

China's emerging Arctic policy: What are the implications for Arctic governance?

Nengye Liu¹

Published online: 10 April 2017
© O.P. Jindal Global University (JGU) 2017

Abstract This article examines China's Arctic policy and its possible implications for Arctic governance. The paper first explains why China needs an Arctic policy and how this policy came into being. The article then sheds light on the content of China's Arctic policy. The paper concludes that though it intends to play a more active role in Arctic governance, China is likely to be a collaborative rather than a challenging partner. This is evidenced by China's behavior in the development of the Polar Code within the International Maritime Organization and the negotiations on regulating fisheries in the high seas portions of the central Arctic Ocean.

Keywords Arctic · China · Law of the Sea · Shipping · Fisheries · Governance · Ocean

Nengye Liu—Senior Lecturer.

✉ Nengye Liu
nengye.liu@adelaide.edu.au

¹ Adelaide Law School, University of Adelaide, Adelaide, SA 5005, Australia

1 Introduction

China is a rising power with growing global interests. In recent years, she has been advancing the ‘One Belt, One Road’ Initiative,¹ which intends to construct a Silk Road Economic Belt and Maritime Silk Road to connect Asia, Europe and Africa. In 2016 alone, the Initiative has made remarkable progress. Achievements include the opening of Gwadar Port in Pakistan run by China Oversea Port Management Corporation,² as well as the establishment of the Djibouti Navy Base—China’s first navy base on foreign soil.³

China’s growing presence in various parts of the world has therefore attracted significant attention from both the media and academia. The Arctic⁴ is not an exceptional case in this context.⁵ China’s every move in the Arctic has been the subject of intense scrutiny in western media reports.⁶ China’s Arctic policy⁷ has also been extensively examined in the English language academic literature.⁸

The Chinese government has, however, yet to publish its official Arctic policy and has not otherwise articulated China’s objectives and actions in the Arctic. Moreover, China is an undemocratic society with many constraints for academic researchers to gain access to governmental information.⁹ Further, without a comprehensive understanding of the Chinese social system and culture, it can be

¹ The State Council of P. R. China, *Action Plan on the Belt and Road Initiative*, Mar. 30, 2015, http://english.gov.cn/archive/publications/2015/03/30/content_281475080249035.htm.

² Hanif Khalid, *Gwadar Port Opening on Sunday*, THE NEWS, Nov. 10, 2016, <https://www.thenews.com.pk/print/163792-Gwadar-Port-opening-on-Sunday>.

³ Zhang Zhihao, *Overseas Supply Hub Gets a Push*, CHINA DAILY, Nov. 26, 2016, http://www.chinadaily.com.cn/china/2016-11/26/content_27490326.htm.

⁴ The Arctic may be understood in various geographic terms: the area north of Arctic Circle (latitude 66 degrees, 32 min north), north of the tree line (which roughly follows the 10 °C summer isotherm), or the territory surrounding the Arctic Ocean. For convenience, this paper will focus on China’s presence within the Arctic Circle (both territory and Ocean).

⁵ For example, *The Diplomat* has published a series of papers on China’s Arctic Strategy.

⁶ One latest example is about China building a research facility to study the Northern light in Iceland. See e.g., Nick Whigham, *The New Cold War: China’s Creeping Ambitions in the Arctic Set the Stage for Icy Showdown*, NEWS.COM.AU, Nov. 21, 2016, <http://www.news.com.au/technology/environment/natural-wonders/the-new-cold-war-chinas-creeping-ambitions-in-the-arctic-set-the-stage-for-icy-showdown/news-story/753e74bed12c66658118b25ce7c36e56>; *China’s Arctic Ambitions Take Shape in Remote Iceland Valley*, ASSOCIATED PRESS, Nov. 16, 2016 http://www.chinadailyasia.com/chinafocus/2016-11/16/content_15527219_2.html.

⁷ Policy and Strategy will be used interchangeably in this paper.

⁸ See for example, Olya Gayazova, *China’s Rights in the Marine Arctic*, 28 (1) INTERNATIONAL J. MARINE & COASTAL L. 61–95 (2013); Li Xing & Rasmus Gjedso Bertelsen, *The Drivers of Chinese Arctic Interests: Political Stability and Energy and Transportation Security*, 2 ARCTIC YEARBOOK. 1–16 (2013); Huirong Liu, et al., *China and the Arctic: The Path of Scientific Research, Law and Policy*, 26 OCEAN YEARBOOK. 361–380 (2012); Gang Chen, *China’s Emerging Arctic Strategy*, 2 (2) POLAR J. 358–371 (2012); Nong Hong, *Emerging Interests of non-Arctic Countries in the Arctic: A Chinese Perspective*, 4 (2) POLAR J. 271–286 (2014); Linda Jakobson & Jingchao Peng, *China’s Arctic Aspirations*, 34 SIPRI POLICY PAPER (2012); Olga Alexeeva & Frédéric Lasserre, *China and the Arctic*, 1 ARCTIC YEARBOOK 80–90 (2012).

⁹ Keyuan Zou, *China’s Ocean Policymaking: Practice and Lessons*, 40(2) COASTAL MGMT. 158 (2012).

difficult for outsiders to fully appreciate the complex structure of Chinese diplomacy and how it is implemented.¹⁰ This results in a lot of speculation from the rest of the world as to what China's objectives are.¹¹ The Arctic is no exception. As such, the key question of Arctic and other States is: What does China want from the Arctic?¹²

It must be noted that the adoption of an Arctic policy is a domestic affair and entirely up to the Chinese government. Unlike the United States¹³ or the European Union (EU),¹⁴ China has only just begun to publish policy papers on specific foreign affair issues. For example, even when it comes to the South China Sea, where China has territorial claims (and is one of China's core interests),¹⁵ until the recent release of her White Paper on Solving the South China Sea Disputes¹⁶ there did not exist a national policy paper on China's strategy for the sea area. Nevertheless, because of the strong international component of the South China Sea disputes, China had to face external pressure regarding its positions. This explains why the Chinese Government published the White Paper on July 13, 2016, a day after the Arbitral Tribunal handed down its Award regarding the Philippines v. China case.¹⁷ The South China Sea White Paper comprehensively

¹⁰ GUIFANG XUE, CHINA AND INTERNATIONAL FISHERIES LAW AND POLICY 10 (2005).

¹¹ See for example, Caitlin Campbell, *China and the Arctic: Objectives and Obstacles*, U.S.-CHINA ECON. & SECURITY REV. COMM. STAFF RES. REPORT (April 13, 2012), http://162.140.209.1/sites/default/files/Research/China-and-the-Arctic_Apr2012.pdf.

¹² Andrew Charter, *What is China's Interest in the Arctic?* THE POLAR CONNECTION, Oct. 12, 2016, <http://polarconnection.org/china-interest-arctic/>.

¹³ Homeland Security, *National Security Presidential Directive 66 – Homeland Security Presidential Directive 25* (2009). The 2009 Arctic Policy was implemented by 2013 National Strategy for the Arctic Region.

¹⁴ The European Commission has published three Arctic policy documents since 2008. See European Commission Communication of 20 November 2008 on the European Union and the Arctic Region, COM (2008) 763; Joint Communication of the European Commission and High Representative of the European Union for Foreign Affairs and Security Policy of 26 June 2012 on Developing a European Union Policy towards the Arctic Region: Progress since 2008 and Next Steps, JOIN (2012) 19 and Joint Communication of the European Commission and High Representative of the European Union for Foreign Affairs and Security Policy of 27 April 2016 on An Integrated European Union Policy for the Arctic.

¹⁵ China for the first time expressed its core interests in the Chinese Government's White Paper. See, *White Paper on China's Peaceful Development*, STATE COUNCIL INFO. OFFICE. PEOPLE'S REP. CHINA, Sept. 2011 ("China is firm in upholding its core interests which include the following: state sovereignty, national security, territorial integrity and national reunification, China's political system established by the Constitution and overall social stability, and the basic safeguards for ensuring sustainable economic and social development.").

¹⁶ *White Paper on China Adheres to the Position of Settling Through Negotiation the Relevant Disputes Between China and the Philippines in the South China Sea*, STATE COUNCIL INFO. OFFICE PEOPLE'S REP. CHINA, July 13, 2016, <http://www.scio.gov.cn/zfbps/ndhf/34120/Document/1483617/1483617.htm>.

¹⁷ On 22 January 2013, the Philippines instituted arbitral proceedings in the Permanent Court of Arbitration (PCA) against the People's Republic of China (China) under Annex VII of the United Nations Convention on the Law of the Sea (UNCLOS) with respect to the dispute with China over maritime jurisdiction in the South China Sea (the Philippines v. China). China did not participate or accept this arbitration. The Arbitral Tribunal's final Award was handed down on 12 July 2016. See *South China Sea (Philippines v China)* (Perm. Ct. Arb. 2015).

sets out China's understanding, policies and positions towards the South China Sea disputes.

Due to its remoteness, the Arctic would never be one of China's core interest areas. However, as with the South China Sea, China is facing questions from the coastal States of that region as to what her aspirations are in the Arctic. As China is interested in further collaboration with Arctic States, it is important that China allays some of the concerns of Arctic States. Recognising this importance, high-level Chinese diplomats have started to publicly address international audiences to outline China's role in the Arctic. In the 3rd Arctic Circle Assembly in Reykjavik, Iceland in 2015, Ming Zhang, China's Vice-Minister of Foreign Affairs, delivered a keynote speech entitled "China in the Arctic, Practices and Policies".¹⁸ At the 4th Assembly the following year, Feng Gao, China's Chief Negotiator for Climate Change, reiterated China's views on Arctic cooperation.¹⁹ Furthermore, Hong Xu, Head of the Department of Treaty and Law, Ministry of Foreign Affairs of the People's Republic of China (P.R. China), talked about China's view on Arctic economic development in the 6th International Meeting of Representatives of Arctic Council Member States, Observer States and Foreign Scientific Community, hosted by the Russian Federation between 29 August and 2 September 2016.²⁰ These speeches evidence an emerging Chinese Arctic policy.

This paper focuses on China's emerging Arctic policy. It first analyzes the formulation of China's Arctic policy. Why China needs an Arctic policy and which institutions have been involved in creating this policy are the two questions addressed in this part. The second part of the paper then examines recent speeches by high-level Chinese diplomats to shed some light on the content of China's Arctic policy. These speeches read in combination reveal an emerging Chinese position on Arctic affairs based on collaborative approaches and 'win-win' outcomes. Finally, the paper attempts to answer the question: What are the possible implications of China's Arctic policy for changing Arctic governance?²¹

¹⁸ Zhang Ming, Vice Foreign Minister, Keynote Address at the China Country Session of the Third Arctic Circle Assembly, 2015, http://www.fmprc.gov.cn/mfa_eng/wjbxw/t1306858.shtml.

¹⁹ Feng Gao, Chief Negotiator for Climate Change, Keynote Address at the China Country Session of the Fourth Arctic Circle Assembly, 2016, <http://www.arcticcircle.org/assemblies/2016/videos>.

²⁰ Hong Xu, Head of the Department of Legal Affairs, Ministry of Foreign Affairs of the People's Republic of China, Address at the Russian Federation: 6th International Meeting of Representatives of Arctic Council Member States, Sept. 2016, <http://m.weixindou.com/p/8WTQ26BNU0.html>.

²¹ The Commission on Global Governance in its publication *Our Global Neighbourhood* defines Governance as: "Governance is the sum of many ways individuals and institutions, public and private, manage their common affairs. It is a continuing process through which conflicting or diverse interests may be accommodated and co-operative action taken. It includes formal institutions and regimes empowered to enforce compliance, as well as informal arrangements that people and institutions either have agreed to or perceived to be in their interest". See also Cecile Pelaudeix, *What is "Arctic Governance"? A Critical Assessment of the Diverse Meanings of "Arctic Governance"*, 6 Y.B. POLAR L. 398–426 (2014).

2 The formulation of China's Arctic policy

2.1 Why China needs an Arctic policy?

The formulation of China's Arctic policy is an example of China's increasing engagement with the rest of the world. Before Deng Xiaoping adopted the open-door policy in 1978, China rarely appeared in any international fora and was silent on most global issues. At that time, China had a strong internal focus. She paid most attention to maintaining harmonious relations with neighbouring countries. For example, the Five Principles of Peaceful Co-existence²² was initiated by China in the India-China Agreement on Trade and Intercourse between the Tibet Region of China and India (The Panchsheel Agreement).²³

Although China has been a signatory of the Svalbard Treaty²⁴ since 1925, which grants Chinese nationals liberty of access to the Norwegian Archipelago of Spitsbergen,²⁵ China is no doubt a latecomer to the Arctic. The first Chinese Arctic expedition was conducted in 1999,²⁶ while the first and so far the only Chinese Arctic research station (Yellow River) was established Ny-Ålesund, on Svalbard in 2004.²⁷

China, however, has gradually become a major industrial power after nearly four decades' of economic growth. She is now the world's second largest economy.²⁸ She is the largest producer of marine capture fisheries,²⁹ the 3rd largest ship-owner³⁰ and the largest importer of crude oil³¹ in the world. China therefore has obvious interests in the resource-rich Arctic.

²² The Five Principles are: mutual respect for each other's sovereignty and territorial integrity; mutual non-aggression; non-interference in each other's internal affairs; equality and mutual benefit; and peaceful co-existence. See *China's Initiation of the Five Principles of Peaceful Co-Existence*, MINISTRY OF FOREIGN AFFAIRS OF PEOPLE'S REP. CHINA, http://www.fmprc.gov.cn/mfa_eng/ziliao_665539/3602_665543/3604_665547/t18053.shtml.

²³ Agreement Between the Republic of India and the People's Republic of China on Trade and Intercourse Between Tibet Region of China and India, <http://www.mea.gov.in/bilateral-documents.htm?dtl/7807/Agreement+on+Trade+and+Intercourse+with+Tibet+Region>.

²⁴ Treaty between Norway, The United States of America, Denmark, France, Italy, Japan, the Netherlands, Great Britain and Ireland and the British overseas Dominions and Sweden concerning Spitsbergen signed in Paris 9th February 1920.

²⁵ Article 3, the Svalbard Treaty: The nationals of all the High Contracting Parties shall have equal liberty of access and entry for any reason or object whatever to the waters, fjords and ports of the territories specified in Article 1.

²⁶ *China's Arctic Scientific Expedition*, CHINESE ARCTIC & ANTARCTIC ADMIN. 2016 http://www.chinare.gov.cn/caa/gb_article.php?modid=04003.

²⁷ *China's Arctic Yellow River Station*, CHINESE ARCTIC & ANTARCTIC ADMIN. 2016, http://www.chinare.gov.cn/caa/gb_article.php?modid=04000 (in Chinese).

²⁸ *China Overview*, THE WORLD BANK, Sept. 14, 2016, <http://www.Worldbank.org/en/country/china/overview#1> (in Chinese).

²⁹ *The State of the World Fisheries and Aquaculture 2016*, FAO 11, 2016, <http://www.fao.org/3/a-i5555e.pdf>.

³⁰ *Review of Maritime Transport 2016*, UNCTAD 37, 2016, http://unctad.org/en/PublicationsLibrary/rmt2016_en.pdf.

³¹ Kevin McSpadden, *China Has Become the World's Biggest Crude Oil Importer for the First Time*, TIME, May 11, 2015, <http://time.com/3853451/china-crude-oil-top-importer/>.

Nevertheless, it is worth emphasizing that the formulation of China's Arctic policy is mainly a response to external pressure rather than internal incentives. Since the establishment of the P.R. China in 1949, for decades the Chinese Communist Party (CCP) ruled this vast country mainly through "Policy" (*Zheng Ce*, in Chinese). Rule of law used to be a concept heavily criticized by the government. "Policy" in the Chinese domestic context could be unpredictable, short-termed, uncertain and obscure. Traditionally, the public is at the other end of receiving policies without any say about its formulation. Government officials, who do not have the pressure of elections, could easily change policies at will. The situations have improved since the adoption of the open-door policy in 1978 and civil society has developed significantly. For example, the public desire for information from the government led to the enactment of the Regulation on the Disclosure of Government Information in 2007 by the State Council.³² However, the influence of non-governmental organisations (NGOs) on China's policy making, especially when it comes to foreign affairs remains minimal. Nevertheless, as long as China is interested in the Arctic, the Chinese government will continue to face enquires from the outside world, particularly from Arctic States. There is therefore strong incentive for the Chinese government to articulate its Arctic policy.

2.2 Who created China's Arctic policy?

The Ministry of Foreign Affairs (MFA) is the most visible player in the creation of China's Arctic policy. As the Arctic, is an ocean and therefore the United Nations Convention on the Law of the Sea (UNCLOS)³³ applies, the Law of the Sea Unit of the MFA's Department of Treaty and Law is in charge of the issue. The MFA normally acts as a coordinator for Chinese delegations to many international negotiations, such as climate change and marine biodiversity beyond national jurisdiction (BBNJ). Moreover, the State Oceanic Administration (SOA) has established its Arctic and Antarctic Administration (CAA), which performs the function of organizing Chinese Arctic and Antarctic expeditions and administering related Arctic and Antarctic affairs. The CAA, especially its International Cooperation Unit, is responsible for (1) Drawing up the national strategies, policies and plans for Chinese Arctic and Antarctic expedition, and organizing the studies on major polar issues, (2) Formulating the laws, regulations, relevant standards and rules concerning polar expeditions and other polar activities, and administering relevant Arctic and Antarctic affairs in accordance with laws and regulations.

Apart from the MFA and the CAA, industries that are interested in the Arctic, particularly shipping, energy and fisheries sectors are also involved in the policy-making process. For example, China's largest shipping company, the State-owned China Ocean Shipping Company (COSCO), sent its cargo vessel "Yong Sheng", weighing 19,000 tons to the Arctic in the summer of 2013. Yong Sheng has become

³² Regulation on the Disclosure of Government Information (Adopted by the State Council on January 17, 2007; Effective May 1, 2008), a non-official English translation could be found on the website of the China Law Center, Yale Law School.

³³ United Nations Convention on the Law of the Sea (Montego Bay, 10 Dec. 1982, in force Nov. 6, 1994) (1982) 21(6) *ILM* 1261–1354.

the first Chinese commercial vessel to tackle the tough Northern Sea Route (NSR),³⁴ having set sail from the Chinese port of Dalian to Rotterdam.³⁵ Following Yong Sheng's NSR voyages,³⁶ the Ministry of Transport of P. R. China, through its Maritime Safety Administration (MSA), published two guidebooks for Chinese ships sailing in the Northeast Passage (NEP)³⁷ and the Northwest Passage (NWP).³⁸

With respect to energy, the China National Petroleum Company (CNPC) now holds a 20% share of the Yamal LNG project, together with Novatek—Russia's second-largest natural gas producer (50.1%), French oil giant Total (20%) and the Silk Road Fund³⁹ (9.9%). The Yamal LNG project is a large liquefied natural gas project located deep in the Russian Arctic, a region that is ice-bound for seven to nine months of the year and where the sun remains beneath the horizon for three months at a time.⁴⁰ Moreover, Novatek has secured a deal to supply CNPC with 3 million tons of liquefied natural gas annually for 20 years from their joint Yamal LNG project.⁴¹ It is noted that both the COSCO and the CNPC representatives are among Chinese delegates to present in the Arctic Circle China Country Session.

When it comes to fisheries, China, the EU, Japan, Iceland and Republic of Korea, were invited by Five Arctic coastal States (United States, Russia, Canada, Norway and Denmark on behalf of Greenland and Faroe Islands) to help develop a regional fisheries organisation or arrangement for the high seas portions of the central Arctic

³⁴ The NSR is defined in Russian Federation law as a set of marine routes from Kara Gate (south of Novaya Zemlya) in the west to the Bering Strait in the east. Several of the routes are along the coast, making use of the main straits through the islands of the Russian Arctic; other potential routes run north of the island groups. *Arctic Marine Shipping Assessment Report*, ARCTIC COUNCIL PROTECTION OF ARCTIC MARINE ENVIRONMENT WORKING GROUP, 2009, <https://oaarchive.arctic-council.org/handle/11374/54>.

³⁵ Atle Staalesen, *First Container Ship on Northern Sea Route*, BARENTSOBSERVER, Aug. 21, 2013, <http://barentsobserver.com/en/arctic/2013/08/first-container-ship-northern-sea-route-21-08>.

³⁶ Yong Sheng conducted another two voyages along the NSR in the summer of 2015 and 2016. Atle Staalesen, *Chinese Giant Mulls More Northern Sea Route Shipping*, BARENTSOBSERVER, Aug. 18, 2015, <http://barentsobserver.com/en/arctic/2015/08/chinese-giant-mulls-more-northern-sea-route-shiping-18-08>; *Spotted: Yong Sheng Starts 3rd Arctic Run*, WORLD MARITIME NEWS, <http://worldmaritimeneews.com/archives/197540/spotted-yong-sheng-starts-3rd-arctic-run/>. In the summer of 2016, there were in total 6 Chinese vessels sailed across the NEP. See Xu, *supra* note 20.

³⁷ The NEP is defined as the set of sea routes from northwest Europe around North Cape (Norway) and along the north coast of Eurasia and Siberia through the Bering Strait to the Pacific. *Arctic Marine Shipping Assessment Report*, ARCTIC COUNCIL PROTECTION OF ARCTIC MARINE ENVIRONMENT WORKING GROUP, 2009, <https://oaarchive.arctic-council.org/handle/11374/54>.

³⁸ The NWP is the name given to the various marine routes between the Atlantic and Pacific oceans along the northern coast of North America that span the Canadian Arctic Archipelago. *Arctic Marine Shipping Assessment Report*, ARCTIC COUNCIL PROTECTION OF ARCTIC MARINE ENVIRONMENT WORKING GROUP, 2009, <https://oaarchive.arctic-council.org/handle/11374/54>.

³⁹ This is also a Chinese initiative. President Xi Jinping, while attending the Dialogue on Strengthening Connectivity Partnership, announced that China will contribute US\$40 billion to establish the Fund. The Fund was established in Beijing on December 29, 2014, with investment from the State Administration of Foreign Exchange, China Investment Corporation, Export–Import Bank of China and China.

⁴⁰ *Yamal LNG: The Gas that Came in from the Cold*, TOTAL.COM, Sep. 5, 2016, <http://www.total.com/en/energy-expertise/projects/oil-gas/lng/yamal-lng-cold-environment-gas>.

⁴¹ *Novatek and China's CNPC Sign LNG Supply Deal*, THE MOSCOW T., May 20, 2014, <https://themoscowtimes.com/articles/novatek-and-chinas-cnpc-sign-lng-supply-deal-35585>.

Ocean. From 2015, the Fisheries Administration⁴² of the Ministry of Agriculture of P. R. China has sent fisheries scientists (and social scientists, mainly from Shanghai Ocean University) to participate in negotiations. Known as the Arctic 5 + 5, the group held its first meeting on Arctic fisheries in Washington between December 1 and 3 2015. A series of follow-up meetings have been held since in various places, including Washington (again) (19–21 April, 2016), Iqaluit in Canada (July 2016 6–8), Torshavn, in the Faroe Islands (November 29–December 1 2016) and Reykjavik, Iceland between 15 and 18 March 2017.

Last but not least, the Chinese academic community has also contributed to the formulation of China's Arctic policy. It is, however, difficult to tell to what extent Chinese academics actually influence the policy-making process. Undoubtedly, there are various leading institutes conducting high quality Arctic research in China. For example, when it comes to Arctic governance issues, the Polar Research Institute China (PRIC); Wuhan University's China Institute of Boundary and Ocean Study (CIBOS); the Shanghai Institute for International Studies (SIIS) and Institute of Polar Law and Politics, Ocean University of China are highly regarded centers that maintain close contacts with the MFA and the CAA. Furthermore, as mentioned above, scientists from Shanghai Ocean University are directly involved in Arctic fisheries negotiations. This is a positive example of science and policy integration. Nevertheless, China lacks formal consultation processes such as that conducted by the EU in the development of the EU's Arctic policy. When drafting the EU's 2016 Arctic policy, the European Commission invited leading academics, industry representatives and NGOs to discuss what the EU's Arctic policy should be in a series of high-level meetings.⁴³ It is fair to say that despite some interaction between academia and government bodies in China regarding Arctic policy, academia still has limited influence and the process is fragmented.

3 What Does China's Emerging Arctic Policy Look Like?⁴⁴

China now clearly identifies herself as a "near-Arctic State" and a major stakeholder of the Arctic. The Chinese Government believes that the changing environment and resources of the Arctic have a direct impact on China's climate, environment, agriculture, shipping, trade as well as social and economic development. At the same time, China has the political will to contribute to shape Arctic governance. There are three pillars of China's Arctic policy, which will be discussed further below.

⁴² The Fisheries Administration has a Unit on distant water fishing, which is in charge of Chinese fisheries in the Polar Regions.

⁴³ The author was invited by the European Commission and European External Action Service and participated in one high-level consultation meeting in Brussels, Belgium on 1-2 June 2015.

⁴⁴ The analysis of this part is based on speeches delivered by Ming, *supra* note 18, Gao *supra* note 19 and Xu *supra* note 20.

3.1 Mutual respect

China respects the rights of the Arctic States and indigenous people under international law. China recognises that the Charter of the United Nations, UNCLOS and the Svalbard Treaty provide a framework for Arctic governance and has no intention to challenge the existing framework. Rather, China would prefer to be involved in the development of international law in the Arctic. This is evidenced by China's accession to the Arctic Council as an observer.⁴⁵ The criteria set by the Arctic Council to determine observer status include the recognition of Arctic States' sovereignty, sovereign rights and jurisdiction in the Arctic; and the recognition that an extensive legal framework applies to the Arctic Ocean including, notably, the law of the sea. Observers must recognize that this framework provides a solid foundation for responsible management of the ocean.⁴⁶ China's observer status suggests that China has decided to embrace rather than fundamentally challenge the current regime in the Arctic. This is reaffirmed in Vice-Minister of Foreign Affairs, Ming Zhang's speech which states that:

“The territorial sovereignty over the Arctic continent and islands belong to the Arctic States. They enjoy territorial seas, exclusive economic zones and continental shelves in the Arctic. The indigenous people account for one fifth of the Arctic population and have unique cultural traditions and lifestyles. Countries have the obligation to respect and uphold the sovereignty, sovereign rights and jurisdiction of the Arctic countries, respect the traditions and culture of the Arctic indigenous people, and protect the natural environment and resources they live on.”⁴⁷

On the other hand, China has legitimate rights in the Arctic under current international law. For example, China enjoys freedoms of high seas in high seas portions of marine Arctic,⁴⁸ such as the freedoms of navigation, overflight, research and fishing. These are limited only by the general rules of international law (e.g., concerning the threat or use of force), treaties to which flag states are parties, and the obligation of due regard for the interests of other users of the high seas.⁴⁹ China would seek recognition of its rights in the Arctic from the Arctic States as well.

⁴⁵ Kiruna Declaration on the Occasion of the Eighth Ministerial Meeting of the Arctic Council, Kiruna, Sweden, May 15, 2013.

⁴⁶ Observers, ARCTIC COUNCIL, May 7, 2015, <http://www.arctic-council.org/index.php/en/about-us/arctic-council/observers>.

⁴⁷ Zhang *supra* note 18.

⁴⁸ There are four high seas pockets in the marine Arctic, namely the “Banana Hole” in the Norwegian Sea, the “Loophole” in the Barents Sea, the “Donut Hole” in the central Bering Sea and the “Central Arctic Ocean” around the North Pole.

⁴⁹ Olya Gayazova, *China's Rights in the Marine Arctic*, 28 (1) INT'L J. MARINE & COASTAL L. 64 (2013).

3.2 Cooperation

China is interested in various areas in the Arctic, such as science, shipping, environmental protection and development of resources.⁵⁰ Feng Gao specifically stated three points which summarise China's view on Arctic cooperation at the 2016 Arctic Circle Assembly in Iceland as follows⁵¹: Arctic Cooperation must be:

- “1) Inclusive; This means Arctic issues should not be regional, but trans-regional or even global. Arctic, non-Arctic States and relevant stakeholders should work together to respond to Arctic challenges, maintaining peace and stability, good ecological status and taking care of indigenous people. Moreover, countries should benefit together from Arctic development.
- 2) Comprehensive; China recognizes that all aspects of Arctic issues are interconnected and should not be dealt with separately. Arctic collaboration should expand from scientific to all levels of Arctic issues: environment, climate change, sustainable development and people to people exchange.
- 3) Diversified; This refers to improve Arctic cooperation at multi-levels (global, regional and bilateral) and among different participants (countries, entities and other relevant stakeholders) through conventional and unconventional modalities. It is also emphasized that a better institutional system could be put in place for sustainable development in the Arctic through diversified cooperation.”

3.3 Win–win

China now has the funding, technology and market, which could be of interest to Arctic States. For example, China hosted the 5th World Reindeer Herders Congress in Beijing in 2013. This is a good example of linking the reindeer industry in the Arctic to the potentially vast market in China. China is also a potential user of the NSR. Because economic activities in the Arctic are accompanied by high environmental risks, as stated by Hong Xu,⁵² a win–win collaboration between China and Arctic States should be based upon several factors: 1) political trust between Arctic and non-Arctic States⁵³; 2) mutual respect of Arctic and non-Arctic States' legitimate rights under international law; 3) a well defined environmental standards that balance economic, social, environmental and humanities impacts of the Arctic development. Moreover, China has noticed the establishment of the Arctic Economic Council (AEC),⁵⁴ which may play a leading role in facilitating

⁵⁰ Ming *supra* note 18.

⁵¹ Xu *supra* note 20.

⁵² Xu *supra* note 20.

⁵³ In the author's opinion, this is somehow missing from the Arctic side regarding China's involvement in Arctic affairs.

⁵⁴ Iqaluit, *The Arctic Economic Council Gets Down to Work*, ARCTIC ECONOMIC COUNCIL, Sept. 3, 2014, http://arcticeconomiccouncil.com/wp-content/uploads/2014/12/nap-aec_news-release_sep2014.pdf.

Arctic business cooperation. China would expect the AEC to operate in an open and transparent way.⁵⁵

4 Possible implications for Arctic governance

Now that China has a clear Arctic policy, what are the implications for current and future Arctic governance? While recognizing the existing Arctic governance regime, China wants to be part of Arctic dialogue and to shape the Arctic governance for its benefit. This is not that different from other non-Arctic States, such as the European Union.⁵⁶ It is fair to say China is going to be a collaborative⁵⁷ rather than challenging partner in the foreseeable future. Two cases below of Chinese practice in the Arctic provide support of this view.

4.1 Development of the polar code

At the 68th session of the Marine Environment Protection Committee (MEPC) of the International Maritime Organization (IMO) from 11 to 15 May 2015, the environmental provisions of the International Code for Ships Operating in Polar Waters (Polar Code) were adopted.⁵⁸ This, in combination with the safety-related requirements adopted by the 94th session of the Maritime Safety Committee (MSC) in November 2014,⁵⁹ completed the creation of the Polar Code.⁶⁰ The goal of the Polar Code is to provide for safe ship operation and the protection of the polar environment by addressing risks present in polar waters, which are not adequately mitigated by other instruments of the IMO.⁶¹ The Code is designed to supplement rather than replace existing IMO instruments. Albeit an initial step to deal with vessel-source pollution in the Arctic by the international community,⁶² the Polar Code is no doubt the most important regulation for shipping in the Arctic.

⁵⁵ Xu *supra* note 20.

⁵⁶ The EU has reiterated climate change and sustainable development in its 2016 Arctic policy, which justify the EU's involvement in the Arctic.

⁵⁷ Collaborative doesn't necessarily mean silent though. According to China's 13th Five Year Plan (2016–2020), China is keen to actively participate in global governance issues, particularly in shaping global rules of cyber security, deep seabed, polar regions and outer space.

⁵⁸ International Maritime Organization [IMO], Res. MEPC. 264 (68) (May 15, 2015).

⁵⁹ IMO, Res. MSC.385(94) (Nov. 21, 2014).

⁶⁰ For a general introduction of the Polar Code, see Nengye Liu, *Can the Polar Code Save the Arctic?* 20 (7) AMERICAN SOC'Y. INT'L. L. INSIGHTS (2016).

⁶¹ Introduction, International Code For Ships Operating In Polar Waters, adopted May 15, 2015, <http://www.imo.org/en/MediaCentre/HotTopics/polar/Documents/POLAR%20CODE%20TEXT%20AS%20ADOPTED.pdf>.

⁶² The Polar Code constitutes technical amendments to Annexes I, II, IV, and V of MARPOL and a new Chapter XIV of SOLAS with a specific focus on the Polar Regions. The introduction to the Polar Code contains mandatory provisions applicable to both Part I (maritime safety measures) and Part II (pollution prevention measures). Parts I and II are each subdivided into subparts A (mandatory provisions) and B (recommendations). The Polar Code has left several issues of vessel-source pollution, such as ban of heavy-fuel grade oil, prevention of invasive species from ballast waters in its recommendatory part.

China has been involved in formulating the Polar Code within the IMO. However, China's role was quite limited. China is a shipping power in terms of vessel numbers and dead-weight tonnages. Despite this, so far China is not a powerful member within the decision-making process within the IMO.⁶³ China generally has a conservative reaction to the development of international law instead of taking initiatives. When it comes to the practice of Chinese shipping in the Arctic, *Yong Sheng* applied for the approval (and was granted) by the Northern Sea Route Administration of the Russian Federation before all her NSR voyages.⁶⁴ In the author's opinion, if the NSR is recognized as Russian internal waters, it will be a significant challenge for Chinese vessels to face unilateral construction, design, equipment and manning (CDEM) standards of coastal States (particularly Russia and Canada) when Arctic shipping becomes commercially viable in the future.⁶⁵ Nevertheless, China simply decides to be collaborative with all existing rules and not challenge the legal status of the NSR.⁶⁶

4.2 Central Arctic Ocean fisheries negotiation

It is now widely recognized that fish stocks in the Arctic Ocean may occur both within areas under current fisheries' jurisdiction of the coastal states, and in the high seas portion of the central Arctic Ocean.⁶⁷ The Arctic Five believe they have a stewardship role in the conservation and management of Arctic marine living resources.⁶⁸ At the same time, freedom of fishing in the high seas is enshrined in the UNCLOS. To achieve sustainable management of fisheries in the high seas portion of the central Arctic Ocean, non-Arctic States, especially high sea fishing States, such as China and the European Union, must also be involved in any regulatory efforts.

On July 16 2015, the Arctic Five adopted the Declaration Concerning the Prevention of Unregulated High Sea Fishing in the Central Arctic Ocean (Oslo Declaration).⁶⁹ It acknowledged the interest of other states in preventing

⁶³ Nengye Liu & Kamrul Hossain, *China and the Development of International Law on Arctic Shipping: Challenges and Opportunities*, in ARCTIC LAW AND GOVERNANCE: THE ROLE OF CHINA AND FINLAND 247 (Timo Koivurova, et al. eds., 2017).

⁶⁴ *Transit in 2015*, NORTHERN SEA ROUTE INFORMATION OFFICE, 2015, http://www.arctic-lia.com/docs/nsr/transits/Transits_in_2015.pdf.

⁶⁵ Nengye Liu, *China's Role in the Changing Governance of Arctic Shipping*, 6 Y.B. POLAR L. 556 (2014).

⁶⁶ For debates on whether NWP, NSP/NSR are internal waters or strait for international passage under the UNCLOS, see for example, Suzanne Lalonde & Frédéric Lasserre, *The Position of the United States on the Northwest Passage: Is the Fear of Creating a Precedent Warranted?*, 44 (1) OCEAN DEV. & INT'L. L. 28–72 (2013); *Part III Arctic Shipping and Navigation*, in INTERNATIONAL LAW AND POLITICS OF THE ARCTIC OCEAN ESSAYS IN HONOR OF DONAT PHARAND (Suzanne Lalonde, Ted McDorman eds., 2015).

⁶⁷ Declaration Concerning the Prevention of Unregulated High Sea Fishing in the Central Arctic Ocean (Oslo Declaration), Jul. 16, 2015, <https://www.regjeringen.no/globalassets/departementene/ud/vedlegg/folkerett/declaration-on-arctic-fisheries-16-july-2015.pdf>.

⁶⁸ The Ilulissat Declaration, May 28, 2008, http://www.oceanlaw.org/downloads/arctic/Ilulissat_Declaration.pdf.

⁶⁹ Oslo Declaration, *supra* note 67.

unregulated high seas fisheries in the central Arctic Ocean and starts a so-called “broader process” of developing fisheries management measures for the central Arctic Ocean with non-Arctic States. As a result, China, the EU, Iceland, Japan and the Republic of Korea – the five leading non-Arctic fishing States – were invited to help develop a regional fisheries organisation or arrangement for the central Arctic Ocean. Known as the Arctic 5 + 5, the group held its first meeting on fisheries in Washington in December 2015.⁷⁰ A series of follow-up meetings has been held since in Washington (again),⁷¹ Iqaluit in Canada⁷² and Torshavn, in the Faroe Islands.⁷³ During the meeting in the Faroe Islands, all delegations reaffirmed their commitment to prevent unregulated commercial high seas fishing in the central Arctic Ocean. They also committed to promoting the conservation and sustainable use of living marine resources, and to safeguard healthy marine ecosystems in the area. A formal agreement has however yet to be reached.

Although China has global fishing interest from West Africa to Antarctica,⁷⁴ it has been very quiet in the central Arctic Ocean fisheries negotiations so far. While people are talking about China’s “Arctic ambition”, the fact remains that China’s capacity to participate in Arctic affairs is still weak. It has just one Arctic research station (Yellow River), compared to four research stations in Antarctica (a fifth is on the way).⁷⁵ Chinese scientists entered into Russian Exclusive Economic Zone of the Arctic Ocean for the first time in August 2016, while conducting their first joint research with Russian colleagues. China may simply not be confident enough to provide proposals based on its own scientific data in the fisheries negotiation. Moreover, China’s participation in the central Arctic Ocean fisheries negotiations seem to be more symbolic in an attempt to not be left behind. At this point, it seems that China is generally satisfied with being invited to attend the meetings.

⁷⁰ Chairman’s Statement, Meeting on High Seas Fisheries in the Central Arctic Ocean, <http://www.state.gov/e/oes/rls/pr/250352.htm>.

⁷¹ Chairman’s Statement, Meeting on High Seas Fisheries in the Central Arctic Ocean, Washington, Apr. 19–21, 2016, https://www.afsc.noaa.gov/Arctic_fish_stocks_fourth_meeting/pdfs/Chairman’s_Statement_from_Washington_Meeting_April_2016-2.pdf.

⁷² Chairman’s Statement, Meeting on High Seas Fisheries in the Central Arctic Ocean, Iqaluit, Nunavut, Canada, Jul. 6–8, 2016, http://naalakkersuisut.gl/%7E/media/Nanoq/Files/Attached%20Files/Fiskeri_Fangst_Landbrug/Eng/Chairmans%20Statement%20from%20Iqaluit%20Arctic%20HS%20Meeting%20July%202016.pdf.

⁷³ Chairman’s Statement, Meeting on High Seas Fisheries in the Central Arctic Ocean, Tórshavn, The Faroe Islands, Nov. 29–Dec. 1, 2016, <http://arcticjournal.com/press-releases/2733/meeting-high-seas-fisheries-central-arctic-ocean.pdf>.

⁷⁴ Christopher Pala, *Detective Work Uncovers Under-Reported Overfishing*, 496 NATURE 18 (2013).

⁷⁵ *China to Build Fifth Antarctic Station*, PEOPLE’S DAILY, Jan. 12, 2015, <http://en.people.cn/n/2015/0112/c98649-8834787.html>.

5 Conclusion

By and large, the western media and academia largely examine China's moves in the Arctic through a lens of security.⁷⁶ While, this is an essential aspect of China's involvement in the Arctic it tends to be overemphasized. Moreover, it would be misleading to compare China's behavior in the Arctic and the South China Sea. China has territorial claims in the South China Sea, which is very different from China's interests in the Arctic. As demonstrated above, China has reiterated that it will respect existing governance regime in the Arctic as well as all sovereignty, sovereign rights and jurisdiction of Arctic States, underpinned by the UNCLOS. In order to understand the question "What does China want from the Arctic?", China's emerging Arctic policy, as stated by high-level Chinese diplomats in recent years, ought to be studied carefully. China's Arctic policy is not fundamentally different from other non-Arctic States: to get involved and shape the Arctic governance for its benefits. In the foreseeable future, China is likely to continue to be a collaborative partner, with strong interests and growing capacity in the fast-changing Arctic region.

Acknowledgements The author would like to thank Dr. Michelle Lim for her comments.

⁷⁶ Nash Jenkins, *China Could Be Preparing to Challenge Canada's Sovereignty Over the Northwest Passage*, TIME, Apr. 21, 2016, <http://time.com/4302882/china-arctic-shipping-northwest-passage/>.