

Third International Symposium
The Role of Non-Arctic States / Actors in the Arctic Legal Order-Making

Session on Role of the Observers in the Arctic Council
Morning of 9 December 2017

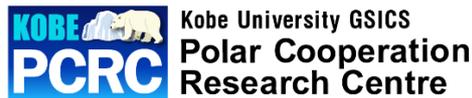
The last day of the symposium will start with a keynote speech by Professor Timo Koivurova.

The keynote will be followed by the morning session on Role of the Observers in the Arctic Council where **Mr. Sebastian Knecht** will deliver his main speech “**Managing Quantity and Quality of Observer Contributions to the Arctic Council: Insights from AMAP**”

Discussants: **Piotr Graczyk and Yuanyuan Ren**
Coordinator: **Osamu Inagaki**

At the 2017 Ministerial Meeting in Fairbanks, the Arctic states took a further step towards legalization of Arctic cooperation by signing an Agreement on Enhancing International Arctic Scientific Cooperation. Although observers are not signatories to this agreement, their contributions to the work of the Arctic Council Working Groups are more and more in the spotlight of academic debate. The Arctic Council, as the main regional forum for Arctic science and policy coordination, ultimately depends on the contributions by both its members and observers. As any other international organization, the Council only provides a skeleton – or in the case of the Arctic Council, a ‘forum’ – for inter-state negotiations and cooperation that is vitalized by different state delegations in the hallways and conference rooms of its meetings and events, and the social relationships these delegations establish. State participation is thus vital to the endurance of international cooperation, and organizations who cannot sustain these social relationships between its members are likely to go defunct, if they are to survive at all.

However, contributions of member states and observers to the Arctic Council tremendously vary in kind, degree and continuity. This paper argues that in order to assess and compare the motivations, prioritization and profile of states in the Council, one has to take a closer look at the consortium of domestic, Arctic-relevant actors from politics, science, civil society and industry that support each state’s participation in the Council in a more or less coordinated effort. This paper will show how the domestic network structure of these actors in Asian observer countries to the Arctic Council might have an impact on state contributions to international science cooperation. Empirically, the paper explores the Arctic Monitoring and Assessment Programme (AMAP), one of the most established and influential of the Council’s six Working Groups.



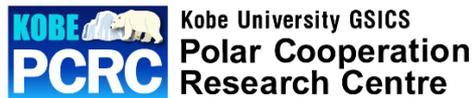
Keywords: Arctic Council, AMAP, state participation, science cooperation, social network analysis, observer, China, Japan

The abstract of **Dr. Yuanyuan Ren's** presentation entitled "**China in the Arctic Council: Existing Dilemmas and Possible Solutions**" is as follows:

This paper revisits China's engagement with the Arctic Council (AC) and explores the specific ways in which China can better participate as a constructive observer. While there are many limitations regarding China's participation in the AC due to both the current observer rules and China's limited governmental input, it argues that effectively participating in the AC mechanism still constitutes a crucial part for the Chinese government to fulfill "a constructive participant" role in Arctic development. To improve its Arctic engagement and to make its voice better heard, China should further cooperate with other observer states and particularly improve its capacity of science diplomacy at the AC to make more substantial contributions to the Arctic legal order-making.

Building on the assumption that the AC will continue serving as a main forum for Arctic decision-making and Arctic cooperation in the near future, the presentation will focus on the issue of AC reform and China's relevant experience. It proceeds as follows. Part I outlines China's admission to the AC and its recent AC observer activities. Part II explores the specific problems with existing AC rules, particularly with regard to the AC observership. It argues that the enhanced AC observership is still not a final solution to address the participation of non-Arctic actors in the Arctic law-making processes, particularly from the standpoint of non-Arctic participants. To better illustrate the existing AC dilemmas for observers, it takes China's participation in the AC mechanism as a case study. It also presents the limitations of China's observer activities, particularly with regard to its participation in the AC Task Forces. Part III discusses the possible solutions to "the AC dilemmas" faced by the Chinese government, including promoting AC reform, deepening the cooperation with other observer countries both within and outside the AC, and improving the capacity of conducting polar science diplomacy. The presentation concludes with preliminary reflections on China's approach to Arctic affairs in general and China's engagement with the AC in particular.

The presentation aims to contribute to the discussions of Session 5. In the process, it will address a range of questions regarding the role of observers in the AC governance, including the scope of the AC's mandate, the working relationship between observers and the AC subsidiary bodies, and the AC decision-making authority. In addition, it also provides a Chinese case study on the topic. For instance, it touches on China's contemporary attitude and approach to the hard law/soft law



international norms. In this regard, China's participation in and attitude toward the existing "dual" process of international Arctic law-making presents a good case study.

The abstract of **Piotr Graczyk's** presentation entitled "**Managing its own success - Arctic Council's institutional adaptation to growing international interest in the forum's observer status**" is as follows:

To a certain extent, the Arctic Council (AC) has been challenged by its own success – being perceived and recognized as the central forum for Arctic affairs, where everyone with Arctic interests would like and should be present. Following the influx of observership applications from various actors, the Council has been updating its institutional arrangements for non-Arctic states, inter- and nongovernmental organizations, who wish to participate in AC's workings. At the same time, the Arctic States have started to apply the criteria for admission more strictly than they used to do, by not admitting certain actors, as demonstrated by recent decisions taken at the Fairbanks Ministerial Meeting.

This presentation will examine the institutional developments within AC, first to adapt the internal procedures and arrangements to accommodate new observers both qualitatively and quantitatively, and second to apply the new rules. The qualitative aspects can be defined as related to observers' ability to contribute to AC's work, but also as the extent to which they meet the criteria for admission. In quantitative terms the new arrangements have been aimed at facilitating participation of greater numbers of entities in AC meetings at different levels that often take place in remote locations with limited capacity. The focus will be specifically on developments leading to the setting up of criteria for admission of observers ("the Nuuk rules"), creation of Observer Manual for Subsidiary Bodies and its amendments and the normative character of these rules. This entire process can also be related to certain events and thus described as rather responsive to outside circumstances.

The abstract of **Marzia Scopelliti's** presentation entitled "**The European Union, an 'observer-in-principle'**" is as follows:

With part of its territory comprising Arctic states, Arctic inhabitants, and indigenous populations and a regulatory competence extending to Arctic-relevant issues, the European Union certainly is a valuable actor in Arctic governance and legal order-making. Accordingly, and alongside the development of an EU's Arctic Policy, the Union has progressively engaged in the work of the Arctic Council (AC) and its subsidiary bodies. Although not yet officially admitted as an observer, the Union is involved in several AC Working Groups, Task Forces and Expert Groups and it is a main sponsor of Arctic research, what makes it an active participant in circumpolar governance.



In this context, addressing the controversial EU observership case may be illustrative of which factors, beyond formal accession and admission, can determine adherence and contribution with the mandate of the Arctic Council. Vice versa, the analysis can also shed light on the process that has underpinned the creation of an EU Arctic agenda as conceived so far. Presented as an ongoing learning process, the development of a European Arctic policy will be reviewed in order to identify its main drivers, objectives and weaknesses, as well as to consider the features of the future European Union action as a de facto observer to the Arctic Council.