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Canadian Arctic Sovereignty and Security: Historical Perspectives

Edited by P. Whitney Lackenbauer



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Cover: The Mobile Striking Force, an air-portable and airborne brigade group designed as a quick reaction force for northern operations, was an inexpensive solution to the question of how Canada could deal with an enemy lodgement in the Arctic. During training exercises, army personnel from southern Canada learned how to survive and operate in the north. In this image, taken during Exercise Bulldog II in 1954, Inuk Ranger TooToo from Churchill, Manitoba relays information to army personnel in a Penguin. DND photo PC-7066.

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Calgary Papers *in Military and Strategic Studies*

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Edited by P. Whitney Lackenbauer

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Polar Vision or Tunnel Vision: The Making of Canadian Arctic Waters Policy

Rob Huebert

It has often been suggested that Canada is an Arctic nation. As such one would expect that its northern policy regarding its Arctic waters would be based on a rational and coherent set of policy initiatives. Yet a close examination of the actual policy actions of successive Canadian governments indicates quite the opposite. Regardless of the nature of the specific issue – such as Canadian-US relations or the building of icebreakers – successive government policy can at best be summed up as *ad hoc* and reactive. In order to determine why this is the case, this paper will examine the defining event affecting Canadian Arctic waters during the Mulroney administration. By focusing on this specific event it will be possible to isolate the factors that determine and influence the creation and implementation of Canadian policy regarding the Canadian Arctic Maritime policy.

In August 1985, the US icebreaker, the *Polar Sea*, sailed through the Northwest Passage. The resulting publicity surrounding the voyage resulted in what can be considered the basis for the northern foreign policy of the Conservative government. In September, Joe Clark, then Minister of External Affairs, announced six policy initiatives that provided the basis for government action for the remainder of the decade and which, to a large degree, continue to be the *de facto* policy. These initiatives included the establishment of the legal regime for Canadian waters; the application of Canadian law over these waters; the formalization of Canadian-US relations regarding the Passage; and the development of the physical means for the protection of these waters and enforcement of Canadian laws and regulations. While this list seems to indicate a comprehensive set of policies, they were the result of a hurried effort by the government to create the appearance of concrete policy action.

This paper will examine the creation and implementation of these policies in order to provide an understanding of Canadian Arctic maritime policy and how was it created. It will do so by first examining the factors that led Canadian decision makers to select the six main components of the

policy initiative. This will be followed by an analysis of the development and implementation of the six specific policies. A third section will then show how these six policies came to form the core of Canadian northern foreign policy.

Selection of the 10 September 1985 Policy Initiatives

Before discussing the impact of the voyage of the *Polar Sea*, a brief mention must be made of the defining event in the 1970s for Canadian arctic maritime policy. In 1969 and 1970, the US ice-breaking oil tanker, *Manhattan*, accompanied by a US Coast Guard ice-breaker and a Canadian ice-breaker, traversed the Canadian section of the Northwest Passage.¹ As in the case of the *Polar Sea* voyage, the US government refused to acknowledge Canadian sovereignty over the waters and declined to request permission for crossing the Northwest Passage when asked to do so by the Canadian government.² The voyage forced the Canadian government to undertake a detailed examination of its Arctic waters policies and to attempt to craft a set of policies. The most notable outcome of the government's action was the creation and adoption of the Arctic Waters Pollution Prevention Bill.³ The reaction of the Canadian government to these voyages demonstrated that it was willing to respond with dramatic policy responses when faced with what it believed to be a direct challenge to its sovereign control over its Arctic waters.

In 1985, history repeated itself when US officials found themselves in a situation that required them to send another of their vessels--the United States Coast Guard (USCG) icebreaker the *Polar Sea*--through the Northwest Passage. The immediate catalyst for the *Polar Sea* voyage in 1985 was caused by a shortage of US icebreakers relative to the Coast Guard's requirements.⁴ The fleet was small, aging and heavily tasked, totalling five ships in 1985, of which only two had been built since 1954.⁵ The *Polar Sea* and its sister ship, *Polar Star*, commissioned in 1976 and 1978 respectively, are the pride of the fleet.⁶ The *Polar Sea* was based in Seattle, Washington and its duties included the Arctic West Patrol, which comprised both scientific and other operations in the waters north of Alaska.⁷ The more elderly US icebreaker, the *Northwind*, was based in Wilmington, North Carolina. It was usually assigned the task of resupplying the US airforce base in Thule, Greenland. However, in the spring of 1985, various engineering problems, caused partly by age and partly by its most recent Antarctic deployment, required the *Northwind* to remain in shipyard repairs longer than anticipated.⁸ Although it would have been possible to have sent the *Polar Sea* through the Panama Canal to undertake the Thule resupply, there would have been insufficient

time for it to return via the Canal to the western Arctic, and to complete both the Western and Eastern missions fully.

The US Coast Guard then suggested that a voyage through the Northwest Passage would allow the *Polar Sea* to complete both its own mission and that of the North wind. The US Interagency Arctic Policy Group, which included officials from the State Department, the US Coast Guard and the Defense Department, met to consider the possible reaction of the Canadian government to the proposed voyage. After some discussion, it was agreed that the voyage should proceed. It was believed that since the voyage was of an operational nature, and was not intended as a challenge, some accommodation could be worked out. The committee believed that the Canadian public would appreciate that the *Polar Sea* was a government icebreaker and not a commercial supertanker and, therefore, less threatening than the Manhattan.⁹ The planned voyage was approved by the State Department following these discussions, and on 21 May 1985, the Canadian desk of the State Department sent a cable to the US Embassy in Ottawa requesting it to notify the Canadian Government about the voyage.

In the demarche, the United States government emphasized the practical nature of the voyage, pointing out its operational rationale. It also invited Canadian participation in order to undertake mutual research. However, the demarche also acknowledged the different positions that the two countries held regarding the status of the Northwest Passage. The most significant passages were as follows:

The United States believes that it is in the mutual interests of Canada and the United States that this unique opportunity for cooperation not be lost because of a possible disagreement over the relevant judicial regime.

The United States believes that the two countries should agree to disagree on the legal issues and concentrate on practical matters.

The United States desires to raise this matter with the Government of Canada now, so that we can each begin to make arrangements for Canadian participation in the transit.

The United States considers that this discussion with the Government of Canada in the forthcoming invitation to participate in the transit is not inconsistent with its judicial position re-

garding the Northwest Passage and believes that the Government of Canada would consider its participation in the transit not to be inconsistent with its judicial position.¹⁰

Through such wording, the US government indicated that it wished to keep the voyage non-prejudicial to the positions of both countries.

The Canadian response came on 11 June 1985 in the form of a diplomatic note. It made it clear that the Canadian position was that the Passage was part of Canadian internal waters. However, it also welcomed the US offer to proceed with the voyage on a cooperative basis.¹¹ Nowhere did it ask the US to request any form of permission for the upcoming voyage. The voyage was deemed to be acceptable in principle with only the details regarding pollution control to be worked out. In turn, the State Department responded on 24 June with another diplomatic note stating that the US:

notes the Canadian statement that the waters of the Arctic archipelago, including the Northwest Passage, are internal waters of Canada and fall within Canadian sovereignty. As the Government of Canada is aware, the United States does not share this view. For this reason, although the United States is pleased to invite Canadian participation in the transit, it has not sought the permission of the Government of Canada, nor has it given Canada notification of the fact of the transit.¹²

The note also welcomed the 'positive response' of the Canadian government to the US invitation for Canadian participation on the voyage, and stated that consultations between the US Coast Guard and the Canadian Coast Guard had already begun. The note ended by once again re-stating:

The United States considers that this transit, and the preparations for it, in no way prejudices the juridical position of either side regarding the Northwest Passage, and it understands that the Government of Canada shares that view.¹³

At this point, US decision makers in the State Department believed that the issue had been resolved.¹⁴ Preparations on a cooperative basis continued to proceed for the voyage. Several meetings took place with officials from the Department of External Affairs and the Canadian Coast Guard and their counterparts in the US.¹⁵

Towards the end of June, however, the Canadian position began to shift. On 31 July, the day before the voyage, the Canadian government issued a demarche to the US Government, which stated:¹⁶

The Government of Canada has noted with deep regret that the United States remains unwilling, as it has been for many years, to accept that the waters of the Arctic archipelago, including the Northwest Passage, are internal waters of Canada and fall within Canadian sovereignty. The Government of Canada must accordingly reaffirm its determination to maintain the status of these waters as an integral part of Canadian territory, which has never been and never can be assimilated to the regime of high seas or the regime of international straits.¹⁷

The note went on to state that the Canadian government agreed with the US position that the voyage did not prejudice the legal position of either State. But it then expressly granted the consent of the Canadian government for the voyage--a consent that was never requested by the US government.

The voyage was relatively uneventful except for the media attention it created. The voyage remained one of the more dominant news stories, most of which were critical of the government's perceived lack of action, particularly during the voyage through the Canadian section of the Passage.¹⁸ This was fuelled by the actions of some private Canadian citizens, such as the Council for Canadians, who strongly opposed the voyage.¹⁹

Following the voyage and the public outcry that accompanied it, the Canadian government decided that it must be seen as defending Canadian interests. In August 1985, the Privy Council Office (PCO), the main policy coordinating body for the Canadian government, was allocated the task of coordinating, in partnership with officials from External Affairs, an immediate reaction to the voyage.²⁰ PCO officials contacted various government departments and asked them to prepare a list of current projects that could be publicly presented as a means of sovereignty protection.

At least two meetings were held on 1 August and 13 August where officials from various departments were brought together by the PCO with the explicit task of reviewing possible policy initiatives to bolster Canadian claims for sovereignty in the north.²¹ Along with the Department of External Affairs, these included: the Department of National Defence; Energy, Mines and Resources; Science and Technology; and Indian and Northern Affairs.²²

Each department was asked to provide a list of 'activities that could bear on Canadian Sovereignty in the Arctic.'²³ The departments were asked to classify their actions into three broad categories:

- (1) measures directly relevant to Canada's Arctic Waters claim;
- (2) measures of a practical character that indirectly enhance Canada's claim to its Arctic waters; and
- (3) measures of symbolic value.²⁴

Once the PCO/External Affairs Committee had completed its review, its recommendations were presented to the Cabinet's Priorities and Planning Committee, which met in Vancouver from 21 August to 23.²⁵ Although the minutes of the meeting remain classified, External Affairs Minister Joe Clark had earlier told reporters that the option of taking the issue of Canadian claims of sovereignty over the Arctic waters to the ICJ was being considered though no decision had yet been made.²⁶

Prime Minister Mulroney also made his strongest comment to date on the voyage following this meeting by stating that the Northwest Passage belonged to Canada 'lock, stock and barrel', and that any suggestion to the contrary would be regarded by Canada as an 'unfriendly act.'²⁷ But he gave little indication as to what his government planned to do except to criticize the previous government for leaving few instruments by which to assert Canadian sovereignty.

The 10 September Policy Statement

Clark publicly announced the selected policies on 10 September 1995 which included the following:

- (1) the immediate adoption of an order-in-council establishing straight baselines around the Arctic archipelago, to be effective 1 January, 1986;
- (2) immediate adoption of a Canadian Laws Offshore Application Act;
- (3) immediate talks with the US on cooperation in Arctic waters, on the basis of full respect for Canadian sovereignty;
- (4) an immediate increase of surveillance overflights of Canadian Arctic waters by aircraft of the Canadian forces, and immediate planning for Canadian naval activity in the Eastern Arctic in 1986;
- (5) the immediate withdrawal of the 1970 reservation to Canada's acceptance of the compulsory jurisdiction of the International Court of Justice; and

- (6) construction of a Polar Class 8 icebreaker and urgent consideration of other means of exercising more effective control over Canadian Arctic waters.²⁸

Having selected the six policies to form the basis for Canadian Arctic maritime policy, the question now arises as to how they were (or were not) implemented. In addition, it is also necessary to examine the factors that led to their original creation. This is necessary because the relationship between the voyage of the *Polar Sea* and the factors shaping the creation of these policies were not always directly connected. While the voyage was the event that led to the decision to attempt to implement the six policies, it was not the catalyst (except for one) for their creation.

Creation and Implementation of the 10 September Policy Initiatives

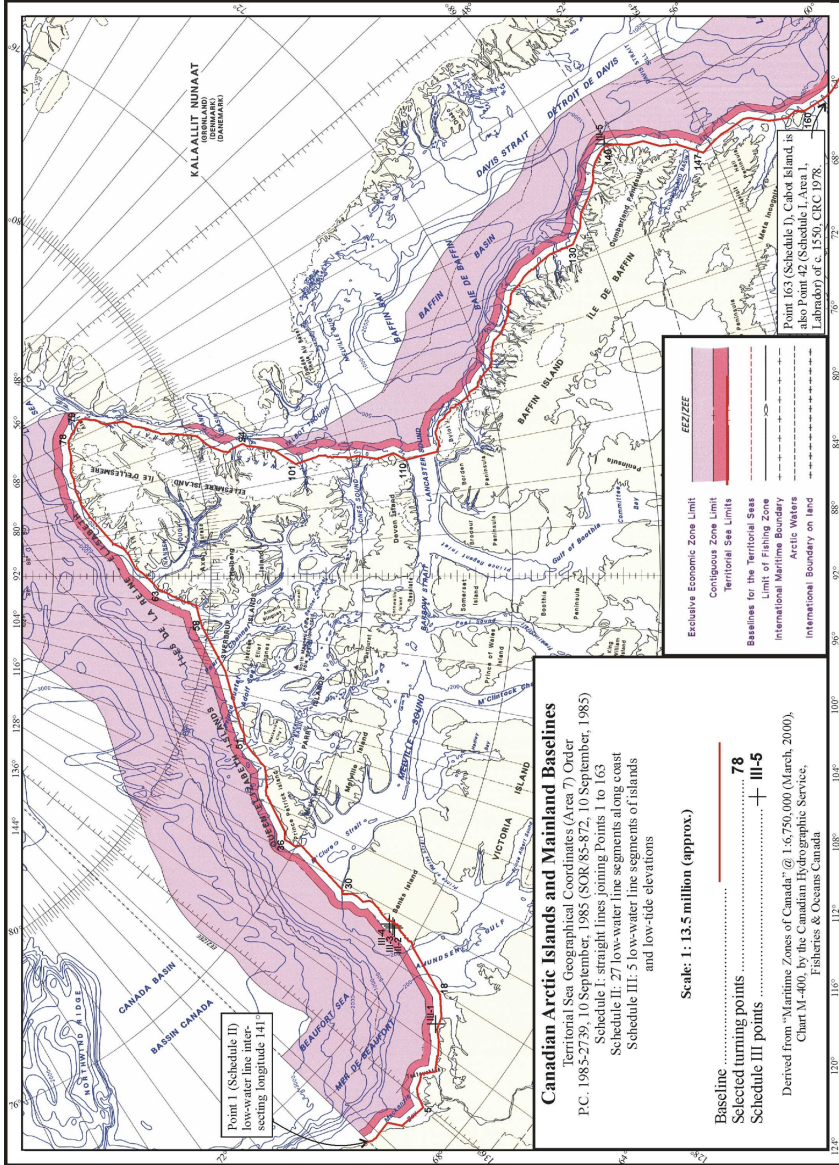
The establishment of straight baselines around the Canadian Arctic

The first decision taken in Canada towards the use of straight baselines occurred in 1964, when the Canadian Parliament passed the Territorial Sea and Fishing Zone Act.²⁹ The intent of the Act was to allow the Canadian government to claim a fishing zone and territorial sea, and it followed directly from the negotiations at the first UN Conference on the Law of the Sea (UNCLOS I) (1958) and UNCLOS II (1960). However, it was not until 1967 that the first set of regulations was created thereby allowing for the actual implementation of the fishing regulations within the zone. Furthermore, and most significant for this study, these regulations only established baselines on the east and west coasts of Canada.³⁰

The history of the Canadian decision to draw straight baselines in its Arctic territory can be traced to the voyages of the *Manhattan*. As mentioned above, a period of intense discussions within the Canadian government occurred following the announcement that the *Manhattan* was to transit the Passage in 1969. By October 1969, Cabinet was considering three broad policy alternatives, one of which was the enclosure of the entire Arctic archipelago within straight baselines.³¹

A group of senior government bureaucratic officials was given responsibility of amalgamating these options into a policy proposal.³² After considering all three, the group decided to focus on measures other than the declaration of straight baselines, a decision then supported by Cabinet.³³ This was based on the assessment that international law did not yet support such actions.

Declassified documents have disclosed that, as part of its overall review of Arctic sovereignty in 1980, the Arctic Waters Panel, an inter-departmental



Map 12. Canadian Hydrographic Service, Chart M-400 (March 2000), published on the Association of Canadian Land Surveyors website.

committee, once again examined the possibility of declaring straight baselines as part of a review of Canadian Arctic policy.³⁴ However, while there is no public record of what became of the review's results, no steps were then taken to declare straight baselines.

At one of the meetings coordinated by the PCO following the voyage of the *Polar Sea*, External Affairs officials suggested that straight baselines would now be more favourably accepted by international law and recommended that the government adopt the practice.³⁵

There was little opposition to this recommendation. Much of the work on determining the positions of the straight baselines had already been accomplished, and all that remained was the decision to declare their existence. Therefore, this policy was easy to accept as the government sought policies that were ready for immediate implementation. The baselines were declared to be established through Standing Order 85-872 on 10 September 1985 and came into effect on 1 January 1986.³⁶

There is little doubt that, since the *Norwegian Fisheries Case* in 1951, there has been growing acceptance of straight baselines in the international system.³⁷ The codification of the practice in the 1982 LOS Convention, through Article 7, demonstrates that baselines were officially accepted as an international practice by 1982.³⁸ However, the question emerges as to when the Canadian government would have declared the use of straight baselines had the voyage not occurred. There were no signs that the government was preparing to act until the voyage occurred. Hence, the growing acceptance of the establishment of straight baselines in international law was not as important as the fact that the leading political decision makers wished to appear to be 'actively' protecting Canadian claims in the Arctic. The change in international law was necessary but not sufficient to lead to this policy action.

The development of the Canadian Laws Offshore Application Act

Of the six policy initiatives selected by Clark, the inclusion of the Canadian Laws Offshore Application Act was perhaps the one most unrelated to the protection of Canadian Arctic sovereignty. While it was important legislation, it was intended to respond to issues quite different from those raised by perceived intrusions into Canadian Arctic waters.

It is possible to trace the approximate date of the decision to begin consideration of this Act to the end of the 1970s and early 1980s.³⁹ The main catalyst was the development of offshore resource extraction (oil and gas) combined with the then ongoing UNCLOS negotiations. Technology was

being developed to allow for offshore oil drilling platforms in the Arctic beyond the 12-mile territorial sea. At the same time, the negotiations for the LOS Convention were leading to the creation of the concept of an Exclusive Economic Zone (EEZ) and a clearer codification of the rights of coastal States over the resources of their continental shelf.⁴⁰

At that time, it was uncertain whether the Canadian legal system adequately covered offshore activity beyond the 12-mile limit. A Royal Canadian Mounted Police (RCMP) review in 1984 determined that its files contained little information on the enforcement of Canada's laws beyond its land boundaries in the north.⁴¹ Following this review, the Chief Superintendent found only four cases involving alleged criminal activity in offshore areas. Furthermore, it was also found that there was little consistency in the Canadian enforcement actions because of the lack of a specific government policy regarding this issue. The Canadian Law Offshore Application Act was therefore designed to provide police enforcement agencies with legislation to create such a policy.

The intent of the Canadian Law Offshore Application Act is to 'provide a legal framework for extending Canadian laws and court jurisdiction to continental shelf areas beyond the 12-mile territorial sea.'⁴² In addition:

The main purpose of this bill is to ensure that the general body of Canadian law is applicable to oil rigs and other installations on the Canadian continental shelf beyond the 12-mile territorial sea. The legislation is required because, while the continental shelf is an area over which Canada has exclusive resource jurisdiction, it does not form part of Canadian territory as such.⁴³

Essentially, the Act gives Canada the legal jurisdiction to apply its laws to any activity that occurs in its offshore areas.

Officials have indicated that the Act was conceived as a means of sovereignty protection only after the voyage of the *Polar Sea* had occurred.⁴⁴ The purpose of the Bill's inclusion on Joe Clark's policy list therefore can be seen as a means of increasing the number of initiatives being announced.

The 10 September 1985 decision to introduce the Bill was only a small part of the total story of the bill's final passage. Ironically, by including it in the policy statement, the government may have slowed the passage of the bill. Specifically, when the law was first introduced as Bill C-104, it included an amendment to the Northwest Territories Act.⁴⁵ The primary change was the re-definition of the Northwest Territories.⁴⁶ The drafters' main intent was

to incorporate the internal waters of the straight baselines into the definition of the Territories. However, this was not the perspective taken by either the government of the NWT or some native groups. Mr Rob Nicholson, MP, reporting on the fate of Bill C-104 during the committee hearings for its re-introduction as Bill C-39, stated that Bill C-104 had met with 'considerable objections from the Government of the Northwest Territories and a number of native groups.⁴⁷ That section was eliminated since the bill's intent was not to redefine the Northwest Territories. These objections were strong enough to prevent the passage of C-104.

When the second edition of the Bill was introduced, sufficient time had passed for the government no longer to feel obligated to justify the Bill as a means of sovereignty enforcement and instead explained it in terms of the functions for which it had originally been intended. This is made clear by comparing the Department of Justice's News Release when each of the two editions of the Bill were introduced. When the first edition of the Bill (C-104) was introduced on 11 April 1986, the News Release stated:

In introducing the Canadian Laws Offshore Application Act, Mr. Crosbie said the bill was designed to reinforce Canadian sovereignty by creating a more comprehensive legal regimes for Canadian offshore areas.⁴⁸

When the second edition of the Bill (C-39) was introduced, the News Release, issued 2 October 1989, made no mention of its sovereignty ramifications.⁴⁹ The Bill received final passage in the Senate in December 1990 and is now law.⁵⁰

Increased Surveillance Overflights by Canadian Forces Aircraft and Immediate Planning for Naval Activity in the Eastern Arctic

Clark's 10 September policy announcement included one initiative that fell entirely within the jurisdiction of the Department of National Defence: the announcement that there would be increased northern patrol flights and immediate planning for naval activity to be implemented by the Canadian armed forces. However, this particular announcement was not much more than a 're-packaging' of existing policies. Both the Northern Patrol flights (NORPATS) and the Northern Deployment of Naval vessels (NORPLOY) have their origins in the early 1970s. The main impact of the *Polar Sea* voyage was to raise the profile of both programmes, and in the case of the NORPLOYS to reinstate the programme.

Increased Surveillance Overflights by Canadian Forces Aircraft (NORPATS)

As with the Canadian Laws Offshore Application Act, the genesis for the first long-range northern aircraft patrols can be traced to the early 1970s and to the discovery of oil in the north. The discovery of the mineral resources in the north led Canadian decision makers to believe that a northern presence was required to protect Canadian interests. Overflights were viewed as a relatively easy way of doing this. At the same time, the Manhattan voyages of 1969 and 1971 served to underline the reality of challenges to Canadian claims.⁵¹

These flights are cited by the Department of National Defence as a major source of sovereignty protection in the north.⁵² However, some analysts have suggested that these flights fulfilled a more symbolic, rather than a functional, role.⁵³

One of the first steps taken by the Canadian government in response to the *Polar Sea* voyage was to order the overflight of the US icebreaker by both CP-140 Aurora and CP-121 Tracker aircraft. Declassified transmissions from the aircraft show that at least five aircraft were involved--three Trackers and two Auroras.⁵⁴

These aircraft were assigned several tasks which included: 1) to chart the movement of both the *Polar Sea* and the John A MacDonal;⁵⁵ (2) to obtain both photographs and video tapes of the *Polar Sea*; (3) to fly media personnel over the *Polar Sea*;⁵⁶ (4) to provide ice reconnaissance;⁵⁷ (5) to maintain a presence over the vessel. The three trackers flew four patrols for a total of 16.6 hours of flight time, and the two Auroras flew eight patrols for a total of 61.2 hours of flight time.⁵⁸ Thus, for the 12 days that the *Polar Sea* was in waters claimed by Canada, it was overflown by Canadian aircraft for approximately 25% of that time.

The Department of National Defence, as well as other departments, was canvassed by the External/PCO committee regarding the actions that they should take in the north. The Assistant Deputy Minister (Policy) responded by writing to External Affairs on 6 August 'As requested at the meeting last week, I attach for your use a summary of the principal DND activities in the North. Please let me know if further information is needed. I look forward to our review of your paper next week.'⁵⁹ The letter included a brief summary of 12 DND activities in the North. The eighth activity was: 'A minimum of 16 surveillance patrols conducted by Aurora long-range aircraft.' It can be assumed that the PCO/External Committee selected the overflights to be included as part of the package from this list of activities.

Clark's inclusion of the increased Arctic surveillance flights in the north was, to a large degree, a non-decision, simply because the number of flights had been steadily increasing since 1980. Eight Arctic flights occurred in 1980, increased to 22 in 1990. Significantly, there were 14 flights in 1984, 17 in 1985, but no further increases until 1988 when 19 flights occurred.⁶⁰ So, while an increase did ensue, it was only part of an existing trend and took three years to occur.

Even if Clark's announcement had immediately led to an increase in the number of flights, the question that arises is how this increase would be achieved. Associate Defence Minister Harvie Andre was asked at a DND Committee meeting how this was to take place. He replied that

[t]here will be no measurable reduction in our overflights. What this means is that, while we are getting better on our maintenance, there will be more hours of flight time per aircraft.⁶¹

In other words, members of the force were being asked to produce more with the same amount of equipment.

Two years after the 10 September policy announcement, an attempt was made to increase the number of aircraft available to undertake the overflights. The 1987 Defence White Paper listed 'at least six additional long-range patrol aircraft' as a means of maintaining proper surveillance over the north.⁶² However, in the Spring budget of 27 April 1989, the purchase of the additional aircraft was cancelled, and all 29 CP-121 Tracker aircraft were to be retired by 1992.⁶³ Three Arcturus (simplified versions of the Aurora) were purchased instead.

Canadian Naval Activity in the Eastern Arctic

The 10 September statement also announced a decision to send naval vessels into the Eastern Arctic. However, this was not so much a new decision as a resumption of old activity. Canadian naval forces last entered Arctic waters in 1982, but had been visiting this area since at least 1971.⁶⁴

Exercises in the north are difficult for the navy mainly due to the ice in the area. Only two types of vessels can operate safely and freely in Arctic waters: icebreakers and nuclear powered submarines. All other vessels are confined to operations in southern Arctic waters for a short time in August when ice conditions permit, otherwise they risk hull damage caused by the ice.⁶⁵ The Canadian navy did not then, or now, possess nuclear submarines, and its one icebreaker was transferred to the Coast Guard in 1958.⁶⁶ Thus, any

naval deployment has always been possible for only a short period of time and of limited use.

Canadian naval northern deployment (NORPLOY) can be traced to 1971.⁶⁷ These deployments generally occurred annually from 1971 to 1979 and were carried out by one of the replenishment vessels although other fleet units were sometimes included. The purposes of the voyages included port visits to isolated communities, civilian and defence research, and sovereignty enforcement.

The deployments became irregular after 1979 and no longer included the larger naval vessels. The light auxiliary tender, *Cormorant*, which was commissioned in 1978,⁶⁸ and the Canadian Forces Auxiliary Vessel, *Quest*, were deployed when the northern deployments resumed in 1982.

As previously discussed, when DND was asked to provide a list of activities conducted in the Arctic the Assistant Deputy Minister (Policy) had listed 13 of which the '[o]ccasional deployment of warships to northern waters' was one by which DND established and maintains a 'presence in the North.'⁶⁹ This led to its inclusion on the 10 September list of policies.

However, following the announcement, the 1986 National Defence Budget Estimates contained no allowances for the announced Arctic voyages in 1986.⁷⁰ Commodore John Harwood, Maritime Command Halifax, also stated in January 1986 that, while the navy could go north if ordered, no such order had yet been given. However, his comments were quickly contradicted by DND officials in Ottawa who stated that he was not in a position to know.⁷¹ The voyage did eventually take place. A 60-day trip, sailing through the Davis Strait and Baffin Bay to Resolute, began in September and ended on 10 October 1986.⁷²

Deployments of both the Comorant and Quest in 1988 and 1989 suggest that they are now considered a normal component of fleet exercises.⁷³ However, the fact that such exercises had also taken place in 1982 suggests that the decision to include them in the 10 September announcement was, at best, the resumption of an old policy.

Withdrawal of the 1970 Reservation to Canada's Acceptance of the Compulsory Jurisdiction of the ICJ

Following the voyages of the Manhattan in 1969 and 1970, Canada passed the Arctic Waters Pollution Prevention Act (AWPPA). However, it was feared that this legislation would be unable to withstand a challenge in the International Court of Justice. The creation of a 100-mile wide pollution protection zone was an innovation in terms of international law. Therefore, in 1970, the

Canadian Cabinet decided that it would not allow the newly enacted AWPPA to be challenged in the International Court of Justice. The government made a reservation that Canada would not accept the compulsory jurisdiction of the court on:

[D]isputes arising out of or concerning jurisdiction or rights claimed or exercised by Canada in respect of the conservation, management or exploitation of the living resources of the sea, or in respect of the preservation or control of pollution or contamination of the marine environment in marine areas adjacent to the coast of Canada.⁷⁴

The AWPPA was drafted with the intent to give Canada the right to create regulations governing the types and actions of vessels passing through the Canadian Arctic. In 1970, this Act had no precedent in international law. Nothing in customary law or in UNCLOS I or UNCLOS II gave a country the right to legislate pollution protection in areas beyond its territorial sea.

However, between 1973 and 1982, two events occurred at UNCLOS III that completely changed this situation. The first, the successful negotiation of Article 234, the ice-covered areas article, was the result of direct efforts undertaken by Canadian officials.⁷⁵ The second factor was the creation of the Exclusive Economic Zone (EEZ).⁷⁶ Both provided international support for the AWPPA, and minimized the possibility of a ruling against Canada.

The Canadian government's decision to lift the reservation to the ICJ was made at one of the PCO/External Affairs meetings held in late summer of 1985. At that time, External Affairs officials determined that international law had developed to the point that it would support the Canadian AWPPA.

The decision to drop the ICJ reservation could have been taken by Canada any time after the development of the EEZ and the acceptance of Article 234 at the law of the sea negotiations. It is clear that the Canadian delegation had successfully drafted the necessary clauses to safeguard Canadian actions in the north. Therefore, it is telling that Canadian officials did not do so until required to act for the political reasons created by the voyage of the US icebreaker. There was no reason why Canada had to wait until 1985 to take this action. The AWPPA was secure once the Canadian negotiators at UNCLOS III gained acceptance for Article 234.

Construction of a Polar 8 Class Icebreaker

Of the six policies contained in the 10 September announcement, the proposed construction of the Polar Class icebreaker was the policy most heavily

debated by the Canadian government.⁷⁷ With estimates running from \$230 million to over \$600 million, it would have been the most expensive of the six policies had it been completed. However, after an extended period of indecision concerning the selection of the builder, the project was first suspended and then cancelled.

As in the cases of the four preceding policy initiatives, building an icebreaker was first considered in the early 1970s. As in the case of the ICJ reservation withdrawal and the declaration of straight baselines around the Arctic, the two driving forces in the early stages of the icebreaker proposal were the voyages of the *Manhattan* and the possibility of resource development in the north.⁷⁸ The decision to build a large icebreaker had been briefly considered by the Canadian government as early as 1958,⁷⁹ but received renewed focus following the voyage of the *Manhattan* through the Northwest Passage.⁸⁰ However, no action was taken until the mid-1970s when Cabinet approved funding for the design phase of a Polar class 7 icebreaker.⁸¹ Cabinet then spent the next ten years vacillating,⁸² with the overall result that no firm decision had been made by 1985.

In mid-1974, Cabinet approved funding for the design contract of the Polar 7 class icebreaker with the Canadian firm, German and Milne. However:

Cabinet indicated that final authority to construct the new ship would not be considered until there was a firm indication that commercial Arctic development required year-round marine transportation—indicating the emphasis on commercial as opposed to the sovereignty issue.⁸³

The government made available only C\$500 000 for the contract, suggesting limited support.⁸⁴

In 1975, after winning the federal election, the Liberal government gave approval for German and Milne of Montreal to 'conduct a feasibility study of a larger, class 10 icebreaker.'⁸⁵ In 1976, Cabinet was persuaded that the icebreaker should be a hybrid system of gas turbines powered by nuclear reactors.⁸⁶ Therefore, in March 1978, '[a] \$6 million design project for the hybrid was announced,⁸⁷ and in January 1979 the Treasury Board approved funding for the programme.⁸⁸ This allowed the Department of Supply and Services on 27 July 1979, to request potential contractors with expertise in nuclear maritime propulsion systems to submit proposals.⁸⁹ Following this request, several companies expressed interest by the last quarter of 1980. However, all except a French company pulled out of the negotiations for various reasons.

In April 1981, Cabinet decided to abandon the Polar 10 due to potential problems that could be created by the nuclear power source, as well as the cost.⁹⁰ Approval was then given to German and Milne to proceed with the design phase for a Polar 8.⁹¹ By December 1982, no decision had been made as to the propulsion system. The choice was between a diesel-gas turbine, variable-speed electric system with fixed pitch propeller, or an all-diesel, constant-speed mechanical system with a controllable pitch propeller.

By July 1984, the decision had been made that the vessel would be powered by an electrically driven fixed-pitch three propeller propulsion system.⁹² Soon after however, the northern director of the Canadian Coast Guard stated that members of the project were instructed to hold off sending the proposal to begin construction until 'there is a significant demand for the ship as an escort for the year round transport of hydrocarbons in the Arctic by freighter.'⁹³ However, all previous planning became irrelevant when the *Polar Sea* entered the Northwest Passage in August 1985.

Coast Guard officials viewed the meetings concerning the government's policy and held following the voyage of the *Polar Sea* in August 1985 as an expedient time to seek permission to reach the construction stage of the Polar Class 8 icebreaker. At that point, Cabinet had given permission only for the Coast Guard to collect and evaluate bids for the building of the Polar 8 and had not yet agreed to the construction phase.

External Affairs officials recall that the initiative to build the Polar 8 provoked the greatest debate among all six policy initiatives promised by Clark in his 10 September speech.⁹⁴ The main concern that some officials had about the proposed building of the icebreaker centred on its costs.

National Defence officials in particular were worried that the costs of the vessel would very quickly exceed the estimates of C\$350-500 million.⁹⁵ They feared that such a large expenditure could result in cutbacks to the resources allocated to the naval modernization programme which was being planned at the time.⁹⁶ Defence officials were also concerned that the project would result in a vessel that was unable to respond to the threat of submarine intruders in the north.⁹⁷

Following the 10 September announcement that the Polar 8 was to be built, three design companies immediately attempted to involve themselves in the process. In October, the three companies--Dome-Canmar (Calgary); Arctic Transportation Limited, Cleaver Walkingshaw (Calgary); and Wartsila Arctic Inc (a Canadian firm with offices in Vancouver but a subsidiary of Wartsila International of Helsinki)--submitted design proposals of a conceptual nature (not completed designs), stating that they could meet Coast

Guard needs with an icebreaker cheaper than the one designed by German and Milne.⁹⁸

In order to select among the three companies, the government convened an independent commission to evaluate the proposals. The Bruneau committee was given the mandate to provide a preliminary evaluation of the new bids.⁹⁹ During its period of assessment, all other work on the Polar 8 project was temporarily halted. The committee took a little over six weeks to conduct its study.¹⁰⁰ They determined that the two Calgary-based designs could each be built for about \$230 million in 33 months. The Wartsila design could also be built in approximately the same time, but would cost about \$350 million.¹⁰¹ More significantly, the commission found that the designs of all three companies would provide a substantially faster built and cheaper (\$15G-270 million) icebreaker than would the German and Milne design.

However, even after the Bruneau commission reported its findings, the government did not choose a builder for the icebreaker until the Spring of 1987. The decision to award the contract to build the Polar 8 to Versatile's Vancouver yards was announced by Joe Clark in the House of Commons on 2 March 1987.¹⁰²

While this announcement was expected, the fact that Wartsila was not the designer was a surprise. The government stipulated that VPSI would choose a designer and 'all other contractual relationships and details remain to be negotiated with the designer and builder.'¹⁰³

Problems continued to plague the project once the decision had been made. Versatile continued to experience financial problems, and the designers determined that they had been overly optimistic in their initial estimates. In May 1988, it was reported that the design team had encountered difficulties with the propulsion unit of the vessel.¹⁰⁴ In late summer, sources close to the design unit of the project informed the media that if a diesel electric propulsion system was to remain, the ship would cost an additional C\$70-80 million.¹⁰⁵

The design team completed its work by the last quarter of 1988. Coast Guard officials stated that the design cost was over the C\$350 million ceiling, but they would not say by how much. However, an industry source stated that the estimated cost had skyrocketed to C\$527 million.¹⁰⁶ Recognizing that Cabinet was unlikely to accept such a large increase, Coast Guard officials had agreed to pay Versatile and the design consortium an extra \$1.5 million to prepare a new estimate based on a different, and hopefully cheaper, propulsion system. However, upon completing the new estimate, it was de-

terminated that the total cost of the vessel would still be substantially over budget. In addition to all of these problems, the announcement was made on 10 December 1988 that Versatile's shipyard was for sale.¹⁰⁷

All of these problems proved to be too much for the project. Initially, there was no specific decision to put the project on hold. But the minuscule funding given to the project in the April 1989 budget had the effect of doing exactly that. On 27 April the budget provided the project with only C\$1.6 million. Furthermore, C\$1.5 million was already earmarked for the redesign of the propulsion system.¹⁰⁸

On 19 February 1990, the Polar 8 project was cancelled. In his budget speech, federal Minister Michael Wilson cited the increase in costs of the icebreaker programme as one of the main reasons for its cancellation.¹⁰⁹ It is reported that the price of the icebreaker had climbed to C\$680 million.¹¹⁰ Wilson also claimed that changes in the international environment, highlighted by the US-Canada Arctic Cooperation Agreement (discussed below), allowed for the cancellation of the Polar project.¹¹¹ Thus, the government's view was that fiscal restraint and the Arctic Cooperation Agreement made the Polar 8 impossible and unnecessary by 1990.

The decision to build the Polar 8 class icebreaker was really a decision to implement a project whose genesis had begun at least ten years earlier. The government had been attempting to decide which type of icebreaker to build since the mid-1970s, and the voyage of the *Polar Sea* served as an impetus to its (seemingly) final adoption.

This was the only initiative among the six announced on 10 September 1985 that came with a high price tag for new spending. Some of the other initiatives had continuing costs. The northern overflights and northern naval activity are not cheap activities, but they were already established in DND's budgets. The four other policy initiatives had costs only in terms of the work hours required to develop them. The icebreaker was priced at anywhere between C\$230 million to and C\$680 million, and this was only the expenses associated with the building of the vessel. Once built, it would have to be manned and supplied, thus requiring an additional yearly expenditure. Therefore, it is not surprising that other decision makers, particularly those in DND, were worried about its impact on their budgets.

Over time, the continual delays surrounding the project were extensive enough to mean that the sense of urgency that had accompanied the 10 September announcement to build the vessel had dissipated. When the government made deficit reduction a priority, new and expensive capital programmes were the first to be eliminated.

Negotiations with the US on Cooperation in Arctic Waters

The initiation of negotiations with the US government was the only decision among the six policy initiatives that was made specifically as a result of the 1985 voyage. Prior to the voyage, no discussions had taken place between the two governments regarding navigational cooperation in the north.

Joe Clark initiated the idea of entering into direct negotiations with the US.¹¹² Officials from the Legal Bureau of External Affairs were given the lead role on the Canadian negotiating team on the basis of their expertise in negotiations with the US, as well as their knowledge of the issues of Arctic sovereignty.¹¹³ The negotiating team included officials from the Department of Transport and representatives from the Canadian Coast Guard.

The primary goal of the negotiating team was to reach an agreement with the US in which Canadian claims to the Arctic waters were recognized. Failing that, they wanted to gain some 'control' of the transit of US Government and commercial vessels.¹¹⁴ In exchange, Canada would provide assurances for the passage of US vessels in order to meet their security and commercial concerns.

The US position was established through the operations of two bodies, the Interagency Arctic Group, which in turn reported to the National Security Council.¹¹⁵ Following Clark's speech on 10 September 1985, the Interagency Group was split on how to react. The members of the Group from the Department of State were in favour of reaching some form of a compromise with Canada. The Department of State's position has been portrayed as accommodating for the sake of general Canada-US relations.

However, officials from the United States Department of Defence, specifically those from the navy, were concerned about the precedent that might be established through any agreement recognizing Canadian claims. While the US navy valued the close relationship with Canada, it could not ignore the fact that an agreement over the Northwest Passage would establish a potentially dangerous international precedent for its operations.¹¹⁶

Naval officials also considered the ability of their submarines to transit the Northwest Passage as an important concern. Since the voyage of the *Seadragon* in 1960, US submarines have been transiting the Northwest Passage on a regular basis.¹¹⁷ The exact number of voyages is classified, but a widely cited article by Norman Polmar in 1984 estimated the number of publicly known voyages to be about 40.¹¹⁸ While never publicly stating that it used the Northwest Passage on a regular basis, the United States Navy (USN) would obviously want to protect its ability to continue these voyages.

There were two distinct phases to the discussions between US and Canadian officials once negotiations were agreed to. Initially, the negotiations were conducted by bureaucratic officials. Most of their efforts to reach an agreement could be characterized as relatively low-level and informal. They consisted primarily of telephone calls between officials in the State Department and External Affairs and direct meetings. The second phase emerged when the leaders of the two States determined that negotiations were proceeding too slowly and decided that political pressure had to be injected into the process. In order to do so, special envoys were appointed to report directly to the political leadership of the two States.

The initial negotiating positions of the two states were based on the LOS Convention. Canadian External Affairs officials claimed that, under Article 234, Canada had the right to establish control over the Passage.¹¹⁹ They cited the Ice-Covered Areas article which bestows special rights to a coastal state that has an ice-covered EEZ.¹²⁰ Canadian officials argued that this gave them the right to control navigation over the Passage in order to protect the marine environment. US officials responded by citing Article 236, the Sovereignty Immunity clause.¹²¹ State Department officials argued that since the *Polar Sea* was a state-owned vessel, it was exempted from any laws that Canada may have passed to control navigation in order to protect the marine environment. In short, a government vessel did not need to meet any standards and, therefore, did not need to seek permission.

Having failed to make their case on the basis of the LOS Convention, Canadian officials focused their efforts on reaching a negotiated agreement with the US. Canadian officials first attempted to reach a comprehensive agreement in which the US government would recognize Canadian sovereignty over the Passage, but in which the Canadian government would allow US transit of the Northwest Passage. Various drafts of different agreements were circulated which tended to complicate the agreement as time progressed.¹²² However, it became apparent that the US officials would not alter their position of not recognizing Canadian claims over the Passage.¹²³

After approximately one year, the discussions had become deadlocked. At that point, the personal intervention of President Reagan and Prime Minister Mulroney revitalized the process. The single factor that had the greatest positive impact on the negotiation were the three Summit meetings of 1985, 1986 and 1987 between Prime Minister Mulroney and President Reagan.

The Shamrock Summit in Quebec City in 1985 had taken place before the voyage of the *Polar Sea*. However, this summit was important because

it established a good working and personal relationship between the two leaders.

At the following summit held in Washington in 1986, one of the major issues of discussion between Mulroney and Reagan was the need to resolve the problems created by the voyage.¹²⁴ According to several US officials, the Canadian government was concerned that the *Polar Sea* problem would hinder other US-Canada issues, the free trade talks in particular. Reagan appeared to be sensitive to the Canadian position on the voyage. There are indications that at one point in their discussions, Mulroney showed Reagan a globe that included the normal ice cover in order to make his point that the Northwest Passage was indeed 'unique.'¹²⁵ Mulroney then successfully persuaded Reagan to elevate the level of negotiations by appointing special negotiators in an attempt to facilitate a solution. Edward Derwinski was selected for the US side and Derek Burney for the Canadian side. Both men had worked together before and enjoyed the confidence of their political leader.

Derwinski and Burney began to meet with a minimum of staff in an informal manner. According to Derwinski, they met three to four times for direct negotiations.¹²⁶ Often, the meetings would include only the two negotiators and one or two staff assistants.

From all accounts, the nature of the negotiations on the US side began to change. Derwinski's overall objective shifted from protecting the US position to seeking accommodation with Canada. Derwinski stated that he was not concerned about the precedent that might be set in terms of international law but, rather, was concerned only with solving the problem.¹²⁷

This shift in the approach was strenuously objected to by both the US Coast Guard and Department of Defense, among others. However, the objections of these departments were overcome by the shifting focus of the tentative agreement from one that covered all vessels to one that included only ice-breakers, as well as by the personal intervention of President Reagan following the 1987 Summit.

The April 1987 Summit injected new life into the discussions. Reagan remained committed to finding a solution throughout the entire duration of the talks. During the Summit on 5 April Prime Minister Mulroney hinted to reporters that some form of agreement had been reached between the two leaders. When asked by a reporter if Reagan would agree with the Canadian position on the Arctic, Mulroney responded by stating, 'You'll find out.'¹²⁸

At Reagan's personal insistence, a paragraph on the need to resolve the sovereignty question was inserted at the last minute into his 6 April address

to the House of Commons. In his speech, Reagan ended with his own additional comments on the issues of acid rain and Arctic sovereignty stating,

The Prime Minister and I agreed to consider the Prime Minister's proposals for a bilateral accord on acid rain, building on the tradition of agreements to control pollution of our shared international waters. *The Prime Minister and I also had a full discussion of the Arctic waters issue, and he and I agreed to inject new impetus to the discussions already underway. We are determined to find a solution based on mutual respect for sovereignty and our common security and other interests* [emphasis added].¹²⁹

Interviews with both US and Canadian officials indicate that, not only did Reagan agree to inject new impetus into the negotiations, he also agreed to seek Canadian 'consent' before sending any further icebreakers into the Northwest Passage.¹³⁰ Following the Summit, the final stages of the drafting of the agreement went smoothly. The final draft of the agreement was ready for Cabinet approval on 19 October 1987.¹³¹

The Arctic Cooperation Agreement was completed towards the end of 1987 and was formally signed by Clark and Shultz on 11 January 1988. It is a short, simple agreement. In the first two clauses, both governments agree to cooperate in the Arctic, and agree to 'not adversely affect the unique environment of the region and the well-being of its inhabitants.' The third and fourth clauses are the most significant. The third states that the US will notify Canada whenever it sends an icebreaker through the Northwest Passage.¹³² The fourth clause states that nothing in the agreement will affect the respective position of either state. Specifically the third clause states:

In recognition of the close and friendly relations between their two countries, the uniqueness of ice-covered maritime areas, the opportunity to increase their knowledge of the marine environment of the Arctic through research conducted during icebreaker voyages, and their shared interest in safe, effective icebreaker navigation off their Arctic coasts:

The Government of the United States and the Government of Canada undertake to facilitate navigation by their icebreakers in their respective Arctic waters and to develop cooperative procedures for this purpose;

The Government of Canada and the Government of the United States agree to take advantage of their icebreaker navigation to develop and share research information, in accordance with generally accepted principles of international law, in order to advance their understanding of the marine environment of the area;

The Government of the United States pledges that all navigation by US icebreakers within waters claimed by Canada to be internal will be undertaken with the consent of the Government of Canada.¹³³

The agreement is generally regarded by officials of both governments as a practical, albeit limited, agreement. The Canadian government was criticized for failing to achieve outright US recognition of Canadian sovereignty over the Passage.¹³⁴ However, it did succeed in resolving the specific problem of the transit of American icebreakers.

The Agreement has been activated three times – in 1988, 1989 and 1990 – since it was signed in 1988. The procedures established by the Agreement were strictly followed in 1988 and 1989. In 1990, the US once again followed the terms of the Agreement, but Canadian decision makers deviated slightly from the established routine.

In mid-1988, the Canadian Coast Guard requested assistance from the US Coast Guard when two of its icebreakers ran into thick ice in the western Arctic. The US vessel, *Polar Star*, was damaged while rendering assistance¹³⁵ and was required to transit the Northwest Passage in order to undertake repairs. The US government sought, and received, Canada's consent to do so.¹³⁶

The *Polar Star* also made the second voyage in 1989, a third voyage in 1990 but received little publicity. The agreement was therefore successful in removing US icebreaker transits of the Northwest Passage as an irritant in relations between the US and Canada.

The agreement is limited and narrowly defined. Nevertheless, it will eliminate the possibility of a recurrence of the problems created by the 1985 voyage. It is only icebreakers or nuclear powered submarines that are capable of transverseing the Northwest Passage. The passage of the Manhattan demonstrated that a commercial vessel, even if it is ice-strengthened, requires the assistance of at least one icebreaker. Therefore, the agreement effectively includes all surface vessels that may wish to cross the Passage. The limiting aspect of the agreement is the fact that it does not deal with submarines. US officials, and particularly Department of Defense officials, had been adamant

that the issue of submarine passage should remain outside the scope of the negotiations.¹³⁷

Canadian Northern Foreign Policy

The 10 September statement was the result of the government's need to be seen as responding to the voyage of the *Polar Sea*. As such, it is only to be expected that the policies chosen would appear as an *ad hoc* combination of old and new. However, in the period following the voyage, the six policies were soon to be entrenched as the core component of Canadian northern foreign policy.

When the Conservative government came to power in 1984, it promised to conduct a public review of Canadian foreign policy. Its first step was to release a discussion paper in May 1985 entitled *Competitiveness and Security: Directions for Canada's International Relations*.¹³⁸ This was then followed by a set of public hearings chaired and conducted by a joint House of Commons/Senate committee. Its report *Independence and Internationalism* was completed in June 1986.¹³⁹ It contained recommendations on all aspects of Canadian foreign policy and an entire chapter was dedicated to the issue of a Canadian northern foreign policy. This chapter examined three main areas: general issues of concern in the north; the question of sovereignty; and defence questions.¹⁴⁰ The Report made nine policy recommendations ranging from the fur trade, native self-government and new submarines. While the committee did not highlight a specific northern maritime policy, most of its recommendation regarding the question of sovereignty did focus on maritime issues. Significantly, the report had an strong effect on the government's official response.¹⁴¹ When Joe Clark presented the response in the House of Commons, he specifically noted the importance that the committee had placed on the 'northern dimension of Canadian foreign policy.'¹⁴²

The government's reply to the policy recommendations of the Hockin-Simard report included a general policy position statement on Canadian northern foreign policy.¹⁴³ The impact of the *Polar Sea* voyage was clearly pronounced in the report:

The voyage of the US Coast Guard icebreaker *Polar Sea* in summer of 1985 dramatically underlined the deep concerns of Canadians for Arctic sovereignty. In his statement to the House of Commons on September 10, 1985, the Secretary of State for External Affairs affirmed that Canadian sovereignty extended to all the waters of the Arctic archipelago.¹⁴⁴

The government's response then repeated the six policy initiatives of the 10 September announcement. However, more significantly, it then went on to state that:

These recent commitments by the government, and their implementation, must now be set into a broad policy context. A comprehensive northern foreign policy will have four dominant themes:

- Affirming Canadian Sovereignty;
- Modernizing Canada's northern defence;
- Preparing for commercial use of the Northwest Passage; and
- Promoting enhanced circumpolar cooperation.

These themes are interrelated and, and indeed provide essential balance and support for one another. Taken together, they provide the basis for an integrated and comprehensive northern foreign policy.¹⁴⁵

In 1987, Clark gave a speech in Tromsø, Norway, explaining how these four themes were to be implemented.¹⁴⁶ The speech and the government's response to the Hockin-Simard report made it clear that, for the first three themes, the six policies announced on 10 September 1985 would provide the core substance of the overall policy.¹⁴⁷

The principal elements of the affirmation of Canadian sovereignty were based on the 10 September policy statement and included: talks with the US over the status of the Northwest Passage; the building of the Polar 8 icebreaker; and the passage of the *Canadian Laws Offshore Application Act*.¹⁴⁸ An additional component to the affirmation of Canadian sovereignty, that had not been a part of the 10 September speech, was the recognition of the importance of the Inuit to Canadian claims.

The second theme, the modernization of Canadian Arctic defence, primarily focused on developing means of effectively monitoring the north, both in the air and under the ice.¹⁴⁹ These included an increase in the Northern Sovereignty Patrol flights and increased naval activity. Beyond the policy statement of 10 September the government also pledged itself to upgrading the northern early warning system through the installation of a North Warning System. The possibility of replacing the Oberon submarines with a class that could operate under the ice was also mentioned.

The third policy theme, the preparation of the Northwest Passage for commercial use, concerned the protection of the environment and the

building of the Polar 8 class icebreaker.¹⁵⁰ Vague references to 'develop the necessary infrastructure and operational capabilities' were made, but were not elaborated upon. In essence, the construction of the Polar 8 was the core programme.

It was only in regards to the fourth theme of Canada's stated northern foreign policy that no connection can be found with the 10 September policy statement. Circumpolar cooperation called for greater cooperation with not only the US, but also with the USSR, Greenland and the Inuit Circumpolar Conference.¹⁵¹ In particular, it sought increased scientific links with the USSR in shared northern research as a means of reducing East-West tensions.¹⁵²

However, it is clear that six initiatives were seen as part of the core component of Canadian northern policy, and particularly that of its Maritime Arctic policy. Thus, what amounted to a crisis-management policy reaction to a single event in the summer of 1985 resulted in the entrenchment of the six policies.

Conclusion

This analysis shows the manner by which a single event, the voyage' of the *Polar Sea*, galvanized the government into creating a northern maritime policy. While the 10 September statement was officially dealing with Canadian Arctic sovereignty, it was in fact creating a northern maritime policy. The creation of this policy occurred in a crisis environment. As such, the six policies were an *ad hoc* collection of policy initiatives that for the most part were being developed for other reasons. Nevertheless, these six policies came to form the main component of Canadian northern maritime policy.

Not surprisingly, given their somewhat *ad hoc* selection, the six policies encountered various degrees of success. The declaration of straight baselines and the withdrawal of the ICJ reservation were policies that could have been enacted earlier than 1985. Both were feasible by 1982 when the UNCLOS III was completed and possibly could have been successfully implemented even earlier. Conversely, by attempting to define the *Canadian Laws Offshore Application Act* as a sovereignty protection measure, passage of the bill may have been delayed.

The inclusion of the increased sovereignty overflights and northern naval deployments were efforts to pad the 10 September announcement. Both were already being conducted and Clarks's statement did nothing to change their specific deployments.

The two policies that had the greatest potential to alter Canadian Arctic Maritime policy were the decision to build the Polar 8 class icebreaker and the negotiations with the US over transit in the Northwest Passage.

Had the icebreaker project not been cancelled, Canada could have had the most powerful icebreaker in the world. Almost all of the Canadian Arctic waters would have become navigable for Canada during much of the year, thereby giving Canada a physical presence in all of its northern waters. This is in contrast to the current ability of the Canadian Coast Guard. Such an icebreaker would have had great practical and symbolic value for Canadian claims over its northern waters. However, in the face of the tremendous pressures on the Canadian budget caused by the deficit, it is easy to understand why it was not built. Nevertheless, it is still instructive to observe the manner in which the *Polar Sea's* voyage provided almost enough impetus to for the successful completion of the Polar 8.

The 1988 Arctic Cooperation Agreement between Canada and the US is limited. Nevertheless, the US agreement to seek 'consent' for the passage of its icebreakers was an important gain for Canada. The agreement effectively means that the only State openly to challenge Canadian claims to its northern waters--the US--has agreed to limit its right of transit in the Northwest Passage of its surface vessels. While the agreement specifies only government icebreakers, it is difficult to imagine any commercial vessel, even those that are ice-strengthened, being able to transit the Passage without icebreaker assistance. Thus, the agreement, *de facto* controls any possible attempt by a US commercial vessel to transit the Passage, since it would require the escort of either a Canadian icebreaker or, conceivably, a US icebreaker.

Of course, the one type of vessel that was not mentioned in the agreement – nuclear powered submarines – leaves open the possibility of a third crisis between Canada and the US over the Northwest Passage. As noted earlier, US submarines do occasionally use the Passage. The frequency is a closely guarded secret, but it does occur. It is conceivable to imagine a scenario in which a US submarine, while in the Northwest Passage, is forced to the surface – possibly as the result of an accident or mechanical problem. It is equally plausible to imagine that if this occurs, the Canadian government of the day will find itself repeating the same process that occurred in 1970 following the voyage of the *Manhattan*, and 1985 when the *Polar Sea* transited the Passage. This future government will probably find itself creating its Arctic Maritime policy in a similar crisis environment.

Notes

- Reprinted from *Marine Policy* 19/4 (July 1995): 343-63.
- 1 The Manhattan was given a strengthened ice bow as well as a belt of protective steel around its waterline.
 - 2 John Kirton and Don Munton, "The Manhattan voyages and their aftermath," in *Politics of the Northwest Passage* ed. Franklyn Griffiths (Kingston and Montreal: McGill-Queen's University Press, 1987), 93. Several other articles that examined the Manhattan voyages are: W Joseph Dehner, "Creeping jurisdiction in the Arctic: has the Soviet Union joined Canada?," *Harvard International Law Journal* 13 (1972); Raymond W Konan, "The Manhattan's Arctic conquest and Canada's response in legal diplomacy," *Cornell International Law Journal* 3 (Spring 1970); and E J Dosman, "The Northern Sovereignty Crisis, 1968-70," in *The Arctic in Question* (Toronto: Oxford University Press, 1976).
 - 3 *Arctic Waters Pollution Prevention Act*, RSC 1970, c 47, Royal Assent given 26 June 1970. (Hereinafter referred to as AWPPA).
 - 4 For the document granting the Coast Guard this responsibility, see "Revised Memorandum of Agreement between the Department of the Navy and the Department of the Treasury on the Operation of Icebreakers," 22 July 1965.
 - 5 "Revised Memorandum of Agreement," 2-4 to 2-8.
 - 6 According to some interviewed officials, the fact that the US Coast Guard had to rely on Canadian assistance to get the Manhattan through the Northwest Passage was one of the main reasons that Congress decided to allow the building of the two Polar class vessels.
 - 7 US Coast Guard, "Chronology of Decision making and Clearances for the 1985 Transit of the Northwest Passage by the US Coast Guard Icebreaker Polar Sea," 11 October 1985.
 - 8 US Coast Guard, "Chronology of Decision."
 - 9 US Coast Guard, "Chronology of Decision."
 - 10 US, Department of State, 85 State Telegram 151842 (1721142 May 85); 85 Ottawa telegram 03785 (2118102 May 85).
 - 11 Canada, Department of External Affairs, Canadian Embassy, Washington, DC, Note No. 331, 11 June 1985.
 - 12 US, Department of State, American Embassy at Ottawa Note No 222 24 June 1985.
 - 13 US, American Embassy at Ottawa Note No 222.
 - 14 Interviews with State Department officials, Washington, April 1990.
 - 15 Interview with External Affairs official, Canadian Embassy, Washington, April 1990.
 - 16 Canada, Department of External Affairs, Legal Affairs, "Memorandum for: the Secretary of State for External Affairs: Subject -Voyage of the US Coast Guard Icebreaker Polar Sea," 30 July 1985.
 - 17 Canada, Department of External Affairs, Canadian Embassy, Washington, DC, Note No 433, dated 31 July 1985. While it is known that this note was written by officials within External Affairs, the conditions under which they were instructed to write it is not known. Compared to the previous notes, it takes a less accommodating approach.
 - 18 See for example "For the Defence of Sovereignty," *Globe and Mail*, 2 August 1985; and Kevin Doyle, "Our Precious North," *Maclean's*, 19 August 1985. While these are the editorials in the most widely read Canadian media sources, other editorials attacking the

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- government can be found in most other Canadian newspapers.
- 19 "Arctic 'Incursion' Protest Planned," *Globe and Mail*, 6 August 1985; and Ken MacQueen with Andrew Niki-foruk, "The New Race for the North," *Maclean's*, 19 August 1985.
- 20 Interview with External Affairs official, Canadian Embassy, Washington, 1990.
- 21 The dates are contained in the following declassified letters: Canada, Department of Energy, Mines, and Resources, "Memorandum -Geoscience Activities Relating to Canadian Sovereignty in the Arctic," to Len Legault, the Office of the Legal Advisor External Affairs, from Assistant Deputy Minister, Earth Science, Department Energy, Mines and Resources, 6 August 1985; and Canada, Department of Indian and Northern Affairs, "Letter," from John Hucker, Director General Northern Policy and Coordination, Department of Indian and Northern Affairs to Len Legault of External Affairs, Legal Operations, 7 August 1985.
- 22 Canada, Department of National Defence, "Letter" from J.F. Anderson, Assistant Deputy Minister (Policy), to Len Legault, Department of External Affairs, Legal Operations, 6 August 1985; Canada, EMR, "Memorandum -Geoscience Activities," 6 August 1985; Canada, Ministry of State, Science, and Technology, "Letter," from Director of Space Policy and Plans, Ministry of State, Science and Technology, to Harry Swain, Privy Council, 16 August 1985; Canada, DIAND, "Letter," from Hucker to Legault, 7 August 1985; and Canada, Department of Indian and Northern Affairs, "Letter," from J Hucker, Director General, Northern Policy, Indian and Northern Affairs, to Barry Mawhinney, Director General, Legal Affairs Bureau, Department of External Affairs, 28 August 1985.
- 23 Canada, EMR, "Memorandum -Geoscience Activities," 6 August 1985.
- 24 Canada, EMR, "Letter," from Perron to McRae, 28 August 1985.
- 25 "Ottawa experts split over claim to Arctic seas," *Toronto Star*, 12 August 1985.
- 26 Secretary of State Joe Clark, Press Scrum, Uplands, 2 August 1985.
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ABSTRACT: Climate change is transforming the Arctic. Questions abound about what this will mean for the Canadian Forces, for Canada's sovereignty position, for northern peoples, and for stability and security in the circumpolar world. Fortunately, Canadians have encountered and debated similar issues in the past. This volume, featuring chapters by established and emerging scholars, offers essential historical analysis on Canadian Arctic security and sovereignty policies and practices since the Second World War. The "lessons learned" lay a solid foundation for future research and historiographical debate in this dynamic field, and should inform Canadian thinking on what is necessary to protect national interests in the twenty-first-century Arctic.

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