



**THE FAST-CHANGING ARCTIC:  
RETHINKING ARCTIC SECURITY  
FOR A WARMER WORLD**  
Edited by Barry Scott Zellen

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## 7. Maritime Boundary Disputes in East Asia: Lessons for the Arctic<sup>1</sup>

*James Manicom*

Arctic strategy is being made in a rapidly changing environmental, political, and economic context. While the rate of environmental change is subject to some debate, it is certain that the Arctic environment is getting warmer, with associated costs and consequences for the circumpolar ecosystem as well as for northern peoples.<sup>2</sup> The international political consequences of this catastrophe are as yet unknown. The Arctic region is home to many unsettled boundaries over potentially resource-rich areas; of all Arctic boundaries, only the Denmark–Norway and Russia–Norway maritime boundaries are undisputed.<sup>3</sup> Article 76 of the UN Convention on the Law of the Sea (UNCLOS) grants states the right to claim an extended continental shelf as far as 350 nm from its baselines, or 100 nm from the 2,500 m isobath, no later than ten years after ratification of UNCLOS. Making these claims is a technically complex and costly endeavor, and thus all submissions are evaluated by the Commission on the Limits on the Continental Shelf (CLCS). Created by UNCLOS, the CLCS is a non-political body composed of experts tasked with assessing, and by extension legitimizing, states' claims to extended continental shelves. It is not a judiciary body and responsibility for dispute resolution rests with the parties involved. The stakes of this endeavor are high. Recognition of a state's claim brings jurisdiction over the seabed and subsoil of the extended continental shelf. In addition to disputes over the potentially resource-rich seabed, some analysts fear added political tension in the event

that state intentions for disputed areas, such as over conservation or environmental standards, are incompatible.<sup>4</sup>

In this context, it is vital that policy-makers consider the international political implications of the pending maritime boundary dispute over the extended continental shelf in the Arctic. While there has been growing attention on this issue internationally, Ottawa has been criticized for lacking a coherent Arctic strategy.<sup>5</sup> In the final days of the Bush presidency, the White House published its Arctic policy document, which in addition to reiterating American policy on the Northwest Passage noted that “energy development in the Arctic region will play an important role in meeting growing global energy demand as the area is thought to contain a substantial portion of the world’s undiscovered energy resources.”<sup>6</sup> Russia released an Arctic strategy document in September 2008, which, while less belligerent than previous iterations, nevertheless emphasized that the development of the Arctic region is “vital to Russia’s relevance in world affairs.”<sup>7</sup> By contrast, the Harper government’s “Canada’s Northern Strategy” focused primarily on the domestic aspects of Canada’s North and simply noted that Canada’s continental shelf mapping efforts would be complete by 2013 and that the process “is not adversarial.”<sup>8</sup>

While all three documents emphasize the multilateral and cooperative intentions of the states involved, it remains to be seen whether these ideals will prevail. In light of the possibility that extended continental shelf claims in the Arctic may overlap<sup>9</sup> and combined with the optimistic assessment of regional resource wealth, the ingredients are present for an explosive maritime boundary dispute.<sup>10</sup> Canada, Denmark, and Russia have all undertaken surveys of the seabed in an effort to map the limits of their extended continental shelves beyond 200 nm. In light of a resurgent Russian foreign policy and the primacy of resource development in Russian political economy, the potential exists for overlapping claims to the extended continental shelf to increase political tensions in the circumpolar North.<sup>11</sup> Broadly, the track record on maritime disputes indicates that they are prone to frequent and protracted political crisis and in some cases violent conflict.<sup>12</sup> Given that any dispute will not crystallize until Canada and Denmark formalize their extended continental shelf claims in 2013 and 2014 respectively, the time is right to explore what Arctic states can expect from a maritime boundary dispute of this nature.<sup>13</sup>

With a view to contributing to this important policy debate, this chapter draws comparative insights from East Asian coastal states with overlapping maritime claims in an effort to outline how Arctic states can best respond to this emerging dispute.<sup>14</sup> The geography of East Asia is characterized by a series of semi-enclosed seas, which combined with the widespread adoption of UNCLOS have given rise to a number of overlapping maritime boundary claims. It is thus an ideal place to look for policy-relevant lessons for Arctic policy-makers, as East Asian leaders confront these issues on a daily basis. The international legal regime that governs state claims to extended continental shelves is still emerging; the CLCS has thus far only ruled on eleven of the fifty-three submissions.<sup>15</sup> Therefore, the time is right to explore the trajectory of the pending Arctic dispute over the extended continental shelf by comparing it with maritime boundary disputes in other regions. The first section of the paper elaborates on the basis for the comparison by surveying current debates on Arctic politics and drawing parallels with East Asia. These debates appear to be divided between a perspective that foresees conflict over increasingly accessible Arctic resources and an optimistic perspective that emphasizes the order of the international legal process and Arctic states' capacity for cooperation. The next section elaborates on the East Asian experience with the international political challenges of disputed maritime boundary issues. The final section explores the direction of the Arctic dispute and identifies issues that Arctic policy-makers may wish to consider as they move forward.

## **East Asia and the Arctic: The Basis for Comparison**

This study should be regarded as a plausibility probe into the relationship between disputed maritime space and inter-state conflict in the Arctic. Disputed maritime boundaries are not new to Arctic states, although they have arguably never been perceived with such urgency due to the deadlines for CLCS submission and due to the anticipated impact of climate change on the accessibility of the region's resources. As illustrated below, the literature on the extended continental shelf dispute posits three variables that determine the level of tension between Arctic states. These variables overlap with explanations of the ebb and flow of tension over East Asian maritime boundaries. Nevertheless, there are clear limits to the comparison that need to be recognized.

The current debate in the literature can be divided into two camps, a pessimistic “resource race” view and a more benign assessment. According to the former, the potential for overlapping claims and the resource needs of the claimant states is a recipe for violent conflict.<sup>16</sup> This appears to be an extension of the “resource wars” literature that assumes a linear relationship between territorial disputes, resource wealth, and war.<sup>17</sup> The U.S. Geological Survey (USGS) has noted that “the extensive Arctic continental shelves may constitute the geographically largest unexplored prospective area for petroleum remaining on Earth” with an estimated ninety billion barrels of oil.<sup>18</sup> Combined with high demand for hydrocarbons, it follows that states will seek to exploit the resource-rich Arctic region. According to this perspective, jurisdiction over extended continental shelves is the final frontier in the last unexplored resource-rich region in the world. For many analysts, the primacy of hydrocarbon resource development in the Russian economy necessarily implies an assertive Russian posture to undefined boundaries.<sup>19</sup> Likewise, Canadian leaders have been candid about their interest in the resource potential of Canada’s North.<sup>20</sup>

The benign view offers a compelling corrective to this pessimistic perspective and rests on three arguments. First, the resource wealth of the Arctic is unknown. There have not been detailed seismic surveys of any part of the Arctic region. The USGS methodology merely suggests that the Arctic Circle has the geological conditions consistent with the formation of hydrocarbons. Moreover, the development of these resources will remain costly compared to onshore alternatives for decades to come. Combined with the inaccessibility of the Far North, spending money on demonstrations of ‘sovereignty’ is a fool’s errand.<sup>21</sup> Second, a track record of cooperation exists between the Arctic states. These states have created institutions to militate against conflict, which in turn has helped the cooperative development of the North.<sup>22</sup> Examples include the Arctic Council and the University of the Arctic, among others.<sup>23</sup> The former increases multilateral contact and transparency between the Arctic states, while the latter serves as a confidence-building measure. Finally, the benign view argues that the process for making claims to extended continental shelves is an orderly one and one that has thus far been characterized by cooperation between the claimant states. The technical and scientific requirements to map the sea floor are expensive, and the operations are made particularly more costly by the harsh environment.<sup>24</sup> Thus, the officials involved have a long track record of comparing notes and pooling resources.<sup>25</sup>

For example, in 2007 Canada and Denmark enlisted the aid of a Russian nuclear-powered ice-breaker for their mapping missions.<sup>26</sup> Furthermore, there has been talk of a trilateral submission to the CLCS by Russia, Canada, and Denmark.<sup>27</sup>

While both views are compelling, both overlook an important dimension of territorial and maritime boundary disputes; the role of national identity. Disputes over land and maritime space can become linked with a state's perception of itself and its perception of rival claimants as 'others.' This can create a set of domestic political circumstances that militates against cooperation.<sup>28</sup> This is evident in both regions. While the resource wealth of the Arctic is a clear motivator of Russian policy, there is also evidence that Russian leaders view the Arctic dispute as part of a nation-building project. According to Pavel Baev, in addition to political legitimacy, Russia's economic fortunes and by extension internal cohesion has always been tied to its strength as a resource state.<sup>29</sup> Indeed, following a meeting of the Russian Security Council in October 2008, Russian President Dmitry Medvedev stated, "the solution of the country's long-range objectives and its competitive capability in the global market is connected to the [Arctic] region's development."<sup>30</sup> Thus, the driving force behind Russia's posture is not only a material one, but an ideational force designed to adhere to myths contained within Russian great power identity. Appeals to national identity can also be detected in Canada's response to perceived threats of Arctic 'sovereignty.' According to one former Conservative party staff member, Stephen Harper was able to undermine the Liberal charge of pro-American bias by inflating the threat of American submarines passing under a thawing Northwest Passage.<sup>31</sup> This set the stage for much of Canada's subsequent activism on the Arctic.<sup>32</sup>

Similar perspectives surround East Asian maritime boundary disputes. Contrary to Buzan's (1978) expectations, it appears that maritime boundary disputes have indeed attracted popular emotional attachment and have acquired domestic political salience.<sup>33</sup> In East Asia, the region's divergent national identities and unsettled historical record has given rise to a host of nationalist groups that have pressured political leaders to adopt confrontational policies toward territorial and maritime boundary issues.<sup>34</sup> Combined with the widespread adoption of UNCLOS in the mid-1990s, East Asian coastal states found that disputes that were formerly over disputed islands now included overlapping maritime jurisdictional claims to potentially resource-rich sea areas. While the widespread adoption of UNCLOS created

these disputes, many find grounds for optimism based on this consensus on the relevant international legal principles as well as recurrent pledges by policy-makers to peacefully resolve their disputes based on these principles.<sup>35</sup> Nevertheless, many analysts warned that the nexus of contested resource-rich territory, high energy demand, and competing national identities would create a 'perfect storm' for conflict in light of rising military spending across East Asia.<sup>36</sup> This conclusion was predicated on the view that in the absence of the common strategic priorities dictated by the Cold War, East Asian states would find formerly dormant territorial disputes to be of renewed importance.<sup>37</sup>

The latter two explanations of East Asian maritime boundary issues have not surfaced in recent debates about the Arctic. First, the end of the Cold War appears to have been less salient as a structural change with regard to Arctic boundary disputes. The end of the Cold War has actually precipitated an era of cooperation between Arctic states, whereas East Asian states have remained at odds over their disputed maritime claims.<sup>38</sup> Secondly, regional military spending trends have been uneven across the Arctic claimants, while East Asian states have invested heavily in the naval capabilities required to press their claims.<sup>39</sup> Canadian military acquisitions are focused on maintaining an operational presence in the North but lack the power projection capabilities necessary to threaten rival states. Likewise, the Russian Northern fleet has become more active, but it has not acquired any significant hardware, and concerns persist about the feasibility of military modernization plans.<sup>40</sup> There are thus three common explanations of the trajectory of maritime boundary disputes that underwrite the basis for comparison.

1. High expectations of resource wealth, particularly hydrocarbons, fuel political tension.
2. National sovereignty, even the limited jurisdiction granted over the extended continental shelf, is a domestically salient political issue.
3. These motivations for conflict are purportedly balanced by internationally recognized legal principles and dispute-resolution mechanisms that facilitate cooperation between claimant states.

There are clearly differences between the challenges raised by Arctic sovereignty disputes and those raised by East Asia's maritime disputes, not least due to the differences between the two regions themselves. The density of population in East Asia has led to a vibrant economic interdependence, which according to some stabilizes the region's maritime boundary disputes.<sup>41</sup> Conversely, the sparsely populated circumpolar region has created a different economic dynamic, wherein local indigenous populations battle with far-off southern capitals for basic development assistance.<sup>42</sup> However, these apparent differences are less compelling than they may appear. According to Oran Young, the Arctic region is distinct from state-centered regions such as Southeast Asia and the Middle East. Regions such as the Arctic have no political actors that exclusively occupy the region; rather, outside actors use it as an arena to pursue their interests.<sup>43</sup> Nevertheless, a sense of "Northernness" exists amongst the eight Arctic states.<sup>44</sup> This northern identity excludes states, such as Germany or China, that view themselves as having Arctic interests but which are not recognized as such by Arctic states. The region is ultimately composed of states – or parts of states – that accept the inherent legitimacy of the pursuit of national interests. It is thus not as distinct from other regions of the world as Young suggests.

Finally, many of East Asia's maritime boundary disputes stem from contested sovereignty over offshore islands and related overlapping Exclusive Economic Zones (EEZ) and continental shelf boundaries. While there are similar delimitation disputes in the Beaufort, Lincoln, and Barents seas, the emerging issue of overlapping continental shelf jurisdiction differs somewhat in its legal entitlement. Unlike the EEZ and continental shelf, jurisdiction over the extended continental shelf is limited to the seabed and the subsoil.<sup>45</sup> Nevertheless, these raise similar political challenges because state entitlements to the seabed are identical under the EEZ and the extended continental shelf. From an international legal perspective, there is nothing unique about Arctic boundary disputes.<sup>46</sup>

## Questions and Lessons from East Asia

The East Asian response to overlapping jurisdictional claims may identify what questions Arctic states and peoples need to ask themselves if they are to advance a coherent and peaceful Arctic strategy. The discussion proceeds



along the three parallels noted above; the purported salience of resource wealth, the role of identity politics, and the commitment to cooperation based on UNCLOS principles.

The relationship between resource wealth and political tension over maritime boundaries is well documented in East Asia. All East Asian economies rely on fossil fuels for their economic growth, and the region's relative resource poverty suggests that areas rich in hydrocarbon resources necessarily attract attention. In East Asia the bulk of these resource deposits are offshore in areas of contested jurisdiction. For instance, the Senkaku/Diaoyu islands dispute erupted following reports of high resource wealth in the seas that surround them.<sup>47</sup> While this occurred against the backdrop of high energy prices due to the Oil Shocks, neither Japan nor China was as insecure about energy then as they are now. Following China's shift to net oil importer status in 1993, energy was increasingly viewed as a motivator in the South and East China Sea disputes.<sup>48</sup> In this view, a rising great power such as China – with growing energy demand needed to power the engine of economic growth – would assert its claims to disputed maritime space with greater intensity, thereby increasing the potential for war. China's economic growth is linked to the domestic political legitimacy of the Chinese Communist Party (CCP); energy security is thus viewed as integral to the perpetuation of the regime. From a geopolitical perspective, the fact that these disputes are against Japan, a regional rival, or against a collection of smaller Southeast Asian powers bodes poorly for continued stability. In the former case, domestic leaders derive legitimacy from confrontation,<sup>49</sup> whereas in the latter there is little other than the countervailing power of the United States keeping the peace.<sup>50</sup>

Nevertheless, these “resource wars” never materialized. Some argue that China's relative military weakness vis-à-vis its neighbors accounts for this, but this does not explain China's recent efforts to cooperate with its neighbors when its relative military strength is at its highest. There is clearly an underlying set of processes that enable resource concerns to shift towards ambitions for joint development. As Schofield and Storey observe, the track record in East Asia reveals that resource wealth is consistent with both cooperation and confrontation.<sup>51</sup> On the one hand, this is unremarkable; resources are a material object that can be divided between claimants. On the other hand, the desire to control resource-rich territory is often a motivator for confrontation. Ralf Emmers<sup>52</sup> has argued that resource concerns must be separated from geopolitical calculations and domestic identity politics in order to be a

litmus issue targeted for cooperation. In this view, following a relaxation of geopolitical tensions, East Asian states have been able to pursue cooperation over disputed resource-rich territories. China and Japan signed a consensus on the joint development of parts of the East China Sea in June 2008 and China, the Philippines, and Vietnam signed an agreement on seabed resource exploration in a section of the South China Sea in March 2005. In short, the presence of hydrocarbon resources in a disputed area is not necessarily a recipe for conflict.

Turning to the second parallel, there is a strong relationship between territorial identity and political legitimacy in the East Asian region.<sup>53</sup> In many cases, political elites in East Asian states use this nationalist sentiment to legitimize their own rule.<sup>54</sup> According to Buhk, both conservative and progressive factions of the Japanese government used the Russian occupation of the Northern Territories to articulate their construction of Japanese post-war identity.<sup>55</sup> Combined with the unsettled historical record between Asian states, this legitimization process has given rise to domestic nationalist groups within several states that pressure their leaders when perceived challenges to territorial sovereignty arise. For instance, Beijing seeks to legitimize its rule by fostering a nationalist narrative that highlights both the achievements of the CCP, as well as injustices suffered at the hands of external power, in particular Japan and the United States.<sup>56</sup> In Japan, a vocal conservative minority has grown tired of Japan's deference to China and insists that Japan adopt a more assertive posture towards China. These minorities have pressured their central governments to adopt controversial policies on issues that are vital to each party's contested national identity, such as the treatment of historical issues, military spending and particularly vis-à-vis the contested sovereignty over the Senkaku/Diaoyu islands dispute.<sup>57</sup>

While the relationship between national identity and territorial sovereignty is clear, the relationship between national identity and the jurisdictional claims over maritime space are less obvious. Nevertheless, as popular sentiment between China and Japan has become more antagonistic, these grievances have been aired, not only with regard to the disputed islands, but also against the exercise of EEZ jurisdictional entitlements, most recently China's resource development of the Chunxiao gas field in the East China Sea in April 2005.<sup>58</sup> Likewise, nationalist groups in Vietnam protested outside Chinese consular offices in response to more heavy-handed Chinese assertions of jurisdiction in the South China Sea.<sup>59</sup> As a consequence, state elites

are constrained by these domestic political costs if they attempt to pursue cooperative approaches to these disputes.<sup>60</sup> The danger is that maritime boundary delimitation disputes may become as intractable as territorial disputes. Nevertheless, as noted above, East Asian states have been able under certain circumstances to overcome these nationalist pressures and cooperate in a limited fashion on maritime jurisdictional issues.<sup>61</sup> While dispute settlement remains elusive, the nexus of hydrocarbon wealth and disputed identities is not necessarily a portent for conflict.

Finally, like their Arctic counterparts, East Asian states have repeatedly issued assurances that they will abide by UNCLOS principles in their search for a solution to their maritime boundary disputes. All East Asian states, with the exception of Cambodia and North Korea, have ratified UNCLOS and in some cases this development facilitated the management of the region's fisheries resources. However, this normative development has done little to smooth political tensions on overlapping maritime boundaries. Assertions by states of the consistency of their policies with UNCLOS are partly undermined by the nature of UNCLOS itself, which does not specify a preferred method of boundary delimitation. According to Clive Schofield, this gap can be viewed "as offering either great flexibility to coastal states, or ... considerable scope for conflicting interpretations."<sup>62</sup> The East Asian experience has been the latter. For instance, China and Japan differ fundamentally on the basis for their maritime claims: the EEZ regime versus the continental shelf regime. Both find evidence for their view in international legal jurisprudence. Although there is no mention of the Japanese median line concept in UNCLOS, International Court of Justice delimitation decisions increasingly favor an equidistance line based on 'relevant factors.' China points to the 1969 North Sea case, which argued that length of coastline and continental shelf are the most important factors in delimitation. Thus, in the Chinese view, in light of UNCLOS's emphasis on 'equity,' delimitation should consider factors such as the length of the Chinese coastline and the natural prolongation of the continental shelf.<sup>63</sup> China regards Japan's median line as inconsistent with UNCLOS because it was declared "unilaterally" and divides the East China Sea in half.<sup>64</sup> Japan meanwhile points to the more recent (1985) Libya/Malta case, which held that equidistance lines are in keeping with the wording of UNCLOS that delimitation must achieve an equitable solution and which discounted the relevance of geomorphologic factors.<sup>65</sup>

These differences are more than simply abstract debates about international law; they have direct bearing on inter-state cooperation. The median line presented the most significant barrier to concluding the Consensus on Resource Development reached in June 2008 between China and Japan. The parties could not agree on where to locate the joint development zone (JDZ). From the Chinese perspective, it needed to be located beyond the median line, in the area of overlap. From the Japanese perspective, the JDZ should bisect the median line since it represents the equidistance point between the two coastlines. In the end, China agreed to a JDZ that includes space on the Chinese side of the median line. While there is no doubt this was integral to concluding the agreement,<sup>66</sup> this concession reportedly attracted criticism from hardliners within China and arguably explains the delay in implementing the agreement. As of July 2012, there is little evidence that exploration will proceed in the JDZ in light of recurrent tensions over the exercise of maritime jurisdiction in contested sea areas.

Furthermore, the existence of disputed maritime boundaries has politicized the international processes surrounding UNCLOS. For example, ahead of its submission to the CLCS, the Philippines had still not yet defined the baselines of its maritime zones: the territorial sea, the contiguous zone, and the EEZ. Because the constitution contains the geographic definition of the Philippine state, outlining baselines required a constitutional amendment.<sup>67</sup> Attempts to amend the 1987 Constitution raised the question of whether or not to include disputed Kalayaan area of the Spratly islands as part of the territorial definition of the Philippines.<sup>68</sup> During this process, it was revealed that President Arroyo was considering not including the Kalayaan claim in the declaration for fear of offending China, a rival claimant, which precipitated a protest from the opposition.<sup>69</sup> Consistent with its own claims to the Spratlys, Beijing expressed its opposition to the constitutional amendments. Manila consequently moved to alter the wording in its UN submission from a restatement of sovereignty, to a claim to a 'regime' of islands whose sovereignty is contested. According to the Philippines' delegate to UNCLOS, Estelito Mendoza, to claim Kalayaan would be "absurd," because the Philippines has never treated it as its own territory and because it does not have the military might to defend its claim.<sup>70</sup> This fuelled speculation from opposition politicians that Arroyo was prepared to bargain away Philippine territory in exchange for Chinese aid dollars and investment. The Philippines Baselines Law was signed in early 2009, just ahead of the Philippines' CLCS submission

and elicited condemnations and military posturing from Vietnam and China.<sup>71</sup> This occurred despite the fact that the law did not outline baselines in the Spratlys, but declared a “regime of islands” in the disputed areas that the Philippines claims. It is small wonder, therefore, that some scholars have argued that UNCLOS has created more problems than it has solved.<sup>72</sup>

## Implications for Policy-makers in Arctic States

This brief comparison has highlighted many challenges and opportunities for Arctic states. First, the optimistic assessment that boundary delimitation is occurring in a fashion consistent with international process does not necessarily preclude conflict. The East Asian experience reveals that states can be parties to UNCLOS, maintain a verbal commitment to peaceful resolution, yet have deep disagreements over the methods used to settle disputes. Like East Asia, the abstract and technical issue of Arctic boundary delimitation risks being caught up in domestic identity politics. The well-publicized planting of a Russian flag on the Arctic seabed is one indication of this trend, as is the raucous Canadian reaction. Similarly, following the CLCS’s request that Russia submit further data in 2001, a Russian Defense Ministry newspaper accused the UN body of bias.<sup>73</sup> Nevertheless, the politicization of boundary delimitation has made cooperation by East Asian states difficult, but not impossible.

Secondly the “resources race” narrative is not a self-fulfilling prophecy. Hydrocarbons can be divided and shared among willing participants. While the resource value of the Arctic remains unknown, and the most profitable areas are currently within undisputed areas close to shore, the East Asian experience reveals that proven commercial resources are not necessary for heightened tensions. In a political context, the burden of proof for commercial resource exploitation in disputed areas is low. Simultaneously, the East Asian experience reveals that the existence of commercial resources is consistent with cooperation as well as conflict. While recent evidence suggests that states have been able to enter into joint development talks and agreements, this occurred after a period of posturing. Policy-makers appear to view resource wealth as an acceptable motivation for brinksmanship, possibly to strengthen their bargaining posture. With reference to the Arctic, both Canada and Russia are on record as being deeply interested in seabed

resource exploitation. In August 2008, Prime Minister Harper announced a new geo-mapping mission to exploit the “precious resources buried under the sea ice and tundra.”<sup>74</sup> Likewise Nikolay Patrushev, the secretary of the Russian Security Council, argued that the Arctic must become Russia’s primary resource base for the future.<sup>75</sup> The East Asian experience indicates that this rhetoric is most dangerous when coupled with the existence of domestic political prerogatives articulated in identity terms. Both the aforementioned joint development agreements between China and Japan and between China, Vietnam, and the Philippines have collapsed due to opposition from within claimant states. While Arctic states do not appear to be beholden to the kind of assertive nationalism that is present in East Asia, there is no shortage of insecure national identities among them.

The analysis above indicates an important lesson that can be drawn from the East Asian approach to disputed maritime boundaries. It is imperative to marginalize and isolate domestic opposition to cooperation. This can be accomplished through confidence-building measures that are well publicized as such to domestic audiences. Prior to reaching the joint development agreement in the East China Sea, China and Japan went through eleven rounds of working level discussions and concluded agreements that increased transparency between coast guards en route to the agreement.<sup>76</sup> In this vein, joint mapping missions between Canada, Russia, and Denmark are an important first step.<sup>77</sup> Joint Coast Guard search and rescue simulations, such as those between Canada and Denmark, are also effective confidence-building measures.<sup>78</sup> These have the added benefit of institutionalizing cooperative tendencies. Problematically, these efforts are rarely publicized on Arctic government websites or by political leaders. Instead domestic talk of protecting “sovereignty” risks undermining bilateral cooperation as well as multilateral confidence-building efforts through the Arctic Council. While Canada and Denmark are unlikely to view this sort of rhetoric as hostile, their partnership, combined with the role of identity politics in Russia, may exacerbate Russian threat perceptions. In this context, it is unfortunate that Russia did not participate in Canada’s annual military exercises in the North, which in 2010 featured for the first time U.S. and Danish forces. The omission of even a Russia observer does little to alleviate Russian suspicion of a united NATO front that rejects Russia’s continental shelf claims. Furthermore, there is evidence that some Russian media sources view the opposition to Russia’s continental shelf claims as part of a conspiracy by Western Arctic states.<sup>79</sup> As

the East Asian experience has demonstrated, agreement to follow the “orderly and legally-established process outlined within UNCLOS” does not necessarily prevent conflict.<sup>80</sup>

While this paper has focused on three parallels between Arctic and East Asian maritime boundary disputes, there may be others. Specifically, there is a trend in East Asia that is consistent with Bernard Oxman’s<sup>81</sup> concerns over “creeping jurisdiction”; the thickening of state sovereignty over ocean areas where state jurisdiction is incomplete. State sovereignty is the most diluted over the extended continental shelf, as states have only exclusive rights to the seabed and subsoil. They have no entitlement to living resources in the water column or to police the maritime activities of foreign vessels in those waters. Nevertheless, there is a perception among some in Canada that asserting “territorial control” over the extended continental shelf is Canada’s “most pressing sovereignty issue.”<sup>82</sup> This suggests a wider interpretation of state jurisdiction than is consistent with that outlined in article 76 of UNCLOS. This interpretation is broadly consistent with Chinese and Indian efforts to maximize their jurisdiction over claimed waters, such as their move to ban all forms of marine research and military activities in the EEZ on national security grounds. It remains to be seen whether this phenomenon will emerge in the Arctic’s thawing waters. According to one legal interpretation, Arctic states could make an argument that they are entitled to govern marine research if it relates to the seabed of the extended continental shelf.<sup>83</sup> This could create the kind of exchanges that have recently been witnessed in the East and South China Seas between Chinese vessels and their Japanese and American counterparts. This is an area for future research.

The East Asian experience in managing its many maritime boundary disputes appears to yield helpful insights for Arctic policy-makers. Leaders may wish to ask themselves whether casting the Arctic issue in terms of national identity risks reducing the political space for cooperative policy options. For example, the private members bill tabled by Conservative MP David Kramp, which would add the word “Canadian” to the Northwest Passage, has echoes in East Asia. South Korea has been attempting, with moderate success, to change the name of the Sea of Japan to the East Sea. Unsurprisingly, South Korea and Japan have a contested maritime boundary, as well as a disputed island in the waters concerned. Casting the dispute in these terms can reduce the political appetite for cooperative resource development. Likewise, Arctic policy-makers might think more carefully about how their domestic

messages are received by other Arctic states. The most important lesson, however, is that the apolitical process of making submissions to the CLCS is not as benign as some argue. While the process of gathering data and making submissions should not be of concern,<sup>84</sup> the fact remains that the results of these efforts can be exploited for domestic political purposes, which in turn could exacerbate tensions. Certainly this has been case when similar matters arose in East Asia.

## Notes

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