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Course 000°: The Maritime Enforcement of Canada’s Arctic Sovereignty and its Potential Implications for the Canadian Navy

by

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ABSTRACT

Canada’s sovereignty concerns are maritime and predominately relate to the interpretation of the United Nations Convention on the Law of the Sea (UNCLOS). With climate change rapidly opening the Arctic for regular foreign maritime activity, the Canadian Navy has undertaken northern operations since 2002 aimed to solidify Canada’s ownership and building a naval capacity to operate in northern waters. But, these operations fail to address whether foreign vessels are legally entitled to an international right of passage under UNCLOS guidelines.

It remains uncertain whether the Navy will maintain its Arctic presence. Historically it has remained reluctant to do so, while displaying a preference for overseas activities. Furthermore, the Canadian Coast Guard may be better suited for conducting maritime enforcement. Although the current Conservative government has announced plans to procure a new class of naval icebreakers, this decision may impede the Navy’s current plans to renew its fleet capabilities.
ACKNOWLEDGEMENTS

I am truly grateful for the tutelage of Dr. Rob Huebert. His supervision and guidance over the last two years has been instrumental for developing my education. Specifically, I would like to sincerely thank him, or perhaps apologize, for the many demands I made of him, particularly while the study was finalized. From my continual barrage of emails and queries, one would have easily assumed that I thought I was his only student.

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A special acknowledgement must also be given to the Holmes, Horne, Perkins, and Brown families. Under normal circumstances a thesis is a challenging task. This proved to be even more taxing from “surprise” developments in my life that occurred over the course of the winter and spring. I am extremely thankful for all their love, for without it, I probably would not have been able to maintain the drive and determination to continue this endeavor.

Finally, this study cannot be completed without recognizing the everyday joy that Stephanie Jill Brown brings into my life. She makes me laugh, she makes me smile, but ultimately it is her love, kindness, faith, and devotion that makes me the luckiest man on this planet. Not only has she been my support network, but she has also motivated me to stay focused along this journey. With her at my side, no task seems impossible.

This study was conducted with financial support from the Social Science and Humanities Research Council of Canada.
DEDICATION

For Anne Holmes, for daring me to dream,
For Heather Holmes, for pushing me to succeed,
For Stephanie Brown, for teaching me to love,
For Ashley Perkins, for blazing the trail.
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<table>
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<tbody>
<tr>
<td>AAD</td>
<td>Area Air Defence</td>
</tr>
<tr>
<td>ACS</td>
<td>Arctic Capabilities Study</td>
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<td>AIP</td>
<td>Air Independent Propulsion</td>
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<td>A/OPS</td>
<td>Arctic Offshore Patrol Ship</td>
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<td>AOR</td>
<td>Auxiliary Oil Replenishment</td>
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<tr>
<td>AWPPA</td>
<td>Arctic Waters Pollution Prevention Act</td>
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<tr>
<td>BC</td>
<td>British Columbia</td>
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<tr>
<td>CCGV</td>
<td>Canadian Coast Guard Vessel</td>
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<tr>
<td>CF</td>
<td>Canadian Forces</td>
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<tr>
<td>CFNA</td>
<td>Canadian Forces Northern Area</td>
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<td>CPC</td>
<td>Conservative Party of Canada</td>
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<td>CPF</td>
<td>Canadian Patrol Frigate</td>
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<td>CSC</td>
<td>Canadian Surface Combatant</td>
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<td>CRPG</td>
<td>Canadian Ranger Patrol Group</td>
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<tr>
<td>DEW Line</td>
<td>Distant Early Warning Line</td>
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<tr>
<td>DFO</td>
<td>Department of Fisheries and Oceans</td>
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<tr>
<td>DHH</td>
<td>Directorate of Heritage and History</td>
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<tr>
<td>DND</td>
<td>Department of National Defence</td>
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<tr>
<td>EDWP</td>
<td>Extended Dockside Working Period</td>
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<tr>
<td>EEZ</td>
<td>Exclusive Economic Zone</td>
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<tr>
<td>EU</td>
<td>European Union</td>
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<tr>
<td>FELEX</td>
<td>Frigate Life Extension Project</td>
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<tr>
<td>ICJ</td>
<td>International Court of Justice</td>
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<tr>
<td>HDMS</td>
<td>Her Danish Majesty’s Ship</td>
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<td>HCM</td>
<td>Halifax Modernization Project</td>
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<tr>
<td>HMCS</td>
<td>Her Majesty’s Canadian Ship</td>
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<td>IMO</td>
<td>International Maritime Organization</td>
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<tr>
<td>JSS</td>
<td>Joint Support Ship</td>
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<tr>
<td>JTFN</td>
<td>Joint Task Force North</td>
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<tr>
<td>km</td>
<td>Kilometer</td>
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<tr>
<td>MAJAD</td>
<td>Major Air Disaster</td>
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<tr>
<td>MCDV</td>
<td>Maritime Coastal Defence Vessel</td>
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<tr>
<td>Mm</td>
<td>Millimeter</td>
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<tr>
<td>M/V</td>
<td>Motor Vessel</td>
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<tr>
<td>NDHQ</td>
<td>National Defence Headquarters</td>
</tr>
<tr>
<td>Nfld</td>
<td>Newfoundland</td>
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<tr>
<td>nm</td>
<td>Nautical Mile</td>
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<tr>
<td>NU</td>
<td>Nunavut</td>
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<tr>
<td>NORDREG</td>
<td>Northern Canada Traffic Regulation System</td>
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<tr>
<td>NorPloy</td>
<td>Northern Deployment</td>
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<td>NS</td>
<td>Nova Scotia</td>
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<td>NWP</td>
<td>Northwest Passage</td>
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<td>NWT</td>
<td>Northwest Territories</td>
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<tr>
<td>Abbreviation</td>
<td>Full Form</td>
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<tr>
<td>RCMP</td>
<td>Royal Canadian Mounted Police</td>
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<tr>
<td>OP</td>
<td>Observation Post</td>
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<tr>
<td>the Passage</td>
<td>Northwest Passage</td>
</tr>
<tr>
<td>SCSC</td>
<td>Single Class Surface Combatant</td>
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<tr>
<td>Sovops</td>
<td>Sovereignty Operation</td>
</tr>
<tr>
<td>SSBN</td>
<td>Ship Submersible Ballistic Nuclear</td>
</tr>
<tr>
<td>SCC Defence</td>
<td>Standing Committee on National Security and Defence</td>
</tr>
<tr>
<td>SST</td>
<td>Single Ship Transition</td>
</tr>
<tr>
<td>S/T</td>
<td>Super Tanker</td>
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<tr>
<td>TEU</td>
<td>Twenty-foot Equivalent</td>
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<tr>
<td>UAV</td>
<td>Unmanned Aerial Vehicle</td>
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<tr>
<td>UNCLCS</td>
<td>United Nations Commission on the Limits of the Continental Shelf</td>
</tr>
<tr>
<td>UNLCOS</td>
<td>The United Nations Conventions on the Law of the Sea</td>
</tr>
<tr>
<td>USS</td>
<td>United States Ship</td>
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<tr>
<td>USCG</td>
<td>United States Coast Guard</td>
</tr>
<tr>
<td>UUV</td>
<td>Unmanned Undersea Vessel</td>
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INTRODUCTION

The Arctic is thawing as a direct result of global climate change. The most recent study conducted by the Intergovernmental Panel on Climate Change has concluded that the perennial (multi-year) ice coverage is receding at an unprecedented rate of 7.4 percent of total volume per decade.\(^1\) Generally speaking, the amount of perennial ice has routinely oscillated over centuries. Under the present manifestations of climate change, scientific evidence suggests the ice cap of the Arctic will completely disappear sometime between 2030 and 2050.\(^2\) To date, an estimated two million square kilometers of the ice cap have disappeared since records were first kept in 1979.\(^3\) Consequently, the once hostile “frozen desert” of the Canadian north is experiencing a drastic increase in maritime traffic, resources development, and general human interaction. For example, newly found deposits of diamonds within the Northwest Territories has made Canada the third largest global producer of the precious gemstones, based solely on the production of three individual mines.\(^4\)

With Arctic ice rapidly receding, one of the most pressing issues facing Canada is the possibly of an ice-free and navigable Northwest Passage (NWP or Passage). This

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\(^3\) David Barber, Louis Fortier, and Michael Byers, “The Incredible Shrinking Ice” *Policy Options* (December 2005), 67.
waterway directly links the markets of Asia with those in Europe. If proven feasible, the Northwest Passage will save an estimated 4,500 nautical miles over existing sea routes through the Panama Canal. The savings is even more significant for oversized vessels that, from their stature, must navigate around Cape Horn or Cape Good Hope. To Canada, the Passage represents Canadian internal waters, where foreign vessels are fully applicable to Canadian law. Countries such as the United States and Britain (representing the interests of the European Union) contest Canada’s position, arguing the NWP to be an international strait, where foreign vessels are entitled to a maritime right of passage. Although critical to Canadian interest in the North, the Passage represents only one of several unresolved challenges facing Canada’s sovereignty in the Arctic. With Canada being a nation that prides itself on being “the True North, Strong and Free,” serious political cleavages created from an open, and potentially ice-free, Arctic will challenge Canada’s authority over the waters it perceives to have legitimate ownership of.

Challenges to Canada’s Arctic sovereignty have historically occurred on average every fifteen to twenty years. The current crisis poised by climate change is fundamentally different than those previous. An open Arctic will predicate both constant human and state interaction. This is opposed to previous sovereignty challenges, like the transit of the S/T Manhattan in 1969 and 1970 that did not seek Canadian permission to navigate through Canadian Arctic waters. Challenges like Manhattan were typically brief incidents that only exposed the vulnerability of Canada’s sovereignty, but left the actual question of Canadian sovereignty unresolved. With the Arctic becoming ripe for regular human interaction, binding resolutions on the extent of Canada’s sovereignty will

become necessary in order to establish who exactly controls what. In response to the possibility of Canadian secession of sovereignty in the Arctic, the Canadian Navy has returned to northern waters after remaining absent since 1989.7

To meet the threat poised to Canada’s Arctic sovereignty, the Canadian Navy has been conducting operations of maritime enforcement since 2002. Under Joint Operation NARWHAL 2002, naval participation consisted of two *Kingston*-class vessels that supported a Canadian Ranger operation ashore.8 Since that initial rediscovery of Arctic waters, maritime enforcement has become an annual affair. In the more recent Operation NANOOK 2007, a Canadian Patrol Frigate, Maritime Coastal Defence Vessel, and a long range patrol submarine conducted maritime enforcement in a mock exercise. The purpose was to locate and interdict a vessel of interest believed to be trafficking illicit narcotics into Iqualuit, NU from a remote airfield.9 The maritime enforcement of Arctic sovereignty has resulted in the deployment of multiple platforms with diverse capabilities. Furthermore, the operations have simulated naval responses to a variety of events the Canadian Navy may potentially confront in an ice-free environment. In only seven short years the navy’s activities have grown in scale with it taking on bolder endeavors to build its Arctic competency. Subsequently, it appears that the maritime enforcement of Arctic sovereignty is quickly becoming a core responsibility of Canada’s Navy.

Beyond operations, the procurement of naval vessels also reflects a growing importance in conducting maritime enforcement. The planned procurement of the Joint Support Ship (JSS), which is slated to replace the navy’s Protecteur-class, is expected to be capable of navigating through first-year ice up to seventy centimeters thick.\(^\text{10}\) Despite being only a slight increase in ice capabilities from the vintage Protecteur-class, ice strengthening represents a strategic shift in procurement that implies the navy will have a future mandate in frozen waters.\(^\text{11}\) Both the Halifax-class and Kingston-class, which represent the last major surface combatants procured by the navy, have minimal ice strengthening. This suggests that either little assessment was given to operating the vessels within Canada’s northern coast, or that the navy did not view the Canadian Arctic as a location warranting its presence. Conversely, the proposed ice strengthening of JSS demonstrates prior strategic planning that the navy envisions it will have a role in ice-filled waters. As a core function of JSS will be to “support Canadian Forces ashore,” through a “capability to navigate first-year Arctic ice,” it is abundantly clear that naval planners envision that JSS will have a role in the Arctic.\(^\text{12}\)

In addition, Prime Minister Stephen Harper announced on 06 July 2007 the procurement of six to eight Arctic/Offshore Vessels (A/OPS). Classified as a light icebreaker, A/OPS will be able to navigate through first-year seasonal ice up to a meter thick.\(^\text{13}\) With the navy only briefly operating the ice-capable HMCS Labrador from 1954


\(^{12}\)“Arctic Sovereignty Operation Nanook Set to Launch in Nunavut.”

to 1959, the acquisition of an entire class of naval icebreakers remains unusual. But, it highlights the developing trend to develop an Arctic capable Canadian Navy. Nonetheless, to observers like Doug Maginley, the procurement of naval icebreakers “seems to have arisen out of the blue,” with many scholars maintaining a level of skepticism over the utility of the future platform. This criticism remains somewhat justifiable. A/OPS represents the reintroduction of long lost capabilities at a time when the navy’s current core capabilities, such as the Iroquois-class Area Air Defence Destroyer, are eroding without any concrete plans for replacement. By evaluating procurement, it likewise appears the Arctic will be an important location for future Canadian naval activity.

(0.1) Thesis Purpose

With the navy undertaking operations for the direct purpose of asserting Canada’s sovereignty over Arctic waters, this study is offered as a detailed investigation and evaluation of the maritime enforcement of Arctic sovereignty and its potential implications upon the Canadian Navy. Essentially, this study has three main points of investigation. First, it investigates why the maritime enforcement of Canada’s Arctic sovereignty is necessary. It examines the nature of sovereignty, and further addresses the particular vulnerabilities of Canada’s sovereignty within the Arctic. The effects of climate change will be highlighted for causing a subsequent increase of human activity in Canada’s northern region. Second, this study investigates how the navy is presently enforcing and enhancing Canada’s sovereign ownership over the north. This is

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undertaken by reconstructing seven years of maritime enforcement as a means to portray what the navy has physically done in the north. Afterwards, these operations are assessed to validate whether they have increased, or legitimized, Canada’s sovereign ownership. Finally, the study assesses the influences of Arctic maritime enforcement upon the navy. The purpose of this is twofold. First, it establishes whether the maritime enforcement of Arctic sovereignty will lead to the navy developing a permanent presence in the Arctic. Second, it also examines the effects that proposed arctic capabilities might have upon the navy in pursuing Canada’s national interests.

(0.2) Progression of Thesis

The initial chapter deals with the concept of sovereignty. This is fundamentally necessary to facilitate the prerequisite understanding of the key concept the Canadian Navy is trying to enforce. Central to this analysis, is the divide between the production of Westphalian sovereignty and maritime sovereignty. Traditionally, Canada has perceived its Westphalian sovereignty as being threatened in terms of its authority over territory, such as with the United States intervention in the Canadian Arctic for the creation of the Distant Early Warning Line. However, all of Canada’s present issues remain maritime in nature. Therefore, particular emphasis is placed upon the interpretation of the United Nations Convention on the Law of the Sea (UNCLOS) that bases maritime sovereignty within an international legal framework. After analyzing the concept of sovereignty, the particular issues of Canada’s Arctic sovereignty are explored through a literature review.
It is Canada’s position the waters of the Arctic Archipelago and the Northwest Passage constitute Canadian internal waters, where all vessels are subject to the full extent of Canadian law. Dissenting countries like the United States, believe the tenants of international maritime law entitle foreign vessels to a right of passage. Under this arrangement, Canada’s ability to control and regulate foreign marine activity would be severely reduced. Important to the synthesis of this study’s argument, current challenges to Canada’s sovereignty are de jure in composition as they relate to the interpretation, entitlement, and understanding of international law established under UNCLOS.

After surveying scholarship on the state of Canada’s Arctic sovereignty, it can only be concluded as being contentious. This is a direct result of literature being divided. First, scholarship disagrees over how Canada’s sovereignty is threatened. For example, debate exists over the legality of Canada’s application of straight baselines around the Arctic Archipelago. Second, scholars are divided over what exactly threatens Canada’s sovereignty, as evident by a debate on whether the transit of foreign submarines undermines Canada’s sovereignty. With such contention, it is believed that only a ruling by the International Court of Justice will ultimately resolve Canada’s sovereignty issues.

The second chapter examines the maritime enforcement operations conducted by the Canadian Navy since 2002. The effects of climate change, which has drastically increased human interaction within the Canada’s Arctic, is aggravating Canada’s sovereignty concerns. Warming temperatures are resulting in the unprecedented retreat of the perennial ice cap. As a result, it is predicted that a seasonally viable and formalized regime for transiting the Northwest Passage will occur around 2030-2050.\textsuperscript{15}

\textsuperscript{15} Franklyn Griffiths, “The Shipping News: How Canada’s Arctic Sovereignty is Not on Thinning Ice,” \textit{International Journal} 58, no. 2 (Spring 2003), 264.
To solidify Canada’s interpretation of UNCLOS, the navy has commenced annual operations in northern waters. These operations are primarily reproduced through archival research and the media coverage they received. Nonetheless, the navy’s motives in the Arctic have been to assert sovereignty and enhance Canada’s position that northern waters constitute internal waters. It is suggested that these operations have been paramount for building the navy’s capabilities to operate within Canada’s third ocean. If the navy is to be responsible for the overall defence of Canada’s littorals, it must have a presence in the North similar to its presence along the Pacific and Atlantic coasts. However, the navy’s maritime enforcement does not directly address whether foreign vessels have a *de jure* entitlement under UNCLOS to a right of passage, and it is therefore concluded that maritime enforcement is not adequately asserting Canadian Arctic sovereignty. Consequently, the navy’s presence is not enforcing Canada’s maritime sovereignty over the way in which it remains internationally disputed. As such, discrepancy exists.

Finally, the third chapter is devoted to examining the effects of maritime enforcement on the Canadian Navy. It is argued that a clear pattern of maritime enforcement exists. The navy only maintains an Arctic presence during periods when Canada’s sovereignty is directly threatened. When the threat recedes, the presence of the navy consistently withers to complete absence. If this pattern persists, the navy’s current relationship with the Arctic will be short lived. Also, as some literature argues the Canadian Coast Guard should be solely responsible for maritime enforcement, the permanent presence of the Navy in Arctic waters remains to be an uncertain conclusion.
The 06 July 2007 announcement of the Harper Government to procure a class of six to eight Arctic/Offshore Patrol Ships could potentially tie the navy to Arctic operations. The acquisition of naval icebreakers is a political motivated decision on behalf the Harper Government that campaigned to “get tough” on sovereignty during the January 2006 General Election. Although these vessels will undoubtedly increase the navy’s capabilities in the Arctic, it is argued that procuring A/OPS may in fact be detrimental to the fleet’s overall capabilities. This assessment is based upon the navy currently entering a delicate period of renewal and rejuvenation to achieve its fleet of tomorrow, including prolonging current capabilities with both the Halifax Class Modernization and Victoria-class “Canadianization” projects. It furthermore involves the procurement of future platforms like the Joint Support Ship and Single Class Surface Combatant. As most of these projects are already experiencing difficulties and delays, the infusion of the politically motivated A/OPS project could led to further complications in fleet renewal. Although a level of political direction should be expected with the procurement of naval vessels, apprehension stems from the government attempting to prioritize A/OPS over the navy’s other desirable projects. This has resulted in concerns that procuring A/OPS may restrict the navy in producing the unique capabilities it desires to safeguard Canada’s maritime interests. This is based upon the 1987 Challenge and Commitment White Paper on Defence, which announced the procurement of nuclear submarines for Arctic operations at the direct expense of canceling the navy’s last batch of Canadian Patrol Frigates. Ultimately, neither were produced. If A/OPS sees fruition, the navy could be in a unique position of operating a first-rate fleet for protecting Canada’s three territorial waters, at the expense of operating antiquated foreign going
platforms that have suffered a degree of rust out. Under such circumstances, the Canadian Navy could lose its ranking as a "Medium Global Force Projection Navy," which denotes the ability of the navy to pursue Canada's worldwide foreign interests.16

(0.3) Research and Sources

Research was collected from a variety of sources. With the maritime enforcement of Arctic sovereignty being a relatively recent phenomenon, government sources have primarily been used to portray the operational events that have occurred. This includes online media advisories, backgrounders, and news releases by the Department of National Defence. Supporting research was undertaken at the Directorate of History and Heritage in Ottawa. Particularly relevant were the Annual History Reviews conducted by HMC Ships that participated in operations of maritime enforcement. Government publications, such as those available from the Standing Senate Committee on National Security and Defence, were downloaded from Government of Canada websites. These documents, which proved to be quite critical of the current state and capabilities of the Canadian Navy, served to give great insight into the present capability challenges confronting the navy. Other relevant government materials were collected from the Department of Fisheries and Oceans (DFO) and also Defence Research and Development Canada, where it is noted that one study directly tackled the issue of naval maritime enforcement in the Arctic.17

In addition to government materials, secondary source literature was collected from academic journals, magazines, newspapers, and published books. These sources proved to be predominantly useful in gaining literature on the present contention regarding Canada's Arctic sovereignty, climate change, naval procurement, and the efforts of the Canadian Navy to rejuvenate its capabilities. The literature cited within these materials often spurred new avenues of research. Also notable, were Power Point presentations that were posted online as conference proceedings.

Although the knowledge, advice, and guidance, of colleagues, academics, and naval professionals was frequently sought for suggesting new avenues of research, no interviews were conducted. Consequently, no approval was needed from a University of Calgary departmental Research Ethics Board.

From these sources, this study is able to establish a clear picture of the maritime enforcement of Canada's Arctic sovereignty and its potential implications upon the Canadian Navy.
CHAPTER ONE: CANADIAN ARCTIC SOVEREIGNTY

On Monday 22 July 2002, HMCS *Summerside* and HMCS *Goose Bay* departed Halifax, NS and proceeded to steam northward. By 28 July 2002 both vessels were north of Labrador slowly navigating around dangerous ice flows to arrive at the refuge of Baffin Island's Kimmirut Harbour on the morning of Thursday 01 August 2002. Although port calls are by no means unusual for the Canadian Navy, what happened the following morning was, as both ships participated in an exercise under the command of Canadian Forces Northern Area (CFNA). This endeavor was referred to as Joint Operation NARWHAL 2002. Both *Kingston*-class vessels transported a contingent from First Canadian Ranger Patrol Group (1 CRPG) to Resolute Island in order to complete a patrol of North Warning System facilities. Furthermore, the vessels tested both ship-to-ship and ship-to-shore communications under “the miserable August weather” conditions of the Canadian Arctic. The navy had not operated within Canada’s northern waters since 1989.

NARWHAL 2002 was the largest Canadian Forces operation to be orchestrated in the Arctic since the 1970s. With a general lack of navy-wide “corporate knowledge” in

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19 Ibid.
20 “Joint Operation NARWHAL 2002.”
northern operations, NARWHAL 2002 was considered to be "a trip into the unknown." However, since NARWHAL 2002 the navy has renewed its northern presence through annual operations and exercises. These include: NARWHAL 2004, HUDSON SENTINEL, LANCASTER, and NANOOK 07. Although these operations all constitute Northern Deployments (NorPloy) by the Canadian Navy, they are also commonly referred to as sovereignty operations (Sovops) due to the motives behind their deployment.

Sovereignty operations have been conducted as a means of maritime enforcement to strengthen and display Canada's perceived ownership over the Arctic. Although Canada was entitled to the continental Arctic and its archipelago through two transfers of land from Britain in 1870 and 1880, Canada has routinely experienced threats to its Arctic sovereignty on an average of every fifteen to twenty years. This has occurred whenever foreign governments have been granted an opportunity to develop a presence within Canada's Arctic, or when they have blatantly denied Canada's perceived ownership by engaging in activities without first obtaining consent.

This chapter focuses on the concept of sovereignty, the entitlement Canada desires to legitimize in the Arctic. The use of 'entitlement' has specifically been selected, because it reflects Canada's belief that it has a unilateral title, right, or claim over Arctic territory, waters, and the actors within it. Thus, this chapter initially outlines an understanding of traditional Westphalian state-sovereignty. This is necessary to establish the historical ways in which Canada's de facto sovereignty over the Arctic has been repeatedly threatened by the involvement of the United States, most often through joint military endeavors aimed at enhancing continental security. They are considered de facto

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challenges, because the existing foreign presence often superceded the ability of the Canadian Government to exercise sovereignty. Generally speaking, *de facto* threats occurred from the Yukon Gold Rush of 1897-99, to the completion of the Distant Early Warning (DEW) Line in 1959. These events all represented situations where Canada’s sovereignty over its Arctic territory was challenged. For example, during the Second World War, the United States military often provided free medical assistance towards Canadian citizens in the Yukon and Northwest Territories, while routinely criticizing the Government of Canada about the unsanitary conditions of its local northern communities. This reflected an inability of the federal government to provide for the health and welfare of northern communities, which the United States was able to do with little difficulty.

Second, this chapter outlines an understanding of maritime sovereignty. Maritime sovereignty attempts to balance the entitlement of seafaring states, which utilize the world’s oceans for their livelihood, against those of coastal states that desire to control the seas they are adjacent to. To this effect, the 1982 Third United Nations Convention on the Law of the Sea regulates the entitlement and activities of all states upon the oceans. The fundamental tenants of this international agreement are extrapolated in order to depict the basic rights and freedoms that every state enjoys upon the world’s oceans. Afterwards, a detailed explanation of UNCLOS is presented to establish the specific maritime issues that challenge Canada’s legal sovereignty over the Arctic. This pertains to the internal waters of the Arctic Archipelago, the legal status of the Northwest Passage.

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25 Ibid., 161.
and Canada’s continental shelf extension. Finally, three unresolved bilateral border disputes that Canada manages with the United States and Denmark are detailed.

(1.1) Westphalian State Sovereignty

State sovereignty originated with the 1648 Peace of Westphalia, which concluded the Thirty Year’s War (1618-1648). The Peace decreed that states were entitled to select their own religious faith independently from the interference of foreign intrusion. Subsequently, Westphalia is generally noted for originating the concept that a state reins supreme within its delimited territory. As Janice E. Thomson argues, Westphalian sovereignty is “the recognition by internal and external actors that the state has the exclusive authority to intervene coercively in activities within its territory.”

At its essence, sovereignty is contingent on the four conditions of territory, autonomy, coercion, and mutual recognition. There cannot be a sovereign state without each of these components. First, the spatial notion of territory establishes the confinements of a state’s authority. It further represents the defining characteristic of the political regime in comparison to other arrangements, such as tribalism where it is bound to a specific group of people and not to a particular geography. Second, authority refers to the entitlement of the state as the supreme political entity within its territorial

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[29] Ibid., 219.
This means there exits no internal competitor to the sovereign state. Although different authority relations can exists, ultimately they must be based upon legitimacy, obligation, or by understanding. An example would be undertaking of routine elections within democratic states, which mandates and legitimizes the state to govern. Third, coercion gives the state a monopoly over the "organized forces of violence." This not only includes legislation, regulation, and punishment, but also a broader list of capabilities including monitoring, surveillance, and prevention, which all assist with controlling the behaviour of internal actors. Coercion is about the state exercising control over its internal affairs without outside interferences. Fourth and finally, a sovereign-state cannot exist unless its presence is internationally recognized and accepted by other states. This condition suggests that states cannot achieve sovereignty on their own accord, but instead are dependent upon the international community of states for their livelihood.

Sovereignty has both an internal and an external component. Internally, sovereignty entitles the state to be the absolute authority over the political community within its delimited territory. Authority rests within the government regardless of the composition of the political system, such as parliamentary or despotism. Furthermore, authority can be internal divided into different levels such as federal, provincial, and municipal. Sovereign states are free to arrange their authority in whatever manner suits

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31 Robert Jackson, "Sovereignty in World Politics: A Glance at the Conceptual and Historical Landscape," *Political Studies* 47, no. 3 (Special Issue 1999), 433.
32 Lake, "The New Sovereignty in International Relations," 304.
34 Ibid., 224-225.
36 Lake, The New Sovereignty in International Relations," 305.
them. Sovereignty then allows for a hierarchy of authority for all political activities that occur within a state.

Externally, sovereignty creates an international system based upon self-interested states that share the same composition of territory, authority, coercion, and mutual recognition. Kenneth Waltz argues, "Each state is like all other states in being an autonomous political unit," whether it is the superpower of the United States or the failed state of Somalia. However, Waltz notes that sovereign states are ranked differently in the international system by their power capabilities to pursue their self motivated interests. Regardless, with each state vested with absolute authority, there exists an international ordering amongst states that ensures "none is entitled to command; none is required to obey." With no greater authority, states are able to pursue their self-interest with little regard for how it may compromise the sovereignty of another state. For Canada, this is apparent with the bilateral issues of Hans Island, and the Beaufort and Lincoln Seas. In the case of the Hans Island, Denmark and Canada have traditionally remained steadfast in their opinions of where the maritime border exists, with both being self-interested in obtaining sole ownership over the island. Yet by repeatedly visiting Hans, Denmark has compromised Canada's sovereign ability. Canada has been unable to prevent the repeated intrusions, and the Danish actions have exposed the lack of Canadian capability to respond quickly to events in the Arctic.

39 Ibid., 93.
Despite being entitled with supreme authority, states continually act to restrict their entitlement of supremacy by what Stephen Kranser calls “sovereignty lending.”\textsuperscript{41} This is clearly illustrated when states willing enter into contract with another, such as with the United Nations Convention on the Law of the Sea. UNCLOS not only entitles and restricts the actions of signatories upon the world’s oceans, but also establishes rules and regulations that are enforceable under an international court system. As such, signatories willingly cede a level of authority and control for establishing a mutually advantageous political system. On one hand, by ratifying UNCLOS Canada is entitled to unilaterally exploit the natural resources upon its continental shelf. On the other, the articles of UNLCOS may permit a right of passage for foreign vessels through the Northwest Passage. Sovereignty lending may have benefits, but it can also break down the absolutism of a state’s sovereignty in its ability to exercise complete authority and control over all events and actors within its borders.

Finally, states can face trans-border issues that challenge the permeability of borders. Again, these challenges mostly affect the ability of the state to exercise authority to control. Trans-border challenges can exist from actors that subsist in several states; however, this includes less tangible items like the free flow of disease, ideas, capital, and pollution, which can all conceivably challenge the absolute authority of the state.\textsuperscript{42} Within the Canadian Arctic, one of the trans-border issues presently faced is an increase of illegally activity from foreign-based actors. This has led to Canada conducting maritime enforcement of its sovereignty.

\textsuperscript{41} Krasner, “Rethinking the Sovereign State Model,” 26.
\textsuperscript{42} Ibid., 19.
(1.2) Historical Challenges to Canada’s Westphalian Arctic Sovereignty

Canada did not achieve sovereignty over the Arctic through conquest or discovery. Instead, the Arctic and its archipelago were bequeathed to Canada. This occurred in 1870 and 1880 through two transfers of land that entitled Canada to most of Britain’s remaining territorial possessions in North America.\(^\text{43}\) However, since gaining entitlement over the Arctic, Canada has faced repeated challenges that have threatened its sovereignty. This can be attributed to the Canadian government’s traditional preference to ignore the Arctic until “some influx of population or other circumstances shall occur to make such provisions more imperative than it would at the present seem to be,” as expressed in an 1882 Order-in-Council.\(^\text{44}\) The North has remained relatively underdeveloped, under-populated, and *terra nullius* in comparison to Canada’s southern populations.\(^\text{45}\) With such a sparse Canadian presence, the significant infusion of foreign people, particularly from the United States, has routinely threatened Canada’s *de facto* Westphalian sovereignty over its Arctic territory. This could be achieved by an influx of population from the United States superseding the established Canadian means of authority and coercion, principally if the populace retained sympathies towards the Government of the United States.

The earliest *de facto* threat occurred with the 1897-1899 Yukon Gold Rush. During the rush, the Government of Canada dispatched a temporary “ quasi-police auxiliary” called the Yukon Field Force around Whitehorse and the Yukon River. This

\(^{43}\) Nathaniel French Caldwell Jr., *Arctic Leverage: Canadian Sovereignty and Security* (New York: Praeger, 1990), 2.


\(^{45}\) Adam Lajeunesse, “The Distant Early Warning Line and the Canadian Battle for Public Perception,” *Canadian Military Journal* 8, no. 2 (Summer 2007), 58.
was carried out to enforce Canadian laws over a large transient population of American prospectors. Yet when the rush ended in 1899 the Yukon Field Force was recalled south, and with it, the most prominent means of asserting Canadian sovereignty.

The second major foreign intrusion on Canadian territory happened during the course of the 1939-1945 Second World War. During the war, the United States undertook the creation of the Alaskan Highway and the management of both the Northwest and Northeast Staging routes. The result brought a large quantity of United States servicemen (which referred to itself as the “army of occupation”) into Canadian territory. These activities were undertaken to strengthen the North American continent from a potential Japanese invasion and to rapidly assist European and Soviet allies with much needed military supplies. Shelagh Grant, professor at Trent University, has examined this particular era of Canadian policy in the North and concluded that policymakers were routinely forced to balance the requirements of national and continental security against the maintenance of Canada’s sovereignty over the Arctic.

The final de facto threat to Canada’s territorial sovereignty, transpired during the onset of the Cold War. During this period, the United States military constructed weather and radar installations in the High Arctic in efforts to increase continental security. In one example, the Distant Early Warning Line of 63 radar installations was labeled by *Maclean’s* magazine as a “U.S. military base 2,500 miles long within Canada’s

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48 Grant, *Sovereignty of Security?*
Although Canada consented to the United States military presence in its backyard, the subsequent DEW Line infrastructure required the buildup of United States logistics facilities including barracks, roads, airfields, and hospitals. These facilities increasingly made the Canadian government perceive its *de facto* sovereignty was threatened. This was particularly true when projects were undertaken on Canadian soil without prior government consent or foreknowledge.\(^{50}\)

Although Canada routinely believed its *de facto* sovereignty as being challenged by the presence of the United States on its sovereign territory, there existed no grand-strategy on the part of the United States government to absorb the Arctic or Canada into the Union. In fact, the United States remained keenly aware of Canada's sovereignty sensitivities and routinely subjected itself to Canadian authority. In observing the construction of radar installations in 1947 David Bercuson, the Director of the Centre for Military and Strategic Studies, highlights the 36\(^{th}\) Recommendation of the Permanent Joint Board of Defence. It explicitly contained the assurance by the United States that it did not have ambitions to violate Canada's Arctic sovereignty.\(^{51}\) In a further example, the United States contractually agreed during the construction of the DEW Line that its actions and servicemen would be fully applicable to Canadian law.\(^{52}\) Both measures signify the United States willingly accepted Canada's sovereign ownership of the Arctic territory. Nonetheless, the actions of the United States in the Arctic often highlighted Canada's sensitivities and inabilities to pursue its own national interest. The result was the repeated *perception* by the Canadian Government that its sovereignty was threatened.

\(^{49}\) Eyre, “Forty Years of Military in the Canadian North, 1947-87,” 294.

\(^{50}\) For example, the construction of the Alaskan Highway at Dawson Creek commenced before the Canadian Cabinet War Committee had given official consent, See: Grant, *Sovereignty of Security?*, 74-76.


\(^{52}\) Lajeunesse, “The Distant Early Warning Line and the Canadian Battle for Public Perception,” 58.
But, it is noted that if the United States desired to annex Arctic, it may have been able to do so under the jurisprudence of the International Court of Justice (ICJ). In 1931, the ICJ ruled that exercising authority and control in a territory were the fundamental prerequisites when dealing with issues of sovereignty. Current abilities to exercise authority and control could trump prior established claims. Nonetheless, *de facto* challenges to Canada's Arctic resided after the Government achieved operational control of the DEW Line in 1959; yet new sovereignty challenges to Canada’s entitlement over Arctic waters were to emerge.


Generally speaking, the concept of Westphalian sovereignty is applicable to maritime affairs. However, maritime sovereignty must mitigate cleavages that are established between maritime states, which utilize the sea for purposes like shipping and fishing, against coastal states that have an invested interest in maritime affairs from being situated adjacent to the sea. Unlike Westphalian sovereignty, the particulars of maritime sovereignty have only truly developed in the later half of the twentieth century, with there being three separate attempts since 1945 to establish an international accord. The First United Nations Conference on the Law of Sea occurred in 1954 and resulted in four separate maritime treaties, while the Second United Nations Convention on the Law of the Sea took place in 1960 without amounting to any new agreements. In their present form, the rights and responsibilities of maritime sovereignty are currently established

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53 Ibid., 53.

Under UNCLOS, the maritime sovereignty of a coastal state is divided into six boundaries of internal waters, territorial waters, the contiguous zone, the Exclusive Economic Zone (EEZ), the continental shelf, and the High Sea. This is illustrated in figure 1.0 obtained from the website of the Canadian Department of Fisheries and Oceans. In each of these specific areas, both the maritime and coastal states are given a certain amount of rights and responsibilities.

**Figure 1: Maritime Zones**

Maritime zones are established from what is known as the baseline. The baseline represents the territorial end of a coastal state, dictated by UNCLOS to be located at “the

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furthest seaward extent of the low-water line." With the presence of bays, estuaries, rivers, and other similar waters that fracture and indent the coastline of a state, straight baselines may be established to effectively create a territorial border across two low-water points of land. As a result, any waters landward of the baseline are considered internal with "the coastal State enjoy[ing] full territorial sovereignty over them." Within internal waters maritime states have no right of passage and are applicable to the full extent of the coastal state's sovereignty. For the application of Westphalian sovereignty, internal waters are synonymous with a state's territory.

UNCLOS establishes the territorial sea as being a distance of "up to a limit not exceeding 12 nautical miles (nm)" from the low-water baseline. The full extent of the coastal state's Westphalian sovereignty exists in territorial seas; however, all maritime states are privileged with the right of innocent passage. Innocent passage is defined in UNCLOS as being "continuous and expeditious" travel in which the motive of the voyage is "not prejudicial to the peace, good order, or security of the coastal State." Prejudicial activities to the coastal state include military operations, fishing, researching and surveying. For innocent passage to be applicable, the maritime state cannot enter the coastal state's internal waters, port facilities, or be a point of destination itself.

Beyond the territorial sea exists the contiguous zone, which "may not extend beyond 24 nautical miles from the baselines from which the breadth of the territorial sea

60 Articles 17-19, Ibid.
is measured.” In the contiguous zone, the sovereignty of the coastal state can only be applied to “prevent infringement of its customs, fiscal, immigration or sanitary laws and regulations within its territory or territorial sea,” with the zone subsequently understood as a buffer for the protection of the territorial sea and shoreline.

The Exclusive Economic Zone (EEZ) is the fourth area in which the coastal state can exercise maritime sovereignty. UNCLOS establishes the EEZ “shall not extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured.” A coastal state has the sovereign right of exploitation and exploration over all living and non-living resources found within the EEZ, including those within the seabed. In the EEZ, a maritime state is entitled to the right of freedom of navigation, except in regards to the non-discriminatory regulations of pollution control of the coastal state and their artificial islands and installations. One significant non-discriminatory regulation is Canada’s Arctic Waters Pollution Prevention Act (AWPPA), which is applicable to 200 nm from Canada’s baselines north of sixty degrees latitude.

After the EEZ, there lies the continental shelf, which “comprises the seabed and subsoil of the submarine areas … the natural prolongation of [the coastal state’s] land territory to the outer edge of the continental margin,” but does not include the deep ocean floor or its natural ridges. Within the continental shelf, the coastal state is entitled to exploit all natural resources to a maximum limit of 350 nm from established baselines.

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61 Article 33, Ibid.
66 Article 76(1) and 76(3), UN, OLS, United Nations Convention on the Law of the Sea.
67 Article 76(4), Ibid.
To do so, the coastal state must first provide scientific evidence before the United Nations that its continental shelf expands past the arbitrary 200 nm of the EEZ. Much like the EEZ, all maritime states are allowed to lay underwater cables or pipelines across a coastal state’s shelf. Furthermore, all states can exploit continental shelves if they have been granted explicit permission by the coastal state that has sovereignty over it.68 The continental shelf remains to be of particular importance to Canada’s Arctic sovereignty concerns, and is discussed in detail later.

After the continental shelf follows the final marine zone that lies outside the sovereignty of the coastal state, the High Seas. In this zone, “no state may validly purport to subject any part of the high seas to its sovereignty,” or that the High Seas is completely outside the reach of the coastal state’s jurisdiction.69 Conversely, the maritime enjoys the freedom of navigation and the ability to lay cables, construct artificial islands, and conduct scientific research.70

(1.4) Canada’s Maritime Arctic Sovereignty

The understanding of maritime sovereignty has outlined the rudimentary principles that both coastal states and maritime states enjoy over the sea. Unfortunately, UNCLOS makes further stipulations for maritime sovereignty that are specific in understanding the challenges that Canada presently faces in the Arctic. Crucially, UNCLOS legally entitles states to specific maritime rights, meaning that sovereignty challenges in this nature remain to be de jure, as they relate to the interpretation, and understanding of international law. Furthermore, all of Canada’s current sovereignty

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68 Article 77(2), Ibid.
69 Article 89, Ibid.
70 Article 87, Ibid.
woes in the Arctic are strictly maritime in nature and regard the *de jure* sovereignty of Canada. These specific issues relate to the legal application of straight baselines around archipelago waters, the international legal status of the Northwest Passage, and the delimitation of the Canadian continental shelf in Arctic waters. Furthermore, there are three unresolved bilateral issues with Denmark and the United States that also challenge Canada’s sovereignty.

(1.5) Straight Baselines

The Government of Canada has formally relied upon the application of straight baselines to delimit its border around the Arctic Archipelago since 01 January 1986. As explained previously, straight baselines take the most seaward points of land at the low-water mark and draws lines around them, similar in nature to a children’s game of “connect the dots.” With the Canadian Arctic Archipelago consisting of seventy-five major islands and an estimated 18,114 lesser ones, creating individual borders around each island is impractical, if not inherently difficult, to undertake when straight baselines offer an effective technique for delimitating borders well founded in international law.

The International Court of Justice approved the application of straight baselines in the 1951 jurisprudence of the Anglo-Norwegian *Fisheries Case*. This was solidified in 1982 under Article 7 of UNCLOS that declares baselines may be applied “where the coastline is deeply indented and cut into, or if there is a fringe of islands along the coast.

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in the general vicinity.” Although Canada believes its application of straight baselines is supported under UNCLOS, it remains contested by both the United States and the EU.

Objection to Canada’s application of straight baselines is rooted in how baselines internalize waters. In applying baselines, all bodies of water that reside on the landward side are considered internal. With baselines encircling the archipelago, Canada argues northern waters are subject to the full jurisdiction of Canadian law. This means that foreign vessels are not entitled to the right of innocent passage. However, internal waters may only be established as E.J. Dosman states, “by virtue of effective occupation and control, geographic proximity, economic activity, or other recognized criteria of historic rights.” Despite Canada’s application of straight baselines being recognized in customary international law, the nation must prove that it has unilateral historic use of the waters. For example, Canada’s internal claim to the Hudson Bay is generally accepted due to the existence of Canadian pollution, shipping, mineral, economic rights, and the bay’s sole use by the country. Without a historic basis to claim the Arctic waters as internal, Canada’s straight baselines could be invalidated. Realizing this Joe Clark, then acting in his capacity as the Secretary of State for External Affairs, announced before the House of Commons in 1985 that Canada relied upon a historic title based upon the Inuit

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People that have “from time immemorial” depended upon the territory, ice, and waters of the archipelago for their daily livelihood.\textsuperscript{78}

Both United States and the European Union (EU) contest Canada's internalization of the archipelagic waters on both geographic and historical means. In regards to geography, there are four specific challenges. First, Canada’s fundamental application of drawing straight baselines around the archipelago is contested. As the archipelago appears to jet almost perpendicular from the mainland coast of continental North America, it is argued that Canada’s application of straight baselines is null and void because the baselines do not follow “the general direction of the coast.”\textsuperscript{79}

Second, as the archipelago spans almost 3,000 kilometers and stretches within 900 kilometers from the True North Pole, the United States argues that Canada’s baselines grossly inflate UNCLOS guidelines for the “immediate vicinity,” or “a fringe of islands” along the continental mainland. \textsuperscript{80} In their understanding of UNCLOS, dissenting nations use a strict literal interpretation. They do not contest the physical closeness of the archipelago to the continent, but instead whether the entire span of the archipelago is considered within the “immediate vicinity” of the continent, or constituting a small “fringe of islands.” Consequently, they suggest the archipelago is a unique geographical entity separate from the continent.

Third, there is contention with the overall length and number of baselines that Canada has applied around the archipelago. There exist 145 baselines varying in length

\textsuperscript{80} McRae, “Arctic Sovereignty: Loss by Dereliction?”
from a couple hundred yards to 99 nm. Under Article 10 of UNCLOS it clearly declares that "whether one or several closing lines are drawn, the sum total of the length of the closing line(s) may not exceed 24 nm," leaving Commander James Kraska, professor of International Law at the Naval War College, to claim that "Canadian straight baselines... violat[e] virtually every rule governing lawfully drawn baselines." Donat Pharand, Canada’s leading jurist on the legal status of Canada’s Arctic sovereignty refutes Kraska’s claim. Although noting that the laws governing baselines are particular, Pharand believes that in the Fisheries Case the ICJ validated baselines that reflected the general physical geography of the Norwegian coastline, instead of guidelines that govern the application of baselines. As a result, Pharand believes that any international tribunal established to determine the legality of Canada’s archipelagic baselines would “adapt the guideline to the special geographic reality,” and validate a border reflecting the physical extent and general geography of the Canadian coastline. Overall, this means that if the location of the straight baseline properly reflects the physical conditions of the coastline, the number of baselines and their length is irrelevant.

The final geographical issue regards the chronology of Canada’s decision to officially adopt straight baselines. Article 35(a) of UNCLOS proclaims that areas enclosed by baselines after the adoption of the convention in 1982 cannot become internal waters unless they were previously considered as such. With Canada officially adopting baselines in 1986, speculation exists that Canada’s application is void because it did not adopt them before UNCLOS was created. In this light two opinions exist.

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81 Pharand, “The Legal Regime of the Arctic,” 781.
83 Pharand, “The Legal Regime of the Arctic,” 781-782.
84 Ibid., 781.
First, Andrea Charron from the Royal Military College of Canada notes that although Canada did not adopt baselines until 1986, the country has always perceived the waters as internal. This has been achieved through various techniques including Sector Theory, which despite not being recognized in international law reflects a historical attitude of Canada viewing archipelagic waters as internal. But the methodology that Canada employs for proclaiming archipelagic waters as internal might not matter if countries remain resistant to Canada’s historic claim. In the second opinion, Kraska argues UNCLOS is a “package deal” that purposefully created guidelines on baselines to reduce the potential of countries creating excessive maritime claims. He argues that Canada’s claim is one of those excessive claims. If Canada did not like the tenants of UNCLOS, Kraska believes it should not have ratified the treaty.

In reference to Canada’s historical basis for baselines, the ICJ decreed in 1983 “historic titles must enjoy respect and be preserved as they have always been by long usage.” Although Canada’s historic title relies upon the Inuit that have used northern waters for their livelihood since “time immemorial,” the country only made international declarations to rely upon this precedent with Joe Clark’s public declaration in 1985. As Canada’s claim to historic title has only officially existed since that date, it is speculative as to how much time is required before a historic precedent is created. Furthermore,

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86 Charron, “The Northwest Passage in Context,” 44.
87 For Sector Theory, See Killaby, “‘Great Game in a Cold Climate,’” 34-35.
89 Ibid., 272.
historic title requires both recognition and acceptance by other nations.\textsuperscript{92} Even though the United States has publicly refuted Canada’s historic title, it remains to be decided whether the remainder of the international community has relinquished to Canada’s claim. Historically, Arctic waters have remained a barrier to navigation because of perennial year-round ice, at least without the employment of expensive and technologically advanced ice-strengthened or submersible vessels. The neglect of maritime states to navigate northern waters may not signify international acceptance of Canada’s historic usage. Instead, it may simply reflect a general inability to navigate ice-choked waters.\textsuperscript{93}

\textit{(1.6) The Northwest Passage}

There is no single Northwest Passage (NWP or Passage) in the Canadian Arctic. Instead the NWP can be better understood as a potential network of maritime routes through the ice-covered waters of the Arctic Archipelago, spanning the entire distance of North American between the Pacific and Atlantic Oceans.\textsuperscript{94} Currently, there are at least seven known routes that could be utilized for navigating the archipelago, which all offer a massive potential of savings for the international maritime community.\textsuperscript{95} A ship departing Europe and navigating the NWP to reach Asian ports will cover an estimated 8,500 nm, or around 4,500 nm less than present sea-routes through the Panama Canal.\textsuperscript{96} The savings are substantially greater for super-vessels that must bypass the Panama Canal due to their enormous size. Canada welcomes the international maritime community to

\textsuperscript{92} McRae, “Arctic Sovereignty: Loss by Dereliction?”
\textsuperscript{93} Huebert, “Climate Change and Canadian Sovereignty in the Northwest Passage,” 90.
\textsuperscript{94} Pharand, “The Arctic Waters and the Northwest Passage,” 29.
\textsuperscript{95} Ibid., 29.
use the NWP, since closing it to international shipping would be “as senseless as placing a barrier across the entrance to Halifax or Vancouver harbour,” as Prime Minister Trudeau once reflected.  

Although welcoming foreign vessels to transit the Passage, it remains Canada’s position, by then Minister of Foreign Affairs Pierre Pettigrew in 2005, that all transits must abide to Canadian laws aimed at protecting the security, environment, and economy of the Arctic, its waterways and people. 

To Canada, the NWP constitutes internal waters due to its application of straight baselines that are justified on the Inuit People’s historic use of the waters since “time immemorial”. Other nations, with the most vocal opponent again being the United States, argue the Passage constitutes an international strait. Under such a classification, UNCLOS dictates that foreign vessels transiting the Passage would be entitled to the legal right of “transient passage,” defined as “unimpeded transit solely for the purpose of continuous and expeditious transit.” This would drastically reduce Canada’s ability to enforce national shipping, safety, and national environmental regulations like the 1970 Arctic Waters Pollution Prevention Act over vessels, which would instead be applicable to the regulations established by the International Maritime Organization (IMO). The problem, as seen by Michael Byers of the University of British Columbia, is the disturbing fact that there are “quite a few rusting tankers with Liberian flags and disgruntled creditors sailing on the world’s oceans.” Byers eludes that even though many countries may appear to abide by IMO regulations, the international shipping

99 Ibid., 275.  
100 Rob Huebert, “Shipping New Part II: How Canada’s Arctic Sovereignty is on Thinning Ice,” International Journal 58, no. 3 (Summer 2003), 302.  
community is filled with dubious characters that often do not. Failure to comply with international regulations could increase the severity of any potential environmental disaster in the Arctic. Regardless of a shipping agency’s credibility, polar scientists have recognized the Arctic Ocean as being a fragile ecosystem. Failure to comply with international regulations could increase the severity of any potential environmental disaster in the Arctic. Regardless of a shipping agency’s credibility, polar scientists have recognized the Arctic Ocean as being a fragile ecosystem. Such a disaster, whether by a reputable agency or not, would have devastating long-term effects. Consequently, Canada’s desire to exercise control over transient vessels is understandable.

For the NWP to be considered an international strait it must fulfill two prerequisite conditions established under the jurisprudence of the ICJ. First, the Passage must meet a geographic requirement of connecting two parts of the High Seas together. As the Passage spans the distance between the Davis Strait and the Beaufort Sea, this condition is undeniably met. Under the second criteria, the NWP must fulfill a functional, or usage, requirement. In order to be considered an international strait, the Passage must already be utilized by maritime agencies for international purposes. For this, Pharand argues a distinct clarification must be made. The functional requirement is based upon a history of actual usage, not the potential usage and advantages a viable NWP offers. The determinant factor for establishing usage appears to be contained within the ICJ’s ruling of the Corfu Channel Case of 1949 between Albania and the United Kingdom.

In its ruling of the Corfu Channel Case, the ICJ relied upon a relatively few number of transits of Corfu Channel during a limited time span to declare it an international strait. Specifically, the transits of 2,884 vessels from seven different

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102 Coates et al., *Arctic Front: Defending Canada in the Far North*, 97.
103 McRae, “Arctic Sovereignty: Loss by Dereliction?”
104 Ibid., 6.
105 Pharand, “The Legal Regime of Arctic,” 790.
nationalities over a 21-month period for the purposes of international shipping were enough to declare the channel an international strait. Unfortunately, the ICJ did not establish a finite quota or percentage of international transits needed for this to occur. This is worrisome for Canada’s position, as each and every foreign transit of the NWP could be used as functional evidence for its internationalization.

Through his examination of the legal status of the NWP, Pharand establishes that as of 2007 there have been sixty-nine recorded foreign transits of the Passage. After discounting vessels whose final destination was within the Arctic, and thus not constituting an international transit, those escorted by the Canadian Coast Guard or other Canadian authorities, and finally vessels that voluntarily registered with the coast guard’s northern traffic management system NORDREG, Pharand concludes that only two transits challenge Canada’s ownership over the NWP. First, the original 1969 voyage of the S/T Manhattan, despite being escorted by the Canadian Coast Guard and accepting Canadian representation onboard, contested Canada’s sovereignty. This is because it did not seek prior government authorization. More importantly, the transit occurred “when there was still a strip of high seas across the main series of straits.”

In 1969, Canada maintained a three nautical mile territorial sea, instead of the current twelve nautical mile territorial sea it presently enjoys. Consequently, the Manhattan was able to navigate at least three nautical miles in international waters off Canada’s northern coastlines in McClure Strait until unfavourable ice conditions forced

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108 Although Pharand is of this opinion, others have estimated the number of transits to be lower, with Kraska recognizing thirty-six transits. See: Pharand, “The Arctic Waters and the Northwest Passage,” 31-33; Kraska, “The Law of the Sea Convention and the Northwest Passage,” 263.
the vessel to transit the narrower Prince of Wales Strait. 110 This strait was recognized to be within Canada’s three nautical mile territorial sea. In response to this voyage, Canada adopted a twelve nautical mile territorial sea the following year, before Manhattan’s 1970 transit. In this second transit Manhattan again failed to seek Canadian permission.

Second, the 1985 transit of the USCG Polar Sea tested Canada’s sovereignty because the vessel did not seek prior Canadian authorization, nor accepted a form of Canadian escort or onboard representation. Yet with only the three transits by two foreign vessels challenging Canada’s sovereignty over the NWP, Pharand concludes the two transits could be better understood as anomalies rather than an established pattern of functional usage. 111

Building on Pharand’s assessment, Donald McRae argues that submarine transits of the Northwest Passage could constitute functional usage. 112 Article 20 of UNCLOS proclaims that within the territorial sea, submarines are required to navigate on the surface and clearly display their national flag. 113 In addition, Article 39(1)(c) declares that vessels are entitled to transient passage of international straits while undertaking “normal modes of continuous and expeditious transit,” with the normal mode of transit for submarines being submersed. 114 To McRae, the logical conclusion is that if submarines have previously transited Arctic waters in their normal submerged state, despite being necessary to avoid the sea-ice dwelling on the surface, precedence is established to declare the Passage an international waterway. 115 Pharand counters, by

110 Ibid., 38.
111 Pharand, “The Arctic Waters and the Northwest Passage,” 42.
112 McRae, “Arctic Sovereignty.”
115 McRae, “Arctic Sovereignty.”
arguing only two submarine transits of the Passage, USS Seadragon in 1960 and USS Skate in 1960, have been publicly acknowledged as transiting Canadian perceived waters. These transits occurred under joint Canada/US defence arrangements, meaning that a level of Canadian sovereignty was exerted. As for secret voyages, Pharand believes “it is impossible for a country to respond to any sovereignty challenge if it has no reason to be aware of it.” Associate Director Rob Huebert of the Centre for Military and Strategic Studies supports Pharand’s point of view by highlighting that international courts have never used secret submarine transits to resolve maritime disputes. The courts only accept publicly acknowledged facts as evidence. Yet this does not address the possibility of a foreign government publicly announcing its intention to mount a direct sovereignty challenge with a submarine through the NWP. Nonetheless, the unknown existence of foreign submarines within Canada’s northern waters is disturbing, as it highlights the country’s inability to monitor and control undersea activities within its perceived northern borders.

Pharand’s overall assessment relies upon the ICJ evaluating the complete number of foreign transits in Corfu Channel, but it is noted that Byers interprets the jurisprudence of the Corfu Channel Case differently. Whereas Pharand believes the ICJ ruling used a prerequisite number of transits necessary to fulfill the functional requirement, Byers concludes the ICJ’s failure to define a concrete number of transits necessary to internationalize a strait means the volume of traffic is irrelevant. In this opinion, the ICJ’s functional requirement is not a quantitative assessment, but rather a simple yes or

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117 Ibid., 37.
no criteria. This means that even the voyages of the *Manhattan* and *Polar Sea* would be enough to internationalize the NWP.

In a further difference of opinion, Kraska ignores the rulings of the ICJ and customary law. Instead, he relies solely upon the articles of UNCLOS to determine the fate of the NWP. This allows him to forego the functional requirement for determining an international strait by arguing “there is no authority for the idea that a strait is only an international strait if it meets a certain minimum threshold of shipping traffic, a specific number of vessels... the test is geographic not functional.”¹²⁰ If geography is the only requirement, the NWP is undisputedly fulfills the requirements of becoming an international strait.

(1.7) The Continental Shelf

Under the 1958 Geneva Convention on the continental shelf, coastal states have sovereign entitlement over all maritime resources, including those both in the water and the seabed, up to a depth of 200 meters or the maximum depth a nation could exploit.¹²¹ Under Article 76(1) of UNCLOS, marine economic rights have expanded into the more formalized 200 nm limit of the Exclusive Economic Zone (EEZ).¹²² UNCLOS gives further privileges the coastal state if it can prove before the United Nations its continental shelf exceeds the 200 nm limit.¹²³ This is a lucrative deal for Canada as preliminary research of the High Arctic suggests the Alpha Ridge off Ellesmere Island is a part of the Canadian continent and could extend Canada’s maritime rights over three-quarters of a

¹²² Dufresne, *Controversial Canadian Claims over Arctic Waters and Maritime Zones*, 12.
million square miles.\textsuperscript{124} Canada may also be entitled to a portion of the Lomonosov Ridge located between Ellesmere Island and Greenland, believed to span across the Arctic Ocean into Siberia. Unfortunately, it will have to contend with similar claims of ownership from both Denmark and Russia. With an estimated 100 to 200 billion barrels of oil in the Arctic, combined with further estimates of 2,000 trillion cubic feet of natural gas, not only is continental access to a strategic resources at stake, but also trillions of dollars in economic activity.\textsuperscript{125}

Despite a coastal state being entitled to its continental shelf past the arbitrary 200 nm EEZ, there is a stipulation that has created a scramble in the Arctic, which Byers has compared to a modern day "space race."\textsuperscript{126} After ratifying UNCLOS states have only ten years to delimit their continental extension and have it approved by the United Nations Commission on the Limits of the Continental Shelf (UNCLCS). One commentator has claimed the ten-year deadline has resulted in "just the kind of the disorderly rush to put down markers that the treaty's drafters had once hoped to head off."\textsuperscript{127} As Canada ratified the treaty in 2003, it has until 2013 to establish its claim. Similarly, Denmark has until 2014, and Russia, whose 2001 claim of 460,800 square miles was received by UNCLCS and subsequently told to provide further evidence, has only until the end of 2009 to complete its extension.\textsuperscript{128} The United States is likewise caught up in the race to


\textsuperscript{125} The exact amount of hydrocarbons in the Arctic remains uncertain; however, there is a general consensus that it constitutes the world largest untapped reserve, See: Vsevolod Gunitskiy, "On Thin Ice: Water Rights and Resource Disputes in the Arctic Ocean," \textit{Journal of International Affairs} 61, no. 2 (Spring/Summer 2008), 263; Killaby, "'Great Game in a Cold Climate,'" 33; Mathew Carnaghan and Allison Goody, \textit{Canadian Arctic Sovereignty}, Parliamentary Information and Research Service, Political and Social Affairs Division, PRB 05-61E (Ottawa: Library of Parliament, 26 January 2006), 6.

\textsuperscript{126} Byers, "Canada's Arctic Race with Russia."

\textsuperscript{127} Gunitskiy, "On Thin Ice," 262.

\textsuperscript{128} Byers, "Canada's Arctic Race with Russia,"; Gunitskiy, "On Thin Ice," 262.
chart out its shelf extension through the efforts of the George W. Bush Administration. President Bush attempted to convince a reluctant Senate to ratify UNCLOS, and also committed USCG _Healy_ to chart out the Alaskan shelf in the Beaufort Sea.\(^\text{129}\)

With states having a limited time to complete their extension, some of Canada’s polar neighbours have been acting aggressively in their attempts. Most notably, or perhaps notoriously, were Russia’s actions in 2007 when it employed mini submarines to plant a Russian flag on the seafloor of the North Pole.\(^\text{130}\) Although wholly a symbolic measure, the dramatic incident showcased Russia’s vast capability to operate and pursue its interests in the Arctic.\(^\text{131}\) It furthermore represented a feat that Canada could not reproduce.

Canada’s sovereignty is not directly threatened by its maritime continental shelf extension, as the nation is legally entitled under UNCLOS to submit its claim; however, there exists the potential for future sovereignty disputes to arise over competing claims. UNCLCS is only mandated to review and approve extensions. It cannot enforce claims or resolve any issues that may occur from inevitable overlaps.\(^\text{132}\) This means establishing national continental shelves could turn into a lengthy process of diplomatic negotiations.

The real sovereignty problem for Canada remains to be its perceived inability to chart out and establish its continental extension claim by 2013. With the aging CCGV _Louis St. Laurent_ as Canada’s only icebreaker heavy enough to fully traverse the reaches of the High Arctic, Byers argues that Canada must take immediate and drastic measures


to correct its shortcomings and complete the necessary geological surveys. By his estimate, Byers believes it will take a minimum of two icebreakers with capabilities similar to *Louis St. Laurent* at least four years to fully chart the extent of the Canadian continental shelf.\(^\text{133}\) Therefore, he concludes that Canada must either purchase or lease another heavy icebreaker from abroad, as it does not have sufficient time to both construct a heavy icebreaker and chart its extension before the submission deadline. Although the Conservative Government of Stephen Harper has not made plans to lease foreign icebreakers, it has announced the $720 million construction of a new Polar Class icebreaker *CCGV John G. Diefenbaker*.\(^\text{134}\) The vessel is scheduled for delivery in eight to ten years, or around five years after Canada’s extension claim must be completed.

While his conclusion may be troublesome, Elizabeth Riddell-Dixon argues the Arctic is not the next “Wild West” as Byers implies.\(^\text{135}\) She notes that Canada has been diligently mapping out its continental claim since 2005 from collective expeditions with both the United States and Denmark. Thus, Canada’s limited capabilities have been surpassed through the international sharing of icebreaking assets. As a result, these cooperative measures have allowed for preemptive negotiations between all three nations, which could result in claims that do not overlap.\(^\text{136}\) This would forgo any complications with getting their submissions approved by the UNCLCS. In Riddell-Dixon’s analysis, if Canada continues to chart its shelf extension through multilateral efforts, the nation will complete its extension claim by the 2013 deadline. Importantly, Jacob Verhoef supports Riddell-Dixon’s conclusions. As the lead geoscientist for mapping out Canada’s shelf,

\(^\text{133}\) Byers, “Canada’s Arctic Race with Russia.”
\(^\text{135}\) Ridell-Dixon, “Canada’s Arctic Continental Shelf Extension,” 39.
\(^\text{136}\) Ibid., 39-42.
Verhoef argues that survey work along the shelf is proceeding ahead of schedule, and that Canada’s claim looks very promising.\textsuperscript{137}

Even with such conflicting opinions on Canada’s ability to submit its claim by the 2013 deadline, obvious conclusions remain. First, it is undisputed that UNCLOS entitles Canada a level of maritime sovereignty over its continental shelf. Yet, charting shelf extensions is not simply about Arctic nations carving up the corners of the Arctic Ocean for resource extraction as implied by Byers. Since a uniquely Canadian shelf exists, much like distinctly Danish, American, and Russian shelves exist, competing claims will most likely only exist at the distant fringes. As Riddell-Dixon stipulates, Canada can reduce potential overlaps by conducting joint survey efforts with the United States and Denmark. However, if multi-lateral endeavors breakdown, Byers may ultimately be proven correct. Consequently, it is argued that Canada should adhere to Byers’ argument of enhancing Canada’s current icebreaking capabilities to survey the shelf as a means to guarantee the country can submit by its 2013 deadline. The financial burden of immediately purchasing or leasing a heavy icebreaker will be greatly exceeded by the wealth of oil and gas deposits within Canada’s continental seafloor.

(1.8) Bilateral Contention

There are presently three unresolved bilateral boundary disputes that challenge the extent of Canada’s sovereignty in the Arctic. First, there is a maritime boundary dispute with the United States over the location of the boundary between Alaska and the Yukon.

Second, there are two disputes with Denmark over Hans Island and the delimitation of the Exclusive Economic Zone in the Lincoln Sea.

The first dispute that Canada faces in the Arctic is over the maritime border between Alaska and the Yukon. In an 1825 treaty between Russia and Great Britain, the former sovereigns of the region, the territorial boundary was established along “the said Meridian Line of the 141st degree in the prolongation as far as the Frozen Ocean.” Although the treaty does not specifically discuss the maritime extension of the border, Canada interprets “as far as the Frozen Ocean,” as continuing the maritime border along the 141st meridian. The United States contests this opinion by arguing the 1825 treaty establishes a territorial border and not the maritime one. Since 1977, the United States has consistently argued the maritime border should be established through modern practices predicated in international law. Mainly, the maritime extension should be located equidistance, or perpendicular, from the low-water mark. This methodology favours the United States due to the slight curvature of the Alaskan and Yukon coast at the 141st meridian, which angles the maritime boundary in a more easterly direction. The result is a wedge shaped discrepancy of 6,250 square nautical miles that both nations lay sovereign claim over. Unfortunately, the dispute remains irresolvable from the extensive oil and gas reserves that are believed to be within the seabed of the Beaufort Sea, causing both countries to be entrenched in their respective position. It has been suggested by Huebert that one technique for resolving the boundary could be through a

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138 As quoted in: Killaby, "‘Great Game in a Cold Climate,’” 35.
139 Dufresne, *Controversial Canadian Claims over Arctic Waters and Maritime Zones*, 11.
141 Rob Huebert, “Canada and the Changing International Arctic,” 17; Gray, “Canada’s Unresolved Maritime Boundaries,” 64.
joint management scheme under the common markets established by the North American Free Trade Agreement.\textsuperscript{142}

The second dispute that Canada faces in the Arctic is over Hans Island, a barren 1.3 square kilometer island located between Ellesmere Island and Greenland. In 1973, both countries amicably established the maritime border between Ellesmere and Greenland along the continental shelf; however, disagreement arose over the location of the border at Hans Island, with it being situated directly in the middle of Kennedy Channel in Nares Strait.\textsuperscript{143} As a result of this disagreement, the boundary was established to southern and northern points approaching Hans, but never established around the island itself.\textsuperscript{144} Canada has traditionally maintained that topographic maps from surveys conducted in 1967 clearly illustrate the maritime border exists to the east, making Hans unquestionably within Canada's border.\textsuperscript{145} Despite Canada's position, the Danes landed on the island in 1984 and 1988, but afterwards the issue remained dormant for several years.

The ownership of Hans Island was reignited when the Danish Navy visited the island in 2002, believed to be in direct response to the Canadian Forces reemergence in the Arctic under Joint Operation NARWHAL 2002.\textsuperscript{146} This reinvigorated the dispute over Hans, with both nations undertaking a flurry of visits between 2002-2005 to raise their respective national flags and conduct symbolic gestures aimed at bolstering their position of ownership. In one case, then Minister of National Defence Bill Graham made

\textsuperscript{142} Huebert, "Canada and the Changing International Arctic," 18.
\textsuperscript{143} Carnaghan and Goody, \textit{Canadian Arctic Sovereignty}, 5.
\textsuperscript{144} Gray, "Canada's Unresolved Maritime Boundaries," 69.
\textsuperscript{146} Anderson, "Northern Deployments," 8.
a brief visit to the island as part of what was reported to be a “routine tour” of Canadian installations throughout the Canadian Arctic. Finally, in 2005 diplomatic correspondence led to both nations agreeing not to aggravate the issue with any further military deployments, and instead work towards a negotiated settlement.

In a recent development, the Canadian Broadcasting Corporation has reported that new satellite imagery of Hans Island has resulted in Canada altering its position. Legal advisors within the Department of Foreign Affairs have conceded the international border runs directly through the middle of Hans Island, with “recent negotiations with Denmark have taken into account his shared boundary on Hans Island.”

Denmark is also the source of the final maritime dispute that Canada faces in the Arctic. This centers on areas of overlap between Canada and Denmark’s EEZ in the Lincoln Sea, a body of water that borders the Arctic Ocean. In 1980, Denmark established straight baselines around Greenland. One specific baseline established around Beaumont Island has resulted in Denmark’s EEZ overreaching into Canada’s EEZ at two different locations. This has created an overlap of thirty-one square nautical miles at one location, and thirty-four square nautical miles in the other. Although Canada immediately objected to Denmark’s application, no resolution has been sought and the issue remains stagnant. Unless vital marine resources are found contained in the seabed of the disputed areas, Huebert has suggested this could easily be rectified through diplomatic negotiation.

147 Killaby, “‘Great Game in a Cold Climate,’” 31.
148 “Satellite Imagery moves Hans Island Boundary.”
149 Ibid.
150 Gray, “Canada’s Unresolved Maritime Boundaries,” 65.
151 Ibid., 65.
152 Huebert, “Canada and the Changing International Arctic,” 18.
(1.9) Conclusions

Westphalian sovereignty, as established by Janice E. Thomson, "is the recognition by internal and external actors that the state has the exclusive authority to intervene coercively in activities within its territory." Sovereignty ennobles states as the highest political authority within a delimited territory. Historically, Canada’s Westphalian sovereignty has been repeatedly challenged from the foreign presence of the United States and its citizens upon Arctic territory. In most cases, the foreign presence was welcomed for the purposes of conducting joint efforts at increasing continental security. Despite the United States routinely obliging itself to respect Canadian law and authority in these endeavors, Canada perceived its de facto sovereignty as threatened by the foreign presence that was established. This was manifested through the subsequent facilities that were necessary to enhance defence measures, such as barracks, transports, airfields, and hospitals, and the large influx of United States servicemen on Canadian soil. Ultimately, threats to Canada’s de facto sovereignty resided with the retraction of the United States presence; however, de jure threats were to emerge that have challenged Canada’s maritime sovereignty over the Arctic.

Maritime sovereignty attempts to reconcile the differences of entitlement between maritime states that utilize the oceans for their livelihood, and coastal states that live adjacent to the sea. Unlike Westphalian sovereignty, which is absolute over the state’s territory, maritime sovereignty is established under the United Nations Convention on the Law of the Sea. UNCLOS divides the maritime sovereignty of coastal states into zones of authority including internal waters, territorial sea, contiguous zone, the Exclusive

Economic Zone, and continental shelf. Conversely, maritime states enjoy various rights of passage in these maritime zones. Yet, the lack of absolutism in maritime sovereignty and differences in the legal interpretation of UNCLOS has resulted in Canada’s *de jure* sovereignty being challenged. Specifically, this relates to the application of straight baselines around the Arctic Archipelago, the creation of internal waters, the status of the Northwest Passage, and Canada’s continental shelf extension. There are also three bilateral boundary disputes that Canada faces amongst its northern neighbours.

Scholarship frequently diverges in the legal interpretation of Canada’s Arctic sovereignty. Not only is there a debate over what directly challenges Canada’s sovereignty, such as the transit of submarines, but also how Canada’s entitlement is challenged, like the jurisprudence of the *Corfu Channel Case*. Without scholarship achieving clear and concise agreement into how Canada’s maritime sovereignty is threatened, it can only be concluded that Canada’s sovereignty in the Arctic remains contentious. Unless foreign states rescind their objections to Canada’s position, resolution will only be attained by a verdict of the International Court of Justice.

After examining how Canada’s sovereignty is disputed, the following chapter outlines the maritime enforcement of Canada’s Arctic sovereignty. Since 2002, the Canadian Navy has renewed northern operations as a means to enforce Canada’s position of Arctic ownership.
CHAPTER TWO: MARITIME ENFORCEMENT 2002-2008

To one observer, the current activities of the Canadian Navy in the Arctic have been a renaissance.¹⁵⁴ As the navy has not involved itself with northern operations since the conclusion of the Cold War, the metaphorical renaissance appropriately portrays the rediscovery of Arctic operations after a period of absence. This chapter is devoted to understanding the current Canadian naval renaissance taking place in the Arctic. First, it explores the motives behind the reemergence of the Canadian Navy in Arctic waters. Climate change, which is melting perennial ice coverage at an unprecedented rate, is subsequently opening Canada’s northern waterways to foreign navigation. As result, the effects of climate change have renewed concerns over the vulnerability of Canadian maritime sovereignty. Particular emphasis is placed on Canada’s perceived internal waters and the status of the Northwest Passage. Although there has yet to be a direct challenge mounted by foreign vessels, the current impact of climate change has already made the Arctic an increasingly active place. This is evident from increased amounts of natural resource extraction, criminal behaviour, and maritime traffic that are already capitalizing upon reduced ice conditions.

In June 2000, the Canadian Forces conducted a strategic reassessment of its capabilities in the Arctic, in direct response to the increase of northern activity. Known as the Arctic Capabilities Study (ACS), the examination was conducted by the request of

¹⁵⁴ Huebert, ”Renaissance in Canadian Arctic Security.”
the Deputy Minister of National Defence to decipher whether "increased CF efforts in the North are warranted."\textsuperscript{155} Paradoxically, ACS concluded that the presence of the Canadian Forces was dwindling at a time when increasing human interaction would instead dictate an increasing role.\textsuperscript{156} Given this discrepancy, it was recommended that there was an urgent need to establish a "Recognized Maritime Picture" of activity within Canadian Arctic waters.\textsuperscript{157}

Second, the recent maritime sovereignty operations that have deployed the navy into Arctic waters are investigated. This illustration covers seven years of sovereignty operations, starting with Joint Operation NARWHAL 2002 and concluding with Operation NANOOK 2008. Through this investigation, it is apparent that the navy has steadily increased its Arctic capabilities with the assistance of joint and combined actors; however, there still exist many hurdles for the navy to overcome. For example, maritime enforcement is presently reliant on the navy securing an adequate source of fuel, necessary for achieving a northern presence. Consequently, fueling arrangements have been orchestrated from Canadian Coast Guard vessels and existing shore based facilities on the west coast of Greenland. Despite some initial hurdles, the navy has proven it can operate a diverse spectrum of capabilities within the Arctic. This has been achieved through naval operations that have simulated a wide range of emergency scenarios.

Finally, it is assessed whether the Canadian Navy is adequately enforcing Canada's maritime sovereignty. As the navy is ultimately responsible for safeguarding and defending Canada's littorals, it must routinely exercise within all of Canada's three

\textsuperscript{156} Ibid., 11.
\textsuperscript{157} Ibid., 11.
coastlines. Nonetheless, it is argued that the navy is not adequately enforcing Canada's maritime sovereignty in northern waters. By maritime enforcement focusing on simulated physical threats, such as drug trafficking, there exists a disparity between sovereignty operations and the way in which Canada's maritime sovereignty is threatened. By themselves, the presence of foreign vessels in Canadian Arctic waters does not threaten Canada's maritime sovereignty. Instead, the threat to Canada's sovereignty comes from vessels that base their transit on a different interpretation of UNCLOS. Explicitly, Canada's maritime sovereignty is challenged by vessels that believe UNCLOS entitles them to *de jure* right of passage. With sovereignty operations focusing on physical threats instead of legal threats, the present measures of maritime enforcement have done little to enhance Canada's Arctic sovereignty.

(2.1) *Opening the Arctic Playing Field*

Climate change is the process by which the earth's average temperature alters over a long duration. The mechanisms that drive climate change have yet to be universally understood by scientists, governments and interested observers. Nonetheless, it is generally agreed upon that the Earth is presently undergoing a period of substantial climate change, from the increase of average temperatures across the globe. Although the transforming effects of climate change can be measured throughout the world's ecosystems, the most physiologically altering effects have been within Polar Regions, including the Canadian Arctic.\(^\text{158}\) From the increase of average temperatures, the perennial multiyear ice of the Canadian Arctic has been steadily melting.

Historically, the extent of multiyear ice has spanned from the Canadian Archipelago southwards into the Tuktoyuktuk Peninsula.\textsuperscript{159} As a result of climate change, the multiyear icepack within Canada is retreating. Presently, it resides around the northern limits of McClure Strait.\textsuperscript{160} However, it is noted that the retreat has not completely removed the presence of multiyear ice in Canadian waters. The prevailing ocean and wind currents of the Arctic Ocean are shifting the location of the permanent ice cap to rest against the Canadian High Arctic. As the cap melts, it is expected that multiyear ice flows will navigate through Canadian waters.\textsuperscript{161} This will result in “diamond-hard” multiyear ice flows becoming trapped within the annual seasonal icepack.\textsuperscript{162} In the short term, Canada may experience more free-floating multiyear ice within its northern waters. In the long term, it is expected that multiyear ice will completely disappear as a direct result of warmer temperatures.

Previous statistics estimated the reduction of ice coverage at 2.4 percent of total volume per decade; however, recent studies have estimated the rate of thaw to be significantly greater.\textsuperscript{163} Specifically, the most recent analysis conducted by the Intergovernmental Panel on Climate Change concluded the rate has increased to 7.4 percent of total volume per decade.\textsuperscript{164} Overall, the Arctic has lost over two million square kilometers of multi-year ice coverage since records were first kept in 1979.\textsuperscript{165} According to the 2004 Arctic Climate Impact Assessment, ice coverage has reduced by

\textsuperscript{159} Barber, “The Incredible Shrinking Ice,” 67.
\textsuperscript{160} Ibid., 67.
\textsuperscript{161} Huebert, “Canada and the Changing International Arctic,” 15-16.
\textsuperscript{164} Ibid., 351.
\textsuperscript{165} Barber, “The Incredible Shrinking Ice,” 67.
fifteen to twenty percent, while sea-ice thickness has declined on an average ten to fifteen percent.\(^{166}\) In the middle of the Arctic, the results have been even more drastic, as multiyear ice has thinned by about forty percent.\(^{167}\)

The rate of reduction and its transforming effect upon the Arctic cannot be over emphasized. Franklyn Griffiths, the former George Ignatieff Chair of Peace and Conflict Studies at the University of Toronto, argues, “The Arctic is being altered at a rate that continues to astonish.”\(^{168}\) This reflects the fact that studies are continually discarding previously accepted norms and values in order to adopted a greater rate of thaw. The Arctic meltdown is consequently cascading at an accelerated rate with “recent studies,” as observed by Huebert, showing “that the ice in the Arctic is melting at rates that are exceeding even the most radical predictions from only a few years ago.”\(^{169}\) This reflects that both 2007 and 2008 witnessed the largest decreases in ice coverage since records have originally been documented.\(^{170}\) Although an exact year cannot be determined, it is predicted the Arctic Ocean will be completely free of ice seasonally in the 2030 to 2050 period.\(^{171}\) Yet given the constant revision and updates that scientific analyses have given to the rate of thaw, it is a fair assessment to conclude that a seasonally ice-free Arctic could come about much quicker that currently anticipated.

\(^{166}\) Byers, “Unfrozen Sea,” 30.
\(^{167}\) Ibid., 30.
\(^{169}\) Huebert, “Canadian Arctic Security,” 17;
With climate change melting the Arctic, questions have been raised about the feasibility of an open Northwestern Passage. Traditionally, the permanent ice coverage has acted as a strategic barrier to the usage of the Passage. Only the adventurous like John Franklin, Martin Frobisher, Robert McClure, and Roald Amundsen have dared to navigate dangerous ice laden northern waters, often at the expense of their lives and those of their crew.\textsuperscript{172} As ice-coverage has prevented the regular usage of the Passage, it has effectively acted as the protector of Canada's maritime sovereignty by restricting the waters from utilization. Only nations willing to undertake the financially burdensome construction of heavy icebreakers and nuclear propelled submarines have been able to traverse Arctic waters. Nonetheless, the ice coverage has prevented regular international transients from occurring, the necessary functional test for internationalizing the Passage, as was discussed in the previous chapter. The exception to this rule has been the twin 1969 and 1970 transits of the S/T Manhattan and the 1985 voyage of the USCG Polar Sea, both of which traversed across the Canadian Arctic without the Government of Canada's permission.

Much like the Arctic Ocean, scholarship divides at the question of when the Passage will become seasonally open for maritime actors. These actors includes cruise ships, naval vessels, icebreakers, fishing and research vessels, localized commercial shipping bound for Canadian ports, and finally transitory international shipping like bulk cargo containers that will migrate through the Passage onwards to their final destination.\textsuperscript{173} In 2001, the United States Office of Naval Research suggested the Passage would be open within five to ten years "to non-ice-strengthened vessels for at

\textsuperscript{172} See Kerr, "A Warmer Arctic Means Change for All," 1490.
\textsuperscript{173} Huebert, "Maritime Arctic Security," 11.
least one month each summer,” while Canada’s former Minister of National Defence Gordon O’Connor predicted 2015 would be the defining year. Any opening of the NWP would initially be a brief occurrence, as the Office of Naval Research suggested, for only a single month’s duration. With such a limiting opening, the NWP may not incite its exploitation by international commercial shipping until a substantial and predictable shipping season develops. Griffith’s believes a NWP shipping season will remain too short to be adopted into a formalized international sea-lane until sometime after 2050. With international shipping companies dependent upon reliable and proven sea-lanes for navigation, Griffiths argues that no threat to Canada’s maritime sovereignty will emerge until the NWP becomes a dependable waterway. Huebert disputes this claim by arguing that individual transits, perhaps undertaken as smaller “risk oriented” ventures, will predicate the establishment of any formalized shipping regime. Noting the precedent created by the International Court of Justice’s 1949 Corfu Channel Case ruling, Huebert believes that even minimal utilization of the Passage could be used as supporting evidence for its internationalization. In fact, he argues the international marine shipbuilding industry is presently preparing for an open Passage, with shipyards in South Korea fusing new Azipod propulsion technologies to ice strengthened ships. These vessels can function as icebreakers when piloted stern-first.

(2.2) The Bustling North


176 Ibid., 267.
179 Ibid.
With climate change thawing the Arctic, the Canadian north is presently experiencing an increase of human interaction. In his analysis of the navy’s future role in the Arctic, Kyle Christensen has commented that since 1999 commercial over flights of the Arctic have increased at a rate of three to five percent annually.\footnote{Christensen, “Arctic Maritime Security and Defence,” 43.} Aviation experts predict that by the end of the present decade the Arctic could annually experience 85,000 to 90,000 over flights.\footnote{Ibid., 43.} With such a dramatic increase in the amount of airliners commuting over the Canadian Arctic, Christensen believes there is an urgent need for Canada to prepare for the unfortunate probability of a Major Air Disaster (MAJAID) or similar midair emergency within its Arctic borders.\footnote{The Canadian Forces simulated a response to a MAJAID at Akavik in the Northwest Territories under Operation NARWHAL 07. See: Captain Steve Berath, “Op Narthwal 07 – Responding to Domestic Events in Canada’s Far North,” Maple Leaf 10, no. 13 (9 May 2007), 17.} Yet the increased usage of Arctic airspace represents only one outcome of increased human involvement. Other influences include resource development, maritime traffic, and criminally minded foreign intrusion.

The Canadian Arctic contains a wealth of untapped natural resources including vast deposits of oil, gas, precious metals, and other minerals. From estimates conducted from 1960 to 1980, it is believed that the Beaufort Sea and the archipelago hold an estimated twenty-five trillion cubic feet of natural gas and 1.7 billion barrels of oil.\footnote{“Canada’s Unconventional Revolution,” Petroleum Economist 75, no.1 (January 2008), http://www.petroleum-economist.com/default.asp?page=14&PubID=46&ISS=24437&S1D=699624 (accessed: May 26, 2009).} Further studies conducted by the United States Department of Energy believe that the Mackenzie Delta contains thirty-five billion barrels, and the Sverdrup Basin contains an additional fifty billion barrels.\footnote{Ibid.} Although the exact amount of oil and gas remains unknown, there is a general consensus that the Arctic Circle contains somewhere between
twenty-five to thirty percent of the world’s untapped oil and gas reserves. Traditionally, the existence of multiyear icepack and frozen tundra has prevented large-scale oil and gas development. Thanks to the thawing effects of climate change, the ability to extrapolate these deposits has eased. Exxon has already announced a $500 million offshore exploration program within the North American Arctic, with British Petroleum following suit with a similar expedition valued at $1.2 billion.\(^{185}\) In the case of mining, the founding of three mines in the Northwest Territories has quickly made Canada the third largest supplier of diamonds.\(^{186}\) But, the extrapolation of natural resources does not occur in isolation, and as Michael Mifflin notes, requires the development and support of major infrastructure, including ports, roads, airstrips, and hydroelectric facilities.\(^{187}\) The end result is that the Canadian Arctic “is in the fortunate position of being on of the most attractive places for gold, diamond and other mineral investment in the world.”\(^{188}\) It can be expected that resource development will accelerate as climate change continues and new deposits are discovered.

The extrapolation of resource can have damaging effects on the Arctic’s pristine environment. Perhaps most famously was the 1989 oil spill of the single-hulled Exxon Valdez in Alaska’s Prince William Sound while transporting Alaskan oil to the west coast of the United States. The spill of approximately 11 million gallons (41.64 million litres) impaired Alaska’s south-central fisheries, a vital resource that local Alaskan communities depended for their general livelihood.\(^{189}\) Such an event within the Canadian Arctic would


\(^{186}\) Huebert, “Canadian Arctic Security,” 1; Christensen, “Arctic Maritime Security and Defence,” 23.

\(^{187}\) Mifflin, “Arctic Sovereignty,” 56.

\(^{188}\) Ibid., 56.

no doubt be likewise catastrophic, if not worse. With annual ice expected to remain the
Arctic, an oil spill could easily become trapped under the icepack, making it extremely
difficult to recover. Furthermore, with traditional Inuit populations depended upon the
northern waters as a primary food source, communities bordering an environmental spill
could suffer dangerous food shortages.

The second major increase of human interaction within the Canadian Arctic has
occurred in the form of maritime traffic. Huebert has categorized these activities into
nine different groups, varying from fishing and ecotourism, to international transpolar
shipping. In response to the increased maritime presence, the Canadian Government
has undertaken efforts to bolster its ability to monitor the behaviour of maritime
activities. This includes the successful launch of RADARSAT-2, a $60 million
investment in satellite capabilities to “provide enhanced land and sea surveillance,” and
presented by the Department of National Defence as “another step towards strengthening
Canada’s sovereignty over the Arctic.” A secondary measure implemented, was the
2008 decision of the Harper Government to make it mandatory for all vessels to register
with the Canadian Coast Guard’s Northern Canada Traffic Regulation System
(NORDREG) that overseas all maritime traffic in the Arctic. However, it has not been
announced whether this decision is presently in effect. Previously on a voluntary basis,
NORDREG monitors maritime traffic in the Arctic, provides Notice to Mariners about
weather and ice conditions, conducts vessel screening, and initializes Search and Rescue

190 Rob Huebert, “Canadian Arctic Maritime Security: The Return to Canada’s Third Ocean,” Canadian
Military Journal 8, no. 2 (Summer 2007), 11.
191 “Polar Epsilon to Assert Canada’s Arctic Sovereignty,” Department of National Defence, 10 January
192 “Harper Talked Tough on Arctic Enforcement,” CBC News, August 27, 2008,
when vessels fail to check in.\textsuperscript{193} Despite establishing a crucial first means to fully monitor maritime activity within the Canadian Arctic, both NORDREG and RADARSAT-2 do not establish a physical Canadian presence in the Arctic that is necessary to rapidly react to maritime events.

Finally, the Canadian Arctic has also experienced an increase of foreign intrusion that has been criminally motivated, or at least extremely suspicious, in nature. This relates to trans-boundary issues of sovereignty discussed in the first chapter, which challenges the permeability of state borders. Most of these occurrences have been maritime. In the earliest example, an unknown and unannounced Russian IL-76 cargo plane randomly appeared at the local airport in the sub-Arctic town of Churchill, MB in the fall of 1998.\textsuperscript{194} After spending the day loitering amongst the local drinking establishments, the crew loaded a Bell 206 helicopter into the cargo hold of the plane and immediately departed in a northerly direction. This was believed to be the actions of the Russian mafia, or similar organized crime syndicate.\textsuperscript{195} In 1999, there was an unknown kayaker that mysteriously appeared, and then disappeared, in the isolate community of Pangnirtung, NU. Perplexingly, the visitor was not wearing a shirt during weather conditions that were below freezing temperatures.\textsuperscript{196} Third, in 2006 a Romanian man tried to illegally re-enter Canada from Greenland via the small hamlet of Grise Fiord, NU.\textsuperscript{197} This amounted to a 1,000-kilometer journey through ice-infested waters, which

\textsuperscript{195} Ibid.
the migrant braved in a small motorboat that sustained obvious signs of damage. Fourth, a dubious group of five Norwegians known as the “Wild Vikings,” notorious for their antics at sea and affiliation with the Hells Angels motorcycle gang, attempted to navigate through the Northwest Passage on a sailboat in August of 2007. Along their voyage, the group failed to register with Canadian immigration officials after going ashore in both Cambridge Bay and Gjoa Haven. In his defence, the captain denied he was in Canadian internal waters by arguing, “we’re sailing through the Northwest Passage and as far as I’m concerned the Northwest Passage is international [italics added].” During their encounters with the local authorities, the Wild Vikings attempted to hide a previously deported crewmember and the possession of an illegal handgun. Despite being only a few occurrences, the presence of criminally motivated intrusions in the North remains concerning. Whether criminally motivated or just suspicious, Canada would prefer not to have unwanted foreign intruders wandering freely and unchecked in the Arctic.

The effects of climate change are making the Canadian Arctic a bustling place. Whether for resource development, ecotourism, or illegal activities, it can be expected that Canada’s northern waterways will see a further increase of activity. Canada’s concerns will only heighten, as these activities become established routine practices. Consequently, there is a demand for the Canadian Government to enhance its established

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198 Ibid.
Huebert, “Canadian Arctic Security: Understanding and Responding to the Coming Storm,” 3
200 "Wild Vikings’ Land in Cambridge Bay Jail."
202 Ibid.
means of control and surveillance over maritime activities to ensure its laws and regulations are being upheld.

(2.3) Setting the Course

With the increased activity from resource development, maritime traffic, and criminal behaviour, the Canadian Directorate of Defence undertook a review in June 2000 to assess the “new challenges the CF may be called upon to assist in confronting in Canada’s Arctic region,” known as the Arctic Capabilities Study. The most concerning findings of the ACS were serious “shortcomings” in the current Arctic capabilities of the CF. The study outlined a reduction in the Army’s northern deployments, and flights by CP-140 Aurora Maritime Patrol Aircraft. Furthermore, Forward Operating Locations for fighter aircraft had seen little employment, and the scarce funding of Canadian Ranger Patrol Groups allowed for only thirty patrols to be conducted annually. As the navy did not maintain any assets, or conduct any northern deployments, a strategic assessment of its role in the Arctic remained an ominous exclusion. Yet, ACS noted the need to create a “Recognized Maritime Picture,” of northern maritime activities. In the end, ACS concluded its analysis by noting the decrease of military capabilities in the North was occurring when its need was “likely to become more significant as activity in the Arctic increases.”

203 Huebert, “Renaissance in Canadian Arctic Security,” 23.
204 Arctic Capabilities Study, Department of National Defence, Canadian Directorate of Defence, 11.
205 Ibid., 10.
206 Ibid., 10.
207 Ibid., 11.
208 Ibid., 11.
The supplementary annex to the Arctic Capabilities Study made recommendations as to how the military presence of the Canadian Forces could be increased. For enforcing maritime sovereignty, ACS broached the topic of enhancing naval capabilities by the procurement of ice-capable vessels.\textsuperscript{209} The advantages of such vessels were argued as an efficient means of conducting surveillance, publicly display Canadian sovereignty, and place “the Arctic on the same basis as the other two coasts.”\textsuperscript{210} This recommendation remains significant, as it established that a naval presence should be used to enforce Canada’s sovereignty over the Arctic. Although ice capable vessels could certainly enhance the navy’s ability to operate in the Arctic, the sovereignty operations that have occurred since 2002 have shown the navy can maintain a northern presence without them.

\textit{(2.4) Joint Operation NARWHAL 2002}

The return of the Canadian Navy to Arctic waters occurred under the guise of Joint Operation NARWHAL 2002, which reinstated a naval presence that had been absence for thirteen years.\textsuperscript{211} This occurred with the deployment of Maritime Coastal Defence Vessels (MCDV) HMCS \textit{Goose Bay} and \textit{Summerside}, which are typically used for the training of naval reservists. They departed from Halifax on 22 July 2002 and arrived at Kimmirut Harbour on the southern reaches of Baffin Island on 1 August

\textsuperscript{209} Ibid., 23.
\textsuperscript{210} Ibid., 23.
2002. While at harbour, off-duty ship’s company was granted opportunity to tour the town, while the mayor of Kimmirut was hosted onboard *Summerside* for dinner.

Beyond conducting a simple courtesy call, NARWHAL 2002 saw both MCDVs embark a contingent from First Canadian Ranger Patrol Group (1-CRPG). The vessels supported the Ranger deployment ashore for a land-based sovereignty patrol on Resolution Island, strategically located on the approaches to the Northwest Passage between Baffin Island and Labrador. As the vessels “inched their way through the belts of drifting ice,” they conducted a fisheries patrol while on route to their final destination. PatROLS of this nature include surveying boundary areas, conservation enforcement, and checking licenses, catch, and gear of vessels engaged in fishing within Canadian waters.

After disembarking approximately twenty-five Rangers to Resolution on 4 August 2002, *Summerside* proceeded to test the interoperability of ship-to-shore/shore-to-shore communications with both the Ranger patrol and the local Canadian Coast Guard detachment at Iqaluit, NU. Meanwhile, *Goose Bay* detached from its sister ship and proceeded to conduct a sovereignty patrol around the area of Davis Strait with the assistance of a CP-140 Aurora maritime surveillance craft. Once the Rangers on Resolution were airlifted by 440 Transport Squadron’s CC-138 Twin Otters, *Summerside* reunited with *Goose Bay* and together rendezvoused with CCGV *Pierre Radisson* in

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213 Ibid.
214 “Joint Operation Narwhal 2002.”
217 Hobson, “Canadian Navy Back in Arctic Waters.”
order to refuel.\textsuperscript{218} Both vessels then steamed south and ended up alongside the jetty at St. John’s, Nfld on 9 August 2002.\textsuperscript{219}

Despite NARWHAL 2002 being considered as success for paving the way for further maritime enforcement endeavors, it was considerably different than the originally exercise that was envisioned.\textsuperscript{220} Preliminary plans called for a greater military commitment in the deployment of a \textit{Halifax}-class Canadian Patrol Frigate.\textsuperscript{221} Unfortunately, international commitments to Operation APOLLO restricted the platforms that were readily available, making the MCDVs whose crews were already scheduled for a summertime deployment, the best available option.\textsuperscript{222} Furthermore, \textit{Narwhal} 2002 was initially envisioned to take place along a higher latitude at the northern side of Baffin Island.\textsuperscript{223} Despite these alterations, the voyage is considered a milestone event for instigating the return of a Canadian naval presence to northern waters.

Although NARWHAL 2002 was orchestrated to solidify Canada’s maritime sovereignty, its international ramifications may have created more harm than good. After hearing about the planning stages of NARWHAL 2002, the Danish government responded by undertaking its own efforts to solidify its perceived sovereign entitlement to the North.\textsuperscript{224} This was orchestrated by dispatching the frigate HDMS \textit{Vaedderen} to patrol the waters between Greenland and Ellesmere Island.\textsuperscript{225} While in the area, the \textit{Vaedderen} took the opportunity to hoist a flag over Hans Island and lay a plaque

\textsuperscript{219} Ibid.
\textsuperscript{220} Huebert, “Canadian Arctic Maritime Security,” 11.
\textsuperscript{221} Ibid., 11.
\textsuperscript{222} Anderson, “Northern Deployments,” 8.
\textsuperscript{223} Ibid., 8.
\textsuperscript{224} Ibid., 8.
proclaiming Danish sovereignty over the disputed area. Although Canada had traditionally maintained a dormant dispute with Denmark over the ownership of Hans, this provocative act rekindled the issue of ownership.

(2.5) Exercise NARWHAL 2004

Exercise NARWHAL 2004 was a $5 million sovereignty operation that included the deployment of HMCS Montréal to the Eastern Arctic of Cumberland Sound on Baffin Island. This deployment occurred for a substantial portion of the month of August, but the actual exercise was scheduled from 13-31 August 2004. The presence of Montréal represented a major feat for the navy, as it constituted the first time a major war-fighting platform had traversed Canadian Arctic waters since 1982. The purpose of NARWHAL 2004, as described by Colonel Norris Pettis, then Commander of Canadian Forces Northern Area, was to demonstrate “both a will and a capability to project joint forces in the North, in support of whatever contingency may occur.”

NARWHAL 2004 simulated an emergency response of the Canadian Forces to locate, secure, and retrieve a rocket and its satellite payload, that failed to obtain orbit after being launched from a hostile belligerent nation. This mimicked the actual crash landing of the Soviet satellite Cosmos 954 in the Northwest Territories in January 226

226 Struzik, “Arctic in Peril.”
229 Minogue, “Pangnirtung Awaits Army Exercise.”
1978. Yet NARWHAL 2004 was complicated by the addition of CCGV *Henry S Larson*. Beyond refueling *Montréal* on two separate occasions, during the simulation *Henry S Larson* acted as a warship from the hostile state intruding into Canadian waters to reclaim its national satellite. As such, the CF was forced to continually monitor its progress in northern waters. This was primarily undertaken through the reconnaissance provided from the Atlantic Littoral ISR Experiment, an Altair “medium-altitude/high-altitude long-endurance UAV” (Unmanned Aerial Vehicle).

For the course of the operation, *Montréal* was originally ordered from Frobisher Bay, NU to Pangnirtung Fjord, NU and expected to support the army’s salvage endeavors ashore. However, on the day when participants were expected to relocate, visibility was reduced to less than 100 yards, which prevented the Army contingency from being airlifted out of Iqaluit, NU. This risked delaying the entire exercise. On its own accord, *Montréal* showed spontaneity and crowded the one hundred army personnel from 2 Royal Canadian Regiment into its helicopter hangar and transported them to the exercise grounds.

The participation of *Montréal* climaxed on 22 August 2004 when the *Henry S. Larson*, acting in its role as the belligerent entered the fjord where *Montréal* was stationed. This created a stand off situation between the two vessels. In response,

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Montreal interdicted Henry S. Larson by dispatching a boarding party to execute a vessel wide search. After the conclusion of NARWHAL 2004, Montreal exchanged hospitalities with the community of Pangnirtung, NU and departed for southern waters on 29 August 2002.

(2.6) Operation HUDSON SENTINEL 2005

Operation HUDSON SENTINEL was a five-week northern deployment of HMCS Glace Bay and Shawinigan that commenced on 6 August 2005. The strategic objective was threefold; enhance the image of the CF and Navy for recruiting purposes, further opportunities for joint and combined activities in the North, and increase Canadian sovereignty over the region. The two MCDVs embarked upon a 4,800 nm excursion that represented the first naval presence in the Hudson’s Bay since Manitoba’s Centennial in 1973.

Public Relations took a central role in the execution of HUDSON SENTINAL, particularly amongst First Nations in the area. Both vessels embarked contingents from 1-CRPG and 2-CRPG at St. Anthony, Nfld to assist with thirteen prearranged visitations of remote First Nations communities. These visits were supported with air assets including a CP-140 Aurora based in Greenwood, NS and a CC-138 Twin Otter from 440

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237 Ibid.
Transport Squadron in Yellowknife, NWT.\textsuperscript{241} At each community, the vessels hosted several social events both aboard and ashore to raise the awareness of the Canadian Forces, the navy, and the Rangers.\textsuperscript{242} For their part, the Ranger groups were ordered to assist with these events by acting as counsel to the ship’s company on matters of cultural awareness for each remote community, particularly on liaising with elders and respecting local alcohol policies.\textsuperscript{243}

HUDSON SENTINEL concluded with a mock search and rescue exercise in the area of Cape Dorset, NU. This exercise included the participation of CCGV Pierre Raddison, the embarked Rangers, and local members of the Royal Canadian Mounted Police (RCMP) for “a challenging scenario involving sea and ground searches, the combination of which tested communications skills and interoperability.”\textsuperscript{244} Afterwards, while on route to St. John’s, NFld Shawinigan conducted a ceremony to commit the ashes of three Canadian Forces members to sea.\textsuperscript{245}

\textit{(2.7) Operation LANCASTER 2006}

Lancaster Sound was the location for a ten-day sovereignty exercise that took place from 12-25 August 2006.\textsuperscript{246} Located by the entrance to the Northwest Passage and the eastern and northern coastlines of Baffin Island, LANCASTER saw the Canadian

\begin{footnotesize}
\begin{enumerate}
\item\textsuperscript{241} Lieutenant Marie-Claude Gagne, "MCDVs Say "Ahoy!" To Northern Communities," \textit{Maple Leaf} 8, no. 3 (September 14, 2005), 10.
\item\textsuperscript{242} Ibid., 10.
\item\textsuperscript{243} Operations Order 21/05 – Operation Hudson Sentinel 05, July 21, 2005, HMCS Shawinigan NDHQ, DDH, Ottawa.
\item\textsuperscript{245} 2005 Annual Historical Report, March 03, 2006, HMCS Shawinigan, NDHQ, DHH. Ottawa.
\end{enumerate}
\end{footnotesize}
Forces conduct a surveillance operation. This was established with three “High Arctic observation post (OP) on extremely inhospitable coastline,” that tested interoperability of CF communications. In total, the operation included the participation of 425 military and civilian personal from the Canadian Forces, Canadian Ice Service, RCMP, CCGV *Henry S Larsen*, and other governmental departments. Naval participation was expanded to include HMCS *Montréal*, *Goose Bay*, and *Moncton*, and land force representation came from 1-CRPG and a platoon of soldiers from 5 Mechanized Brigade Group of the 22e “Vandoos” Regiment.

LANCASTER commenced in Iqaluit, NU with a spectacle. The Canadian Forces members paraded through the town to honour the presence of Prime Minister Stephen Harper, who was undertaking a tour of Arctic communities. In turn, the mayor of Iqaluit, NU graciously thanked the Canadian military by granting it with the freedom of the city, a civil ceremony for recognizing heroic service. Later that evening, *Montréal* hosted Mr. Harper aboard for dinner.

During the course of LANCASTER, *Montréal* acted as a mobile headquarters for the Commander of Joint Task Force North (former Canadian Forces Northern Area), then Colonel Chris Whitecross. Despite air assets being committed to LANCASTER, it was reported by *Montréal’s* Commanding Officer that the navy did most of the insertion and

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248 "Operation Nanook 07," *Department of National Defence*, August 7, 2007,
extraction of land forces. Montréal also conducted a simulated interdiction upon a vessel of interest, which was played by CCGV Henry S. Larsen.

LANCASTER conducted a second maritime interdiction, through a confrontation between Montréal and a rogue American merchant vessel named the Killer Bee, played by HMCS Goose Bay. In response to the enquiries of Montréal, Killer Bee refused to disclose its intentions, the ship’s heading, or the contents of its cargo hold. After Montréal’s captain gained permission from Col. Whitecross to inspect the non-compliant vessel, Killer Bee said that it would not be “too down with that,” and refused to halt its transit, forcing Montréal to initiate a hot pursuit. Ultimately, Montréal’s .50 calibre machine-guns and 57-millimeter cannon convinced Killer Bee to submit to an inspection.

LANCASTER also saw the navy participate in two unusual affairs. First, Moncton participated in a real emergency situation. A local fisherman required immediate medical attention after severely injuring his hand while onboard his vessel. Moncton’s medical officer administered first-aid, but the fisherman was taken to Qikiqtarjuaq, NU in order to be medivaced to Iqaluit, NU for further treatment. Second, the navy assisted with the reconstruction of a gravesite in Dundas Harbour on Devon Island, the final resting spot of two RCMP officers who had perished in 1926 and

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253 Ibid., 6.
255 Ibid., 46.
256 Ibid., 46.
258 Ibid.
1927. After completing the reconstruction of the gravesite, a brief ceremony of remembrance was conducted. At this ceremony, Col. Whitecross made some interesting parallels regarding the military’s LANCASTER presence:

We’re here for sovereignty, these guys, the RCMP who were here back in the 1920s, they were here for sovereignty as well. Their mission was to be a foot on the ground to show the world that we are here. They were, in fact, pioneers of what we’re doing.

Col. Whitecross’ comments reflect the 1920s policy of the Canadian government to station RCMP officers throughout the isolate islands of the High Arctic. More or less abandoned from the outside world, these officers single handedly displayed a level of Canadian ownership over the remote islands, and curtailed any proclamations of discovery by feared American Arctic expeditions. Consequently, the RCMP officers buried on Devon Island were likewise enforcers of Canada’s Arctic sovereignty, but were focused on protecting Canada’s territorial Westphalian sovereignty.

Following the reconstruction of the gravesite, HMCS Montréal, Moncton, and Goose Bay parted company. While Montreal immediately headed to St. John’s, Nfld, Moncton continued north to reach a final latitude of 76° 31.4381’ N before likewise returning to St. John’s, Nfld via a brief stay at Nuuk, Greenland. The course plotted by Goose Bay is unfortunately not available.

(2.8) Operation NANOOK 2007

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Operation NANOOK 2007 occurred from 7-17 August 2007 and was a $3 million operation located off Baffin Island in Hudson Strait. It was considered the largest military operation ever conducted within the Canadian Arctic with the inclusion of an estimated six hundred members of the Canadian Forces. For maritime enforcement, it included the participation of HMCS Fredericton, Summerside, and Corner Brook, or a Canadian frigate, MCDV, and a submarine. This represents the most diverse range of naval capabilities ever collected in the Canadian Arctic.

The addition of the Victoria-class submarine Corner Brook, added a new underwater element to maritime enforcement, even though its diesel propulsion prevents it from going underneath the icepack. The unknown presence of submarines in Canada’s northern waters has remained a disturbing issue within Canada’s maritime sovereignty. Essentially, it reflects the general inability of Canada to monitor the waters it proclaims absolute sovereignty over. As such, the participation of Corner Brook in NANOOK 2007 stands to be a major advance in maritime enforcement. This is because the deployment of Corner Brook was the first time that Canada was physically able to check whether foreign submarines were in its Arctic waters. Furthermore, from the underwater management scheme of the North Atlantic Treaty Organization, members are required to notify Canada if their submarines are similarly operating in the same

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The deployment of a single submarine for maritime enforcement, then provides Canada with information on what is occurring within its Arctic waters than would otherwise be attainable.

NANOOK 2007 simulated the navy responding to two maritime-based emergencies. First, the vessels responded to a request from the RCMP to conduct vessel interdiction upon a suspected narcotics smuggler, and second a further request from Canadian Coast Guard to assist with an environmental protection act. For the operation it is noted that CCGV Martha L. Black had a significant combined role to play. NANOOK 2007 tested the feasibility of a crippled Fredericton embarking its twenty person boarding party on Martha L. Black, in order to interdict M/V Rust Bucket, a vessel of interest played by Summerside. Rust Bucket was attempting to smuggle narcotics to Resolution Island, where they could be airlifted to Iqaluit, NU.

At the conclusion of NANOOK 2007, Corner Brook and Fredericton proceeded south to St. John's, Nfld on the 15 August 2007. Summerside sailed for Nuuk, Greenland for a port visit, then commenced a fisheries patrol that would keep it in northern waters until it returned to St. John's, Nfld. on 31 August, 2007.

(2.9) Other Maritime Enforcement Operations

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269 "Arctic Sovereignty Operations Nanook Set to Launch in Nunavut."
Beyond the previously mentioned operations, there have also been several other lesser activities of maritime enforcement with the Arctic. First, Operation BEAUFORT SENTINAL occurred 8-13 August 2005, during the same season as HUDSON SENTINAL.\textsuperscript{272} BEAUFORT SENTINAL occurred in the western Arctic, in an area where Canadian naval vessels have yet to still traverse. The lack of naval presence was overcome by placing naval observers onboard an RCMP vessel was used for the operation.\textsuperscript{273} Second, during the summer of 2005 HMCS Fredericton was sent into the Canadian Arctic to undertake a fisheries patrol in the waters above Baffin Island, where the Department of Fisheries and Oceans (DFO) had been absent for over ten years.\textsuperscript{274} The \textit{Ottawa Citizen} claimed the deployment was motivated to deduce whether vessels from Greenland were illegally fishing in Canadian waters.\textsuperscript{275} Although \textit{Fredericton's} Annual Historical Report for 2005 notes that several vessels were inspected, no major infractions were found, and there was no mention of international poaching.\textsuperscript{276} Third, Operation COASTAL RANGER occurred in early August 2006. HMCS Goose Bay and Moncton supported Rangers from 5-CRPG ashore while they conduct site inspections of Northern Warning System locations on northern Labrador.\textsuperscript{277} This was undertaken while the MCDVs were on route to participate in LANCASTER.

Finally, the success of NANOOK 2007 was repeated in 2008 under an operation of the same namesake. This suggests that maritime enforcement has become a regular

\textsuperscript{273} Huebert, "Canadian Arctic Maritime Security," 12.
\textsuperscript{274} Anderson, "Northern Deployments," 12.
\textsuperscript{275} David Pugliese, "Frigate Sent to Bolster Sovereignty in Arctic," \textit{Ottawa Citizen}, August 17, 2005, A.1.
affair and has been formalized into annual responsibility of the navy. The Department of National Defence has implied this by declaring “Op Nanook is one of three major sovereignty operations conducted every year by the Canadian Forces in Canada’s North.” Operation NANOOK 2008 was a $2.8 million simulation that occurred from 18-26 August 2008. Naval participation was limited to HMCS Toronto and Shawinigan with assistance from CCGV Pierre Radisson. Humanitarian assistance and disaster relief were central themes, as scenarios included an outbreak of anthrax onboard a cruise ship, and a hostage situation when a passenger refused to be quarantined. In another scenario, a mock fire and oil spill occurred by a Russian cargo ship.

(2.10) Observations

The presence of the Canadian Navy in the maritime enforcement of Canada’s Arctic sovereignty has steadily developed over time. Although NARWHAL 2002 may not have appeared to have been an ambitious operation, as HMCS Summerside and Goose Bay only acted in a supportive capacity for Ranger deployment, it nonetheless established the “important first step” for developing future naval involvement. Within the navy, knowledge of northern operations and experience in navigating vessels in ice-laden waters had atrophied as a result of ignoring the Arctic since the end of the Cold War. Consequently, naval planners argued that a “trip north really was a trip into the

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unknown."\textsuperscript{281} However, only five years later with NANOOK 2007, the presence of the navy has taken center stage with deployments that reflect a significant portion of the diverse range of naval platforms constituting the Canadian Navy. The Kingston-class, Halifax-class, and Victoria-class, which constitutes the navy’s most modern procurements, have all undertaken maritime enforcement in Canada’s Arctic waters. As such, the only vessels that have yet to undertake maritime enforcement are the fleet’s aging Iroquois-class and Protectuer-class. Although it remains to be seen whether these vessels have an ability to perform maritime enforcement, such deployments would prove the entire fleet is seamlessly able to operate in the Arctic, albeit under ice-free conditions.

The development of maritime enforcement can also be seen through the increased involvement of non-naval participants, with the most obvious growth been in military “jointness”.\textsuperscript{282} Under NARWHAL 2002, the only other assets included for the operation was a small contingent of Rangers, Twin Otters from 440 Transport Squadron, with surveillance being provided by an Aurora maritime aircraft.\textsuperscript{283} There are stark differences again with comparison to NANOOK 2007. Participants included air assets from 400 Tactical Helicopter Squadron, 405 Maritime Patrol Squadron, 425 Tactical Fighter Squadron, 435 Transport and Rescue Squadron, and finally 440 Transport Squadron.\textsuperscript{284} In terms of land forces, participation included an increased Ranger presence, and a whole company of soldiers from 33 Canadian Brigade Group.\textsuperscript{285}

The combined participation of other governmental departments has likewise increased in maritime enforcement. Reoccurring participants have included Public Safety

\textsuperscript{282} Huebert, “Canadian Arctic Maritime Security,” 12.
\textsuperscript{283} “Exercise Narwhal Series.”
\textsuperscript{284} “Operation Nanook 07.”
\textsuperscript{285} Ibid.
Canada, Parks Canada, the Canadian Ice Service, the RCMP, and the Canadian Coast Guard. Maritime enforcement has thus expanded into a whole-of-government approach that has been increasingly inclusive to government departments. Yet it is noted that the presence of the Canadian Coast Guard remains to be the most important combined actor. Since northern commercial facilities lack the proper grade of fuel that the Canadian Force utilize, the coast guard has consistently provided vital fuel transfers in order to maintain the presence of platforms.\(^{286}\) Other refueling arrangements have been made from using existing Danish facilities on the west coast of Greenland. But, it is noted that relying upon neighbours to support maritime enforcement is not an ideal arrangement as it reflects limitations of Canada to pursue its sovereign interests.\(^{287}\) Perhaps for this reason, the coast guard remains to be the navy’s primary fuel pump. This establishes that the navy’s current operational reach is dependent on the ability to secure fuel sources from outside actors. Yet, it appears that the coast guard relishes the opportunity to operate with the navy and participate in maritime enforcement.\(^{288}\) As the agency does not regularly conduct operations to practice and hone its capabilities, the ability to participate in sovereignty operations is looked forward upon as the opportunity to do so.\(^{289}\) This opinion differs greatly than the experience of the RCMP that appears to be indifferent about maritime enforcement.

“V” Division of the RCMP is responsible for policing within Nunavut and has routinely participated in operations of maritime enforcement. However, a DND post-

\(^{286}\) Huebert, “Canadian Arctic Maritime Security,” 12.

\(^{287}\) Lieutenant-Colonel Paul Dittmann, "In Defence of Defence: Canadian Arctic Sovereignty and Security," *Journal of Military and Strategic Studies* 11, no. 3 (Spring 2009), 52.


\(^{289}\) Ibid.
operation report on NANOOK 2007 has questioned the commitment of the RCMP to participate in these operations. Obtained by the *Globe & Mail* under an Access to Information Request, the reports outlines that V Division “tends to view … Nanook as a distraction rather than an opportunity.” The report also criticizes the RCMP for a “lack of engagement” by not devoting enough time to the planning of the operation. Finally, it also takes issue that the Forces were required to use stand-ins in order to simulate the RCMP’s actual participation in NANOOK 2007. Although it did not explain why the RCMP failed to support the exercise, a spokesperson blamed a lack of staffing. The RCMP were said to be undermanned, and consequently routine police work took precedence over their ability to participate in the exercise.

Other issues of the maritime enforcement of sovereignty are connected to the environment. The inhospitable weather conditions of the Arctic have acted as a continual restraint, if not an outright operational hazard, to the execution of sovereignty operations. The main perpetrator remains to be fog, and the subsequent veil of reduced visibility it produces. Previously, it was mentioned how the persistent fog prevented the deployment of ground forces in NARWHAL 2004. Further complications arose when two Air Force personnel became disoriented and lost their bearings while hiking ashore. The poor visibility even hampered air assets in mounting a Search and Rescue effort, and the two members were stranded overnight with minimal supplies. In a further example, it was reported that the fog restricted the ability of the navy to conduct interdiction in

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291 Ibid.
292 Ibid.
NANOOK 2007. The narcotics trafficker M/V Rust Bucket (HMCS Summerside) was reportedly been aided in its illegal activities from the reduced visibility that kept its location undisclosed.\textsuperscript{294} This would suggest the existence of fog is not only an operational restriction, but also compromises the ability of the navy to conduct surveillance. As such, measures must be adopted to limit its impact on future naval operations.

Further environmental constraints upon the navy concern efforts taken to minimize the ecological footprint of vessels participating in maritime enforcement within the pristine Arctic. The most challenging issue is the management and storage of waste products onboard vessels. Means of disposal have remained difficult, with Iqaluit, NU being the only Arctic port capable of properly disposing food scraps, sewage, bilge water, and other waste materials.\textsuperscript{295} As a result, the navy has traditionally ordered vessels on northern patrols to retain all solid and liquid waste products to abide to the Arctic Waters Pollution Prevention Act.\textsuperscript{296} Unfortunately, the warmer temperatures of the North and the prolonged presence of vessels, has made storing solid waste on-deck an unpleasant affair. Waste management has become an “occupational health and safety issue on board ship our COs can ill afford while striving to enforce Canadian sovereignty in our internal Arctic waters.”\textsuperscript{297} Further problems exist with submarines, with little to no capacity to stow any amount of waste. In 2007, to prevent waste from becoming an unruly issue, the navy altered its waste management policy. Vessels are now allowed to discharge

\textsuperscript{294} Struzik, “Arctic in Peril.”
\textsuperscript{296} Operations Order 21/05 – Operation Hudson Sentinel 05, July 21, 2005, HMCS Shawinigan NDHQ, DDH, Ottawa.
\textsuperscript{297} “Navy Pollution Rules Relaxed for Arctic Operations.”
“moderate amounts” of waste overboard when they are at least twelve nautical miles from the shore, or outside the territorial sea. Despite this, efforts at minimizing waste production are still expected.298

The navy has also received criticism over conducting live firing exercises in Arctic waters. Open ocean firings, while permissible, are explicated listed in Operations Orders to not be conducted in the vicinity of marine wildlife, nor directed against roaming icebergs.299 Organizations like the Sierra Club of Canada have been critical of the environment impact of sovereignty operations arguing “the last thing we need is for the military to turn the area into a target-practice zone.” This comment was in response to public relations photographs of Operation LANCASTER that depict Vandoo soldiers discharging their weapons.300 A similar event onboard HMCS Montréal was cynically described in Harper’s Magazine:

Lined up three in a row on the back deck, each of them held in place by a sturdy navy man, and fired away in the spirit of joint-operations camaraderie... shot until the deck was littered with shells. When they finished, they kicked the shells out to sea.301

A final observation of maritime enforcement is that it has almost become predictable affair. Although the general lack of ice-strengthened vessels presently restricts the navy to areas that are seasonally ice free, operations routinely occur in the vicinity of the southeast Arctic around Baffin Island. Furthermore, all participating vessels have been deployed from Maritime Command Atlantic, with Maritime Command

298 Ibid.
Pacific yet to undertake any maritime enforcement activities. This means that Kenneth Eyre’s 1987 maxim of the actions of the Canadian Forces in the North remains true, as naval involvement in the Arctic remains “in the North,” and not “of the North.”  

By this Eyre means that northern operations are only a secondary duty, undertaken by “southern-based units” that “perform specific northern-related tasks for relatively short duration.” Vessels have only been deployed in the July-August period, when navigation is at its easiest, and no year-round presence has been achieved. With maritime enforcement being brief two-week encounter, it could even be viewed as an anomaly within the navy’s other year round tasks. Huebert has commented that if the navy is serious about the maritime enforcement of Arctic sovereignty, it should contemplate undertaking an operation in February or March, when ice coverage is nominally greater. Unquestionably, such and effort would display a greater naval capability to operate in the Arctic. Since foreign maritime transit is expected to occur when ice conditions are at their lowest level, and therefore most ideal and conducive for transit, the current summertime presence of the navy is adequate as it coincides with the potential timing of any possible incursion.

(2.11) The Legal Challenge

Unquestionably, the Canadian Navy has a role to play in the Arctic. As the navy is responsible for the defence of Canada’s littorals, it must regularly exercise in all of Canada’s domestic waters. Sovereignty Operations are then a crucial affair, as they routinely test the capability of the navy to operate in Canada’s northern waters, proven to

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302 Eyre,” Forty Year of Military in the Canadian North,” 298.
303 Ibid., 298
be inhospitable and difficult to navigate. From its dreary weather, freezing temperatures, and ice-filled waters, the Arctic is fundamentally different than the environment along Canada’s other two coasts. Therefore, the navy must continue to conduct exercises in northern waters, in order to understand and overcome the situational challenges that make operating in Canada’s third coastline unique.

Since climate change is expected to further decrease the level of ice coverage in the Arctic, it is expected that foreign-based maritime traffic will routinely navigate through ice-free waters in the near future. Therefore, it is concluded that the navy is on the right course. Perhaps with great foresight, the navy is honing its northern skills in a proactive manner before Arctic waterways surge with unprecedented maritime traffic. Through the proven capability-building exercises of maritime enforcement, the navy will be well versed and prepared in Arctic procedures to pursue future Canadian national interests, particularly by the time an international shipping regime for the Northwest Passage is established. Although it remains unknown whether this transit regime will be under Canadian or international control, the navy will have optimistically achieved decades of experience in asserting Canadian interests in the Arctic by the time it evolves. Nonetheless, this conclusion is subject to the Navy staying the course, and maintaining its present efforts at developing its northern presence.

Even though maritime enforcement has clearly developed a capacity for the navy to operate in the Arctic, it is argued that the operations have done little to enhance Canada’s legal entitlement over northern waters. The primary challenge to Canada’s maritime sovereignty remains to be poised from international commercial shipping that
will navigate a seasonally open Northwest Passage. With countries dissenting Canada's sovereign ownership of the Passage, it is expected that commercial shipping will invoke a right of passage under the terms of UNCLOS. Consequently, the physical presence of international shipping in northern waters does not threaten Canada's maritime sovereignty; however, the legal entitlement of whether a possible right of passage exists for foreign vessels in Canadian Arctic waters does. "When we consider the legalities," as argued by Griffiths, "our dispute with the United States and other maritime powers is about terms of transit, not about ownership or possession." Essentially, it is the legal de jure entitlement that international shipping benefits under the UNCLOS and the precedent of the International Court of Justice, like the Corfu Channel Case, that challenges Canada's sovereignty. In this regard, it is questionable whether the physical presence of the Canadian Navy reaffirms that no right of passage exists in Canada's Arctic waters.

Lieutenant-Commander Ian Anderson believes "the presence of a grey hull makes a difference" in enforcing Canada's maritime sovereignty. Unfortunately, it can only be concluded that naval presence does not equate to the strengthening of Canada's legal position. If the navy is relied on for the maritime enforcement of Canada's claims, "naval operations in the Arctic," as observed by Commander Scott Bishop, "must be aligned to the somewhat abstract demands of strengthening Canada's legal case." The challenge for the navy is to recognize "the more traditional, practical expressions of

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308 Commander Scott E. G. Bishop, "Northern Strategy Deficit: What to Dow with the Arctic Offshore Patrol Ships?" Canadian Naval Review 4, no. 3 (Fall 2008), 7.
sovereignty through naval power are not in the offing,” and that operations in the Arctic must be orchestrated in a manner to reduce the legal entitlement that foreign vessels may pursue.\(^\text{309}\) This has been the error of maritime enforcement, as it has focused upon the physical presence of maritime actors within northern waters, and not legal pretenses behind their presence.

The current maritime enforcement operations have focused events such as interdiction, narcotics trafficking, and environmental protection. Unfortunately, none of these scenarios solidify Canada’s \textit{de jure} sovereignty. Instead, maritime enforcement is focused on confronting the physical threats that Canada has previously endured, rooted in the real-life illegal actions of individual or small group actors. This includes the actions of the Norwegian “Wild Vikings,” the unknown kayaker of Pangnirtung, NU and the Romanian who transited Davis Strait via small boat. In this regard, Canada’s maritime sovereignty is not challenged in its right to both prevent and apprehend illegal criminal actors along its coastline. Importantly, these actors did not denounced Canadian sovereignty, through invoking a perceived legal entitlement to a right of passage. Even in the case of the “Wild Vikings” where the captain attempted to renounce Canadian authority upon their transit, any entitlement became null and void when the crew set foot on Canadian soil.\(^\text{310}\)

The preference of maritime enforcement to focus on physical threats is also comprehensible when examining the history of maritime transits that have challenged Canada’s legitimacy. This relates to the transits of \textit{S/T Manhattan} and \textit{USCG Polar Sea}, which both undertook transits that challenged the legitimacy of Canada’s maritime

\(^{309}\) Ibid., 7.
\(^{310}\) “2 Wild Vikings to Be Deported.”
sovereignty. Although the physical presence of the vessels within Canada’s perceived internal waters challenged the nation’s ability to monitor, control, and react to events within its northern waters, it remained to be the legal justification behind their voyages that threatened Canadian sovereignty. In the case of the Polar Sea, the presence of a United States Coast Guard icebreaker operating alone within Canadian waters did not threaten Canada’s maritime sovereignty. Instead, it was the United States’ position that Canada’s northern waters constituted an international strait, with the Polar Sea therefore being entitled to a right of transient passage. From this perspective, the United States believed the Polar Sea did not have to seek the permission of the Canadian Government to transit archipelagic waters.

Similar to the scenarios played out in sovereignty operations, Franklyn Griffiths has commented that in assessing the impact of health, environmental, and security problems in Canadian waters “the challenge would be one of law enforcement and emergency response, not sovereignty.” For example, it is argued that no country would contest the right of the Canadian Government to prevent narcotics smuggling within Arctic waters, as was simulated in NANOOK 2007. Furthermore, if a real environmental disaster occurred within northern waterways, it would be expected that Canada would have a significant role to play, as the pollutants would be situated within its backyard. Simulating these events in the North, although necessary for building a

311 Killaby, “‘Great Game in a Cold Climate,’” 35.
313 McRae, “Arctic Sovereignty,” 5.
315 “Canadian Forces Conduct Eastern Arctic Operation.”
316 “Canadian Forces Carry out Arctic Training Exercises.”
Canadian capacity to react to maritime events, does not address the risk of legal entitlement that international shipping may capitalize upon.

The existence of foreign vessels in Arctic waters does not challenge Canada’s maritime sovereignty. An estimated seventy such transits by foreign vessels have already occurred from 1903 to 2005 with varying motives from tourism to scientific research. The concern for Canada remains to be the potential for foreign vessels to invoke legal entitlements that deny Canadian authority. As such, sovereignty operations like NANOOK 2007 have done little to promote, assert, enhance, or enforce Canada’s sovereignty. For maritime enforcement, the goal of the naval operations should be catered to enhancing Canada’s claim that Arctic waters constitute internal waters, while somehow reducing the legal basis for foreign vessels to invoke a right of passage under UNCLOS.

(2.12) Conclusions

The examination of the maritime enforcement of Canada’s Arctic sovereignty since 2002 has revealed many details. First, climate change is exacerbating the precarious state of Canada’s perceived ownership. The once ice-covered passages of northern waters are melting at a rate that continues to shock scientific observation. Currently, the rate of thaw is established at 7.4 percent of total volume per decade; however, it is expected that rate will continue to accelerate. With ice levels receding, the feasibility of a seasonally open Northwest Passage has almost become a certainty. Presently, international shipping companies are already preparing to cease upon the

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advantages that an open Passage offers. When the Passage becomes utilized for international shipping purposes, the question of whether the Passage constitutes Canadian internal waters or an international strait will require resolution.

The level of human engagement within the Canadian Arctic is drastically increasing. Presently, the main focus of this interaction is based on resource extraction, maritime activities, and criminally motivated or suspicious actors. As a result, the Canadian Arctic is becoming bustling place. In response to an emerging Arctic boom, the Canadian Forces conducted a review in June 2000 to assess the state of the CF’s current capabilities in the Arctic. Known simply as the Arctic Capabilities Study, the investigation found CF involvement in the North to be lacking during a period that would conversely demand an increased presence. This was particularly true in the need for Canadian Forces Northern Area to develop a distinct “Recognized Maritime Picture” over activities on northern waters. To correct perceived “shortcomings,” ACS made several recommendations to reinvest the CF in northern operations. Since ACS, the most public displays of the Canadian military in the North have been the return a naval presence in Arctic waters.

Since Joint Operation NARWHAL 2002, the Canadian Navy has been undertaking routine maritime enforcement of Canada’s Arctic sovereignty. These operations have continually developed over time, reflecting a greater capability of the navy to function. Initial operations of maritime enforcement, such as NARWHAL 2002 and 2004, detailed the navy to a supportive role with operations ashore. More recent operations, Such as NANOOK 2007, have the navy taking a lead role in operations that

319 Arctic Capabilities Study, Department of National Defence, Canadian Directorate of Defense, 11.
320 Ibid., 11.
focus on simulated maritime threats. These operations have included interdiction, environmental clean-up, and evacuating people from a cruise ship that were afflicted by a contagious disease.

The maritime enforcement of sovereignty has exposed that the navy is able pursue Canadian interests in the Arctic, even without ice strengthened vessels. Although there still remain several hurdles to overcome, such as obtaining a permanent fueling arrangement, the navy is on the right course for building capabilities that are unique for northern waters.

There is an undeniable role for the Canadian Navy in the Arctic. The navy must be able to operate along all three of Canada’s coastlines if it is to be responsible for the maritime defence of Canada. Consequently, the navy must routinely exercise in the Arctic to guarantee this purpose. Yet, it is concluded that current endeavors at naval enforcement do not adequately enhance the perception that northern waters constitute Canadian internal waters. Canada’s maritime sovereignty is vulnerable to foreign vessels that argue they have a *de jure* entitlement to a right of passage. This is an important declaration, as it is argued that the presence of foreign vessels in Canadian waters alone does not equate to a direct sovereignty challenge. Although the presence of Canadian warships in Arctic waters reflects a necessary ability to react to and control events, it does not address the fundamental question of whether a right of passage exists under UNCLOS.

After examining the operations of maritime enforcement conducted by the Canadian Navy since 2002, the following chapter will investigate the implications of developing an Arctic capable navy.
CHAPTER THREE: THE IMPLICATIONS OF MARITIME ENFORCEMENT

On 06 July 2007, Prime Minister Stephen Harper announced the procurement of ice-capable vessels for the Canadian Navy, while visiting the home of Canada’s Pacific fleet at CFB Esquimalt, BC. Standing before a crowd of naval personnel, Mr. Harper proclaimed that Canada has a clear choice with its sovereignty in the Arctic, “either we use it, or we lose it.” Shortly thereafter, Mr. Harper’s remarks become the war cry for Canada’s Arctic sovereignty. Simply put, the comments reflect the notion that Canada must increase its presence within the Arctic, or Canada’s sovereignty over the region will potentially vanish. One of the most visible means of “using it,” has been the Sovereignty Operations of the Canadian Navy that have been orchestrated since 2002.

This chapter is an investigation into how the maritime enforcement of Canada’s Arctic sovereignty is affecting the Canadian Navy. First, a brief account of the navy’s history in the Arctic is offered. It is argued that the navy has traditionally remained reluctant to establishing a permanent presence in the North. It has only maintained a northern presence, when clear threats to Canadian sovereignty have existed. This established pattern suggests that the navy’s current efforts to establish an Arctic presence will likewise diminish. But, it remains uncertain when that will occur. Investigating the present responsibilities of the navy, furthermore exposes that the navy’s presence in the

Arctic may also disappear. This is shown through an analysis of the navy’s “home” and “away” duties. Overseas operations, such as Operation APPOLLO, have come at the cost of the navy neglecting its domestic role. This implies that maritime enforcement is viewed as an ancillary obligation. Further support into the belief that maritime enforcement will not evolve into an enduring responsibility, is based on a debate over the domestic role of the Canadian Coast Guard. Observers like the Canadian Senate’s Standing Committee on National Security and Defence, argue the coast guard should solely be responsible for enforcing Canada’s sovereignty. If this opinion gains dominance, it is conceivable that it could lead to the retreat of the navy from Arctic waters.

Second, it is recognized that maritime enforcement may conceivably become a lasting duty of the navy with the procurement of a class of six to eight Arctic/Offshore Patrol Ships. The announced acquisition of A/OPS represents the commitment of the Conservative Party of Canada to follow through on an 2006 election promise to “get tough” on Arctic Sovereignty. Accordingly, A/OPS remains to be a politically motivated project, and a procurement that the navy potentially does not desire. An examination of A/OPS characteristics reveals concern about its hybrid mixture of icebreaking and patrolling capabilities. Another issue is the proposal that A/OPS will not have sonar capabilities. Although such capabilities are inherently difficult to operate in ice-filled waters, the futility of the vessel along Canada’s other coastlines without sonar is questioned.

Finally, an assessment is conducted into the present efforts of the navy to renew its fleet. The navy is presently entering a critical period of rejuvenation that will define its capabilities until the procurement of the “fleet after next.” Many existing projects, such
as the *Victoria*-class “Canadianization” and Joint Support Ship have already experienced serious setback and delays. As such, it is argued that the infusion of the politically motivated A/OPS will increase the likelihood of further delays, if not cancellations, of sensitive naval rejuvenation projects. If A/OPS is ultimately constructed and procured at the expense of delaying other projects, the navy’s long-term capabilities will be fundamentally altered. It could result in altering the Canadian Navy with an increased ability to conduct maritime enforcement, at the expense of maintaining antiquated vessels for pursuing Canada’s foreign interests.

(3.1) *A History of Reluctance*

The deployment of the aircraft carrier HMCS *Magnificent* and two accompanying destroyer escorts into the waters of Hudson Strait in 1948 represent the first time that Canadian warships ever negotiated Canada’s Arctic waters.\(^{322}\) Once in the Hudson Strait, the escorting vessels detached from *Magnificent* to enter the Hudson’s Bay and to conduct a port of call visit at Churchill, Manitoba. This feat was repeated the following summer by HMCS *Swansea*.\(^{323}\) Although both of these deployments created a naval presence in Canada’s northern waters, they were not undertaken as maritime enforcement of sovereignty. Instead, they focused on developing a military competency for Arctic operations.\(^{324}\) It is therefore concluded that this operations may be better understood as brief naval encounters with Arctic waters. The first endeavors of maritime enforcement did not occur until the procurement of HMCS *Labrador*.

\(^{322}\) Eyre, “Forty Years of Military in the Canadian North, 1947-87,” 295.
\(^{323}\) Ibid., 295.
\(^{324}\) Ibid., 295.
The 1954 commissioning of the 6790-ton Wind-class icebreaker HMCS Labrador, denotes the only vessel ever built and operated by the Canadian Navy specifically for operations in the High Arctic. Bercuson argues the procurement of Labrador was directly linked to maritime enforcement, with the construction of several defence-related projects in 1946-47. These projects included the production of weather and radar stations undertaken by the United States within the Canadian Arctic. Prime Minister Mackenzie-King and his cabinet approved the construction of Labrador in March 1948. This was done out of the realization that “the only way” Canada could effectively control the United States’ influence was to regulate the maritime transportation that supplied the construction of the northern facilities. Unfortunately, Labrador was not commissioned until 1954, but the ship would have an important role in enforcing sovereignty during the construction of the Distant Early Warning Line.

The construction of the DEW Line (DEW) in 1954-57 was also primarily undertaken by the United States. From the isolate nature of the Arctic, the majority of the materials required for constructing the DEW Line were imported. This required the transportation of 1.25 million tons of cargo, predominately delivered by the United States Navy and Coast Guard. While the foreign vessels traversed across Arctic waters to the sixty-three installations, Labrador conducted maritime enforcement by acting as Canada’s only representation over the transits. This task was accomplished by Labrador escorting the United States vessels and icebreaking the route to their final destination. As

325 Coates, Arctic Front, 85-86.
327 Ibid., 164.
“the only ships seen in the waters of the Canadian Archipelago, apart from a few government supply ships, were those flying the Stars and Stripes,” Labrador was single handedly responsible for guaranteeing Canada’s maritime sovereignty.\textsuperscript{329}

Despite vitally serving Canada’s enforcement needs within the Arctic, Eyre notes that Labrador remained criticized for being an “anomaly within Canada’s postwar anti-submarine navy.”\textsuperscript{330} After three years of operations, Eyre argues the navy “cheerfully” transferred the icebreaker in 1957 to the newly created Department of Transportation as part of its Canadian Coast Guard service.\textsuperscript{331} Perhaps non-coincidently, the DEW Line similarly became operational in 1957, meaning that Labrador was not longer needed to supervise the presence of foreign vessels. Eventually, the United States’ presence was to conclude with Canada gaining operational control of the DEW Line in 1959.\textsuperscript{332} Yet, without Labrador in its service, the navy “vanished from the North, not to reappear in any major way,” until the twin transits of Humble Oil’s (Exxon) S/T Manhattan in 1969 and 1970.\textsuperscript{333}

The S/T Manhattan was an ice-strengthened supertanker from the United States. It was purposely designed to test the feasibility of shipping Alaskan oil to the eastern seaboard of the United States via the Northwest Passage.\textsuperscript{334} Even though Humble Oil consulted with Canadian officials and accepted escorts from the Canadian Coast Guard, the company did not seek the permission of the Government of Canada for the tanker’s transit though northern waters. Prime Minister Trudeau attempted to downplay the

\textsuperscript{329} Eyre, “Forty Years of Military in the Canadian North,” 295.
\textsuperscript{330} Ibid., 295.
\textsuperscript{331} Ibid., 295.
\textsuperscript{332} Lajeunesse, “The Distant Early Warning Line and the Canadian Battle for Public Perception,” 57-58.
\textsuperscript{333} Eyre, ‘Forty Years of Military in the Canadian North,” 295.
\textsuperscript{334} Coates, Arctic Front, 95.
significance of Humble Oil neglect, but Canadian public opinion remained outraged.\(^\text{335}\)

To most observers, the failure of Manhattan to seek permission to enter Canadian waters directly challenged the country’s sovereign ownership over the Passage.\(^\text{336}\)

Eyre argues that the twin voyages of the Manhattan directly implicated the Trudeau Government’s defence priorities. Specifically, he notes that priorities of the Canadian Forces shifted from overseas NATO obligations and international peacekeeping, to the “primary mission of protecting sovereignty, with particular emphasis on the North.”\(^\text{337}\) This was solidified in Defence in the 70s, the 1971 White Paper on Defence. The White Paper designated the Canadian Forces to be accountable for “other challenges to Canada’s sovereignty and independence, mainly non-military in character.”\(^\text{338}\) Similarly, the White Paper also classified the protection and defence of Canada’s sovereignty as the first major responsibility of the Forces.\(^\text{339}\) Thus, the events of the Manhattan resulted in the Canadian Forces becoming mandated to enforce Arctic sovereignty over non-traditional military threats.

In response to the defence shift towards sovereignty protection, the Canadian Navy undertook sporadic Northern Deployments (Norploys), which where patrols aimed at enforcing Canada’s maritime ownership. Although these operations continued up to the end of the Cold War, the seriousness by which the navy undertook them has remained questioned. Huebert has established that the navy preferred to utilize auxiliary diving and research vessels of lesser military capabilities, with the last major warship to enter the

\(^{335}\) See, Kirton, and Munton, "The Manhattan Voyages and Their Aftermath," 67-97.
\(^{336}\) Coates, Arctic Front, 96.
\(^{337}\) Eyre, “Forty Years of Military in the Canadian North,” 297.
\(^{338}\) Canada, Department of National Defence, Defence in the 70s (Ottawa: Ministry of Supply and Service, 1971), 8.
\(^{339}\) Ibid., 16.
Canadian Arctic being HMCS Saguenay in 1982. This is somewhat astonishing when considering the 1985 sovereignty challenge of USCG Polar Sea. Like the Manhattan, the Polar Sea did not seek Canadian permission to undertake its voyage through the waters of the Arctic Archipelago. If the navy was serious about maritime enforcement, it would expectedly reinvigorate its presence after the Polar Sea through the NorPloy of major warships. This did not happen, and instead NorPloys continued to decline until HMCS Cormorant orchestrated the final voyage in 1989. Ultimately, NorPloys have been regarded as “a temporary response to an American challenge to Canadian Arctic sovereignty claims.”

A brief history of the Canadian Navy in the Arctic has found it reluctant to sustain a permanent presence for maritime enforcement. Even when the navy commissioned the Labrador, which offered a unique ability to fully enforce Canada’s sovereign interest over ice-filled waters, its service was quickly discarded when the maritime presence of the United States receded. As the voyages of the Manhattan did not result in international shipping capitalizing on the Northwest Passage and transforming it into a formalized shipping route, the frequency and seriousness of Norploys eroded. In fact, there arguably exists a clear pattern to maritime enforcement. The Canadian Navy only involves itself in the Arctic, as a response to when Canada perceives its maritime sovereignty is directly challenged. Given this pattern, skepticism remains over whether the navy’s current efforts of maritime enforcement will develop into it establishing a permanent presence.

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341 Killaby, “‘Great Game,’” 35.
In the short-term it is expected that the navy will continue to have a presence in the North. It is foreseeable that as long as potential threats to Canada’s sovereignty exists, such as those poised by international shipping in the NWP, the navy will routinely conduct maritime enforcement. Once the threat resides, it is argued that the navy will succumb to tradition of neglecting Arctic responsibilities. This could be triggered, for example, if Canada received a final resolution by the International Court of Justice over the status of its perceived internal waters. Nonetheless, this interpretation of the facts only takes into consideration an historical perspective of the navy’s experience in the Arctic. By examining current trends within the navy it is also deduced that a permanent role for the Canadian Navy in the Arctic remains uncertain. This is realized by examining the manner in which the navy approaches domestic and international responsibilities, and a debate that argues the Canadian Coast Guard should be solely responsible the maritime enforcement.

(3.2) The Arctic and the “Home” and “Away” Game

The maritime enforcement of Canada’s Arctic sovereignty will require the navy to redefine how it approaches its “home” and “away” games. The “home” game refers to the physical defence of Canada and its littorals, whereas the “away” game concerns meeting physical threats at their overseas location.\(^{342}\) When the NWP opens for seasonal navigation, there will be a need to establish a permanent Canadian maritime presence that can maintain consistent surveillance over transient vessels. If the Passage is indeed found to be Canadian, there will be a requirement to confirm that Canadian laws are being

respected. If the Passage is internationalized, there will similarly be a requirement to ensure transitory foreign vessels are not violating the international terms of passage that UNCLOS allows for. If a right of innocent passage exists, Canada will be required to verify that voyages are “not prejudicial to the peace, good order, or security of the coastal State.”

From a greater right of transient passage, a Canadian maritime presence will be necessary to corroborate that foreign transit is “unimpeded” and furthermore, “solely for the purpose of continuous and expeditious transit.” In either situation, when the NWP becomes utilized, a permanent Canadian maritime presence will be required to conduct oversight.

Perhaps as a side note, it is recognized that enforcing Arctic sovereignty is not the only constraint forcing the navy to review how it undertakes “home” and “away” game operations. A second, if not larger pressure, has developed in response to the terrorist attacks against the United States on September 11th, 2001. From both situations an intense discussion is taking place about how the navy can guarantee Canada’s overall maritime security against undesirable characters.

The current dilemma confronting the navy for meeting the dual requirements of the “home” and “away” game, is that the same vessels it uses for projecting power abroad

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344 Article 38, Ibid.
are also required to undertake domestic operations.\textsuperscript{346} Commander (retired) Peter Haydon of Dalhousie University refers to this as the Canadian approach of having "one navy, two functions."\textsuperscript{347} Presently, the navy's \textit{Halifax}-class frigates are "too big, too slow and too expensive to efficiently deal with threats in our littoral waters."\textsuperscript{348} Furthermore, the \textit{Kingston}-class coastal defence vessels are criticized for their improper hull design and slower top speed.\textsuperscript{349} For maritime enforcement in the Arctic, the "home" issue is more problematic from a lack of ice-strengthened vessels. Nonetheless, the navy only operates twenty-seven\textsuperscript{350} major surface platforms to cover a Canadian coastline of an estimated quarter of a million kilometers and recognized to be the longest in the world.\textsuperscript{351} From having sovereignty over a further six million square kilometers of sea, the navy's current ability to assert effective and continual control over Canada's domestic waters and simultaneously pursue its "away" obligations remains severely stretched.\textsuperscript{352} Consequently, it comes with little surprise that observers like J. L. Granatstien and Senator Hugh Segal have called for a general expansion of the Canadian fleet.\textsuperscript{353}

Since both \textit{Halifax} and \textit{Kingston} class vessels are inadequate to operate along Canada's coast, there have been calls for the navy to procure a class of high-speed patrol

\textsuperscript{346} Sokolsky, "Guarding the Continental Coasts,"52.
\textsuperscript{347} Haydon, "Canada's Navy," 13.
\textsuperscript{348} Canada, \textit{Canada's Coastlines}, 18.
\textsuperscript{350} Considered to be the Navy's twelve \textit{Halifax}-class Canadian Patrol Frigates, twelve \textit{Kingston}-class Maritime Coastal Defence Vessels, and three \textit{Iroquois}-class Air Defence Destroyers.
\textsuperscript{351} Canada, \textit{Canada's Coastlines}, 7.
\textsuperscript{353} Granatstein, "Canada Needs a Navy that can do the Job."
vessels. The benefit of this purchase would allow for further integration between the Canadian Navy and both the United States Navy and Coast Guard. It would also have the benefit of designating a specific class of vessel for operations within the “home” game, while allowing the remainder of the fleet to pursue “away” game ambitions. For the purposes of maritime enforcement, this is highly relevant because it ultimately evolves into the announced procurement of the Arctic/Offshore Patrol Ship. Although discussed at length later, A/OPS represents a hybrid vessel that compromises the desires of the Harper Government to build naval icebreakers, with the navy’s wishes to build patrol vessels for securing Canada’s coastal waters.

The need to simultaneously meet overseas “away” game commitments has affected the ability of the Navy to conduct maritime enforcement. The 2001-2003 Operation APOLLO, saw the overseas deployment of ninety-seven percent of the navy’s seafaring personnel in sixteen out of eighteen possible major warships. This constituted the bulk of Canada’s maritime contribution to the “War on Terror.” While the navy’s attention was focused on overseas operations, it had difficulty meeting domestic responsibilities. As Lieutenant-Commander Ian Anderson notes “it was hard to find

355 Sokolsky, “Guarding the Continental Coasts,” 54.
356 Ibid., 54.
358 See per footnote 350, this number does not reflect any Kingston-class vessels, but does include the since decommissioned Iroquois-class destroyer HMCS Huron; Canada, Canada’s Coastlines, 18.
ships that could go north without having an impact on other operations."\textsuperscript{359} Anderson’s comments reflect the demanding rigors placed on finances, platforms, and manpower during the navy’s commitment to APOLLO. The operation drained the capacity of the navy to multitask and conduct domestic operations. Even after APOLLO was concluded, its “high operational tempo” required the navy to “take a pause” for a year to try to put its house in order.\textsuperscript{360} This may explain why the navy did not undertake an Arctic sovereignty operation in 2003. Further, it prevented the deployment of a \textit{Halifax}-class frigate for maritime enforcement until the summer of 2004. Consequently, the navy’s \textit{Kingston}-class vessels that are primarily used in the training of naval reservists were main enforcers of Canada’s maritime sovereignty during APOLLO.\textsuperscript{361}

The effect of APOLLO on maritime enforcement is not an isolated event. Anderson postulates that immediate post-Cold War operations in the former Yugoslavia, Somalia, Haiti, the 1991 Gulf War, and contributions to NATO’s Standing Naval Force Atlantic have all contributed to the neglect of Arctic operations.\textsuperscript{362} This suggests that the Navy regards both “home game” and Arctic operations as a secondary responsibility, despite the defence of Canada being listed as navy’s number one strategic priority.\textsuperscript{363} Within the navy, the reluctance to embrace maritime enforcement in the Arctic as primary responsibility has been attributed to a view that sovereignty operations deter from what the navy believes are it traditional foreign going “blue-water” responsibilities.\textsuperscript{364}

\textsuperscript{359} Anderson, “Northern Deployments,” 7-8.
\textsuperscript{360} Ibid., 18.
\textsuperscript{361} Huebert, “Canadian Arctic Maritime Security,” 11.
\textsuperscript{363} Canada, \textit{Leadmark}, 6.
\textsuperscript{364} Rob Huebert, "Back to the Arctic." \textit{Starshell} 7, no. 39 (Summer 2007), 3.
The role of the Canadian Navy at undertaking both maritime enforcement and “home” game responsibilities is not universally accepted. The Canadian Senate’s Standing Committee on National Security and Defence (SSC Defence) believes the government must establish clear lines of responsibility between the RCMP, the coast guard, and the navy in order to end Canada’s *ad hoc* approach to maritime security. Instead, the committee has argued that the Canadian Coast Guard should undertake reforms to become a constabulary agency, similar to its United States counterpart. This would allow it to be placed under the auspices of the Department of Public Safety and Emergency Preparedness. The Navy League of Canada supports the SSC Defense’s position, by noting “if Canada is serious about enforcing the law at sea in waters under Canadian jurisdiction, the Coast Guard must be funded appropriately.”

The issue of whether the coast guard of the navy should be responsible for domestic waters has taken a particular twist in the Canadian Arctic.

(3.3) *The Canadian Coast Guard*

The Canadian Coast Guard has a long established history in the Arctic dating back to the 1885 Hudson’s Bay voyage of CGS *Neptune* and its predecessor agency, the

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367 Ibid., 95-100.
Unlike the navy, the coast guard has routinely maintained a constant and diligent presence in the North. Since the coast guard maintains an icebreaking fleet of mixed capabilities, it remains to be the only Canadian maritime agency capable of fully traversing the furthest ice-laden reaches of northern waterways. This allows the coast guard to pursue a broad list of Canadian interests in the Arctic including scientific research, supplying isolate northern communities, search and rescue, and “maintaining a sovereignty presence with such activities as guiding foreign vessels through Arctic waters.”

Of the current eighteen icebreakers with the coast guard’s fleet, two heavy, four medium, and one light, are seasonally deployed to the Arctic. The website of the Canadian Coast Guard declares that its icebreaker routinely operate in the North from June to early November, but testimony before the SSC Defence suggests the agency’s presence is closer to ninety days. This represents a greater Arctic commitment than the navy, in terms of icebreaking capability and maintaining its presence for greater periods. Conversely, the navy’s maritime enforcement presence is typically confined to a few weeks in August. Also, the naval presence is often subject to securing a coast guard vessel for refueling its platforms. As a result, it is concluded that the Arctic capabilities of the Canadian Coast Guard far exceed that of the navy.

As the coast guard has a strong tradition of operating in northern ice-filled waters, a debate has developed over whether the agency should be responsible for the maritime enforcement of Canada’s Arctic sovereignty. Central to this debate is the application of maritime capabilities. On one side, the coast guard maintains multiple ice-capable vessels and has decades of experience operating in Arctic waters. This has been achieved by undertaking Arctic operations that focus on maintenance on aids to navigation, scientific research, icebreaking, and fisheries enforcement. A continuation or expansion of these operations could be used to strengthen Canada’s historical claim over archipelagic waters. As argued in the first chapter, historic claim is necessary for Canada’s straight baselines around the Arctic Archipelago to be validated under UNCLOS. On the other side, the Canadian Navy has a monopoly on the application of the maritime-based military muscle, necessary to force unwanted foreign intruders to accept Canadian authority. Since the navy has vast expertise in sea-control, it can also monitor all surface and sub-surface traffic within Arctic waters. Consequently, this debate can be understood as whether applying the coast guard’s ‘soft power’ to build sovereignty, or the navy’s ‘hard power’ to enforce sovereignty is better suited for advancing Canada’s ownership over its perceived internal waters.


John Stuart Mill once stated "our diplomacy stands for nothing when we have not a fleet to back it up."\textsuperscript{376} The deployment of a naval vessel sends a strong message to the international community. Specifically, it signals to foreign observers that a nation views an issue with a high degree of importance and its national interests are invested in its resolution. Furthermore, naval ships are recognized as diplomatic representations, if not physical embodiments, of their country.\textsuperscript{377} By employing the navy for maritime enforcement, Canada sends a clear message to the international community that it is serious about its ownership over archipelago waters. Expectedly, Canada’s application of naval sea power has not gone unnoticed. Observers, like Scott Borgerson of the United States Coast Guard, have labeled the Harper Government’s build up military means in the Arctic as "saber rattling."\textsuperscript{378} Others have viewed it as a form of gunboat diplomacy.\textsuperscript{379} Consequently, deploying the navy into the Arctic may signal that Canada is serious about protecting its sovereign interests in the Arctic, but it may be received as hostile and aggressive posturing.

Haydon remains to be the most vocal advocate of employing a naval presence for sovereignty enforcement. "To be sovereign at sea," declares Haydon, "a nation must be able to control whatever takes place in the waters under its jurisdiction."\textsuperscript{380} Haydon emphasizes this can only be done so with "the backing of a credible armed force."\textsuperscript{381}

\textsuperscript{378} Scott G. Borgergerson, "Arctic Meltdown," \textit{Foreign Affairs} 87, no. 2 (March – April 2008), 74.
\textsuperscript{379} Kenny, "Exerting Canada’s Sovereignty over Arctic Waters," 22.
\textsuperscript{381} Ibid., 4.
With Canada’s sovereignty woes in the Arctic not simply being about foreign adherence to Canadian laws, but instead being a fundamental question of whether Canada has the legal entitlement to make such laws, Haydon equates that a naval presence is crucial to establish Canada’s credibility. Furthermore, he believes the non-military nature of the Canadian Coast Guard cannot achieve the level of compliance over vessels that the navy commands.\(^{382}\) Major (retired) Rod Day supports Haydon’s opinion, by arguing that Canada requires “projectable ‘hard power’ to back up our claim to significant portion of the Arctic Ocean and Archipelago.”\(^{383}\) As a result, Day advocates for a general buildup of Canadian Forces in the Arctic as necessary to protect Canada’s interests.

Like Canada, China routinely uses its navy to conduct maritime enforcement over vessels in its disputed Economic Exclusive Zone of the South China Sea. Essentially, there is a four-way dispute between China, Vietnam, Malaysia, and the Philippines over oil and gas deposits.\(^{384}\) In March 2009, five Chinese vessels confronted the United States Navy vessel *Impeccable* that was undertaking oceanographic surveys in the region.\(^{385}\) This aggressive action was viewed by Pentagon spokespersons as “one of the most aggressive actions we’ve seen in some time.”\(^{386}\) By using its navy for maritime enforcement, Canada may likewise initiate a similar confrontation over the Northwest Passage in the near future.

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\(^{382}\) Haydon, “Canadian Naval Requirements for the 21st Century,” 3-4.


In response to a naval presence in the Arctic, the SSC Defence has rhetorically asked, “Can anyone imagine Canadian guns firing on US or British vessels going through the Northwest Passage?” This is a very astute realization of maritime enforcement, as it has been suggested that any future sovereignty challenge in the Arctic will most likely be supported by the United States, Canada’s largest economic partner and military ally. Using naval force to coerce the vessel of a friendly nation to accept Canadian sovereignty could have serious unforeseen economical and political repercussions. Importantly, it is predicted that an open NWP will predominately be used by non-military commercial vessels. Huebert agrees by stating “it is unlikely that a direct military threat will arise.” Foreign states may not be sympathetic to Canada’s position of internal water, particularly if the navy interdicts unarmed and defenseless vessels in efforts to legitimize its claim. Consequently, justifying a continual naval presence over non-military vessels may become problematic unless military threat emerges.

Liberal Senator Colin Kenny, Chair of the SSC Defence, offers a similar point of contention. Kenny argues that naval enforcement amounts to little more than symbolism. Furthermore, Kenny believes that “anyone who thinks that Canadian Navy is going to use the guns on these [A/OPS] vessels to blow truculent subs or commercial vessels.... has spent to much time playing video games.” Instead, Kenny believes that issues pertaining to the status of Canada’s Arctic sovereignty will ultimately “be resolved by words,” and “compelling legal arguments,” and not military prowess.

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390 Kenny, “Exerting Canada’s Sovereignty over Arctic Waters,” 22.  
391 Ibid., 22.
Ultimately, the decision to use the Navy instead of the Coast Guard for the enforcement of Arctic sovereignty may have less to do about maritime capabilities, international opinion, and building legal arguments. Instead, it may have more to do about the political motives of the Canadian Government.

(3.4) Political Motives

Under the leadership of Stephen Harper, the Conservative Party of Canada (CPC) won a minority government in the 2006 Canada General Election. During this election, the CPC promised to ‘get tough’ on Arctic sovereignty through the implementation of a “four-pronged Arctic Agenda.\(^\text{392}\) From the vantage of maritime enforcement, the promises to procure three heavy naval icebreakers, deploy an underwater acoustic surveillance network, and construct a deep-water port were impressive.\(^\text{393}\) This election platform was also announced by discrediting the previous thirteen years of Liberal government as “being asleep at the switch,” and drastically cutting military funding that could have otherwise assisted with enforcing Canada’s Arctic sovereignty.\(^\text{394}\) Regardless, political observers viewed the CPC’s Arctic policy as a correct step for substantially providing the necessary maritime enforcement capabilities required for asserting Canada’s claim.\(^\text{395}\)

Mr. Harper’s election promise to enhance maritime enforcement was more than mere election rhetoric. The issue of Arctic sovereignty has become a central focus of his government, clearly illustrated with the 2007 Speech from the Throne to open the Second

\(^{393}\) Ibid., A.15.
Session of the Thirty-Ninth Parliament. Contained within the speech, the government proclaimed that it would defend “our sovereignty in the North,” and announced its intentions to move forward with building “New Arctic patrol ships” to protect Canada’s northern interests. This announcement was welcomed by the Canadian electorate, as demonstrated in a poll conducted by The Globe & Mail, from a poll that found Canadians were overwhelming supportive in spending billions of dollars to procure Arctic capable vessels. Since 2007, the attainment of arctic capable vessels has become entrenched within Canadian Defence Policy as a cornerstone of the government’s recent Canada First Defense Strategy. This strategy outlines a twenty-year vision for rejuvenating the Canadian Forces to be “well trained, well equipped and ready to take on the challenges of the 21st century.”

(3.5) Arctic/Offshore Patrol Ship

The planned procurement of six to eight Arctic/Offshore Patrol Ships will drastically increase the ability of the Canadian Navy to conduct maritime enforcement. Announced on 06 July 2007, the procurement of light naval icebreakers was justified as necessary for “conducting armed surveillance in the maritime approaches to Canada.” Expectedly, A/OPS will conduct maritime enforcement only in the summer, and for the

398 Canada, Department of National Defence, Canada First Defence Strategy (Ottawa: Ministry of Supply and Service, 2008), 3.
remainder of the year patrol Canada’s Pacific and Atlantic EEZ. This suggests that the Arctic will not be the vessel’s primary area of operations. Procuring the class has been budgeted at $3.1 billion, with an additional $4.3 billion reserved to finance the maintenance of the class over its life span. The first vessel is slated for delivery in 2013, and is been suggested to similar in design and concept to the Norwegian Navy’s Svalbard-class that displaces around 6,000 tonnes. But until a shipbuilding contract is awarded, the design of A/OPS remains speculative. Nonetheless, A/OPS could potentially bind the navy to maritime enforcement for the entire duration of the vessel class, which is expected to be in service until 2040. As result, the commissioning of the class will have major implications on the navy’s overall capabilities and maritime enforcement for many decades to come.

A/OPS is to be capable of penetrating first-year ice of up to one-meter thick, recognized to be Polar Class 5 strength. As such, the attainment of A/OPS represent the first time the Canadian Navy will maintain a capability to break ice since HMCS Labrador. Yet, this will not be the vessel’s only uniqueness. The project definition design, as offered by STX Marine Canada Inc. (formerly Aker Yards), suggests that A/OPS will contain minor amphibious capabilities. This is achieved by a contained landing craft that will assist in deploying snowmobiles and a pickup truck that are to be

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401 Ibid.

402 "New Icebreakers Should Be Given to the Coast Guard Senate Committee on National Security and Defense."

403 "Arctic/Offshore Patrol Ships."
stored onboard.\textsuperscript{404} As A/OPS is expected to have accommodation for an additional forty people beyond its regular crew of forty-five, it is supposed that the amphibious characteristics will be used to support enhanced sovereignty patrols of the Army and Canadian Rangers. Further notable requirements listed in the proposed definition design include: a top speed twenty knots, sea keeping for offshore operations in Canada’s EEZ, aviation facilities for both military and civilian helicopters, storage for five twenty-foot equivalent (TEU) cargo containers for additional ship stores on prolonged missions, and finally a “gun armament for sovereignty enforcement.”\textsuperscript{405}

The procurement of A/OPS has not been received without criticism. First, Prime Minister Harper’s election platform was to procure “three armed heavy icebreakers” for the navy, therefore the vessels represents a qualitatively less, but quantitatively greater commitment for maritime enforcement. However, the failure to procure heavy icebreakers has led to A/OPS being labeled by some media outlets as “slush-breakers.”\textsuperscript{406} Its first-year ice capabilities will prevent the navy from operating in areas of perennial ice, a necessary requirement to maintain a year round presence in the High Arctic. Yet, as climate change is presently expected to diminish, if not completely vanish, the presence of perennial ice, A/OPS will gain a greater area of operations as perennial ice recedes.

Despite the criticism for being only first-year ice capable, A/OPS does par the recommendations of Dr. Kyle Christensen at the Directorate of Maritime Strategy. In a


\textsuperscript{405} Ibid.

technical report that examines the navy’s ability to guarantee Canadian Maritime security in the Arctic, Christensen acknowledges “a distinct lack of Canadian Naval presence in the North.” But, Christensen argues the navy should not fundamentally alter its primary capabilities through the acquisition of heavy icebreakers. Instead, the navy should remain as an expeditionary and versatile force, able to undertake a variety of both combat and non-combat operations. Heavy icebreakers, with little use outside Polar Regions, would neither be expeditionary or versatile within Canada’s multipurpose fleet. As a result, Christensen concludes “there is no significant benefit for the government to invest limited resources to acquire platforms with second year or multi-year ice capability.” Since A/OPS will able to break ice and patrol offshore waters, the vessel will serve more than one purpose and maintain the multipurpose characteristics of the Canadian fleet.

Second, reports suggest that A/OPS will not be equipped with sonar capabilities. The business of icebreaking, which creates constant residual noises from displacing ice, compounded by “diamond hard” perennial ice flows, renders towed arrayed or hull-mounted acoustic systems useless and vulnerable to damage. Perhaps from this understanding, A/OPS project officers have commented “from our prospective we have not examined that [sonar capabilities] as a potential for this platform.” Dan Middlemiss of Dalhousie University has noted that the sonar deficiency of A/OPS could lead to its onboard maritime helicopter outfitted with the ability to do so, or by supplying

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408 Ibid., 59.
409 Ibid., 59.
411 Ibid.
the vessel class with a remote operated Unmanned Underwater Vehicle (UUV).\footnote{Ibid.} Unfortunately, until it is identified whether A/OPS will be outfitted with its own maritime helicopter, Middlemiss' comments remain speculative.

Since acoustic sonar systems are critical in the detection of submarines, it is argued that some arrangement must be made to allow A/OPS to discover them. As Canada has remained unable to verify whether foreign submarine operate in the North, they have routinely undermined the country’s ability to monitor maritime activity. “Undersea Sensors cannot be eliminated from the vessel,” as Michael Harvey of Marport Canada Inc. has reflected, “without seriously compromising the entire rationale for acquiring the vessels is in the first place.”\footnote{Michael J. Harvey, “Mission Impossible” Or "Mission Accomplished": The Critical Need for Undersea Sensors Aboard the Arctic Offshore Patrol Ships, Marport Canada Inc., n.d., http://blog.marport.com/wp-content/uploads/2009/03/Mission%20lncapable%20or%20Perhaps%20lImpossible.R5.pdf (accessed: June 05, 2009).} Further complication exists, as A/OPS is expected to spend the majority of the time patrolling Canada’s Pacific and Atlantic approaches. A failure to not include sonar capabilities will likely have repercussions on A/OPS achieving maritime domain awareness against potential underwater threats on all three of Canada’s coastlines.

Third, despite the Arctic capabilities of A/OPS being severely scrutinized, criticism of its proposed offshore capabilities has remained relatively unscathed. Essentially, this pertains to the vessels proposed sea-keeping abilities. Retired Vice Admiral Nigel Brodeur has implied this, with the icebreaker discussion points he provided to the Naval Officer’s Associations of Canada’s Starshell Magazine:

> The ice-capable patrol ship is a hybrid design. The design criteria which makes a vessel a good icebreaker make it a poor warship, and the design
criteria which make a vessel a good warship give it little or no capability for operating in the ice. The hybrid is therefore a compromise between contradicting and mutually exclusive design requirements.\textsuperscript{414} A/OPS thus represents the fusion of two entirely different vessel types. Icebreakers are typically slow, heavy, requiring a deep draught and wide beam to crush the ice that they rise upon.\textsuperscript{415} Conversely, patrol vessels are normally sleek with a high maximum speed for conducting marine interdiction. But, A/OPS will have a top speed of around twenty knots. This represents at least five knots less that the comparable United States Coast Guard’s Offshore Patrol Vessel currently under design as part of the agency’s Integrated Deepwater Program.\textsuperscript{416} The low top speed may hamper the classes ability to conduct maritime interdiction of small, fast, vessels found off the western and eastern approaches of Canada.

STX Canada Marine Inc. predicts a Svalbard type A/OPS will have an overall length of 109.6m, and an overall beam of 18.2m. This would make the vessel ‘beamy’ from a short, yet wide, stature. Comparatively, A/OPS would be about thirty meters shorter, but two meters wider than the Halifax-class frigates.\textsuperscript{417} This would make A/OPS eerily comparable to the Kingston-class, considered an inferior vessels for its “Jack-of-all-trades, master-of-none,” hull design.\textsuperscript{418} The Kingston-class is generally criticized for its slow top speed and ‘hull slamming’ in offshore waters that occurs from its own ‘beamy’ nature.\textsuperscript{419} This is a somewhat worrisome conclusion, as the acquisition of

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\begin{itemize}
\item \textsuperscript{414} Nigel D. Brodeur, "Military Icebreakers: Discussion Points," Starshell, no. 34 (Spring 2006), 3.
\item \textsuperscript{415} Ibid., 3.
\item \textsuperscript{416} Sokolsky, “Guarding the Continental Coasts,”, 54.
\item \textsuperscript{417} McGreer, “Arctic Offshore Patrol Ship (AOPS) Definition Design.”
\item \textsuperscript{418} Priestley, “The Kingston Class.”
\item \textsuperscript{419} Ibid.
\end{itemize}
A/OPS is reportedly to come at the price of decommissioning of the Kingston-class.\textsuperscript{420} As a result, the hybrid nature of A/OPS may in fact repeat some of the flaws that are contained in the vessel class it is expected to replace.

The final criticism of A/OPS regards the current state of the Canadian Coast Guard. Byers believes the entire $7 billion budget for A/OPS should be allocated to rejuvenating the coast guard.\textsuperscript{421} This would allow the coast guard to replace its existing ice capable fleet, instead of building entirely new capabilities with the navy. The heaviest icebreaker operated by the coast guard, CCGV Louis St. Laurent, was built in 1969. Additionally, the coast guard’s newest icebreaker, CCGV Terry Fox, was built in 1983.\textsuperscript{422} As these vessels will become outdated in the coming years, the government will likewise be required to finance the procurement of new icebreakers for the coast guard. To this extent, the government has already committed $720 million for construction of the heavy icebreaker CCGV John G. Diefenbaker, for delivery in eight to ten years.\textsuperscript{423} Yet this commitment is only a start, as several more icebreakers of various strengths will be required to maintain the coast guard’s present capabilities.

The acquisition of A/OPS remains to be a politically motivate procurement by the Harper Government. Sources such as Jane’s Defence Weekly have suggested that the Navy is not particularly keen about procuring icebreaking vessels by reporting “the navy’s response is that operating an icebreaker in the Arctic is a constabulary function

\textsuperscript{421}Pellerin, "Arctic Patrol Ships and Canada’s Arctic Sovereignty."
and properly the preserve of the Canadian Coast Guard." Likewise, despite favouring the procurement, Huebert has reflected that within the navy the Arctic is viewed as “an unnecessary diversion” to international obligations. For Commodore (retired) Eric Lerhe, A/OPS is “awfully close to trying to improve highway safety by having the police drive snow ploughs.” Lerhe’s comments reflect apprehension that the navy’s war-fighting abilities will be diluted in the Arctic to simply escorting and breaking ice for transit vessels, such as the coast guard’s role in escorting S/T Manhattan.

With such criticism over the navy obtaining icebreakers, it remains feasible that the entire A/OPS project could be transferred to the coast guard, or even outright cancelled, if it becomes undesirable to any future government. But under the present Harper Government, that remains an extremely doubtful outcome. The procurement has taken an important role in its newly created defence policy. Regardless, a level of skepticism must remain until construction of the vessels occurs. Presently, A/OPS is only a potential procurement that will enhance the capability of the navy to conduct maritime enforcement. As Huebert notes “when we see the actual contract, and we see an actual ship start construction... I’ll feel totally comfortable that in fact we are making the right steps.” However, with the recollection of A/OPS being politically motivated, it is crucial to assess how the navy plans to balance the vessel’s procurement within its own long-term fleet renewal strategy.

(3.6) The Next Canadian Fleet

425 Huebert, “Back to the Arctic,” 3.
426 Shadwick, “Due North,” 104.
The Canadian Navy is entering a period of renewal to obtain the capabilities it requires for safeguard Canada’s interest for the next forty years. Under the auspices of the *Canada First Defence Strategy*, the government is presently expecting to commence the replacement of Canada’s major war-fighting platforms by 2015.\(^{428}\) Although this remains to be on the horizon, the navy is nonetheless involved in several significant projects to update, modernize, and extend the capabilities of its current fleet. These projects include the Extended Docking Work Period (EDWP) and “Canadianization” of the *Victoria*-class submarine, the procurement of the Joint Support Ship (JSS), *Halifax*-Class Modernization (HCM), and finally the initial planning stages of *Iroquois*-class and *Halifax*-class replacement into the Single Class Surface Combatant. In investigating these projects, it is abundantly clear that the present renewal process is extremely delicate as many are experiencing a level of set back or delay. The inclusion to procure A/OPS must be factored into this sensitive process.

One of the main renewal projects the navy is presently undertaking is the modernization and conversion of the fleet’s four *Victoria*-class long-range patrol submarines. Purchased in 1998 as previously decommissioned vessels within the Royal Navy, they are currently undergoing various stages of “Canadianization” and an Extended Docking Work Period (EDWP). While the “Canadianization” involves converting the submarines from British to Canadian standards, the EDWP project refers to a prolonged period of regularly scheduled maintenance. Although the last submarine was commissioned into the navy in 2004, all four vessels are not expected to be fully

\(^{428}\) Canada, “Canada First Defence Strategy,” 17.
operational until 2012. Part of this delay can be attributed to an onboard electrical fire that severely crippled HMCS Chicoutimi during its initial voyage in 2004.

Once fully operational, the Victoria-class will have an important role for the maritime enforcement of Canada’s Arctic sovereignty. As discussed previously, the use of submarines for the purposes of enforcement, such as in NANOOK 2007, provides a crucial underwater dimension. By operating submarines in the Arctic, Canada can physically verify whether foreign submarines are operating within its internal waters. However, the submarines diesel-electric propulsion confines their enforcement to only the edge of the icepack. It has subsequently been suggested that the submarines should be outfitted with an air-independent propulsion (AIP) system that would allow them to venture beneath the ice. Even though this would greatly increase the maritime enforcement abilities of the Victoria-class, the navy has not announced any plans to undertake the conversion.

Despite the vessels lacking AIP propulsion, both Huebert and Captain (N) Phil Webster argue that the vessels will greatly increase Canada’s enforcement capabilities. From the terms of NATO’s underwater management scheme, allied nations must notify partners if they are similarly operating submarines within the same area. This policy is aimed at reducing operational interference between submarines. As a result, the argument of both Huebert and Webster is that by simply achieving a submarine presence in the Arctic, NATO must provide information on the movement of allied submarines in

430 Bob Bergen, “Plan A or Plan B Or... Where Go the Submarines?”, Starshell 7, no. 40 (Autumn 2007), 4.
432 Huebert, “Canadain Arctic Maritime Security,” 14; Webster, “Arctic Sovereignty.”
the area. This will in turn increase Canada’s overall maritime domain awareness. Therefore, even if the *Victoria* submarines cannot traverse beneath the ice-coverage, they still provide a crucial function in enforcing maritime sovereignty.

A recent March 2009 collision between the French *Le Triomphant* and the British HMS *Vanguard* suggests this assessment may only be partially correct.\(^{433}\) The vessels involved in the collision were both Ship Submersible Ballistic Nuclear (SSBN) submarines. In responding to how two NATO vessels could collide, a spokesperson clarified the particulars of NATO’s underwater management scheme. According to the *Agence France-Presse* the spokesperson reported, “NATO has no role in managing the movement of this class and type of submarine for any NATO nation.”\(^{434}\) This would then suggest that although NATO coordinates the movement of nuclear attack submarines, the location of SSBNs remains secretive. It is assumed that this is to ensure the role of SSBNs as nuclear deterrence and a second-strike reprisal force.\(^{435}\) Therefore, it can be concluded that by operating submarines in Arctic water, Canada will only gain maritime awareness on the movement of NATO attack submarines; however, the organization’s underwater management scheme will not necessitate Canada having a complete undersea picture.

The refit and refurbishment of the *Victoria*-class submarine continues to be controversial. Since the procurement originated in 1998, and HMCS *Corner Brook* remains to be the only operational boat, critics like Steve Staples of the Polaris Institute have argued “the Canadian government instead of pumping more and more money into

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\(^{434}\) Ibid.

\(^{435}\) Ibid.
these subs that may never be operational, should just cut their losses now. Retract the fleet. It has also been recently exposed, that none of the submarines have yet to fire a live torpedo. This suggests that although the vessels are seaworthy, there exist outstanding issues that prevent them from becoming fully operational. From all the delays, the navy remains on the defensive about the submarines as necessary for “fulfill[ing] Canada’s vision of having a balanced, multi-purpose and combat effective fleet.” Nonetheless, the Victoria-class remains generally unpopular with the Canadian Public. It is subsequently believed, that a government looking for an easy way to increase its political support amongst the public, or to perhaps curtail expenditures, could decommission the class. If Canada’s submarines were removed without replacement, it would be a serious setback to conducting maritime enforcement, due to the crucial underwater surveillance they perform.

The second major renewal project that the Canadian Navy is presently undertaking is the $2.9 billion procurement of three Joint Support Ships. The JSS project is to allow for the retiring of the navy’s aging Auxiliary Oil Replenishment (AOR) Protectuer-class that was procured in the later part of the 1960s. The project was announced in 2004 under the Martin Government, and the first ship was slated for

delivery in 2012.\textsuperscript{440} The role of replenishment vessels within the Canadian Navy remains essential for providing for the fleet's expeditionary nature. The auxiliary vessels allow for the re-supply of fuel, munitions, and food of the navy's other warships while at sea and on station.\textsuperscript{441} Consequently, such capabilities permits the navy to stay deployed for up to six times longer than would otherwise be feasible.\textsuperscript{442}

JSS is expected to have further capabilities. First, it will have both roll-on/roll-off and lift-on/lift-off sealift capability. This will allow for 200 metres of deck space to transport up to 28,000 metric tonnes of cargo for an expeditionary Canadian Army battle group.\textsuperscript{443} With both sealift and replenishment to be carried out by the same platform, JSS will be uniquely Canadian. Other navies have traditionally split vessel classes between these capabilities. Second, JSS will provide support to Canadian military operations ashore by containing Command and Control headquarters facilities for expeditionary operations.

For the maritime enforcement, JSS is expected to have a reinforced hull for operations in first-year ice up to 0.7 meters thickness.\textsuperscript{444} This represents only a marginal increase from the Protectuer-class' ability to navigate 0.50 meters of brash-ice. Regardless, with one of the core functions of JSS to “support Canadian Forces ashore,” through a “capability to navigate first-year Arctic ice,” it appears that JSS will engage in Arctic operations.\textsuperscript{445} Perhaps as ice levels continue to recede, JSS will be able to cease

\textsuperscript{440} Captain (n) Ron Lloyd and Commander Hugues Canual, “Developing the Future Canadian Navy,” Naval Force (Special Issue 2007), 53.
\textsuperscript{442} Ibid.
\textsuperscript{444} “Canada First’ Defence Procurement - Joint Support Ship.”
\textsuperscript{445} Ibid.
the navy’s dependence upon the Canadian Coast Guard to provide refueling during sovereignty operations.

In the summer of 2008, the government announced that the industry bids received for the construction of JSS were non-compliant. This was accounted to industry failing to keep within the Government’s $2.9 billion budget for the production of three vessels. According to The Hill Times, an industry insider detailed that one bid was placed for the construction of only two vessels, whereas a second bid proposed the production of all three vessels at an increased cost. The same insider argued that in submitting non-compliant bids, Canadian industry was sending a clear message to the government to “either increase the funding or scale down the project.” Apparently, this message was received loud and clear as the Vice Chief of Defence Staff, Vice Admiral D. Rouleau, has outlined that reevaluating JSS capabilities will be necessary to achieve its production. Since one of the procurement difficulties was attributed to the doubling of the price of steel, one foreseeable cost saving measures could be the reduction of the vessel’s ice strengthening. This would of course, challenge the ability of JSS to partake in maritime enforcement.

The navy’s third major renewal project is the modernization of the fleet’s twelve Halifax-class Canadian Patrol Frigate (CPF). This project is known as the Halifax Class

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448 Ibid.
450 Lennox and Plamondon, “Canada’s Navy.”
Modernization (HCM) project. The HCM project exists under the management structure of the Frigate Life Extension (FELEX) project, for coordinating and ensuring all aspects of modernization proceed on schedule. Presently, HCM is under preparation stages, but is expected to commence in 2010 and conclude in 2017. Already, an estimated $3.0 billion in contracts has been awarded to Halifax Shipyards, Victoria Shipyards Company Limited, and Lockheed Martin Canada. The HCM modernization projects to be conducted include replacing the Integrated Machinery Control System, and upgrading the Internal Communications System, Navigation Radar, Tactical Radar Suite, weapons systems, and the housing facilities for the navy’s yet-to-be delivered Cyclone Maritime Helicopter. Also included in the project is standard preventative and mid-life maintenance on the hull and structure of Halifax vessels.

The Halifax-class is commonly referred to as both the workhorse and backbone of the fleet and is recognized as “ton for ton one of the finest classes of frigates in the world today.” With the frigates being the navy’s primary means for enacting Canadian seapower, their upkeep is the main focus of the Canadian Navy’s rejuvenation. Despite the navy’s renewal strategy is already particularly sensitive, it be even more so during the HCM period. Because around half of the Halifax class expected to be in HCM refit at any given time, Jerrod Riley believes that “the Navy will be hard pressed to provide

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453 Ibid.
455 "Halifax-Class Modernization (HCM) / Frigate Life Extension (FELEX)."
enough platform for domestic security. NATO and other international commitments will further stretch naval resources." This will ultimately mean that Canada will face a period where there only be three frigates on each coast to protect the nation’s maritime interests.

The fourth and final major renewal project of the navy is the Single Class Surface Combatant (SCSC) project. Although only in its initial planning phase, SCSC is geared towards the replacement of the remaining three Iroquois-class (Tribal-class) Area Air Defence (AAD) destroyers that commissioned in the 1970s. Due to their unique Command and Control abilities for leading naval task groups, on both national and international operations, Haydon has labeled their replacement “a very high priority” for maintaining the international credibility of the Canadian Navy. Unfortunately, there currently does not exist any concrete announcements by the government to replace the unique capabilities offered by the Iroquois-class. Yet, it is believed that their capabilities will be retained in the acquisition of a future vessel proposed to be around 6,500-8500 tons. Somewhat confusingly, there have been several different project titles assigned to represent the same multi-capable platform, including Single-Class Surface Combatant (SCSC), Canadian Surface Combatant (CSC), and the Single Ship Transition (SST) project.

The proposed SCSC project will lead to the procurement of a single platform, in terms of hull design, helipad, propulsion, and departmental layout, for retaining multiple fleet capabilities. The project concept is to initially replace Iroquois-class capabilities,

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460 Ibid., 25.
but then seamlessly follow-up with *Halifax*-class replacement based on the exact same hull design.\textsuperscript{461} Defence R&D Canada has suggested this is achievable through utilizing a modular capabilities approach, similar in fashion the United States Navy's Littoral Combat Ship.\textsuperscript{462} By replacing both platforms in a continuous integrated manner, the longer production line will reduce overall construction time and generate substantial cost savings.\textsuperscript{463} Preliminary evidence suggests this project will cost Canadian taxpayers anywhere from $15 to $37 billion, representing a massive military expenditure and financial commitment on behalf by the government.\textsuperscript{464}

(3.7) Concerns with Arctic Capabilities

The Canadian Navy is currently juggling several major projects to both rejuvenate and replace its capabilities. For the purposes of the maritime enforcement of Arctic sovereignty, there remain several distinct aspects. The *Victoria*-class submarine provides the navy with an increased picture of underwater activities in the Arctic. The proposed ice strengthening of JSS will likewise designate it with a role in the Arctic, but that role remains unclear. As a replenishment vessel, it is believed that JSS could alleviate the navy's dependency on the coast guard for refueling vessels while undertaking maritime enforcement. Unfortunately, after assessing all the projects the Navy is undertaking for the purposes of renewal, it is abundantly clear that many of these projects are inherently

\textsuperscript{461} Lloyd and Canuel, "Developing the Future Canadian Navy," 54. 54.
sensitive and suffering from delays. On top of these projects, the Harper Government has politically infused the acquisition of the ice-capable A/OPS, which commentator like Doug Maginley believes, "seems to have arisen out of the blue." As a result, the acquisition of A/OPS adds uncertainty and complication in a renewal process that is already in a precarious state.

Given the complexities of the navy’s renewal efforts, there are concerns over how the A/OPS project will effect the overall composition of the fleet. For example, Middlemiss fears that the political pressure to procure A/OPS may undermine, if not cancel, the vital HCM project. Such a consequence would allow the Halifax-class to age until they are replaced under the proposed SCSC project, sometime at the end of the next decade. Under the present Harper Government, it is expected that the production of A/OPS will continue as the vessel is prominently featured within its defence strategy. However, if the need to slash budgets occurs, both the navy and government will be required to make hard decisions about what fleet structure it needs for safeguarding Canadian interest.

Huebert has established that politically motivated Arctic capabilities have previously come at the expense of the Canadian Navy’s own procurement desires. This was evident within the Mulroney Government’s Challenge and Commitment 1987 White Paper on Defence, which announced the decision of the Mulroney Government to procure ten to twelve nuclear submarines for detecting foreign submarines in the

\[\text{Ibid.}\]

\[\text{Huebert, "Back to the Arctic," 4.}\]
Canadian Arctic. The addition of nuclear submarines for maritime enforcement would be twofold. First, nuclear propulsion allows submarines traverse under the ice-filled waters of the North for sustained periods without the need to recharge electric batteries. As other nations reportedly operate nuclear submarines within Canada’s Arctic waters, similarly Canada must utilize them to locate the foreign presence. Second, nuclear vessels are rarely required to refuel, usually after ten of more years of service. From nuclear submarines, the navy’s presence in the Arctic could be maintained for much longer periods than under current operation of maritime enforcement.

The plan of the Mulroney Government was to procure nuclear submarines in lieu of the navy’s preference for obtaining a final batch of a six *Halifax*-class frigates. Ultimately, neither submarines nor frigates were built. This left the navy with a loss of overall capabilities and perhaps, as Huebert implies, a residual bitterness towards Arctic responsibilities. Since the current navy has even more grandiose ambitions in terms of the overall number of projects it desires to undertake, the inclusion of the Harper Government’s A/OPS into the navy’s fleet strategy may critically jeopardize the navy’s overall fleet structure.

The procurement of the ice capable A/OPS may become detrimental to the navy’s overall ambitions in manifesting its next fleet. With the planned procurement and prioritization of obtaining A/OPS, whose operations will be limited to the domestic realm, the modernization and replacement of the navy’s major foreign going war-fighting

470 Huebert, “Back to the Arctic,” 4.
471 Ibid., 4.
platforms may be jeopardized. This may lead to a situation where the navy’s capabilities have been greatly enhanced for domestic operations and maritime enforcement, while major platforms that are crucial for securing Canada’s international interests have become lost, antiquated, or rusted out.

Finally, it must be asked whether ice-capable vessels, such as A/OPS, are even required for the navy to continue with maritime enforcement. The Sovereignty Operations that have occurred since 2002, have clearly demonstrated that the current fleet is developing a capacity to operate in the North. As ice levels are expected to recede further, the navy will subsequently be able to penetrate higher into the Arctic without the requirement ice-strengthened vessels. Furthermore, if the navy is required to conduct interdiction of foreign vessels within ice-filled waters, operations such as NANOOK 2007 have proven the feasibility of inserting naval boarding parties onboard coast guard icebreakers.472

Although ice-capable vessels like A/OPS would certainly enhance the ability of the navy to operate in the Arctic, it is believed more pressing priorities exist. Specifically, enhancing the ability of the navy to maintain its presence in the North. Under maritime enforcement, the navy’s presence has typically been confined to a couple weeks and dependent on either the coast guard or facilities at Greenland for fuel. As such, the Harper Government’s $100 million commitment for the development of a deep-sea port is vital for enhancing maritime enforcement.473 Located at Nanisivik Baffin Island, NU the port will be strategically located along the eastern entrance of the

Northwest Passage. It will act as necessary supply and fuel depot for the navy, coast guard, and other government agencies, and will guarantee a prolonged presence for maritime enforcement.\(^{474}\)

(3.8) Conclusions

In examining the history of the Canadian Navy at maritime enforcement, it is apparent that maintaining a naval presence has been tangent to periods when Canada has perceived its sovereignty as threatened. As such, there have been several waxing and waning periods of naval involvement in the Arctic. This is based upon two prior surges of naval participation, as seen with the procurement of HMCS *Labrador* and Norploys that were conducted as a result of S/T *Manhattan*.\(^{475}\) Presently, the navy is undertaking a renewed period of Arctic participation, which constitutes a third surge of northern activity. Given the navy’s previous history of reluctance, it is argued that naval participation in sovereignty operations will only continue as long as there remains a perceived challenge to Canada’s legitimacy. Afterwards, it is expected the navy’s Arctic presence will diminish.

Further support for this claim was found in examining the “home” and “away” game of the Canadian Navy. It is argued that maritime enforcement is part of a larger trend to enhance the navy’s “home” presence within Canada’s littoral waters. Yet, through “away” game obligations, such as Operation APOLLO, the demands of undertaking overseas operations have come at the expense of domestic ones.


\(^{475}\) The concept that Canadian military activity in the North is attributed to Kenneth Eyre, See: Eyre, "Forty Years of Military in the Canadian North, 1947-87."
Furthermore, within the navy there appears to be a preference for overseas operations and the avoidance of domestic ones, which are viewed as a distraction. Finally, employing the navy for maritime enforcement is not universally agreed upon. This was demonstrated in a debate over whether the coast guard is better suited for conducting maritime enforcement. Despite the navy maintaining a monopoly on coercion, it is argued that military force would be unfavourable. This is because it would be directed against private vessels, or those that have derived from friendly nations. Enhancing the coast guard’s abilities, which already operates an icebreaking fleet of mixed capabilities and conducts, search and rescue, surveying, scientific research, could instead be used to build, rather than enforce, Canada’s maritime sovereignty. However, the coast guard would still have to deduce how it would make foreign vessels, which believe they have a right of passage, submit to Canadian sovereignty.

This chapter has also examined the announced procurement of the Arctic/Offshore Patrol Ship, which will greatly increase the navy’s arctic capabilities. It is argued that A/OPS represents a politically motivated platform of the Harper Government, and has been received with skepticism by the navy. Criticism of the vessel focuses on its “slushbreaker” first-year ice capabilities, proposed lack of sonar, and its hybrid design that has a lower top speed than comparative patrol vessels. Regardless, it is noted the platform continues the establish trend of maintaining multi-capable platforms within the Canadian Navy.

The politically motivated A/OPS may also be detrimental to the navy’s current strategic vision to modernize and replace its fleet. Presently, the navy has many projects underway including *Victoria*-class “Canadianization”, Joint Support Ship procurement,
Halifax-class modernization, and the initial planning stages of replacing all major surface platforms into the Single Class Surface Combatant. Already, many of these projects have suffered from various degrees of delay. What stands to be crucial is how these projects will be balanced against A/OPS. The example of the Mulroney Government’s desires to procure nuclear submarine has shown that Arctic capabilities can jeopardize the navy’s ambitions. Given the age and mounting need to replace the current fleet, A/OPS may compromise the navy’s ability to pursue Canada’s international interests. This would be achieved by A/OPS production given priority over the navy’s desire to replace and modernize Canada’s major platforms. As a result, the navy would be in the awkward position of having enhanced capability for maritime enforcement, at the cost of rusting-out major surface platforms.
CONCLUSION

The focus of this study has been the maritime enforcement of Canada’s Arctic sovereignty and its potential implications upon the Canadian Navy. The concept of sovereignty relates to the territory, autonomy, coercion and mutual recognition of a state. Although a state’s sovereignty over territory is typically viewed as absolute, maritime sovereignty has developed through a process of sovereignty lending that has evolved into the Third United Nations Convention on the Law of the Sea. From differences in the interpretation of UNCLOS there are several outstanding issues with Canada’s sovereignty over the Arctic. Canada believes its application of straight baselines around the Arctic Archipelago is legitimate based on the country’s historic usage. Dissenting countries, such as the United States, believe that Canada’s application is both excessive and illegitimate. Since UNCLOS details that baselines establish internal waters, Canada argues that vessels navigating northern waters must completely adhere with its national laws. This is complicated by the Northwest Passage, where disputant nations argue that UNCLOS defines the NWP as an international strait. From this vantage, countries like the United States and the EU believe they are legally entitled to a maritime right of passage. If this opinion becomes validated, any right of passage obtained by foreign vessels would drastically undermine Canada’s ability to apply its

laws and dictate terms of transit. The determining factor appears to be contained in the International Court of Justice’s ruling in the Corfu Channel Case of 1949, where a relatively few transits of Corfu Channel in a brief period were enough to internationalize the waters.

UNCLOS entitles states with ownership over all natural resources within their continental shelf. This is provided they can scientifically prove their shelf extends past the 200 nm limit of the Exclusive Economic Zone. Current evidence suggests that Canada’s sovereignty could be extended over both the Alpha and Lomonosov Ridges, located in the High Arctic of Ellesmere Island. Unfortunately, Canada only has until 2013 to provide its evidence to the United Nations. With CCGV Louis St. Laurent being Canada’s only icebreaker heavy enough to navigate the perennial icepack, the ability of Canada to establish its claim by 2013 remains debated, demonstrated with the difference of opinion between Byers and Riddell-Dixon.

Finally, there are three bilateral boundary issues that Canada maintains with its polar neighbours. In the Beaufort Sea, Canada and the United States dispute the maritime extension of the border between the Yukon and Alaska. With Denmark, the ownership of Hans Island is contested from the nations being unable to delimit the maritime boundary around it. Likewise with Denmark, there are two minor areas in the Lincoln Sea where the Exclusive Economic Zone of both countries overlap.

Canada’s sovereignty has historically been challenged every ten to fifteen years by transits such as the voyages of S/T Manhattan in 1969-1970 and USCG Polar Sea in 1985. Despite these events exposing the vulnerability of Canada’s sovereignty, they did not resolve the fundamental question of whether a right of passage exists for vessels
transiting the NWP. Yet as climate change is presently thawing the perennial ice of the
Arctic at an extraordinary rate of 7.4 percent of total volume per decade, the Northwest
Passage is expected to open into a formalized transit regime around 2030-2050. Yet as
the rate of thaw is continually increasing, an open Passage could occur much quicker that
currently anticipated.

From a seasonally open and ice-free Northwest Passage, Canada’s maritime
sovereignty over northern waters will require a finite resolution. This will become
necessary in order to establish the jurisdiction over the major influx of vessels expected
to transit the Passage. Because the NWP offers a 4,500nm shorter route between the
ports of Asia and Europe than current sea routes through the Panama Canal, it is
generally predicted that international shipping companies will exploit the Passage’s
seasonally ice-free status.

An increase of human activity has already foreshadowed that the Arctic will
become a much busier place in an ice-free environment. Presently, the Canadian Arctic
is experiencing an increase of resource, maritime, and criminal based activity. In one
case, both Exxon and British Petroleum have collectively spent $1.7 billion to survey oil
and gas deposits. In a further case, the presence of undesirable actors such as the Wild
Vikings, who violated numerous Canadian laws while transiting northern waters, has
highlighted the need for the Government of Canada to increase its ability to monitor and
control mounting interest in the Arctic.

The Arctic Capabilities Study of 2001 represents a strategic reevaluation aimed at
assessing the capability of the Canadian Forces to operate in the Arctic. ACS concluded

Ground,” 339.
that although the increased human interaction should dictate a waxing of responsibilities for the Canadian Forces in the Arctic, it conversely found that capabilities were waning. Based on this conclusion, ACS emphasized the need to establish a “Recognized Maritime Picture” of Arctic waters, similar in nature to Canada’s other two coasts.479

Since the summer of 2002, the Canadian Navy has undertaken northern operations for the direct motive of enforcing Canada’s Arctic sovereignty. This includes operations such as NARWHAL 2002, LANCASTER, HUDSON SENTINEL, and NANOOK 2007. In detailing these operations, it is abundantly clear that the navy has significantly improved its capability to operate in Arctic waters. Original operations saw the navy participating in a supporting capacity, often through assisting events ashore. More recent endeavors have specifically focused on developing the navy’s ability to react to maritime events. This includes scenarios that have simulated environmental protection, hostage negotiation, and interdiction upon noncompliant vessels that have either ignored the navy’s authority, or were believed to be trafficking narcotics.

Through maritime enforcement, the navy has proven it can ensure the maritime interests of Canada in the Arctic. As the navy is responsible for the overall defence of Canada’s littoral waters, it remains undisputable that it has a vital role to play in the Arctic. But, it is argued that operations of maritime enforcement have not enhanced Canada’s position of sovereign control over northern waters. This is from present efforts of maritime enforcement not addressing the fundamental concern of whether UNCLOS legally entitles foreign vessels to a maritime right of passage.

A permanent role for the Canadian Navy in the Arctic remains uncertain. From examining the 1954 procurement of HMCS Labrador and the transit of S/T Manhattan in

479 Arctic Capabilities Study, Department of National Defence, Canadian Directorate of Defence, 11.
1969 and 1970, history has exposed the navy only maintains a northern presence during periods when Canada has perceived its maritime sovereignty as directly threatened. As such, there have been two prior failed attempts to establish a permanent naval presence in the Arctic. Consequently, the present third attempt remains questioned. The current operations of maritime enforcement portray the navy is developing a permanent role; however, this speculation is complicated by two factors. First, commitments to overseas obligations, such as Operation APOLLO have often occurred with the navy negating its domestic responsibilities. This implies that maritime enforcement may be viewed as an ancillary or secondary responsibility. Second, there is a current debate about whether the Canadian Coast Guard should instead be solely responsible for maritime enforcement. If this becomes the dominant viewpoint within academia or government, it is foreseeable that the navy's role in the Arctic would diminish.

It is subsequently noted that the announced $3.1 billion procurement of six to eight Arctic/Offshore Patrol Ships by the Harper Government may bind the navy to maintaining an Arctic presence. The hull strengthening of A/OPS will allow it to seasonally operate in the Arctic as a light icebreaker, yet the vessel will spend the majority of its time patrolling Canada's EEZ and its Pacific and Atlantic maritime approaches. Skepticism of this procurement mostly focuses on the failure of Prime Minister Harper's election promise to obtain three heavy naval icebreakers. Further criticism is rooted in the proposed lack of sonar capabilities A/OPS will have. Yet, the procurement pars the recommendations of Kyle Christensen, who argues the navy should
not obtain heavy icebreaker that will only see use in the Arctic. Instead, the navy must continue to operate multi-purpose platforms that fulfill a variety of tasks.

There are concerns about the infusion of the politically motivated A/OPS into the navy’s strategy of fleet renewal. Presently, the navy is undertaking numerous projects to rejuvenate the capabilities it requires for protecting Canada’s national interests. This includes the Victoria-class “Canadianization” and Extended Working Period, Halifax Class Modernization, the constructions of the Joint Support Ship, and the initial planning stages of the future Single Class Surface Combatant. All of these projects are currently experiencing various delays or setbacks. It is argued that the addition of the politically motivated A/OPS into this delicate and fiscally sensitive renewal process could greatly interrupt the navy’s fleet ambitions. History has proven this possible with the Mulroney Government’s attempt to procure twelve nuclear submarines in lieu of a third batch of six Canadian Patrol Frigates. In the end, the navy did not get Mulroney’s submarines or the frigates it desired. As the navy is currently in a somewhat pressing position to replace vessels or risk the onset of rust out, the procurement of A/OPS remains potentially dangerous. The navy could be in a precarious position of having brand new capabilities for domestic responsibilities, at the expense of operating an antiquated fleet for pursuing Canada’s foreign interests.

At the time of concluding this study, the federal government has announced delays with the A/OPS project. Specifically, Canada’s defence industry has been notified that anticipated letters of intent are being delayed for an unknown period. This has

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also coincided with naval planners announcing A/OPS to be equipped with a lesser 25-mm deck cannon instead of the previously proposed 40-mm. In response critics have described the cannon as a “peashooter,” with A/OPS being perceived as nothing more than a glorified police boat. Although the announced delay of the A/OPS project places it on a similar development track with the navy’s other impeded projects, the potential ramifications upon other projects remain unclear. However, this clearly illustrates the navy continues to experiencing difficulties in obtaining the future vessels it requires.

(4.1) Implications

Huebert believes that “in a nutshell, the issue of Canadian Arctic Sovereignty is an issue of control.” But what control does Canada stand to lose in the Arctic? From a loss of sovereignty over transient vessels, Canada would lose the ability to control shipping standards, such as those pertaining to hull design and construction, equipment regulations (particularly over safety), and policies regarding the certification of crews. Such national regulations could reduce the impact of any maritime disaster within the pristine Arctic environment. Second, in the case of the Canada’s continental shelf extension, control and ownership over natural resources within the sea floor is at stake. Controlling a portion of the vast hydrocarbon deposits within the sea floor, would not only reaffirm Canada’s international position as net exporter of energy, but would also guarantee trillions of dollars in economic activity. Finally, a loss of control over disputed

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482 Ibid.
483 Ibid.
484 Huebert, “Shipping New Part II,” 299.
485 McRae, “Arctic Sovereignty? What is at Stake,” 17.
maritime areas, such as Hans Island would not drastically redefine the geography of the Canadian Arctic. But it would be a serious blow upon the national psyche of Canada that portrays itself to be the "True North Strong and Free."\footnote{Lajeunesse, "Lock, Stock, and Icebergs?", 2.}

Although the specifics issues of Canada’s sovereignty over the Arctic can be examined individually, as was conducted in the first chapter of this study, the broader implication is that they are all intertwined. A loss of Canada’s Arctic sovereignty in a particularly sensitive area could potentially initiate a domino effect with disastrous ramifications upon the other disputes. The application of Canada’s straight baselines, which span from Beaufort Sea to Labrador, is not only linked to the issue of internal waters and the Northwest Passage. Instead, the validity of Canada’s baselines could directly affect boundary disputes within the Beaufort and Lincoln Seas, and Hans Island as they all contend with where and how Canada’s maritime boundaries exist.

Another foreseeable implication relates to motives behind maintaining a capable Canadian Navy. Canada is a maritime nation. It has a coastline of almost a quarter of a million kilometers, noted for being the longest in the world.\footnote{The Navy League of Canada, “Canada, and Incomplete Maritime Nation,” 6.} Within Canadian ports, “three hundred and fifty million tonnes of cargo” are moved annually, with Canadian industry dependent upon a dynamic maritime network for the regular foreign exchange of both raw and refined products.\footnote{Ibid., 6.} Given the development of a truly global economy, all Canadians are affected by the welfare of maritime trading.

Since Canada’s dependences are affixed to the world’s ocean, necessity dictates that it maintains a healthy and vibrant Canadian Navy able to ensure foreign interests. In operating a navy with a global reach, Canada protects the livelihood of the maritime-
based commerce system it is deeply invested in. In one recent example, NATO maritime
operations of 2009 deployed HMCS *Ville de Québec* and HMCS *Winnipeg* to the Gulf of
Aden off the coast of Somalia.\(^{489}\) These warships were tasked with the responsibility of
protecting international commerce and transient vessels from recent pirate activities
aimed at hijacking vulnerable vessels for financial gains.\(^{490}\) By partaking in these
international operations, the navy guarantees the stability of global commerce and that it
will not be impeded, interrupted, or ransomed by criminally minded opportunists. As
well, by actively undertaking in the protection and maintenance of the global maritime
system, Canada gains international recognition for its efforts. Through repeated
commitment, Canada has earned the right to be involved in international deliberations
that affect the nature of global maritime trade.\(^{491}\) Therefore, a healthy foreign going navy
gives Canada a place at the bargaining table and defines the nation as a responsible global
leader of managing international maritime activities.\(^{492}\)

Whether it is the status of Canada’s Arctic sovereignty or the capabilities of the
Canadian Navy, ultimately maritime enforcement is tied to the nation’s credibility and
international reputation. If Canada fails to properly defend its sovereignty from external
challenges, it could become an international pushover. Inability to protect its own basic
sovereign integrity could harm Canada’s international prestige. Likewise, this would also
be true if the capabilities of the Canadian Navy were to erode. By not renewing its naval
capabilities and allowing the navy to become outdates, Canada could be perceived as a

\(^{489}\) “NATO to Deploy Anti-Piracy Fleet to Somali Coast,” *CBC News*. October 10, 2008.
\(^{490}\) Ibid.
\(^{491}\) Lennox and Plamondon, “Canada’s Navy: Build Ships, Be Heard.”
\(^{492}\) Jerrod Riley “Strategic Implications of the Halifax Class Modernizations Program,” *FrontLine Defence*
2, (March/April 2008), 36.
“free rider”. Countries would view Canada as reaping the rewards of international maritime trade and commerce without developing the means necessary to assist with its overall protection and defence. As a direct result, Canada’s opinion on the direction of maritime-based global commerce would hold little weight.

The maritime enforcement of Arctic sovereignty is not solely about the legitimization of Canada’s national entitlement over the North. Instead, the manner in which Canada pursues its maritime sovereignty has far-reaching implications for its ability as a maritime power and its role as an international actor. Unfortunately, the implications for Canada will only be discovered from the decisions it makes over the next thirty to forty years, while in the process of conducting the maritime enforcement of Arctic sovereignty.

(4.2) The Future

The current manner in which the Canadian Navy is conducting maritime enforcement leaves the international legal concerns behind Canada’s Arctic sovereignty unresolved. This is particularly true over foreign vessels that believe they have a legal right of passage through the Northwest Passage. How Canada will react to any future incident, remains unclear. If the simulations within Sovereignty Operations are to be relied upon, the navy will be required to intercept, interdict, and board non-compliant foreign vessels in order to make them submit to Canadian will. Conversely, the history of Arctic intrusions, as seen with the Polar Sea and Manhattan incidents, expose that hostile interdiction will not occur. Instead, Canada will resort to escorting defiant vessels
through perceived Canadian internal waters. This clearly highlights a contradiction between the theory of maritime enforcement and its actual practice.

As climate change will permit numerous vessels to routinely transit Arctic waters, it is foreseeable that the navy will be persistently required to enforce Canada’s authority over a multitude of vessels. Such a demanding endeavor would likely exhaust the resources of the navy in its present form. But a naval presence may be required in Arctic waters until a finite and binding resolution on Canada’s sovereignty is achieved.

In the final analysis, one fact of maritime enforcement remains evident. Whether by force, or escort, a clear strategy of enforcement must be developed for the occasion when foreign vessels will actively challenge Canada’s Arctic claims. The Canadian Navy must plan today for how it will react to the Arctic maritime events of tomorrow. Failure to properly address how Canada will response to the inevitable scenario of foreign shipping in the Northwest Passage, will ultimately devastate its sovereignty over Arctic waterways.
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