The Great Thaw: National Security At the Top of a Melting World

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During the Cold War, the North Atlantic Treaty Organization (“NATO”) sought to contain the Soviet Union’s territorial expansion. After a period of calm, which culminated in the fall of the Soviet Union, the world is once again witness to national claims over disputed territory and resources. In August of 2007, the Russian Federation became the first nation to literally place their flag on and claim the North Pole and the resources that are believed to exist underneath.1 “The Arctic is Russian” said Artur Chilingarov, a Russian leader of the expedition returning from the thawing pole.2 To which country the Arctic belongs to is at the heart of the current debate, and the contest has real national security implications which will have to be dealt with as the great thaw in the north continues.

Climate change has led to significant ice reduction in the Polar Regions.3 The resulting thaw has led to competition over what the U.S. Geological Survey estimates to be a quarter of the planet’s remaining energy reserves.4 In addition, newly opened shipping routes, specifically the Northwest Passage near Canada and the Northern Sea Route near Russia are adding to the complexity of claims between the nations.5

The five Arctic countries vying for recognition of their claims are the United States, Canada, Russia, Denmark, and Norway. The Law of the Sea Treaty allows for Arctic countries to map out their territorial claims within ten years of submission. The northern countries have been making their claims, but not without controversy over where the boundaries actually should lie because of the great latent wealth which may exist under the ocean floor.6 The United States, however, is at a disadvantage in regards to staking its economic claims because it not a party to the Law of the Sea Treaty. Despite support from a bipartisan majority of the Senate, President Bush, the Senate Foreign Relations Committee, and the U.S. Navy and Coast Guard, some Senate Republicans have continued to stall the United States’ ratification of the treaty because they believe that the treaty would hinder U.S. sovereignty.7

Many national security experts do not believe that this modern race for territorial acquisition will resort to military force.8 Scott Borgerson, a Fellow for the Council on Foreign Relations, believes that there are historical reasons for optimism and he cites the Antarctic treaty as an example in which despite a contentious time during Cold War, parties were able to negotiate territorial claims peacefully.9 Nonetheless, the report also notes that while “armed confrontation remains unlikely, tensions over territorial waters hearken back to the kinds of border disputes that once led to interstate war.”10

The U.S. military has recognized the national security implications due to global warming. In a report commissioned by the U.S. Navy, titled “National Security and the Threat of Climate Change,” eleven retired Admirals and Generals recognized that global climate change and national security are intertwined.11 The report cited the Arctic as a “region of particular concern” because of the added operations which will be conducted as shipping increases and more resources are mined from the ocean depths.12 In addition, the report calls global warming a “threat multiplier for instability in some of the most volatile regions of the world.”13

The U.S. Coast Guard has been at the forefront of policing Arctic resources. Admiral Gene Brooks has called the Bering Strait the “new Strait of Malacca” because of an anticipated increase in shipping traffic between Europe and the Pacific as the northern passages open.14 The Strait of Malacca is the nautical passageway and chokepoint through which shipping passes from the Pacific Ocean to the Indian Ocean. Such increased traffic will add to the strain of missions already undertaken by U.S. vessels underway.15

It is important to view these events in the grand scheme of international order and balancing. Whichever country acquires the bulk of the Arctic resources will likely be at a strategic economic advantage over other national powers. Russia has already used its growing gas and oil resources to influence its neighbors and other countries in a manner contrary to U.S. security goals.16 Furthermore, the melting ice in the Arctic should be viewed as a symptom of the global disruptions which will occur worldwide due to increased temperatures, affecting regimes large and small and creating a host of new security problems for states.17 The United States in particular may be drawn into more “stability operations” such as those undertaken during Hurricane Katrina and the Asian Tsunami.18 The United States’ national security issues arising from melting Arctic ice can be ameliorated, but the first step is to engage the global community through treaties, such as the Law of the Sea, while making strides to reduce carbon emissions.19

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ENDNOTES: THE FORGOTTEN NORTH continued from page 51

28 Osherenko, supra note 25, at 298.
29 Osherenko, supra note 25, at 296.
31 Marecic, id. at 210.
32 Marecic, id. at 202.
33 DAVID H. GETCHES ET AL., CASES AND MATERIALS ON FEDERAL INDIAN LAW 894 (Thomson West 2004).
34 GETCHES ET AL., id.
38 GETCHES ET AL., supra note 33, at 916–17.
40 See Filartiga v. Pena-Irala, 630 F.2d 876 (2d Cir. 1980) (establishing an extension of U.S. jurisdiction to consider tort claims when in violation of customary international law).
46 See In re Exxon Valdez, 104 F.3d 1196 (9th Cir. 1997).
48 Additional information regarding the non-ratification by Russia of Protocol 14 to the Council of Europe Convention for the Protection of Human Rights can be found at “An International Blog at the University of Leiden,” available at http://weblog.leidenuniv.nl/fdr/1948/2007/03/how_russia_hijacks_the_european_court_of_human_rights_1.php (last visited Apr. 4, 2008). Special reference is made to the Ilascu case, in which the arbitrary arrest of four Moldovans in the Transnistrian region of Russia was found by ECHR to have violated basic human rights. Russia only partially complied with the ECHR decision, refraining from releasing the prisoners immediately. While not an indigenous rights case, the Ilascu case is considered a good representation of Russia’s hesitant attitude to comply with international human rights law.
49 See generally The Mayagna (Sumo) Awas Tingni Community v. Nicaragua, Inter-Am. Ct. H.R., Case No. 11.577 (2001) (establishing the norm that reparations must be made to indigenous communities when destructive environmental practices are forced upon indigenous communal lands without consultation with or agreement of the affected communities); see also Dann v. United States, Case No. 11.140, Inter-am. C. H.R. No. 75/02 (2002) (deciding that the U.S. should provide an “effective remedy” for the Dann sisters of the Shoshone native tribe for the federal taking of the Danns’ land in direct contradiction to Article 2 of the American Declaration on the Rights and Duties of Man).
51 See IPCC, supra note 2.

ENDNOTES: THE GREAT THAW continued from page 52

2 Reynolds, id.
4 Reynolds, supra note 1.
8 BUSBY, supra note 5, at 7.
10 BUSBY, supra note 5, at 7.
12 THE CAN CORPORATION, id.
13 THE CAN CORPORATION, id.
15 THE CAN CORPORATION, supra note 11.
17 BUSBY, supra note 5, at 7.
18 BUSBY, supra note 5, at 7.
19 Drawbaugh, supra note 7.