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## FINDING “WIN-WIN” CHINA’S ARCTIC POLICY AND WHAT IT MEANS FOR CANADA<sup>†</sup>

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### SUMMARY

China is a “Near Arctic State” with national interests in Arctic resources, shipping lanes, and regional governance. That was the message delivered to the world in China’s new Arctic policy (China 2018). The philosophy espoused in the Chinese White Paper is one of cooperation and mutual profit – what the Chinese have dubbed “win-win” polar partnerships. These partnerships have been expanding in recent years. Tens of billions of dollars in Chinese capital has flowed into oil and gas projects in Siberia and the Russian Arctic offshore, new shipping routes are being tested, and state-owned mining companies have acquired rich mineral deposits in Greenland and – to a lesser extent – Canada. These resources, and the sea lanes that connect them, have been labelled the “Polar Silk Road,” a maritime trade and shipping route supported by Chinese infrastructure spending (theoretically) running through the Northwest Passage and other circumpolar channels. China’s increasingly confident posture in the North represents real opportunities – and challenges – for Canada. Managed properly, Chinese money can support the decades old Canadian dream of developing the Northwest Passage as a useable sea route, decreasing shipping costs, supporting development and improving the quality of life for Arctic residents. Managed incorrectly, Chinese activity might leave the Asian power with a degree of *de facto* control over the Arctic, damaging Canadian sovereignty and imperiling the country’s ability to manage this increasingly important region on Canadian terms. This new White Paper is as clear a signal as can be sent that China is coming into the Arctic with long-term strategic ambitions. Canada should not fear this development, but it must be prepared for it.

<sup>†</sup> This article derives many of its ideas and conclusions from a recent co-authored book: *China’s Arctic Interests*. This author would like to acknowledge the contributions of the co-authors on this work, which is available to download free of charge from the University of Calgary Press: P. Whitney Lackenbauer, Adam Lajeunesse, James Manicom, and Frédéric Lasserre, *China’s Arctic Ambitions: And What They Mean for Canada* (Calgary: University of Calgary Press, 2018).

On January 26, 2018, China's vice-minister of foreign affairs, Kong Xuanyou, unveiled his country's new policy for the circumpolar Arctic, simply titled: China's Arctic Policy. This document marks an important milestone in China's engagement with the North. It is the first ever white paper issued by Beijing on a region outside its own territory (Brady 2017) and signals a long-term commitment to working with Arctic powers and contributing to a rapidly changing Arctic. A comprehensive document, the white paper outlines a broad series of Chinese national interests, many of which build upon years of official public statements and academic discussion (Lackenbauer et. al. 2017, 27-39).

Understanding this policy and its implications for the North should be a priority for Canadian policy-makers. As climate change reduces the Arctic ice cover and provides new incentives for shipping and development, non-Arctic states will play an increasingly important role in the region. Given its economic clout and its position as a global trading power and consumer of vast quantities of imported natural resources, China will be the most important of these new Arctic actors. In recognition of this, this paper breaks down the critical elements of Chinese policy and what they mean for Canada.

While China's Arctic Policy is a wide-ranging document, it predictably focuses on four key areas: shipping, resource development, regional governance and science. These are all subjects linked to Chinese trade and development and have been frequently highlighted by Chinese scholars and government representatives over the past several years as representing Chinese national interests (Zhang 2015). Underlying these specific priorities is an ever-present and overarching theme of respect and participation: respect for China's interests in the Arctic and for the involvement of non-Arctic states in the region's development and governance. The message to Canada and the other Arctic states is clear: China perceives a real interest in Arctic activity, it intends to play a role in the region and it expects to be treated as a partner in those activities.

China's expectation that it will be treated as a partner in the Arctic, and not simply an interloper, stems not simply from policy pronouncements (which many other states have also made), but from the resources it has put — and is putting — into Arctic capabilities, all of which denote a seriousness of purpose and long-term intent. The Chinese icebreaker *Xue Long* has now undertaken eight Arctic expeditions and will soon be joined by a second heavy icebreaker.<sup>1</sup> While most of this activity has been in the Russian Arctic or Polar Basin, the ship made headlines in 2017 by transiting the Northwest Passage (Fife and Chase 2017). Chinese shipping and resource companies are, meanwhile, increasingly invested in Arctic shipping routes and northern mineral and hydrocarbon resources. Chinese state-owned enterprises have invested tens of billions of dollars into Siberian and Russian Arctic offshore oil and natural gas fields, Greenlandic mines and related shipping infrastructure (Lackenbauer et. al. 2017, 116-118; Connelly 2018, 6). Projects in Canada are far less advanced, but Chinese state-owned mining companies have stakes in a number of potentially enormous developments, such as MMG's Izok Lake and High Lake projects in Nunavut (Lackenbauer et. al. 2017, 104-05). Linking these investments together is the new "Polar Silk Road" concept laid out in the white paper. This vague but ambitious initiative encourages Chinese companies to work with Arctic states to develop circumpolar shipping routes through new infrastructure investments and commercial trial voyages.

Whether this presence and activity is something to be feared or cautiously welcomed remains a point of contention. Scholars such as Ann-Marie Brady and Rob Huebert point to the threat

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<sup>1</sup> *Snow Dragon 2* was launched in December 2017.

created by recent Chinese military excursions to the North, as well as the potentially coercive leverage that large-scale investment might convey to Beijing (Brady 2017, 1-2; Thomson 2018; CBC Radio 2017). A competing school of thought, laid out in a recent book by this author and several colleagues assumes that this threat has been overblown and that China has the potential to contribute to northern development and regional co-operation (Lackenbauer et. al. 2017).

China's Arctic Policy seems to support the latter interpretation: that the country is not a direct threat to Arctic-state interests and that mutually productive activity is possible. Indeed, the values espoused in the Chinese document — environmental preservation, co-operation, consultation, support for Indigenous communities and science-based policy-making — strike many of the same chords as Canadian policy under the Liberal party. China, proclaims the policy, seeks to “safeguard and promote peace and stability in, and the sustainable development of, the Arctic.” In the process, Beijing pledges to “protect (the Arctic’s) unique natural environment and ecological system, promote its own climatic, environmental and ecological resilience, and respect its diverse social culture and the historical traditions of the indigenous peoples.” Support for environmental protection and Indigenous rights litter the document in a clear attempt to allay concerns that Chinese participation in the Arctic is something to fear. Rather than seeking to radically upset the status quo, China looks to craft “win-win” relationships that respect Chinese rights and interests in the region and Arctic-state sovereignty and control.

The natural and essential question is: does this policy represent real Chinese intent or is it a smokescreen to lull Canada and other Arctic states into a false sense of security? Diplomacy, after all, is sometimes the art of saying “nice doggie” — until you can find a stick.<sup>2</sup> That is certainly the theory advanced by commentators like Roger Robinson Jr., who has warned of a “long con” being played on the West by far-sighted and insidious Chinese planners (Robinson 2013). As this author — and others — have argued elsewhere, that is almost certainly a paranoid overreaction (Lajeunesse and Lackenbauer 2016). It would be fanciful however, to take at face value China's statements that it has a sincere interest in the cultural and economic security of Indigenous residents, or a vested interest in regional environmental preservation. The country's history of oppressing its own minority populations and disregard for its own environment makes such assertions difficult to take seriously.<sup>3</sup>

Whether or not China truly cares about the northern environment, Indigenous rights or sustainable development is probably beside the point. What matters is that Canada does. China's Arctic Policy demonstrates a recognition that the country cannot operate in the Arctic without Canada and the other Arctic states. All known Arctic resources lie within areas of well-defined national jurisdiction, while northern shipping routes will depend on Canadian and Russian co-operation. This recognition underlies what is probably the key statement from the white paper: that “China will participate in Arctic affairs in accordance with the basic principles of respect, co-operation, win-win result and sustainability,” with this “respect” assumed to be “reciprocal.” On China's part, it undertakes to “respect the sovereignty, sovereign rights and jurisdiction enjoyed by the Arctic States.” From those states, China expects respect for “the rights and freedom of non-Arctic States to carry out activities in this

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<sup>2</sup> This saying is variously attributed to Robert Phelps, Francis Rodman and Will Rogers.

<sup>3</sup> China's abuses of its minority populations are well documented. See, for example, details on Chinese human rights violations in: Human Rights Watch, *World Report 2018*. Chinese cities are also some of the most polluted on earth. Extensive scholarship exists on this subject. See for instance: Air Pollution in China: Real-Time Air Quality Index Visual Map, accessed March 23, 2018, <http://aqicn.org/map/china/#@g/29.3156/116.6748/4z>.

region in accordance with the law.” That law is defined within the white paper as encompassing the UN Charter, the UN Convention on the Law of the Seas (UNCLOS) and international regulations governed by bodies such as the International Maritime Organization. These laws apply to many of China’s Arctic interests, such as “scientific research, navigation, overflight, fishing, the laying of submarine cables and pipelines in the high seas and other relevant sea areas in the Arctic Ocean, and rights to resource exploration and exploitation in the Area.”

China is willing to play by these rules primarily because they offer Beijing the essence of what it wants from the region: the right to navigate the Arctic waters, fish in the Arctic Basin and develop resources outside of Arctic-state jurisdiction (a still-to-be-defined segment of seabed called “the Area”). Provided that Arctic states respect China’s legal rights, as defined by these treaties and conventions, there is no need for China to upset the status quo or challenge Arctic states’ control over the region. Co-operation must, therefore, be the order of the day and China is clearly signalling that, because Canada cares so much about environmental preservation and Indigenous communities, it will too. This is the implicit quid pro quo that China lays out in its new policy and the underlying philosophy behind its “win-win” approach to Arctic co-operation. It is an arrangement that Canada should be able to live with.

China’s participation in the Canadian Arctic, through its “Polar Silk Road” initiative — or other ventures — should be welcomed, but cautiously. Canadian governments have dreamed of developing the Arctic since Prime Minister John Diefenbaker’s aborted “Roads to Resources” program in the 1960s. The continuous failure to build the necessary maritime infrastructure and advance the resource projects needed to create jobs and lower the cost of living in the region can largely be attributed to the difficulty accessing the region and the high costs of Arctic operations — which can be 250-per-cent higher than comparable southern projects (Mining Association of Canada et. al. 2015, 6).

Efforts to improve this infrastructure have moved slowly. The National Trade Corridors Fund has earmarked money for northern projects (Canada 2017a) and the government of Canada is engaged in the inter-departmental, multi-year Northern Marine Transportation Corridors initiative to identify and improve Arctic sea routes through charting and infrastructure enhancement. A decades-old project to build an all-weather road to Tuktoyaktuk was completed in 2017 as well. Still, these initiatives have been limited by a lack of money and any pressing, immediate requirements. Chinese capital might be useful in developing Arctic infrastructure, provided a clear business model can be established.

Most importantly, Canada needs ports and harbours in the Arctic, to supply Navy and Coast Guard vessels over the lengthening ice-free season and to support resource development and commercial shipping (Ruffilli 2011, 6) in an area heavily dependant on sealift (Canada 2018). If Chinese companies are serious about using the Northwest Passage, there may be a matching interest in investing in new infrastructure. That investment would support local communities by lowering the cost of re-supply, while facilitating development activities of other companies working in the area. Recently, Arctic scholar Michael Byers has pointed to the crumbling facilities at Churchill, Man. as an obvious opportunity to leverage such funding to support export shipping and rebuild a northern community (Sevunts 2017).

Arctic resource development would likewise benefit from the deep pockets of Chinese mining firms. These companies have invested in the Canadian North before, running or partnering in operations in northern Quebec (the Raglan Mine) and Yukon (the Wolverine Mine and the Selwyn project). The high price of northern development has limited Chinese enthusiasm

in recent years, with some of the larger greenfield sites, like MMG's massive Izok and High Lake projects, left in limbo until conditions improve (Lackenbauer et. al. 2017, 104-05.) A sustained and well-funded effort to improve northern shipping, logistics and transportation infrastructure might change that equation for companies from around the world looking for an underdeveloped, resource-rich area in a stable jurisdiction.

The investment record of Chinese state-owned-enterprises (SOEs) is mixed. Stories of environmental degradation and labour strife inevitably generate trepidation (*The Economist* 2011); however, SOEs have invested in Canada's resource sector for years without giving real cause for concern.<sup>4</sup> Fears of Chinese SOEs importing cheap labour or disregarding Canadian laws have proven groundless and speak more to Canada's insecurity over its ability to impose and enforce its own laws than of China's willingness to violate them (Lackenbauer and Manicom 2014, 13). That China's Arctic Policy explicitly "requires its enterprises to observe the laws of the relevant States" in development activities only encourages SOEs to assiduously abide by Canadian regulations or risk not only fines and penalties but a loss of face for the government in Beijing.

The level of Chinese control over infrastructure in the Arctic should be subject to careful review. Given the dearth of access points in the Arctic, many projects would take on a strategic dimension. Chinese-SOE control over strategic assets — which the Canadian Navy and Coast Guard may come to depend upon — would be unacceptable. On this point it is instructive to note Sri Lanka's recent handover to China of the port of Hambantota. Its sale of a 99-year lease to a Chinese company stemmed from Colombo's failure to cope with its heavy Chinese debt (Schultz 2017). Partnerships between Canadian governments or companies and their Chinese equivalents should assign minority roles to Chinese investment.<sup>5</sup> The means to do so are already available in the Investment Canada Act, which strengthened provisions concerning SOEs in the wake of CNOOC's 2013 takeover of Nexen (Dobson 2017, 41-42.)

The most controversial element of China's growing Arctic presence, and particularly its recent activities in Canada, relates to the question of sovereignty. Canada defines the waters within the Arctic Archipelago as historic internal waters — a status that grants Ottawa the power to regulate and control those waters without constraint. The United States and certain other maritime powers assume the existence of an international strait through the archipelago (Germany 2013; United States 2013; United States 2013a). For decades, this dispute remained frozen. With limited shipping and no pressing need to resolve the issue, Canada and the U.S. simply agreed to disagree.<sup>6</sup> A significant increase in shipping, driven by new Chinese traffic, might not only revive the issue but damage Canada's legal position if that shipping is not properly controlled (Pharand 2006, 220–21).

In discussing the Northwest Passage and China's plans to use Canadian waters, the white paper walks a very fine line, stating:

China respects the legislative, enforcement and adjudicatory powers of the Arctic States in the waters *subject to their jurisdiction*. China maintains that the management of the Arctic

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<sup>4</sup> The biggest such investment was China National Offshore Oil Corp.'s purchase of Nexen in 2012. For a detailed list of Chinese-SOE investments in Canada's resource industry see: Wendy Dobson, "China's State-Owned Enterprises and Canada's Foreign Direct Investment Policy," *Canadian Public Policy* 43(2), 38 (2017).

<sup>5</sup> Adam MacDonald highlights the need for due diligence and caution toward "strings attached" to such deals in: Adam MacDonald, "Ottawa Should be Wary of China's Visions for the Arctic," *MLI Inside Policy* (2018).

<sup>6</sup> This agreement is codified in the 1988 Canada-United States *Arctic Cooperation Agreement*.

shipping routes should be conducted in accordance with treaties including the UNCLOS and general international law and that the freedom of navigation enjoyed by all countries in accordance with the law and their rights to use the Arctic shipping routes should be ensured. China maintains that disputes over the Arctic shipping routes should be properly settled in accordance with international law. (*italics added*)

In this crucial paragraph, the Chinese government states that it respects Canadian sovereignty “in the waters subject to [Canada’s] jurisdiction,” without specifying what those areas might be. It goes on to say that China “enjoys freedom of navigation” in accordance with UNCLOS — a reference to the right of transit passage through international straits, guaranteed in Article 38 of the UN Convention on the Law of the Sea (United Nations 1982). While this phrasing could be seen to imply a Chinese assumption of free navigation through the region, there are other ways to read that statement.

Canada has also signed the UN Convention and accepts the rights of transit passage; yet it asserts that there is no such right in the Northwest Passage. The final wording of Part III, Article 8(2) of UNCLOS states that the passage regime would apply to “any areas of internal waters within a strait, except where the establishment of a straight baseline in accordance with the method set forth in Article 7 has the effect of enclosing as internal waters areas which *had not previously been considered as such*” (*italics added*) (United Nations 1982, Article 35). Since, however, Canada enclosed the waters before ratifying the convention, it can claim that the provision does not apply. Canada also sought to prevent this right of passage from emerging by employing historic title. If the waters had always been Canadian, then obviously no new rights could arise. This reasoning is well illustrated in a 1983 response from the federal government to a letter written by a citizen interested in the application of this principle to the Arctic. It wrote:

The Canadian position is that these waters have historically been internal waters and that the drawing of straight baselines would not change the status of these waters. Thus Article 8(2) of the LOS Convention does not apply to these waters, and the right of innocent passage does not apply to passage through the Arctic Archipelago (quoted in Huebert 1993, 333).

What areas China believes are “subject to [Canadian] jurisdiction” are, therefore, up for debate. That ambiguity was certainly the intent, with the waters muddied just enough to allow China to skirt the issue, neither locking itself into a recognition of Canadian sovereignty or offending a Canadian government that it wants to work with. While Canada would have preferred an outright Chinese acceptance of its legal position, this calculated ambiguity is something that it can build upon. As this author has argued elsewhere, increased Chinese shipping activity in the Northwest Passage could strengthen Canadian sovereignty by securing from Chinese companies what Canada could not get from the United States, namely implicit acceptance of Canada’s right to regulate and control shipping beyond what accepted international law governing territorial waters and international straits would allow (Lajeunesse 2016a; Lajeunesse 2016b). This would seem an easy sell for Chinese shipping companies, whose objective is safe and efficient transit and not a political battle with Canada. China’s Arctic Policy, while not explicitly accepting the Canadian position, opens space for this type of implicit agreement.

Here is one of those win-win arrangements. Assistance for Chinese shipping from Canadian ice services, weather forecasting and even icebreaker support in exchange for Chinese companies’ willingness to obey Canadian regulations, comply with vessel reporting requirements and in all actions imply acceptance of Canada’s sovereignty. In an interview with Vice News, Global

Affairs Canada spokesperson Adam Austen suggested that such an arrangement would be welcomed by Canada, with Austin stating: “Canada welcomes navigation in its Arctic waters by vessels from any country, including China, provided that ships comply with Canadian laws on safety, security and the protection of the environment” (Arsenault 2018).

In many areas, Chinese co-operation with Canada and the Arctic states offers opportunities for productive engagement. The 2017 moratorium on fishing in the Polar Basin is an excellent example of long-term multinational planning. China’s rapidly expanding polar scientific research program, likewise, has the potential for collaboration and mutual assistance (Chircop 2011; Lasserre 2010). As recently as 2015, China expressed an interest in establishing a research station in the Canadian Arctic and, while a stand-alone station is unlikely to be authorized, a partnership with the recently opened Canadian High Arctic Research Station in Cambridge Bay, Nunavut would combine Canadian facilities with Chinese resources to mutual benefit (Vanderklippe 2015).

Collaboration and partnership with China offers real benefits to both countries, yet it must be undertaken with a cautious eye. This paper argues that China will work within the confines of international law because that framework offers Beijing what it needs. There is more to it than that however. China also accepts this framework because it cannot simply take what it desires. Beijing’s flouting of UNCLOS and the authority of the International Court of Justice in the South China Sea is clear evidence that it places little stock in international law or adjudication when those conflict with its interest, and when its power is sufficient to allow it to ignore those rules.

The implications for Canada are clear. Partnership with China in the Arctic is desirable, but it must be on Canadian terms. Any such activity must depend upon Canadian support and resources. In practice, this means real Canadian investment in northern shipping infrastructure, aids to navigation and hydrographic surveying. That the Chinese icebreaker *Xue Long* was reported to be undertaking hydrographic charting in the Northwest Passage in 2017 (Vanderklippe 2017) is concerning — not because the ship was acting inappropriately, but because it was emblematic of Canada’s failure to adequately chart the route itself.<sup>7</sup> Canadian services will also be important. Weather forecasting, ice reporting and emergency ice-breaking support must be made available and, crucially, be provided exclusively by Canada. Reliance on Canadian services and support infrastructure incentivizes compliance with Canadian laws and regulations and provides a real lever to ensure operations remain on Canadian terms.

Conversely, the absence of such support may incentivize either the Chinese state or state-owned shipping companies to build their own escort icebreakers or develop Chinese satellite-based ice-forecasting services, usurping roles that should be performed by Canada within its sovereign territory. Failure to provide that Canadian support also risks putting the Chinese state and shipping companies into a position where they may question the need to comply with the sometimes cumbersome reporting requirements and environmental regulations demanded by Canada within its internal waters. If Chinese companies see no advantage to working within the Canadian system, they may simply start to treat the Northwest Passage as an international strait, in which Canadian control is nominal at best.

Enforcing Canadian jurisdiction and exercising control will largely be an exercise in soft power. Chinese resource companies will work with Canada on Ottawa’s terms because there

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<sup>7</sup> Canada is pursuing this through the Northern Marine Transportation Corridors Initiative, a multi-year project to map safe shipping corridors through the most heavily used areas of the Northwest Passage.

is no other immediate alternative. State policy for Chinese ships operating in the North is to obey all coastal state laws and regulations and that is unlikely to change (Lajeunesse 2016a). Compliance and respect for Canadian sovereignty and control will be driven by necessity and convenience.

Control must also be backstopped by hard-power assets, to force compliance in worst-case scenarios. Canada is preparing this capacity with six Arctic Offshore and Patrol Ships (AOPS), now in various stages of construction in Halifax. The *Harry DeWolf* class will provide Canada with a capable, multi-mission platform. Carrying RCMP and Environment Canada officers, the ships will serve a constabulary function while simultaneously providing some of the emergency-support and disaster-response capability that will become increasingly necessary as more ships ply the northern waters. The Department of National Defence's recently released white paper, "Strong, Secure, Engaged," also offers promising commitments in situational awareness (DND 2017, 39), while Defence Research and Development Canada is spending millions on new monitoring technology for the Arctic waters (Thompson 2017; DRDC 2018).

Proper enforcement capacity is a requirement not simply in anticipation of increased Chinese activity, but in preparation for a more open Arctic generally. Thankfully, the Arctic is unlikely to emerge as a region of conflict (Lackenbauer 2009; Lasserre et. al. 2012) and Canadian-Chinese interactions in the North will likely be governed by well-defined legal frameworks. This is the underlying message of China's Arctic Policy, which foresees an Arctic future based on collaboration and mutual respect. This is a vision that Canada should be able to live with and embrace. In part, because China is correct in asserting that it (and other non-Arctic states) have certain rights in the Far North and because Canada can leverage Chinese resources, interest and even presence in the region to reinforce its own legal and political positions, while financing badly needed infrastructure and development projects. Like it or not, China considers itself a "Near Arctic State." Canada should make sure that working with China really is "win-win."



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