the EU level or negotiations over the international law on the UN level would be some examples) but this is not what makes international regimes important or what makes the states willing to be part of it. Rather, through creating and agreeing on norms, rules and accepted practices, the regimes create expectations of what is accepted behavior and what is not and how other states will behave based on that.

Regimes reduce transaction costs in several ways. In the most basic way, regimes reduce the financial and resource-based cost of getting together to discuss different matters as a regime often has established premises and established ways of how state representatives get together to discuss issues covered by a regime. Also a regime allows setting rules without necessity of renegotiate rules of legitimate action at each interaction. More importantly, regimes reduce costs of action that is considered legitimate by its rules and increase the cost of action that is considered illegitimate. For example, regime makes violating some rules more costly for a state because other states might lose respect for the rules of the

regime and the primary reason for participating in a regime, increased predictability will be lost.

Lastly, but perhaps the most importantly, the regimes make arriving at mutually beneficial agreements easier. This is done through multiple mechanisms. The regime groups several connected issues together by creating a forum where all or most of the issues are discussed. Therefore, the negotiating sides find it easier to reach agreements by issue linkage. They have increased possibility to bargain and to compromise in other related issues than how it would be the case if only one issue was to be discussed at each negotiation.

Issue linkage also affects the element of costs of illegitimate actions. A regime covers more than one issue. Reducing the usefulness and legitimacy of the regime in the view of other countries through violating some of its rules will make a regime less useful for the side that has violated the rule in regards to every issue that a regime covers, not only in regards of the issue that a state has violated. By linking the issues together, the regime becomes more valued for its members.

Regime increases access to information to the governments and reduces uncertainty. As we already mentioned, by setting out what is legitimate and what is not, states are able to create expectations of how other states will behave. Moreover, regimes increase general availability of information regarding the issues that they cover. This happens through setting rules as well as through interactions and working process of the regime. Many regimes also have specialized bodies and secretariats that can provide reliable information to the members. For example, members of the Arctic Council benefit from the increased availability of information the organization generates through its working process as well as through the interactions with other members. Increased availability of information is another way in which the regimes make it easier to reach agreements. It becomes both more risky and more difficult to cheat while making an agreement under an international regime. States have more information based on which they can be secure in entering agreements.

To sum up, states become part of the regimes and choose to cooperate through a regime because they value regimes. The states value regimes for the functions that the regimes

provide to them. The regimes set expectations for the states by establishing what are legitimate and what illegitimate forms of behavior are. They reduce uncertainty and make it easier to come to mutually beneficial agreements by making information available to the states. Crucially, regimes increase cost of violating rules and decrease cost of following rules by making it more probable that a violation will be found out and by making it less likely that the states that enter into agreements and follow rules will be deceived (Keohane, 1984).

Keohane does not provide an explicit hypothesis about how the international regimes affect cooperation. But he provides developments in which his theory will be falsified. Those developments are the following: if without a hegemon, countries did not cooperate at all; if cooperation happened on issues with repeated interaction but occurred on issues with “single-play issues” ; if countries did not use frameworks of existing regimes when cooperating (Keohane, 1984 p. 219).

I think this theory fits my research well because first, I want to study conditions under which cooperation has happened and second, interests and institutions have been some of the most common explanations of those authors who explain and predict continued cooperation in Arctic politics. Therefore, it will be valuable to see how this theory explains cooperation in the region while comparing state behavior in context of existing as well as resolved disputes in the Arctic. Besides, I think harsh climatic conditions of the Arctic and its influence on politics make Keohane’s theory fitting to the issues at hand. Due to harsh climatic conditions, more issues are interconnected in the region than in other regions. For example, just in order to make use of the region, the states need international cooperation to develop search and rescue capacity or to deal with problems of deficiency of infrastructure. Same can be said for the possibility of exploitation of resources. Moreover, exploitation of resources as well as almost any other economic activity (for example tourism or even increased shipping) is more impactful for environment and more related to the issues of environmental protection than in other regions.

Focus on non-classical forms of power as well as objection to clear hierarchy of issues are also fitting to post-cold war Arctic politics. Military power or power of coercion have hardly been relevant to post-cold war international relations in the region. As for hierarchy of issues, while this might be changing recently, the security of the states is not primarily threatened by traditional external threats or even terrorism and other destabilizing factors. Therefore, it is hard to speak of any hierarchy like traditional security being at the top of state interests. The threats are different, mostly related to environment and underdevelopment and ways of combating these threats are complex and interconnected. For the same reason, many threats are common and interests complementary, so there are few issues that can be considered zero-sum. For these reasons I decided to use neoliberal institutionalism as my theoretical framework. I chose Keohane's work and specifically functional theory due to their importance and influence. Relying on this seminal work allowed for the clearest representation of the chosen theoretical tradition.

Let us now have a look at some criticisms aimed at functional theory of international regimes and at neoliberal institutionalism in general. Considering that the theory appeared mainly in response to realism, it is not surprising that it has received main criticism from realist scholars. For purposes of representation, I will discuss criticism coming from offensive realists (Mearsheimer) as well as defensive realists (Grieco).

Starting with the criticism that came from both flanks, realist scholars disproved what they saw as neglect of relative gains and focus on absolute gains with Keohane and other neoliberal institutionalists. Mearsheimer considered that neoliberal institutionalist logic applied only in few matters where relative gains are more important than absolute gains. For him this hugely diminishes usefulness of the theory since in realist understanding states will almost in all spheres make calculations based on relative gains (Mearsheimer, 1994). Similarly, although arriving at the same criticism from a slightly different side, Grieco claims that realism and neoliberal institutionalism arrive at different conclusions based on their understanding of anarchy. If Keohane consider self-interested egoists not to be interested in gains of other actors, realists claim relative gains are more important than absolute gains (Grieco, 1988).

In response, Snidal argued that states would act based on calculations on absolute gains where there are many actors involved in the matter and in situations where absolute gains are big enough to override considerations about relative gains (Snidal, 1991). Additionally, Keohane and Martin argued that institutions would help in cases where states indeed prioritized relative gains by providing information on the gains and in this manner by helping them make the gains more equal through cooperation (Keohane and Martin, 1995:45).

Mearsheimer also criticized the theory for the fact that it only applies in areas where states have common interests and does not apply in zero-sum interactions. However, such interactions are rare and more importantly as Keohane himself points out it would not be possible for states to achieve mutually beneficial outcome if there are no complementary interests involved (Keohane, 1984).

The logic of how linkages work is not convincing for realists. Grieco points out that linkages can harm chances of cooperation, not only contribute to it since if capabilities of states in one area are connected to its capabilities in another area it will be even less willing to compromise in any of the two issue areas (Grieco, 1988).

Lastly, Mearsheimer argues that there is little empirical support that regimes help in cooperation and it is difficult to find a case where regime indeed contributed in an issue where cooperation would not have happened otherwise (Mearsheimer, 1994). Considering that based on functional theory of international regimes, regimes are created based on expectations regarding the functions they will provide and then evaluated on whether they provided these functions, it is indeed hard to judge whether states would cooperate if said institutions were not there. At least, it is certainly a difficulty for my research. This is the reason why I decided to focus on provisions of UNCLOS when evaluating contribution of a regime to cooperation. At least, focusing on the provisions, I am able to clearly show what provision UNCLOS provided (how it could have potentially contributed) and whether these provisions were used (whether it in fact contributed).

Let us now look at what the functional theory of international regimes would predict for the disputes discussed in this. The Barents Sea delimitation dispute involved two countries that had common interests related to the dispute. The international regime provided the countries with information and procedures as well as with issue linkage to make reaching an agreement easier. The theory would have predicted cooperation to take place. The countries involved in the continental shelf delimitation dispute also had common interests related to the dispute. The international regime provided them with procedures for delimitation of continental shelf and with the procedure regarding work of the commission on the limits of the continental shelf. The regime also provided the countries with information that was used to make submissions. The theory would have predicted cooperation to take place. The countries involved in the Northern Sea Route dispute had some common interests. The regime provides them with rules and procedure for settling the dispute. However, due to the US not being part of UNCLOS, these procedures are not available for it. The theory would not have predicted cooperation to take place.

United Nations Convention on the Law of the Sea as an international regime

United Nations Convention on the Law of the Sea (UNCLOS) is an international agreement signed in 1982 that went into force in 1994. UNCLOS is a body of international law that regulates the world's oceans, or in other words "defines rights and responsibilities of nations in their use of world's oceans" (Petkunaite 2011, p. 29). The treaty consists of 320 articles that are united in 17 parts and 9 Annexes with an additional 116 articles.

The fundamental principle, or the purpose of the treaty is provided in the preamble, where it is said that the treaty intends to settle the issues in the oceans with cooperation to contribute to "maintenance of peace, justice and progress for all peoples of the world" (UN, Preamble). Perhaps the most important contribution of UNCLOS to the law of the sea is that it divides the ocean into zones of "territorial sea, contiguous zone, EEZ and high seas" (Reiley, 2014), different rights are given to the states in different zones (ibid).

The convention covers many different areas like right for navigation, rules and processes for delimitation of maritime areas, environmental norms and so on. By virtue of UNCLOS being a body of international law it already serves some functions of the regime described by Keohane. It sets expectations by providing information regarding what kind of behavior is considered a norm and what kind of behavior is a deviation or violation on the norms and rules. It provides information in form of definitions of many features of the law of the sea, for example, section two of part two is dedicated to definitions and different articles of this section provide definition of outer limits of territorial sea, reef, straight baselines, bays and so on. Other definitions, provided by different sections, are for example meaning of passage, definition of warships and so on. According to functional theory of international regimes, such information would facilitate cooperation by giving the states measurable and understandable concepts that everyone has agreed on. These concepts are made for the ease of working with them.

The regime then provides different rules and procedures that together with definitions create value for the states by making the regime usable. For example, Article 76 provides definition of the continental shelf. Here it is explain what a continental shelf is, how it is measured and how the states can delineate the shelf (UN, 1982, Art 76). Annex II, meanwhile, provides information about the commission on the Limits of the Continental Shelf (CLCS) and the procedures the states can go through to claim continental shelves by using the commission (UN, 1982, Annex II).

Let us now look at how UNCLOS provides reduction of transaction costs and how it helps with problems of uncertainty as a regime would based on the Functional Theory of International Regimes. UNCLOS reduces transaction costs by having established rules that do not need to be renegotiated each time. UNCLOS reduces uncertainty by providing the information about what is acceptable and what is not acceptable behavior. This way an expectation of how other members of the regime will behave can be established.

UNCLOS provides linkage by grouping many different areas into a single regime. This, according to the Functional Theory of International Regimes, makes it easier to arrive to

agreements as there is more room for negotiation. Linkage increases the cost of illegitimate actions as violating one rule might cause others to disregard any other rules of the regime.

UNCLOS, of course, increases general level of available information with many definitions it provides. Increased level of information, based on the theory we use, further raises cost of cheating and helps the states to reach agreements.

To sum up, it can be said that UNCLOS provides, principles, rules, norms and procedures regarding rights and responsibilities of countries in the oceans. It provides linkage by covering many different, yet related areas, and reduces uncertainty by providing information about what is a legitimate and what is an illegitimate course of action.

All arctic states, except for the US have ratified UNCLOS. The US respects UNCLOS provisions as part of customary international law but the treaty has not been ratified due to divergence of opinions in the congress (Petkunaite, 2011). Some in the US are opposed to ratifying the treaty as they consider Part XI, specifically sections concerning seabed and mining operations. In general, opposition to UNCLOS can be ascribed not specifically to Part XI but a general distrust towards the UN (Carmichael, 2018). However, as we will see throughout the thesis, there are some, including in the leadership positions in the US who consider it necessary for the country to ratify the convention. A confirmation of this divide can be observed in the fact that the US Arctic strategy considers accession to UNCLOS as one of the priorities (The White House, 2013). For the purposes of our thesis, it is important to note that not having UNCLOS ratified leaves the US unable to use some of the procedures provided by the regime, for example, a procedure of submission of claims for the extended continental shelf. Nonetheless, the US is collecting data for the continental shelf claims in hopes that they will be able to access to the convention (Koivurova, 2011).

Methodology

Research design

As my aim is to contribute to the literature on conflict and cooperation in the Arctic, I have decided to focus on the factors that explain cooperation during the existing disputes in the region. To this end, I have conducted a factor-based comparative study of three disputes in the region to find out whether cooperation in fact occurred and what the factors that could explain cooperation were. My comparison follows the most similar systems design (MSSD), a method that seeks to compare cases that are similar in many features but are different in relation to a key feature that is responsible for the eventual different result (Landmann, 2016). My cases are generally similar in that they are all cases of disputes in the Arctic; they all involve Russia as well as NATO states. They are similar in that the in all cases independent variable of complementary interests is in place. In one case where the outcome is different, the conditional variable of availability of international regimes is not present, while it is present in the other two cases where the outcome is similar.

I have studied what the states considered their own interests in the Arctic. I was studying what were the interests and how were different interests of one state considered to be connected with each other. Identifying these connections was necessary to have a better understanding of the web of interests each state has. This allowed me to understand if the states had complementary or common interests that were relevant for each dispute.

I have looked at how the disputes unfolded to assess whether cooperation took place during a dispute or not. In this part of my analysis I relied on secondary data. I was looking for whether cooperation, understood as “active attempts to adjust policies to meet demands of others” (Keohane, 1984 p. 12) took place and what form it took. Although reliance on secondary data is far from ideal, in this case it is a matter of fact whether the states adjusted their policies or not. These facts are known and already outlined in the existing literature, so there was no possibility or need from my side to contribute to the factual knowledge of what positions states took at different points of the disputes. Depending on how cooperation unfolded on what form the cooperation took, I concluded whether the states used the functions provided by the regime or not. Due to difficulty of arguing whether the

regimes were essential in achieving cooperation or in other words whether cooperation would have happened in case a regime was not in place, I decided to focus on provisions of UNCLOS when evaluating contribution of a regime to cooperation. At least, focusing on the provisions, I am able to clearly show what provisions UNCLOS could have provided (how it could have potentially contributed) and whether these provisions were used (whether it contributed in fact).

Following the logic outlined in the theory by Keohane, my hypothesis, that complementary interests and availability of an international regime on issues of dispute explain cooperation between states during the disputes in the Arctic, would have been falsified if the functions of the regime were available during a dispute but the states cooperated without using the functions provided by the regime or if cooperation happened where the regime was not available and did not happen where the regime was available.

Given the topic of this study, the choice of possible research designs was between a single case-study and a small-N comparative study. The decision was made to analyze all three relevant cases to portray a fuller picture of cooperation in the Arctic and contribution of the international regimes in the process. Single case studies suffer in generalizability. As my aim was to explain cooperation in the Arctic region, my findings should be generalizable in the region. On the other hand, I am not aiming for generalizability outside of the Arctic, as the idea of this research was born specifically out of the consideration that this region is special in terms of patterns of cooperative relations. Small-N case studies also cannot boast generalizability of large-N case studies but offer more of it than single case studies. Small-N case study allowed me to show how Arctic countries behaved in different occasions giving a fuller picture of patterns of cooperation. Large-N case study would have been the most appropriate to study why cooperation happens in disputes but it was not an option as I was specifically interested in disputes in the Arctic.

Case selection

I chose to analyze cooperation during disputes as disputes are the most relevant instances to study to contribute to the literature on conflict and cooperation. While cooperation is also

studied outside of disputes, such cases would be less relevant for the wider literature on conflict and cooperation in the Arctic. My cases for comparison are disputes between Arctic countries, with the issues of the dispute also being connected to the region. Therefore, they are all considered ‘Arctic disputes’. This makes them relevant to my research and comparable. I am only using UNCLOS as the relevant international regime for each dispute analyzed in this thesis.

I have decided to treat UNCLOS as the international regime used for analysis in this research. UNCLOS is the most relevant international regime for the Arctic as the Arctic is an ocean surrounded by continents. Therefore, UNCLOS is the relevant international law for most of the problems and issues of international relations in the region. UNCLOS is often called the ‘constitution of the oceans’ (Pyć, 2016 p. 160). UNCLOS being the most relevant international regime for the Arctic is confirmed in the Arctic strategy documents of most coastal Arctic states. All Arctic states, moreover, confirmed the relevance and importance of UNCLOS for Arctic politics when they came together to sign the Ilulissat declaration in Greenland in 2008. By the declaration, all states announced their position that the law of the sea is an adequate legal regime for the region and there is no need of creating a new legal regime specifically for the Arctic (Dodds, 2013). Lastly, UNCLOS clearly qualifies as a regime based on the description provided by the functional theory of international regimes as outlined in Chapter 2.2 of this thesis. Other regimes that are relevant to some spheres of Arctic politics or some disputes are not used in this analysis for the sake of comparability of the cases. This is because this research is interested in what explains cooperation and how international regimes contribute to cooperation rather than the differences between international regimes.

When deciding on case selection, I have followed the logic of focusing on Russia and the disputes that this country is involved in. This is explained by many authors who write about conflict and cooperation in the Arctic and who have made the same decisions in their research. The authors often focus on Russia and emphasize their intentions and capabilities (see, for example, Flake, 2015). I agree with this logic, as Russia is the only Arctic coastal state that is not a member of NATO and the only Arctic state that is not a member of either

NATO or the EU. Therefore, I believe, that analyzing instances of disputes and cooperation in Arctic primarily with Russia's involvement is more valuable for studying cooperation or conflict potential in the region. Cooperation between the other states as well as possibilities of discord cannot be disconnected with the dynamics of these countries being allies. This is made clear by the fact that for example Canadian Arctic strategy explicitly claims that disputes with allies do not affect their relations, do not constitute a threat and are of lesser priority (Government of Canada, 2009).

Since 1997, Russia has been involved in four disputes in the Arctic. These are the following: 1. Barents Sea delimitation dispute between Russia and Norway that was resolved in 2010. 2. Northern Sea Route dispute between Russia and the US. 3. Overlapping continental shelf claims dispute between Canada, Denmark and Russia. 4. Fishing rights dispute in Svalbard region.

Status of Svalbard region is regulated by a treaty signed in 1920. Therefore, the existing treaty is the most relevant international regime governing the issue of rights in the region. The dispute is connected to provisions of that treaty. UNCLOS, therefore is not an international regime of primary relevance for that dispute. Considering contributions of UNCLOS to the existing cooperation or to the absence of it would have been incorrect. All the other cases for which UNCLOS is the relevant international regime have been analyzed in this thesis.

The resulting case selection allows analysis of all disputes with Russian participation that are relevant to the primary international regime in the Arctic. Moreover, these three cases involve all the Arctic coastal states except Iceland, so a wide selection of actors and their interests is also provided. This allows for a better understanding of the existing situation in the region, the variety of interests of the countries and the variety of disputes. As generalizability of my findings beyond Arctic is not my goal due to specificity of the region, this case selection allows drawing important conclusions about patterns of cooperation during existing disputes in the Arctic and by virtue of focusing on factors that

contribute to cooperation the study also allows an insight on the possibility of escalation of conflict or continuity of predominance of cooperative relations.

Timeframe

The timeframe of selection and analysis of the cases is dictated by the developments of UNCLOS. UNCLOS was signed in 1982, entered into force in 1994 and was ratified by Russia in 1997. Therefore, the analysis of cooperation during the disputes for which UNCLOS is relevant to is only possible after the ratification. All of the existing disputes in the Arctic that involve Russia, however, started before 1997, so the information on the state of the dispute has to be looked at and provided in the thesis to know the background of the issues as well as a starting point for the analysis.

Data

I used primary data, namely Arctic strategy documents to find out what were the interests and priority areas of the countries involved in the disputes. Arctic strategy documents are issued by the state bodies and represent the views of the government. Thus, they were considered a reliable and valid source for the analysis of perceived interests and priorities of the governments. Of course, there is an issue that not all interests and priorities will be revealed in a publicly available document. But I think this does not hurt my research as I am interested in disputes that are public. The sides need to communicate their positions to make demands or to work towards resolution. Moreover, the purpose of Arctic strategy documents is to communicate priorities and interests of the state to other states as well as to other audiences. Therefore, analysis of these sources is valuable for the purposes of my research even if not all priorities and interests are covered in them.

As for the choice of which version of the strategies to analyze, I chose the versions that would be the most up to date during the disputes. Although there was not much choice as most countries analyzed only have one Arctic national strategy document. Where it was not the case, I chose the most up to date document that would be relevant at the time of the dispute. For Norway, I used the “New Building Blocks in the North” released in 2009 and being the more expanded version, as well as an update on the 2006 version. For Russia, I

used the “Fundamentals of State Policy of the Russian Federation in the Arctic in the Period up to 2020” that was adopted in 2008. The latest version was adopted in 2020 and covers the period up to 2035, but it was not considered as relevant for the disputes as all the events that are discussed in the thesis took place before adoption of the said document.

The text of the United Nations Convention on the Law of the Sea was used to analyze whether the convention fits the description of an international regime used in the Functional Theory of International regimes. The same text was also used to analyze how UNCLOS contributed to the cooperation during these disputes. Namely, what relevance did UNCLOS provisions have to the dispute and how did the states involved use UNCLOS when they cooperated.

Secondary sources, such as books and scientific articles were used to provide background to the dispute, to describe the development of the dispute and the actions the parties took during disputes. These sources allowed to find out whether the parties changed their positions and whether they used UNCLOS provisions when cooperating.

Research methods

Data-driven Qualitative Content Analysis was used to analyze the strategy papers in order to find out the main interests and priority areas of the states in the Arctic. As described by Schreier, qualitative content analysis “is a method for systematically describing the meaning of qualitative material. It is done by classifying material as instances of the categories of a coding frame” (Schreier, 2012 p. 1). Using qualitative content analysis, I was able to identify the interests that were coded, while the broader priority areas were organized as categories of the coding frame. I chose to do coding on paragraph level. Based on the style in which strategies of some countries are written, paragraph level also matched will sentence level. In other cases, however, as in the case of Danish Arctic strategy, paragraph level was clearly more appropriate than sentence level as many sentences provided examples and details in a paragraph, but generally a paragraph was the main unit of transfer of information.

I followed the following 8 steps of qualitative content analysis outlined by Schreier with minimum modifications: “1. Deciding on your research question 2. Selecting your material. 3. Building a coding frame 4. Dividing your material into units of coding. 5. Trying out your coding frame. 6. Evaluating and modifying your coding frame. 7. Main analysis. 8. Interpreting and presenting your findings” (Schreier, 2012 p. 6). The only difference was that since I had different coding frames for different countries, I could not try a coding frame out on a small part of the data. Instead, I went through the initial creation of the coding frame and then did the same after a month and a half in order to compare and test out my initial coding.

The decision to do qualitative content analysis rather than qualitative coding was informed by my interest in how my data and not just categories related with each other. Also, since qualitative content analysis is more descriptive and more about “summarizing what is there in the data,” (Schreier, 2012 p. 41) I considered it to be more fitting for my research aims.

Operationalization

In this part I will operationalize some concepts from the theory connecting them to the cases that I am comparing. This will make the concepts measurable and usable for analysis. Based on Functional Theory of International Regimes, cooperation is described as “active attempts to adjust policies to meet demands of others” (Keohane, 1984 p. 12). In our cases, as we are dealing with the disputes, cooperation is considered to have taken place once one of the parties change their position in direction that would be closer to the position of the other side of the dispute. For example, in the boundary and continental shelf disputes, cooperation occurs when a state changes their position and gives up part of the land or area that they were claiming before.

Also, since adjustment of policy based on others’ positions is needed, changing the position regarding some part of the issue, without changing the initial position would already amount to cooperation. For example, in the dispute regarding the Northern Sea Route, the countries could have agreed on a compromise outcome where the US would recognize Russia’s rights to ask for permission for passing through the straits and the Russia would

exempt the US from this procedure. Based on the definition of cooperation used in the theory and in this thesis, this would amount to cooperation as the policies would have been adjusted based on the positions of others but the initial positions would not have been changed. Russia would still consider itself to be in position to ask for permits for passing straits but would not exercise this right over the US.

On the other hand, if no country changed its positions and the issue was not resolved, that would have been labeled as a discord, a situation where states do not change positions and continue to have claims against each other.

In case of the continental shelf claims dispute, reduction of any area of initially claimed territory should be considered cooperation. Other possible occurrence of cooperation is when the countries change their position on whether they are against, neutral or for the continental shelf commission to consider the claim made by another state. In case of discord, the states would not be allowing the claims of each other to go forward, not wanting and not trying to cooperate to resolve a dispute.

In the Barents Sea dispute cooperation would be considered to have happened if any of the states willingly withdrew the claim from part of the area that they were claiming or if they agreed to let the third party tribunal resolve the issue. Discord would have occurred if they stayed at their claimed positions without changing anything or if the countries claimed more area over time without any agreement or after the agreement occurred.

Complementary interests are interests that are not in conflict with each other or with other interests of another state party of the dispute. Common interests are considered part of complimentary interests in this thesis. Common interest, for example, of all Arctic states that we have analyzed, is to maintain peace in the Arctic. Complementary interests are, for example, increases of social support to a state's Arctic population. The latter does not in any way go against the interests of other countries; however, it also does not contribute to fulfillment of the goals of the other countries. The former goal is common for every country and each contribution or each step in violation of it is considered as harmful for the common interest in securing peace in the Arctic.

Complementary interests, for the purpose of this research, should be relevant to the dispute in order for them to influence the dispute. For example, the interest of both Russia and Norway to gain more income from gas and oil resources or fishing are relevant to the Barents Sea dispute. The same can be said about their interest in improving bilateral relations between each other. The interest of Denmark and Canada in improving the situation of native populations of the Arctic regions is not directly relevant to the issue of the continental shelf delimitation and will not be used in the analysis of that case.

The availability of an international regime means that an international regime that is relevant to the issue of the dispute has to exist and provide functions described in the Functional theory of international regimes. These tools have to be available to the parties of the dispute. Otherwise, as is the case with the US not being able to use some of the functions provided by UNCLOS, UNCLOS is practically not available or 'not existent' in context of the dispute between US and Russia.

In case of availability of international regimes, I will be looking at whether the parties of the disputes had a possibility to use the functions provided by the regimes and if so, did they use them or did they come up with ad-hoc formulas and agreements to come to agreements. As discussed in the Functional theory of international regimes, the latter approach would be considered a falsification of the theory (Keohane, 1984).

UNCLOS and cooperation in Arctic disputes

This part of the thesis is divided in two subsections. The first outlines priorities and interests of the states in the arctic based on the results of qualitative content analysis done on each of the states' Arctic strategy documents. This allows us to see how states viewed their own interests. Following this, there will be three sections, one for each dispute. Each of these sections will be divided in two. In the first part, I rely on secondary data to present the background of the dispute and to find out whether the states changed their positions. In the second part I will discuss what were complementary or common interests relevant to the dispute based on the results of qualitative content analysis. Afterwards, I will explain what will be considered as a confirmation as well as falsification of my hypothesis in a dispute. Lastly, I will write whether cooperation happened and in cases where it happened whether the states used functions provided by UNCLOS.

Priorities of the states in the Arctic

This section presents the results of qualitative content analysis done on each of the states' Arctic strategy documents. The aim of this section is to map the interests and priorities of the states in the Arctic as perceived by the governments themselves. Based on this analysis, we can see that the states mostly have common and complementary interests.

Complementary interests of social and economic development of the region as well as need for infrastructural development is present as a priority in every strategy. Environmental protection and securing peaceful and cooperative relations in the Arctic are common interests shared by all countries. Among notable contradictory interests we see promotion of freedom of navigation from the US's side and of the NSR under the legal framework of the Russian Federation.

Canada

Exercising Arctic Sovereignty

Sovereignty is a noticeable focus-area of the Canadian Arctic strategy document. The topic of exercising sovereignty can be divided between increasing military presence on land and at sea, establishing outer margins of the continental shelf and possibly working on resolving disputes with Denmark and the USA (Government of Canada, 2009).

Canada aims at deploying more forces to the Arctic as well as strengthening and renovating the fleet. Notably, the strategy mentions a plan to add a new icebreaker to the fleet that will be “the largest and the most powerful icebreaker ever” (Government of Canada, 2009:10) in the country’s fleet. Exercising sovereignty through military presence also includes continuation of regular patrols and monitoring of the Northern airspace (Government of Canada, 2009).

Regarding Hans Island dispute with Denmark and Baufort Sea dispute and the Northwest Passage dispute with the USA, it is said that these disputes constitute no challenge to Canada. Moreover, they do not affect Canada’s ability to cooperate with Denmark and the USA “on issues of real significance and importance” (Government of Canada, 2009 p. 13). Eventually, it is noted that Canada “may seek to resolve them in future in accordance with international law” (ibid). Clearly, wording like this signals that these disputes are of very low priority for the country and are not viewed as causing immediate or serious problems.

Regarding the process of establishing the limits of continental shelf it is mentioned that this is a cooperative endeavor based on the “shared commitment of the international law” (Government of Canada, 2009 p.12). Ratification of UNCLOS is mentioned as a necessary step that allows the country to go on with the process (Government of Canada, 2009).

Social and Economic Development

Economic development of the region is mostly connected to the resource extraction industry. Oil and gas extraction industry as well as diamond mining are celebrated as success, so are the growing industries of tourism and fisheries (ibid).

Nevertheless, necessity of special attention and additional aid to the Arctic regions of the country is recognized. This includes direct financial support from the central government as well as more specific, targeted funding for education, housing and other special needs connected to difficulties of living and working in the Arctic (ibid).

The targeted initiatives of additional training for labor market, funding of infrastructure and for community development are mentioned as examples of governmental support for Arctic economic and social development (ibid).

Overall, the description of economic situation in the region is celebratory in some areas but acknowledges the need for special support and additional need for development of the Arctic regions (ibid).

Providing aboriginal peoples with greater self-government is also seen as resulting in economic development of the region as well as in improving self-sufficiency of the targeted groups (ibid).

Environmental Protection

The strategy recognizes that “Few countries are more directly affected by changes in the Arctic climate – or have as much at stake – as Canada” (Government of Canada, 2009, p. 8). Therefore, naturally, environmental protection is one of the primary priorities.

Measures for the environmental protection that are mentioned in the strategy are establishment of national parks and expansion of the existing ones. The areas of environmental protection mentioned in the strategy are reducing pollution and increasing efforts of conservation. Efforts for conservation are focused on the establishment and expansion of national parks as well as marine conservation areas. Efforts at managing pollution discussed are the clean-up of abandoned mines and international cooperation in protection of marine environment (Government of Canada, 2009).

Social and economic development of aboriginal population

The strategy deals with the issues regarding support for development for aboriginal populations. The areas discussed regarding social and economic development of aboriginal populations can be divided into measures aimed at economic development and measures aimed at growing degree of self-governance for these populations (ibid).

The strategy recognizes the need for special assistance of aboriginal populations. Several governmental programs for improving skills and employability of the aboriginal population is mentioned as examples of successful governmental involvement in this area (ibid).

The part regarding self-governance initiatives is presented in a celebratory manner typical to the document. Several successful initiatives and agreements are mentioned that have allowed a wider possibility of self-governance to different aboriginal groups (ibid).

Leadership through science

The strategy makes it clear that Canada sees itself as a global leader when it comes to Arctic science and is keen on developing and strengthening this status. To this end the strategy mentions plans of creating new research stations and upgrading the existing research infrastructure in the region (ibid). Canada's contribution to the International Polar Year (IPY) research program in 2007-2008 is mentioned as an example of Canadian leadership in Arctic research (ibid).

International cooperation

Partnership with the US is described as "exceptionally valuable" (Government of Canada, 2009:34). Common interests between the two countries in environmental protection, safety, resource development and other fields are underlined (ibid).

"The Memorandum of Understanding signed between the Department of Indian Affairs and Northern Development Canada and the Russian Ministry of Regional Development" (ibid) is mentioned as a recent example of an important partnership with Russia that results in positive developments in different areas like trade, environmental protection, issues of aboriginal development and so on.

Active participation of Canada and other countries in the Arctic council is applauded. Lastly, the importance of Ilulissat declaration of 2008 is emphasized together with reliance on UNCLOS as a "solid foundation for responsible management" (Government of Canada, 2009, p. 37). It is noted that all countries rely on UNCLOS to resolve all issues with the overlapping claims (Government of Canada, p. 2009).

Denmark

Maritime safety

The strategy recognizes specific needs for ensuring safety of navigation in extreme climatic conditions of the Arctic. Preventive safety measures are especially prioritized (Ministry of Foreign Affairs of Denmark, 2011)

Maritime safety measures are linked with economic development. With the increase of economic activity it is recognized that the needs for maritime safety will increase (ibid).

The importance of international cooperation in maritime safety is emphasized. Close work with International Maritime Organization as well as with other Arctic states is seen as one of the important ways in which maritime safety should be enhanced (ibid).

Sovereignty

There is relatively little focus on sovereignty compared to the other priority areas outlined in the strategy. Presence and visibility of the armed forces in the arctic are the main directions in which exercising Arctic sovereignty is seen in the document (ibid).

As with other priority areas, international cooperation, specifically, in this case with NATO is presented as an important addition to the army's efforts at enforcing sovereignty (ibid).

Environmental protection

Environmental protection is another priority of Denmark's Arctic strategy. It is emphasized, that fragile Arctic ecosystem and biodiversity will come under increasing pressure and more effort will be needed from Denmark locally and also through contribution to the ongoing international cooperation. In this field, the focus is set of research and monitoring as well as international cooperation (ibid).

Monitoring of pollutants, ice coverage, changes of climate as well as effects of climate change on the nature as well as on health of local population are distinguished measures aimed at environmental protection. Monitoring of animal species is another measure aimed

at preservation of Arctic ecosystem and at better management, more sustainable use of Arctic environment (ibid).

When it comes to the importance of international cooperation for environmental protection, here Denmark is seen as a promoter of regional and global efforts. Active participation of the country in international forums related to climate change and environmental protection in the UN as well as in the Arctic Council is seen as the government's aims. Also, the strategy points at the importance of sharing of information and relevant research between the Arctic countries to combat pollution and climate change (ibid).

Rights of Indigenous populations

Denmark sees itself as a promoter of rights of indigenous peoples globally as well as in the Arctic. In this strategy this is exemplified by their support of UN efforts to ensure that indigenous rights are protected (ibid). Additionally, the country pledges to advocate for better visibility of the interests of indigenous peoples in the new climate change agreement (ibid).

Lastly, Denmark aims at supporting hunting rights of indigenous communities in the whole Arctic as long as their hunting practices are not in conflict with sustainable use of living resources (ibid).

Social and economic development

Compared to the strategic documents of other Arctic nations, the Danish strategy does not portray their Arctic regions as lagging behind in terms of economic development and being in need of additional assistance. Rather, focus is almost entirely shifted to sustainable economy and sustainable practices for economic development (ibid).

Two leading economic activities of mining and tourism are mentioned as examples of economic activity. The rest of the strategy that deals with development does so with heavy focus on sustainability and environmental protection. Strengthening cooperation with Norway and Canada and active working in the Arctic Council on the matters related to mineral industry is considered necessary (ibid).

Reduction of emissions and increase in usage of renewable energy are presented as goals aimed at sustainable development. Sustainable use of living resources and international cooperation in this area are presented as a necessity (ibid).

On the social side, improving health and education of population are considered as priorities. Cooperation with other Nordic and Arctic countries on issues of public health and cooperation with the global scientific community is considered a priority (ibid).

Education in Arctic areas is to be aimed at preparing people to work for local field of mineral resources. Importance of international cooperation is emphasized in both fields. Agreements with US, Canada and the EU are emphasized to cater to educational needs of the local population (ibid).

International cooperation

The strategy places emphasis on the need of international cooperation more so than of any other priority area described in it. International cooperation is called for or strengthening of international cooperation is considered necessary in almost every priority area that we have already discussed (ibid).

Importance of international cooperation, be it regionally, globally or through UN bodies is emphasized in the areas of climate change, resource management, public health, maritime safety, search and rescue capacity, indigenous people's rights and several other fields (ibid).

Denmark considers its goal to promote more involvement of different international organizations in the matters of the Arctic. Arctic council is praised for contributing a lot in cooperation mostly in environmental protection and increasing the scope of its activity is considered necessary (ibid).

Strategy aims also of involving the EU more into Arctic politics by contributing to the formation of EU arctic policies and supporting more active work of Nordic Council of Ministers (ibid).

Key partnerships with Canada, US, Norway and Iceland on many issues are considered especially important. Development of closer partnerships with Finland, Sweden and Russia is also considered a priority (ibid).

Particularly with Russia, Denmark aims at developing closed cooperation in different areas such as safety of navigation, maritime security, economy, cooperation on scientific works on the Arctic continental shelf and several other issues including defense (ibid).

Denmark aims at maintaining Arctic as a region of peace and cooperation. The strategy stresses that all unresolved issues and potential conflicts must be resolved based on international law. Importance of United Nations Convention on the Law of the Sea (UNCLOS) is emphasized and the convention is presented as a foundation for international cooperation (ibid).

The strategy emphasizes that the process of claiming continental shelves is an example of very successful international collaboration between Denmark, Russia and Canada. Resolving the issue with overlapping claims is deemed necessary based on principles of Ilulissat Declaration and international law. Quick resolution of unresolved boundary issues is emphasized (ibid).

Norway

Increasing knowledge on the Arctic

Increasing knowledge about the Arctic environment is a priority for Norway. This topic is heavily linked with environmental protection, although it goes beyond the problems and goals of environmental policy. The strategy focuses quite heavily on stressing the needs for more research in the region as well as for provision of more funding to this end. Particularly, increasing knowledge on dealing with the effects of climate change and pollution are stressed (Norwegian Ministry of Foreign Affairs, 2009).

Developing research infrastructure is connected to not only battling the adverse effects of climate change but also is viewed as a positive influence on technological advancement as well as one of the possible drivers of economic development (ibid).

Specifically regarding climate change the strategy points out to many possible areas of improvement as well as how Norwegian expertise can help globally. Some of the areas are establishment of building of a new research center to increase research capacity of the growing trend of melting; participation in and contribution to Polar Year research project (ibid).

Improving educational infrastructure is envisioned as part of the knowledge-based Arctic policy. Several universities are mentioned as successful contributors of knowledge-creation and confidence building in the region. The importance of international cooperation through Arctic University is emphasized (ibid).

More research and knowledge production on the Arctic is moreover seen as a way of improving Norway's role and influence globally (ibid).

Development of infrastructure

Development of infrastructure occupies a big part of Norwegian Arctic strategy. It is mostly connected to the measures of increasing knowledge about the Arctic by increasing capabilities of research (ibid).

Also, the need of infrastructural development is admitted in connection with developing border control, in connection with closed cross-border relations with Russia and of course also in terms of maritime safety. Several areas of economic activity are also considered to benefit from improving transport infrastructure is considered as a necessity to aid fishing and tourism industries (ibid).

In summary, the need of infrastructural development is recognized and declared a priority in order to achieve progress in many other priority areas (ibid).

Benefitting from the resources in the Arctic

Developing resource-extraction further and benefiting from Arctic oil and gas resources and minerals is another important policy direction. Oil and gas resource extraction is

connected with the aim of economic development of the Arctic regions of the country (ibid).

The need of infrastructural development is underlined in order to use the potential of oil and gas resources to a greater extent (ibid).

The industry of fisheries is also considered important. Further development of this industry is considered a priority. In connection with fisheries, the importance of improving control against illegal farming is emphasized (ibid).

Cooperation with Russia is considered necessary for further improvements of management of both fisheries as well as oil and gas resources (ibid).

Economic development

Economic development of the Arctic areas is another priority of the strategy. Achieving this is mostly envisioned by developing tourism and promoting innovation in addition to the economic impetus gained from the oil and gas industries and general development of petroleum industry (ibid).

Development of infrastructure is considered necessary and very impactful for different industries of tourism and fisheries for example. Infrastructure development is an important goal that is also considered necessary for other priority areas like international cooperation through trade, social development of local population or maritime safety (ibid).

Maritime safety

The strategy focuses on the improvement of technology and emergency response capacity to deal with problems related to maritime safety, mostly, risk of oil spill and problems of dealing with oil spills is emphasized (ibid).

Improvement of monitoring systems and automatic identification system for oil spills is advised as main areas for infrastructural improvement. The role of international cooperation in maritime safety measures is also emphasized (ibid).

Maritime safety issues are linked with the needs of development of industries of tourism and fisheries (ibid).

Exercising sovereignty

Exercising sovereignty is another priority for Norway in the Arctic. This is planned to be achieved through increasing capacity of coast guard and further developing border control (ibid).

It is considered crucial to effectively exercise sovereignty over land, air and sea. The necessity of strengthening of the capacity of coast guard is emphasized in order to ensure control of sea areas. Developing infrastructure for border control is also considered for strengthening border control capacity. Building a new border control station is mentioned as an example (ibid).

International cooperation

Norwegian strategy calls for more cooperation in international and regional institutions to the benefit of all participants. Respect for international law and cooperation via UN are declared “cornerstones of Norwegian foreign policy” (Norwegian Ministry of Foreign Affairs, 2009, p. 51). Importance of work of other regional and international organizations and fora of cooperation like Barents Cooperation, The Northern Dimension as well as EU and NATO are confirmed (Norwegian Ministry of Foreign Affairs, 2009).

Strengthening relations with Russia is specifically emphasized. Based on the strategy, “relations with Russia occupy a special place” (Norwegian Ministry of Foreign Affairs, 2009, p. 53). Indeed, relations with Russia are a clear priority even among other priorities regarding international cooperation. This is easy to notice if we look at how many other areas of interest it is being linked to. It is considered necessary for the improvements in different areas like fishing, resource exploitation, emergency response, education, healthcare and others. When it comes to the interest in assisting indigenous populations, Russia’s indigenous populations and preservation of their language and culture is also considered an arctic policy goal (ibid).

Need of strengthening cooperation with Russia and establishing “good neighborly relations” (Norwegian ministry of foreign affairs, 2009:54) extends to the fields of educational, cultural or political cooperation.

Indigenous population

The strategy lays out the aim of preserving lifestyle and cultural habits as well as traditional knowledge of indigenous peoples. Their culture as well as their lifestyle itself are considered as source of knowledge that needs preservation. Documentation of indigenous languages and indigenous knowledge are mentioned as a way of preserving indigenous knowledge (ibid).

Interestingly, preservation of indigenous cultures in Russia is also considered as part of the interest in matters regarding indigenous Arctic population. Here, providing them with infrastructure necessary for language documentation and development is considered (ibid).

Russia

Economic and social development

Economic and social development of the Arctic region is perhaps the most widely discussed issue in the strategy document. The topic, as discussed in the document can be divided between two subtopics: social support of the population and economic development or provision of economic opportunities (Правительство Российской Федерации, 2008).

Regarding the social support, the document discussed the need of modernizing educational and medical institutions and providing better housing for the population. Specifically Russia aims at preparing more educators for university level as well as for school level (ibid).

Increase of social benefits of people working in the Arctic region is discussed, including making healthcare more affordable for the population of the region (ibid).

Further development of educational programs to suit special needs of people living in difficult natural conditions is another goal. One of the more specific targets is providing schools and people living in remote areas with technology required for remote access to educational process (ibid).

As for the economic development, the strategy emphasized the importance of starting specific targeted programs for economic development of the region. As part of these programs, establishment of high-tech industry, creation of special economic zones and realization of investment potential are being mentioned. Development of fisheries and infrastructure required for fisheries is set out as another goal of the strategy (ibid).

Economic development is being connected to the process of establishing the outer borders of Russian Arctic. Specifically, it is mentioned that working on geological data to establish outer border of the Arctic region of Russian Federation is necessary for social-economic development of the region (ibid).

Using the Arctic as a resource base

One of the long-term priorities for the Russian federation is to use the Arctic as a resource base for the country. To achieve this, the strategy lays out several more specific or immediate steps (ibid).

Firstly, the strategy recognizes the need of implementing modern technology that is necessary to make the best possible use of resources the region has to offer. Access to modern technology has to be guaranteed and the infrastructure necessary for carrying out relevant work in the Arctic has to be modernized (ibid).

Using the resource-related potential of the Arctic is linked with international cooperation in several ways. First, the strategy maintains that international cooperation is necessary for effective exploitation of the Arctic resources (ibid). Although it is not directly mentioned, what has to be meant here is that Russia is dependent on western technology to carry out resource extraction effectively in difficult conditions of the Russian Arctic (Keil, 2014).

Secondly, the strategy sets a target for establishing and formalizing by law of the outer border of the Russian Arctic in period from 2011 to 2015. This, it is argued, will allow the country to use its competitive advantage of natural resources situated in the Arctic (Правительство Российской Федерации, 2008). This priority is of course, directly related to the disputes that we will discuss later, specifically the disputes between Russia and Norway but also the dispute regarding the outer continental shelf. As we see, the Russians considered resolution of disputes to be in their interest because it would allow them to develop the arctic and use it as a resource base

Military security

In regards to military security, the strategy aims at maintaining high combat capacity of the military in the region that will be able to ensure security of the state (ibid).

The biggest share of attention is given to establishing control over the vast area. Mainly the focus is on establishing strict and able border control, on developing infrastructure on the borders. This is aimed at different threats such as terrorism, illicit trade and illegal migration (ibid).

Another priority linked to military security is to develop mechanisms for controlling rivers and straits of the Northern Sea Route (ibid).

International cooperation

With regards to international cooperation, the general priorities of the Russian Federation in to ensure that peace, stability and security are strengthened in the Arctic. Russia aims at developing mutually beneficial relations with Arctic states on the basis of international treaties and agreements. It aims at active participation of its representatives on different foras related to Arctic issues, including through cooperation with the EU (ibid).

Strengthening international cooperation is considered necessary for ensuring maritime safety. This is conceived through establishing unified regional system of search and rescue infrastructure as well as for fighting with possible natural or anthropogenic disasters (ibid).

A significant part of the strategy concerning international cooperation is devoted to how strengthening international cooperation will help in establishing borders and outer margins of the Russian Arctic. The specific aims mentioned here are establishing the border of the Russian federation based on international law and establishing boundaries between different naval areas of the region. Again, although the disputes are not mentioned here, these clearly refer to the maritime boundary dispute with Norway and the process of establishing outer margins in the central Arctic Ocean (ibid).

As mentioned already, international cooperation is also considered necessary for resource exploitation and for unlocking the potential of Arctic as Russia's resource base (ibid).

Environmental protection

The strategy sets out a goal of protecting the environment from negative effects of increased economic activity and of climate change. In this context the state plans to broaden a system of protected territories and sea areas (ibid).

Establishing special legal regime of usage of natural resources and establishing monitoring for pollution are presented as other actions to protect the Arctic environment (ibid).

Developing the Northern Sea Route

Developing the Northern Sea Route is another priority of Russia's Arctic policy. The Northern Sea Route is seen as a mean of meeting the demands of transit through Eurasia. It is emphasized that international shipping should happen based on legal framework of Russian Federation and in accordance to the international agreements that the country is part of (ibid).

Necessity for development of infrastructure necessary for usage as well as for controlling the Northern Sea Route is outlined. Support from the state is called upon in order for building up the infrastructure at sea as well as on the shores necessary for maritime safety and control of transit through the route (ibid).

USA

Security of the US

On a general level, the strategy maintains defending security interests as a top priority of the US in the Arctic. The interests related to security are then elaborated to include military security, infrastructural needs, maritime safety, freedom of the seas, unimpeded international commerce and other issues (The White House, 2013).

Freedom of airspace and navigation is listed among the security interests, pointing at the degree of vitality of how the US views this issue. Maintaining freedom of the seas is one of the very first efforts discussed under the section of advancing the US security interests. Freedom of the seas is linked to maintaining Arctic as an area free of conflict. It is described as important for navigational safety and prosperity. It is emphasized that the existing international law provides necessary rules for unimpeded support of freedom of the seas and airspace and that the US will rely on existing international law to safeguard these interests. It is also noted that the US will “encourage other nations to adhere to internationally accepted principles” (The White House, 2013, p. 7).

Arctic is described as a region that holds significant energy resources and responsible use and development of these resources is considered an important part of the national security strategy. It is notable that energy resources in the Arctic are directly linked to energy security. Unlike the strategies of the other Arctic nations, the energy resources in the region are not considered primarily in terms of provision of prosperity and economic development. It is described mostly in terms of security (The White House, 2013).

Strengthening international cooperation

Strengthening international cooperation is another priority that relies on common interests of the states. The strategy points out that international cooperation leads to increase in investments, helps with sustainable development and is linked to preserving peace and stability in the region (ibid).

Active work in the Arctic Council is mentioned as an example of successful cooperation that has allowed for advancements of US interests in different fields such as search and rescue and pollution preparedness (ibid).

Accession to UNCLOS is mentioned as a priority and it is pointed out that it would help strengthen the position of the US regarding disputes about the Northern Sea Route and the Northwest Passage. It is also specified that it would help defend the rights of freedom of navigation (ibid).

Lastly, increasing cooperation with non-arctic countries is considered another priority and is linked with increasing maritime security and reliable use and protection of resources (ibid).

Maintain peace and stability in the Arctic

The US Arctic strategy lists maintaining peace in the arctic as a guiding principle of the US policy in the Arctic. This general goal is then elaborated on by different measures regarding preservation of freedom of navigation, peaceful resolution of disputes and securing trade in the region (ibid).

Environmental protection

Environmental protection is focused on efforts of conservation and sustainable economic practices. Research of the region, such as monitoring and analysis of changing environmental state and climate change are mentioned as important parts of this effort (ibid).

The strategy also mentions the need of balancing a drive for economic development with environmental protection through sustainable resource management and through coordinated work of different structures (ibid).

Focus on the need to increase research efforts of Arctic region including charting, maritime research and information sharing. This effort is linked to dealing with effects of climate

change and changing ice-coverage as well as with the needs for increased maritime safety and search and rescue capacity (ibid).

Issues related to native population

Involvement of native population of Alaska and the tribal governments of Alaska in policies affecting them through consultations with them during policy making and through informing them timely about policies that might affect them is a guiding principle of the US national strategy for the Arctic region (ibid).

Notably, in regards to the native population, the strategy does not focus much on their economic needs and on economic support to the natives as strategies of other countries do but on policy-level involvement of native communities and governments (ibid).

Also, as far as natives are concerned, the strategy points out that economic development and resource usage should be balanced not to upset the balance of fragile arctic environment and not to harm “Alaska native communities and other indigenous populations that rely Arctic resources” (The White House, 2013, p. 4).

Barents Sea Dispute

The dispute between Norway and the Soviet Union/Russia went on for about 30 years before it was finally resolved in 2010. The countries were in dispute regarding the maritime boundary, in other words, regarding the limits of their continental shelves and the Exclusive Economic Zones (EEZ).

The dispute regarding delimitation of the continental shelf started in the sixties, when following the entry into force of the treaty on the Continental Shelf in 1958 Norway laid claim to its continental shelf in the area in 1963 and the Soviet Union did the same in 1967 (Henriksen and Ulfstein, 2011). The claims were overlapping and an area of about 170 thousand square kilometers became disputed between the two sides (Overland and Krivorotov, 2015).

Following some contacts regarding the issue in 1970, the official part of the negotiations started in 1974 (ibid). The Norwegian side’s position was that the area has to be divided

based on the equidistance principle (Moe et al. 2011). This means that a line that is at equal distance from the two states' shores should divide the area under question. The Norwegians based their position on Article 6 of the Convention on the Continental Shelf signed in 1958. According to Article 6 of the convention, the boundary line on the continental shelf adjacent to two or more states should be drawn up based on agreement between the countries in question. In the absence of such agreement the median line, a line that is equidistant at all points from the baselines of the countries should be used. This applies "unless another boundary line is justified by special circumstances." (UN, 1982. Art. 6)

The Soviet side argued for using the sector principle, based on which the boundary line should follow a meridian from the Russian land border to the North Pole. The sector principle was developed in the beginning of twentieth century and was used by Soviet Union and Canada. Soviet Union made the principle part of its law by a decree from the Central Executive Committee of the USSR in 1926 (Timtchenko 1996). Regarding the rules laid out in Article 6 of the Convention on the Continental Shelf, Soviets argued for special circumstances being present in the case. They emphasized that difference between populations of the countries in the area as well as security considerations of the Soviet Union qualified as special circumstances that were relevant for delimitation (Jensen, 2011). The Norwegian side never accepted these circumstances as legitimate factors that should influence delimitation (Moe et al. 2011).

In the 70s the ongoing negotiations regarding UNCLOS treaty expanded the scope of the dispute. UNCLOS introduced the notion of Exclusive Economic Zones (EEZ) that allowed the countries to claim maritime resources in an area of 200 nautical miles from the shores. Previously, the coastal states could only control the resources in an area of 12 nautical miles from the shores (Stabrun, 2009). Both Norway and the Soviet Union established their EEZs in 1977. Now the dispute was concerning marine resources in the area as well as delimitation of continental shelf (Aasen, 2010). Due to concerns of overfishing, the states reached a temporary agreement regarding management of the marine resources in the disputed area in 1978 (Stabrun, 2009).

The 1978 agreement, known as the Grey Zone Agreement, regulated fishing in the disputed area and in smaller undisputed areas of both countries. (Henriksen and Ulfstein 2011). The agreement was a temporary measure for managing fisheries and it was to be updated annually (Stabrun, 2009).



Figure 1. Barents Sea dispute. Source: (Rozhnov, 2010). Available at: <https://www.bbc.com/news/business-11299024>

In 2007 the countries signed an agreement on the maritime boundary in the Varangerfjord area that is in the immediate south of the disputed area in the Barents Sea. As for the disputed area in the Barents Sea itself, the dispute was resolved in 2010 when a delimitation agreement was signed in Murmansk, Russia on September 15 (Neumann, 2010). The agreement divided the disputed area of about 175 000 km² roughly in half, allowing both states the control over the resources on the continental shelf and the body of

water on each side of the boundary line. The treaty also “includes provision for co-management of any hydrocarbons that straddle the boundary” line (Byers and Østhagen, 2017: 30).

If we look at the reasons of why the dispute was resolved, we will see that most authors point at the willingness to cooperate from the Russian side. During Medvedev’s presidency, Russian leadership was willing to be seen by the west as a cooperative actor (Moe et al. 2011). One of the reasons of this was their conviction that modernization of Russia, including, but not only in the Barents region, would be impossible without western investment and broader cooperation with the west (Rafaelsen, 2012). Economic reasons should not be dismissed either. An established boundary has allowed both countries to profit from the resources in the area (Jensen, 2011).

Some of the other reasons were that Russia was attempting to resolve all disputes in the Arctic (Moe et al. 2011). We can find a confirmation of this general attitude in the country’s Arctic strategy paper too. Another reason for willingness of resolution of the dispute was to strengthen the authority of UNCLOS. Both Russia and Norway have a lot to lose if the authority of UNCLOS is to be damaged, so Moe et al. believe that strengthening UNCLOS was an important reason for arriving to a resolution (ibid). Jensen also thinks that availability of UNCLOS framework has contributed greatly to the solution. He points out that there have been similar cases like this one when sides have used UNCLOS principle of equidistant line as a starting point and that made adjustments relevant to the case. Availability of such framework provides information and mechanisms about possible solutions (Jensen, 2011).

Analysis and the contribution of UNCLOS

Let us now look at whether the states have cooperated, what were the common, complementary or divergent interests that are relevant to the case and what was the contribution UNCLOS has made to facilitate cooperation.

I will start by analyzing which complementary interests were relevant to this dispute. These interests are taken from the results of qualitative content analysis done on the Arctic strategy documents that were presented above. From Russian side, in the socio-economic realm, the aim of using the Arctic as a resource base is relevant, because the disputed territory is rich in fishing and mineral resources. Moreover, establishing outer border is linked to both political aim of improving relations with the neighbors as well as to usage Arctic as a resource base possibly. The reason is that development of mineral extraction sites is difficult and costly and it is not manageable on a disputed territory. The strategy also explicitly mentions the priority of establishing outer borders based on international law. This is clearly relevant as it shows that Russia wanted to finalize the process of agreeing on the limits of its Arctic area as well as strengthening UNCLOS.

Norwegian strategy also mentioned development of mineral resources as a priority. This priority is relevant due to same reason as it was for Russia. Also, fisheries under the realm of usage of resources and control of overfishing was mentioned as a priority. Clearly, agreement on fisheries was part of the 2010 agreement, and it replaced the temporary agreement that was in place before. Moreover, good neighborly relations with Russia were the most discussed priority regarding foreign policy. It was also linked with development of the field of natural resource extraction and fisheries. There is a clear relevance of all these interests to the dispute.

Since I judge whether cooperation happened or not based on secondary sources, I will explain in which cases I would have considered that it took place and in which cases I would not. I would consider that cooperation took place in the following cases: 1) Both countries changed the size of their claims in direction that made them closer to the claims of others (in this case, reduction of claims). 2) Both sides agreed to common usage of the area without delimitation. 3) Both sides withdrew their claims. 4) One side diminished or withdrew their claim based on some alternative gain.

The following would amount to cooperation not taking place: 1) No changes and continuation, escalation or freezing of dispute. 2) Forceful occupation of the disputed area

by any of the countries. 3) Periodic military intrusion in the disputed area by any of the two states during dispute. 4) One country being coerced into giving its claims up without adequate payoff.

In our case, based on the existing literature and the data provided by the agreement, we can say that both countries reduced their claims and the disputed territory was divided briefly in half. Clearly, this constitutes cooperation as outlined above and as described by the theory.

Conditional variable, availability of relevant international regime, was present since both countries are members of UNCLOS and were in position to use the functions provided by it. UNCLOS has contributed to the cooperation in several ways. First, it provided issue linkage, allowing to agree on fisheries, continental shelf limits and limits of Exclusive Economic Zones under single framework. Based on functional theory of international regimes, this would improve the probability of cooperating although we cannot know if linked issues were used to facilitate the negotiation process itself.

UNCLOS provided procedures for “delimitation of exclusive economic zones between states with opposite or adjacent coasts” (UN, 1982. Art. 74) and “delimitation of the continental shelf between States with opposite or adjacent coasts” (UN, 1982. Art. 83). It also provided information about the continental shelf and rules for its delimitation in Article 76 as well as a relevant procedure in Annex II. We have indication that this information and a procedure were used in the text of the treaty. In the Article 1 of the treaty it is said that the points of outer limits of continental shelves, “established in accordance with Article 76 and Annex II of the Convention” (Treaty between the Kingdom of Norway and the Russian Federation, 2010. Art. 1, 1) were used to arrive eventually at the specific points of delimitation. Meaning that information about shelves as well as the procedure were used to facilitate arriving at cooperative outcome.

Other authors already mentioned above have also written about the importance of UNCLOS for both countries and the willingness to strengthen UNCLOS as part of their rationale for solving this dispute (Jensen, 2011).

To sum up, the states had several common interests that were relevant to the dispute. They cooperated by modifying their positions and they used information and procedures provided by UNCLOS in process of agreeing on cooperation.

Continental shelf claims dispute

The dispute in central Arctic Ocean is regarding the outer limits of continental shelves of the countries involved. The coastal Arctic states are working on establishing where the limits of their continental shelf extensions are. Claiming an extended continental shelf would allow a country to benefit from the living resources on the shelf as well as from the resources that are underground. It should be noted, that such a claim would not extend the rights of a coastal state over a body of water that is situated over the shelf or on the resources that are found in this body of water.

The way states are trying to establish the limits of their shelves is through submission process to the UN body called Commission of the Limits of the Continental Shelf (CLCS). The states submit geological data to prove that the area is in fact an extension of the continent that the state belongs to. The commission reviews the submissions and gives binding recommendations to the submitting states. The commission cannot grant or deny sovereignty over the shelf as this right is inherent to the state. However, the commission's judgment is of great importance, since it is an opinion backed by science. It is based on geological data, is final and binding. The state then can establish outer limits of its continental shelf on the basis of the recommendation of the CLCS (Weber, 2009).

“The Commission shall consist of twenty-one members who shall be experts in the field of geology, geophysics or hydrography” (UN, 1982, Art. 2 Annex II). Due to the fact that the decision is made by observing technical characteristics of the seabed, it is essential that the commission members be experts of the relevant fields. Although the members are elected by the states, they are part of the commission as experts of their fields. That the members are experts and scientists adds weight to the judgment of the commission and makes it very difficult in principle for the states to argue against it.

Current dispute is caused by overlapping submissions of Denmark, Russia and Canada. All three countries consider the Lomonosov Ridge to be an extension of their continental shelves. Before talking about the submissions of the countries, it should be noted that as it is explained in the LOS convention “the actions of the Commission shall not prejudice matters relating to delimitation of boundaries between States with opposite or adjacent coasts” (UN, 1982, Annex II Art. 9). Because of this, the states have to inform the commission that there are existing disputes over the area that they are submitting a claim. The other nations can send their communications regarding the submitted claim. They can consent to the commission reviewing the submission and giving recommendation, they can abstain from objecting or consenting to the commission reviewing the submission and giving recommendation or they can object to the commission (Liliansa, 2014). In other words, the commission or the whole submission process cannot be used to resolve disputes. Instead, the states are expected to agree on the limits of the continental shelves and submit the claims afterwards or to submit a joint claim. Even if a disputed area is a part of the submission the commission will in this case give recommendations regarding the undisputed parts of the claim.

Russia was the first to submit a claim to the CLCS in 2001. In their 2001 submission, Russia laid claim to “area of some 1.2 million km² outside the 200-mile line” (Konyshev and Sergunin, 2014 p. 77). Contrary to the rules of the CLCS, Russia did not inform the commission about the existing disputes over the area that it was claiming (Allain, 2011). In response to the submission, both Denmark and Canada sent communications informing that they were not in position to evaluate the Russian submission and that this should not be interpreted as agreement or disagreement to the content of the submission (Kunoy, 2017).

In 2002 the commission decided that Russia should provide additional submission as the initial submission was considered to be lacking data. Russia eventually submitted a revised claim in 2015. As we can read in the revised Russian submission of 2015, the three countries held consultations and came to an agreement that they would not block the commission to review the submissions of each other. The agreement states the following:

“When one State makes Submission to the Commission, the other State shall immediately forward to the Secretary-General of the UN a diplomatic note that exactly says:

1. A State does not object to the Commission considering the Submission of the other State and make recommendations thereon;
2. The recommendations made by the Commission in respect of the Submission of one State shall be without prejudice to the rights of the other State in the course of the Commission’s consideration of its own Submission;
3. The above recommendations with respect to any State shall not prejudice the delimitation of the continental shelf between the two States.

Each Party refers to this agreement in its Submission to the Commission; requests the Commission to make recommendations based on this agreement; and requests the Secretary-General of the United Nations to declare the content of the above-mentioned diplomatic note to Member States of the United Nations and the States parties to the Convention“ (Russian Federation, 2015 p.11).



Figure 2. Overlapping claims in the Arctic. Source: (Pezard et al 2017).

Based on this agreement, Denmark sent a note to the secretary general that it did not object to the submission being considered and asked to take note of the overlap with the Danish claim from 2014 (Buchanan, 2017). This agreement is completely in accord with Article 9 of Annex II of the convention, which states that: “The actions of the Commission shall not prejudice matters relating to delimitation of boundaries between States with opposite or adjacent coasts” (UN, 1982, Annex II Art. 9). As we know, the commission only gives out recommendations. The recommendations are then to be used in bilateral negotiations to establish boundaries.

The revised Russian claim came with some changes, notably, two new areas are added and one area is removed from the initial submission (Buchanan, 2017, p. 191). Denmark submitted its claim in 2014 and Canada’s claim followed only in 2019. The three claims overlap in the area of Lomonosov Ridge and the Alpha-Mendeleev Ridge as all three countries consider the ridges to be the extension of their continents. Canada and Denmark are still waiting for a response on their submission from the commission.

Analysis and the contribution of UNCLOS

Let us now look at whether the states have cooperated, what were the common, complementary or divergent interests that are relevant to the case and what was the contribution UNCLOS has made to facilitate cooperation. I will start by analyzing which complementary interests were relevant to this dispute. These interests are taken from the results of qualitative content analysis done on the Arctic strategy documents that were presented above.

Based on the strategy documents we know that delimitation of continental shelf is a common priority for them. In Canada's Arctic strategy, delimitation via the process set out by UNCLOS is explicitly mentioned as a priority (Government of Canada, 2009). Based on Russia's strategy document establishing outer margins of the country's Arctic region is a priority and strengthening international cooperation is linked to achieving this goal (Правительство России, 2008). Clearly resolution of this dispute would be a step in that direction both in terms of establishing outer margins as well as strengthening cooperation if the resolution was to happen peacefully. Based on Denmark's strategy, quick resolution of the dispute regarding overlapping claims is a priority and resolution has to be based on international law (Ministry of foreign affairs of Denmark, 2011).

Since I judge whether cooperation happened or not based on secondary sources, I will explain in which cases I would have considered that it took place and in which cases I would not. I would consider that cooperation took place in the following cases: 1) The states (all or one) changed their submission bringing it closer to the submissions of others. 2) The states agreed on common usage of the shelf and its resources without delimitation. 3) The states agreed to go through the process of measuring the shelves through the CLCS (since they can block the submissions of others). 4) One or two states withdrew their claims in return for alternative payoff. 5) All sides withdrew their submissions.

The following would amount to cooperation not taking place: 1) No changes and continuation, escalation or freezing of dispute. 2) Development and/or usage of the

resources of the disputed area of the shelf by any state without agreement. 3) One or two states being coerced into withdrawing its claims without adequate payoff.

Based on the secondary sources we can say that states have cooperated in the following ways: They have agreed not to object to each-others submissions being considered by the commission. Russia has changed its initial position based on the feedback it has received. We cannot say for now that Denmark and Canada have modified their initial positions as they are still waiting for the response from the commission. However, they have changed their position by agreeing that the overlapping claims would be later negotiated between the countries. Before, they declared that they were not in position to comment on Russia's submission.

Conditional variable, availability of relevant international regime, was present since all three countries are members of UNCLOS and were in position to use the functions provided by it. UNCLOS facilitated cooperation by providing procedures for delimitation of continental shelf via "delimitation of the continental shelf between States with opposite or adjacent coasts" (UN, 1982, Article 83) and the procedure regarding the work of commission on the limits of the continental shelf provided in Annex II. The information provided in Article 76 was also used by the states to make submissions. The procedure in Article 83 was used since this is how the shelves are being measured and this was necessary to make submissions. The procedure in Annex II was also used since all three countries submitted the claims and Russia also got the feedback, changed the claim and resubmitted it. Therefore, CLCS and its work were used by all three countries.

Northern Sea Route dispute

The Dispute regarding Northern Sea Route (NSR) concerns the legal status of the route and involves Russia and the US as parties to the dispute. The NSR is described in the following way in 2012 Federal Law No. 132-FZ:

"a water area adjacent to the northern coast of the Russian Federation that comprises the internal sea waters, the territorial sea, the contiguous zone and the

exclusive economic zone of the Russian Federation and is bounded on the east by a maritime demarcation line with the United States of America and by the parallel of the Cape Dezhnev in the Bering Strait, on the west, by the meridian of the Cape Zhelaniya to the Novaya Zemlya Archipelago, by the eastern coastline of the Novaya Zemlya Archipelago and by the western boundaries of the Matochkin Shar, Kara Gate and Yugorsky Shar Straits” (Cited in Gavrilov, 2015).

Russia considers the NSR as internal waters or “historically developed national transport route” (Todorov, 2019). The US’s position is that some sections of the route are international straits (Byers, 2011). Specifically, the US considers that Vilkitsky, Shokalsky, Sannikov and Laptev straits are international straits. (Todorov, 2019) Based on customary international law, the statuses of internal waters and of national transport route would give far more control to the USSR and later Russia over the straits. A state needs to obtain permission to pass through internal waters of another state and similarly needs prior authorization to pass through “historically developed national transport route”. (Todorov, 2019) Meanwhile, international straits are open to passage for all states and do not require prior permission from the coastal state.



Figure 3. Northern Sea Route. Source: (Todorov, 2019) .

International strait is defined as “A narrow sea passage, bordered by opposite coasts, connecting two parts of the high seas, and used for international navigation” (Currie, 2008:583). Ships of any country are allowed transit passage in international straits. This allows them to navigate the straits without asking permission to the coastal state. One important difference, for example, would be that submarines can sail under water in international straits but not in territorial waters or internal waters (Byers, 2011).

In 1960s, US attempted several times to navigate the regions for the in question for the purpose of collecting data. The voyages would set precedent for international navigation that is required for a strait to be considered international waters. This was met with protests from the USSR. In every case, the USSR claimed that since the NSR is not used for international navigation, asking for permission was necessary to pass through the route.

After UNCLOS negotiations the Soviet and Russian position in the dispute was extended to one more issue and a relevant supporting argument. Article 234 gave the coastal states

additional right to regulate “ice-covered areas of their exclusive economic zones” due to environmental concerns. The Article 234 states the following:

“Coastal States have the right to adopt and enforce non-discriminatory laws and regulations for the prevention, reduction and control of marine pollution from vessels in ice-covered areas within the limits of the exclusive economic zone, where particularly severe climatic conditions and the presence of ice covering such areas for most of the year create obstructions or exceptional hazards to navigation, and pollution of the marine environment or exceptional hazards to navigation, and pollution of the marine environment could cause major harm to or irreversible disturbance of the ecological balance. Such laws and regulations shall have due regard to navigation and the protection and preservation of the marine environment based on the best available scientific evidence.” (UN, 1982, Art. 234)

This article allowed the Soviet Union to argue for more control over the NSR. Especially since the Article 234 was added to UNCLOS specifically with the Arctic natural circumstances in mind and its purpose was to allow the coastal states of the region more regulatory rights to protect the fragile Arctic environment from pollution. The article is sometimes called “Arctic Exception” (Bartenstein, 2011). Already in 1990 the Soviet Union used the Article 234 to justify making the national legislation about the regulation of navigation in the Northern Sea Route stricter (Jonsson, 2014).

The US accepts Article 234 as part of international customary law (ibid) but does not agree with the degree regulatory rights that Russia assumes based on it. For instance, the US considers that the article only gives right for regulating regarding environmental protection and it does not give the coastal state a right to require permission before passing through the Arctic strates. Secondly, the US considers that the Article does not allow Russia to prohibit foreign ice-breakers from offering escorting service through NSR. Lastly, based on Article 236 of UNCLOS, the US claims that regulatory powers granted by Article 234 cannot be applied to military vessels and vessels used by governments for non-commercial purposes (Гудев, 2018).

The positions of the states have not changed since Russia ratified UNCLOS in 1997. The US position has been reconfirmed by different leaders of the country. For example, in 2009, George W. Bush reiterated the US position in a presidential directive in a following way:

“The Northwest Passage is a strait used for international navigation, and the Northern Sea Route [north of Russia] includes straits used for international navigation; the regime of transit passage applies to passage through those straits. Preserving the rights and duties relating to navigation and over flight in the Arctic region supports our ability to exercise these rights through- out the world, including through strategic straits” (as cited by Griffiths et al, 2011:58).

More recently, on the eve of Arctic Council ministerial in Finland in May 2019, US secretary of state Mike Pompeo said the US is “concerned about Russia’s claim over the international waters of the Northern Sea Route...” (Pompeo, as cited by Eilís Quinn, 2019). Russia, meanwhile has been regulating the Northern Sea Route more and more actively, especially since establishing Northern Sea Route Administration “to organize navigation in the water area of the Northern sea route” (NSRA, 2019)

Analysis and the contribution of UNCLOS

Let us now look at whether the states have cooperated, what were the common, complementary or divergent interests that are relevant to the case and what was the contribution UNCLOS has made to facilitate cooperation. I will start by analyzing which complementary interests of the states were relevant to this dispute. These interests are taken from the results of qualitative content analysis done on the Arctic strategy documents that were presented above.

Protecting the environment is the relevant common interest in the Arctic. Relevance of environmental protection for the dispute is demonstrated by Russia’s usage of Article 234 of UNCLOS to justify increased control of the route. The US, however does not agree to the degree of the control Russia assumes but agrees to the Article 234.

Since I judge whether cooperation happened or not based on secondary sources, I will explain in which cases I would have considered that it took place and in which cases I would not. I would consider that cooperation took place in the following cases: 1) If any of the states conceded (changed position towards another's position) in return for an adequate payoff. 2) If Russia agreed that it would allow the US vessels passage without prior asking for permission while the US would recognize Russia's right to ask for permission. 3) If both countries agreed for the matter to be resolved using arbitration or international court.

The following would amount to cooperation not taking place: 1) No changes and continuation, escalation or freezing of dispute. 2) The US bringing its military vessels through the route without Russia's approval, hoping that Russia would not be able to stop them and would not risk military confrontation.

Based on the secondary data we can say that states have not cooperated, since none of the states have changed their position until very recently the US has objected again to Russia's usage of the NSR and about their views of the status of the NSR. Russia meanwhile continues to develop NSR and views it as part of its internal waters.

Let us not turn to whether conditional variable was present in this case. As the US is not a party to UNCLOS it cannot use some of the rules and procedures provided by it. That is why we read in the US Arctic Strategy, that accession to UNCLOS would help the US in defending freedom of navigation and resolving disputes regarding the Northwest Passage and Northern Sea Route.

Although it is not specified in the strategy how accession to UNCLOS would help in resolving the dispute, here are some of the possibilities:

Article 287 provides choice of procedure of an unresolved issue being submitted at the request of any party to a court or a tribunal (Read, 2007). The US could, therefore, bring the dispute before arbitration.

Another way of resolving the dispute would be to use the procedure given in Article 311 of the convention (ibid). This article provides the parties with an opportunity to enter into

agreement “suspending the operation of provisions of this convention applicable solely to the relations between them.” (UN, 1982, Art 311) By using this rule, the states would be free to not change the general position they have in the dispute regarding the NSR or the freedom of navigation. Meanwhile, the US could have been allowed uninhibited navigation in the disputed straits, while this would not oblige Russia to provide the same exception to any other state.

For our purposes, this means that the conditional variable, availability of a relevant regime was absent in this case since the US was not in position to use the functions on the regime. I am not arguing that the US would for sure use these functions if it had ratified UNCLOS.

As an alternative explanation of why cooperation did not happen, we can look at a position based on realist views. Based on realism, one can argue that the interests that were conflicting in this case were connected to security and high politics (control over the NSR and freedom of navigation). Therefore, common interest in environmental protection in the region was not important enough to warrant a compromise. This is a plausible explanation as well and in general I would not argue that other theoretical perspectives than the one chosen by me (for example realism) would not be able to come to legitimate conclusions while studying these disputes. I do not think that this invalidates my findings. Nonetheless, I tried to show that even if conflicting interests were valued more than common interest, in theory there were possibilities of coming to an agreement without compromising on what realists would consider a more vital interest.

To sum up, the countries did have common as well as divergent interests. The regime provided the sides with principles, rules and procedures to resolve the dispute. However, the US is not in position to use the tools provided by the regime. Cooperation did not happen and the regime has not been able to contribute.

Conclusion

The aim of this thesis was to contribute to the literature about conflict and cooperation in the Arctic by studying what explains cooperation during Arctic disputes. For this purpose, three disputes in the region were analyzed as well as the Arctic strategy documents of all the states that were present in any of these disputes.

The findings were matching the hypothesis of this thesis and an expectation based on functional theory of international regimes that complementary interests and availability of an international regime on issues of dispute explain cooperation between states during the disputes in the Arctic.

Cooperation occurred by using the rules and procedure provided by UNCLOS in case of Barents Sea dispute and the continental shelf claims dispute. In the Barents Sea dispute both Russia and Norway compromised and changed their initial positions towards the preferences of each other. UNCLOS contributed to cooperation by providing rules of delimitation of exclusive economic zones which was used as a basis to arrive to a cooperative outcome.

In the continental shelf dispute, Russia cooperated by changing its initial submission. Denmark's and Canada's submissions are not answered by the commission yet. They cooperated by agreeing to consent to the commission reviewing submissions by any of the three countries. UNCLOS provided procedure for claiming the continental shelf, which all countries have been following.

Cooperation did not occur in the Northern Sea Route dispute. Neither of the countries changed any positions regarding the dispute. UNCLOS provides several rules and procedures using which this issue could potentially be driven towards cooperation, however, as the US has not ratified UNCLOS it cannot make use of those rules and procedures. The availability of an international regime was missing in this case.

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