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A Case Study of the Beaufort Sea Dispute Between Canada and the United States
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Introduction

Under a geopolitical lens, the Arctic Ocean has historically been treated as a lesser and unimportant route of world shipping in comparison to historically important routes, such as the Panama Canal, the Suez Canal, or the Strait of Malacca. Until the past two decades, it had only been the playground of a few Soviet/Russian ships, and Western countries were keener on emphasizing the climatic and geographical aspects as opposed to concerning themselves about the geopolitical aspects (Østreng, 2010, par. 20). As the Arctic Ocean becomes warmer and warmer due to the overall downward trend of increasing temperatures, ice caps in the region subsequently melt and become thinner. By consequence, geopolitical actors' (especially nation-states) interests in arctic territory have seen a considerable increase in popularity, especially with the discovery of petroleum in the region. With this shift in geographic interest comes a shift in future geopolitics marked by states disputing claims in the region and thus competing for territorial sovereignty in a world that is seemingly anticipating the fall of deglobalization and the rise of national sovereignty (Dodds, 2019, p. 47). Though, this does not mean that competing for sovereignty must intrinsically come with hostility: patient dialogue is needed not only to build trust between parties in international relations, but to also find creative discussions that are essential to finding fair solutions (Lavrov & Støre, 2010, par. 9).

The Beaufort Sea dispute between Canada and the United State is one such example of the expression of national sovereignty two geopolitical actors, but who would ultimately benefit greatly from cooperation and creative solutions. This paper addresses the historical context of the dispute and its chronology, the impacts on the main geopolitical actors, and the future possible scenarios in which said creative solutions would be explored.

History and chronology of events

In order to understand such a dispute, it is imperative to assess the colonial history of Canada and the United States and the contexts behind their subsequent acquisitions of land. The disagreement between claims dates back to the 19th century, with the ambiguously worded Anglo-Russian treaty of 1825. This treaty served to define boundaries between Russian America and the British possessions in the area. After the Alaska Purchase of 1867, the United States acquired what was previously Russian America and referenced the previous 1825 treaty to mark its maritime

boundaries based on equidistance (Lewis-Koskinen, 2010, par. 7). The British lands were eventually inherited by Canada in 1880, and they became what is today known as Yukon. Canada defines the boundary as an extension of the Yukon-Alaska land border, which is itself defined by the 141st West meridian (**Figure 1**). These two nations' different interpretation of a treaty is therefore the cause of the Beaufort Sea dispute.

In 1976, Canada claimed its 200-mile exclusive economic zone (EEZ) and started issuing oil and gas concessions in the area (Sharp, 2016, par. 3). In 1977, after both Canada and the United States delineated exclusive fishing zones with different lines, the dispute became legitimate (Griffiths, 2010, par. 10). When the extended continental shelf, also known as the portion of the continental shelf that stretches beyond 200 nautical miles from the shore, is taken into account, the current-day claims actually seem to benefit the other party (**Figure 2**); the extended U.S. line would grant Canada a larger wedge-shaped territory by sacrificing the current smaller one, and the extended Canadian line would ultimately grant the U.S. more territory (Baker & Byers, 2012, p. 72). After five decades, though the issue is still unresolved, cooperation between Canada and the United States is still strong; in 2016, Prime Minister Justin Trudeau and U.S. President Barack Obama agreed on a ban on offshore oil and gas activity in the Arctic, with Obama permanently banning it and Trudeau temporarily banning it in increments of five years ("Trudeau Announces", 2016, par. 1-3). In sum, either country's stance on its Arctic policy will largely depend on their respective leaderships' interest in climate change and oil extraction.

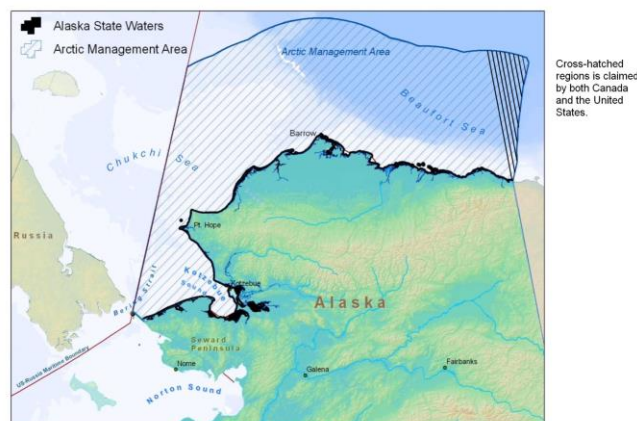


Figure 1: The United States' claims in Beaufort Sea, including the dispute with Canada.

Retrieved from

https://commons.wikimedia.org/wiki/File:Arctic_management_area_and_disputed_waters.jpg



Figure 2: Canada and the United States' claims and their extensions beyond 200 nautical miles.

Retrieved from (Baker & Byers, 2012, p. 73)

Impact on main geopolitical agents and their actions

Canadian federal government

Past

Ever since the late 19th century, much like the Soviets or the British, many Canadian politicians subscribed to 'sector theory' when regarding boundary claims in the Arctic Ocean: it effectively meant that any line traced, and subsequently, any land claimed was able to extend north directly all the way to the North Pole (Cavell, 2018, p. 2). However, Canada's relationship with this theory was perpetually ambiguous until 2006 when then-Prime Minister Stephen Harper abandoned it with regards to the Arctic (Baker & Byers, 2012, p. 75). This falls into line with Canada's previously-mentioned interpretation of the 1825 treaty, which claimed that the divided territorial possessions were also to extend into the sea. Canada's 2003 ratification of the United Nations Convention on the Law of the Sea (UNCLOS) and its subsequent 2013 partial submission of

scientific data to the Commission on the Limits of the Continental Shelf (CLCS) will definitely be used as the foundation for further negotiations with the United States (United Nations, 2014, par. 1-3). In fact, Canada submitted another partial submission to the CLCS in 2019 to which the United States did not object (Government of Canada, 2019, p. 11). It was since 2008 that, in conjunction with American icebreakers, Canada had been mapping the seabed beyond 200 nautical miles (**Figure 3**) of the shore in order to submit its scientific data to CLCS (Baker & Byers, 2012, p. 72). Furthermore, Canada's findings of 178 million cubic meters of natural gas and 667.4 million barrels of oil in the Beaufort Sea ("Energy Briefing Note", 2014, p. 5) is definitely a factor that motivates its interest in the region, especially with an eventual ice-free summer around 2030 and an increasing necessity for oil and gas among Canadians.



Figure 3: CCGS Louis S. St-Laurent & USGS Healy icebreakers on a scientific mission in the Arctic.

Retrieved from

<https://www.thearcticinstitute.org/an-old-problem-a-new-opportunity-a-case-for-solving-the-beaufort-sea-boundary-dispute/>

Present

Trudeau's ban on drilling for oil in the Arctic was supposed to be reviewed in 2021, and now, in early 2022, the results are still yet to be published: in the five years between 2016 and 2021, the political landscape changed in a very unpredictable and substantial way: Obama finished his second term, Trump served one term, Biden was recently elected to office, the COVID-19 pandemic greatly altered international relations, and the war in Ukraine caused more international

pressure on worldwide oil prices and the geopolitics of the Arctic (Dubois, 2022, par. 1; Friedman, 2022, par. 14). Currently, Prime Minister Trudeau's views towards sovereignty in the Arctic are much different from those of his predecessor, Stephen Harper; Trudeau is much more in favor of transparency and cooperation rather than Harper's more firm policies regarding sovereignty and national identity (Coppes & Herrmann, 2015, par. 2-21). Therefore, Canada's current standing on the dispute is one of pacifism and of encouraging cooperation.

Future

Because Justin Trudeau has been the Prime Minister since 2015 and he is not expected to leave office until at least the mid-2020's, and the House of Commons' seat distribution is held in majority by progressive parties (Liberal & NDP), Canadian Arctic policy will not change much in the coming decade. Now, with the COVID-19 pandemic and the conflict in Ukraine, the world seems to be returning to a Cold war-era geopolitical environment in which the international relations concerning the Arctic are bound to be affected. For example, Canada and the United States, along five other states, have chosen to boycott the Arctic Council as a protest against Russia's invasion of Ukraine (Friedman, 2022, par. 14). Thus, there will inherently be a much larger pressure for them to come to a resolution at a much quicker pace to combat the unstable and uncertain future of geopolitics in the Arctic. For example, let us speculate that in 2032 – ten years from now – there will be much more tension in the region concerning internationally recognized sovereignty: Canada and the United States would greatly benefit from resolving the dispute in the next decade. Furthermore, it goes without saying that Canada will seek to resolve the dispute through a bilateral agreement with the United States. Now that relations between the two states are slightly improving due to a newly-elected Democratic president, Canada has every reason to actively engage in negotiations to secure its national interests in a way that does not threaten Canada-U.S. relations (Greaves, 2022, par. 20).

United States federal government

Past

Regarding the American interpretation of the historical treaties, they have based themselves on Article 31 of the 1969 Vienna Convention on the Law of Treaties in order to find consistence with their view of equidistance: they argue that the 1825 Anglo-Russian treaty only expressed maritime

boundaries were to be delimited only a short distance offshore, as the region was not properly explored (Baker & Byers, 2012, p. 76). The 2009 ban on commercial fishing in the area (largely due to climate change's eventual role in making the area more accessible) was seen as the "first step in negotiating a similar, multinational moratorium on fishing in international waters of the Arctic" ("U.S. Bans", 2009, par. 3). The outcomes of the plans for oil and gas exploration were not too different, with the federal government reviewing plans to open areas to offshore exploitation and failing to find approval from federal courts ("U.S. Bans", 2009, par. 1-10). In late 2016, President Obama and Prime Minister Trudeau issued a Joint Arctic Statement, which created a framework defined by four objectives: a science-based approach towards oil and gas exploration, the support of Arctic communities, low impact shipping corridors with a closer joint control of Arctic shipping, and science-based management of Arctic fisheries (Huebert, 2017, p. 17). However, it is important to mention that with the inauguration of President Trump in early 2017, U.S. arctic policy is prone to shift. Trump ordered the interior secretary to review former President Obama's ban on oil and gas exploration in the Arctic Ocean, but to no avail ("U.S. Approves", 2017, par. 4). In 2017, the U.S. Bureau of Ocean Energy Management issued a proposal for new exploration leases off the coast of Alaska, including Beaufort Sea (Sharp, 2016, par. 1). Subsequently, an Italian multinational oil and gas company received permission to drill four exploration wells in federal waters off Alaska ("U.S. Approves", 2017, par. 1-3). During his leadership, President Trump was known for undermining the shared identity and mutual trust shared between Canada and the United States. By having characterized Canada's valid claims in the Northwest Passage as "illegitimate", he definitely exacerbated pre-existing tensions stemming from overly protectionist policies (Greaves, 2020, p. 6).

Present

President Trump's stances on Arctic policies, were unsurprisingly disregarding of the environment and typical for a Republican president. In August 2020, the Trump administration had finalized a drilling plan which allowed the auctioning of oil and gas found in the Arctic Ocean (Alaska), effectively encouraging the long-term production and consumption of fossil fuel (Eilperin, 2020, par. 1). However, this decision was overturned by President Biden on his first day of office (January 20, 2021) when he announced a temporary moratorium on oil and gas leasing in the Arctic National Wildlife Refuge, which includes the Beaufort Sea (Betzios, 2021, p. 241). Biden was not

an avid defender of protecting the environment, though. Later that year in September, his administration was sued for issuing a regulation that allowed fossil fuel companies to explore, construct, extract, and transport oil in and from the Beaufort Sea region (“Lawsuit Calls”, 2021, par. 1-3). Therefore, the current-day U.S. stance is motivated by fossil fuel exploration, and it is quite different from Canada’s position, since the U.S. serves as an example towards the wider world, but also has no problem reinforcing a more potent notion of national sovereignty (Dodds, 2019, p. 105).

Future

Clearly, much like the Canadians, the Americans are much into cooperation and discussion. With the recent end of President Trump’s destabilizing term in early 2021 and with President Biden’s slight improvement towards Canada-U.S. relations, it is likely that the U.S. will not repeat its isolationist policies that characterized Trump’s presidency. During his eight-year term, President Obama was able to bring a collaborative aspect to geopolitics in the Arctic, all while highlighting its importance (Plouffe, 2017, par. 2). Ever since Trump left office and soured U.S.-Canada relations with his trademark sentiments of “America First” (Greaves, 2020, p. 15) and Biden was sworn in, the future of American policies with regards to the dispute with Canada in the Beaufort Sea area seems to be headed on a more optimistic track, with Biden’s presidency hopefully neutralizing the lingering negative effects of the Trump administration’s protectionist policies in the Arctic and restoring the previously strong relations with Canada (Greaves, 2022, par. 20). Thus, the U.S. will have to find an approach similar to Canada’s, should it want to reinstate the Obama-era progressive policies more in tune with the Canadian Liberal Party’s views.

Indigenous groups

The Canadian government and the representatives of the Inuvialuit people signed the *Inuvialuit Final Agreement* (IFA) in 1984. This agreement involved the Inuvialuit agreeing to give up their exclusive rights to use their ancestral lands in exchange of receiving certain rights, with the most important of these being full Inuvialuit involvement in boundary formation and financial compensation (“Inuvialuit Final Agreement”, 2021, par. 1-3). Thus, in the midst of this dispute and its international implications, the Canadian government is bound by its duty to respect indigenous rights at the federal level (Baker & Byers, 2012, p. 79). Once a disenfranchised group,

the Inuvialuit now have political standing and are able to negotiate with a representative of Canada to make their voices be heard (Huebert, 2017, p. 9), especially with their 35,000 square miles of territory (Huebert, 2017, p. 10). However, because indigenous groups internally have many differing opinions, differences of opinions within these communities would not be uncommon. Indigenous groups fall on both sides of the development divide, as increased hydrocarbon activity may bring employment and economic opportunities, yet also has the potential to threaten traditional and subsistence ways of life (Baker, 2009, p. 44). Nonetheless, treaties such as the IFA assure that communities in the area are not to be neglected by the Canadians. For the United States, it is less clear because of constantly changing leaderships; like it was previously stated, Trump had the power to abandon the framework set by Obama. Because of the uncertainty of future American (possibly Republican) leadership, we are forced to speculate. In 2018, the Government of Canada announced that in the future, it would negotiate an oil and gas co-management and revenue-sharing agreement with the governments of the Northwest Territories, Yukon, and especially the Inuvialuit Regional Corporation (Intragovernmental Affairs, 2018, par. 6). Duane Smith, chair of the Inuvialuit Regional Corporation, stated how the IRC was working closely with the federal government by providing information for the Beaufort Regional Strategic Environmental Assessment, and was looking forward to working with the government after the lifting of the five-year moratorium in 2021 (Anselmi, 2019, par. 12-15).

Future developments and possible scenarios

Canada and the U.S. agree on a Joint Development Arrangement

Considering their historical alliance, it is most likely that Canada and the United States will resort to finding a middle ground. While they are close allies, neither would simply cede a territorial claim to the other if it signified the relinquishment of an opportunity. Thus, the probability of both countries setting up a joint development zone is quite high, especially with recent changes that have led to the resumption of negotiations; one of these changes are the rising oil prices and the inevitably rising natural gas prices. As Baker & Byers (2012, p. 74) argue, “as readily accessible sources of oil and gas are exhausted, petroleum companies are increasingly turning to more difficult-to-exploit reserves: [...] increasingly the Arctic offshore.” Currently, in 2022, within the context of an ongoing global pandemic, depleted American inventories, and an important geopolitical conflict between Ukraine and Russia (the world’s second-largest exporter of oil),

gasoline prices are relatively high for the average Canadian citizen (Dubois, 2022, par. 1-17). While it is certain that this is a unique historical context, it is also important to note that the energy-dependent geopolitical decisions of the next decade, leading up to the 2030's, will be highly unpredictable (Dubois, 2022, par. 20-21). With this, in the highly probable event of both countries perpetually disagreeing on the final boundary, both parties could reach the agreement of Canada managing part of the disputed area while paying the United States a part of the profits from oil exploitation (Bakers & Byers, 2012, p. 88). This can be described as *effective sovereignty*, wherein states “claim a capacity to control and administer their international territories or regulate flows of money, people, goods, ideas, and/or technology” (Dodds, 2019, p. 53). Consequently, Canada could assure its respect of the previously-mentioned IFA.

Canada and the U.S. exchange EEZ's and extended continental shelves

Coming back to the notion of Canada and the U.S. oppositely benefiting from expanded maritime boundaries (**Figure 2**), it would be most beneficial for Canada to be a bigger proponent of the American claims, as it would ultimately satisfy American sovereignty in the Beaufort Sea area, all while granting a recognized longer continental shelf for Canada (**Figure 4**). A similar situation has been observed in 1990, when the United States and the Soviet Union negotiated on the transfer of sovereignty in the Bering Strait, where Alaska neighbors Siberia – they both designated “special areas” wherein each party assigned their EEZ rights to the other party (Baker & Byers, 2012, p. 86). However, these special areas would only be assigned (there would only be a special transfer of sovereignty between states) if there were to be a geographical distinction between the prolongation of the boundaries and the natural prolongation of the inheriting country's side. In this case, the prolongation of the boundaries (i.e., the extended continental shelf) brought forward by Canada and the U.S. would have to be physically distinct from the natural boundaries of the receiving country (i.e., the U.S. equidistance line would have to be different from Canada's proposed extended continental shelf) (Baker & Byers, 2012, p. 86). Though, it stands to reason that either a direct delimitation of boundaries or a more permeable approach to boundaries would be more efficient, as it would encourage a more relaxed relationship between the two countries and encourage reconciliation with indigenous groups (Greaves, 2022, par. 22).

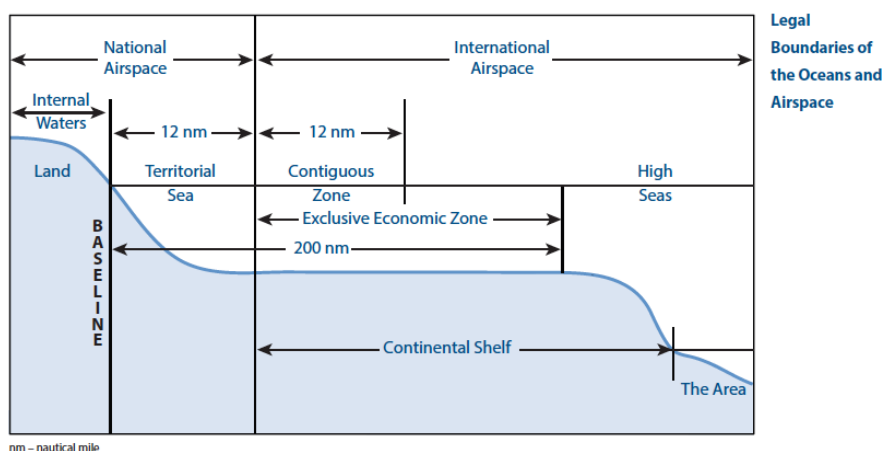


Figure 4: Difference between Exclusive Economic Zone (EEZ) and Continental Shelf
Retrieved from <https://sites.tufts.edu/lawofthesea/chapter-two/>

The U.S. agrees to allow the Inuvialuit to exercise their traditional rights within their maritime jurisdiction

In order for the U.S. to recognize the Inuvialuit peoples' rights within their own jurisdiction, they would have to find a compromise with Canada (Baker & Byers, 2012, p. 87). This would not only legitimize the Inuvialuit peoples' rights across their entire region regardless of national boundaries, but also assure the Inuvialuit Final Agreement to a new boundary treaty, which would be highly beneficial for the Canadian government, as it would help develop a better relationship between the government and the indigenous groups. While it is true that economic access rights from the U.S. would not guarantee Canada fully satisfying the Inuvialuit Final Agreement of 1984, it would definitely bring towards the right direction (Baker & Byers, 2012, p. 87). Keeping the promises of a legal agreement is delicate when it includes recognizing economic rights all while protecting and preserving the Arctic environment ("Inuvialuit Final Agreement", 2021, par. 3), since it is difficult to promote exploration for oil without being criticized for dishonesty or conflicted decision-making. Nonetheless, it is still doable in the long-term: Alaska, a state that largely depends on oil production, can prioritize investment in long-term renewable energy (Gordon & Herrmann, 2015, par. 15). Thus, the same can be applicable for Yukon, Canada, and for the Inuvialuit.

Conclusion

In closing, the Beaufort Sea dispute has become much more noticeable, especially in the 2020's. This upcoming decade will definitely see a rise in global warming and uncertainty in future international relations, as is being seen with the current Russian invasion of Ukraine, which has affected Canadian gasoline prices (Dubois, 2022, par. 1). Though the sea ice in the Beaufort Sea region melted at a slower rate in 2021 (Fountain, 2021, par. 4), the general trend will be that of ice caps becoming thinner and thinner as the years go by, and more pressure from both Canada and the U.S. to resolve the dispute in a decisive manner. Stemming from treaty rights that were inherited from the British and the Russians, this seemingly mundane dispute from the 19th century became salient in the second half of the 20th century and became indicative of a much larger future trend: states granting more importance on disputes in the Arctic because of the sovereignty and natural resources. In the case of Canada and the U.S., it would be in the best interest for both states to (1) find a compromise towards sovereignty, (2) make sure that they can both economically benefit at an equal rate, and (3) be inclusive towards the indigenous communities that inhabit the region, since Canada is legally bound by their promises. Thus, for Canada, the best-case scenario is one in which it gains more than it loses, all while respecting its southern neighbor's demands.

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