

Business as usual?

The private sector's changing role in Arctic environmental governance

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Summary

How has the private sector engaged in cross-border Arctic diplomacy? Despite a focus on business actors as targets of policy recommendations from the Arctic Council and an increased attention on the importance of engaging with the private sector, we find that business actors have not yet been heavily involved in shaping Arctic governance outcomes. The brief concludes with recommendations as to how the capacity of the private sector can be engaged to secure better Arctic environmental governance.

Introduction

The Arctic Council and the Arctic Economic Council recently signed a Memorandum of Understanding (MoU) on how the two bodies will cooperate going forward. The MoU creates a platform for both bodies to exchange information, participate in one another's activities and to develop joint activities as appropriate, with the Tromsø-based secretariats of each body as the coordinating partners.

The Arctic Economic Council (AEC) was established in 2015 as a business-to-business club for Arctic private sector interests and involves major companies, industry associations and representatives of the indigenous peoples of the region. The AEC was conceived of and planned within the 8-country Arctic Council, yet has operated independently with its own board and secretariat since its official establishment.

The recently signed MoU is an interesting milestone as exactly how the Arctic Council should relate to the AEC was one of the issues to be sorted out when the AEC was being formed. At the time, under the

Canadian Chairmanship, the Inuit Circumpolar Council among others had argued for an 'arms-length' body from the Arctic Council. The concern was that there may be an unfortunate mix of political and economic concern, particularly as the AEC grew to include major international companies and not only the small and medium-sized Arctic-based businesses that had been the earlier vision.

The MoU – and the 2017 Ministerial Declaration that called for increased cooperation between the two bodies – illustrates a development beyond these earlier debates on Arctic governance. This policy brief considers the private sector's engagement in the politics of the Arctic Council through two illustrative examples from biodiversity and oil spill pollution prevention work. The policy brief also provides recommendations as to how the private sector can be further usefully engaged in Arctic environmental governance.

Changing attitudes towards private sector engagement

The increasing visibility and engagement of the private sector in circumpolar politics can be explained in several ways. One explanation is a general one about global politics: Business actors are present in global governance more broadly, from the UN climate negotiations, to creation of standards for cybersecurity and the prevention of child labour. Primarily, business actors are represented in global governance through broader umbrella business alliances, rather than single companies. The aims of these alliance/umbrella actors run the gamut from just a listening brief, through providing expert

input, to actively proposing specific solutions to global problems. Oil and gas umbrella organizations, for example, have developed and promoted the technology and expertise needed for carbon capture and storage as a climate change mitigation solution.

In light of the extensive engagement of the private sector in global governance settings outside the Arctic, it is surprising that the chair of the AEC in 2018 became the *first* private sector actor to address a meeting of the Senior Arctic Officials of the Arctic Council in Rovaniemi, Finland. As many of the Arctic Council issues touch on economic development and best practices for regional economic actors, one may ask why this had not happened sooner.

There are several Arctic-specific drivers that can be identified for the growing presence of business actors in circumpolar diplomacy. A prevalent policy notion is that an increasingly ice-free Arctic will be correspondingly more and more ‘open for business’ (and for different kinds of businesses and actors) than today. The optimism about Arctic economic expansion is also embedded in a broader turn to the oceans as a next chapter in continued economic growth through a sustainable ‘blue economy’, which has been a site marked by public-private partnerships.

For example, Equinor (formerly Statoil), which has the Norwegian government as the largest stakeholder at 67% ownership, plays a ‘founding funder’ role in the recently established UN Global Compact Action Platform for Ocean Sustainability. At the same time, the Norwegian government is the main convenor. The presence of both the Norwegian state and the state-controlled company in the action platform is a striking demonstration of intertwined policy commitments and coordination in global governance across the public-private sector divide. In the example provided below on oil spill pollution prevention, Rosneft and Gazprom representatives were included in the Russian delegation to an Arctic Council Task Force. In other words, the private sector – especially partly state-owned or publicly-owned companies – may also be increasing engagement in Arctic politics at the behest of their ‘home state’ as an additional resource in circumpolar diplomacy.

Business in Arctic action

These broader global and Arctic-specific trends and developments suggest that the normative acceptance and policy need for private sector engagement in Arctic politics has increased. So, how do we see business actors actually engaging in Arctic politics? Two illustrations – one from the world of oil spill

pollution prevention and the other from work on Arctic biodiversity – provide contrasting findings.

Oil spill pollution prevention

Surveying the participation in the work of the Arctic Council Task Force on Arctic Marine Oil Pollution Prevention (TFOPP, 2014–16), we find a comparatively large amount of involvement from the private sector. Business representatives were present at times as part of national delegations (the Russian delegation had participants from major state companies at each meeting and in one instance, Norway included a delegate who was employed at Statoil) and as ‘invited experts’ included at various junctures. While this is a relatively substantial moment of business involvement compared to other Arctic Council settings, it is important to keep in mind that each TFOPP meeting was attended by 40–65 total delegates, with 5–10 participants coming from the private sector.

This Task Force discussed a wide range of measures for petroleum activities, including support of industry standardization activities, exchange of experience/strengthening of regulatory cooperation, traffic monitoring and management, and reduction of risks associated with heavy fuel oil. The minutes of TFOPP demonstrate that the business delegates were called upon to provide expertise and input about the scope of the challenge and their preferred technological solutions. At the third meeting of the TFOPP, the chair invited representatives of the International Association of Oil and Gas Producers and the International Association of Drilling Contractors to present their experience in the field of prevention, including the industry guidelines used, risk assessment methods and other ways of mitigating oil spill pollution.

The involvement and ‘invited expert’ role awarded industry-actors in this Arctic Council Task Force tallies with observations about businesses in global governance more generally: businesses are rarely opposed to regulation as it is often a prerequisite for their activities, but rather they are actively working to promote certain forms of regulatory or technological solutions over others. In addition, they participate as holders of expert knowledge about what can work to address problems and work for business.

Biodiversity

On the other hand, Arctic biodiversity work is a field in which we have seen very modest private sector representation. However, this is not due to lack

of awareness of the private sector or absence of a wish to involve these actors. The Arctic Biodiversity Assessment (ABA), adopted by the Arctic Council in 2013, has as one of its policy recommendations to incorporate biodiversity concerns into all Arctic Council work including, but not restricted to, work on oil and gas development, shipping, fishing, tourism and mining. The Action Plan to follow up the ABA recommendations calls for strengthened cooperation with industry in biodiversity management to seek innovative solutions and expand its responsibility for taking care of biodiversity. Moreover, there is a request to develop a set of biodiversity principles for the Arctic Council, observers and stakeholders on incorporating biodiversity objectives and safeguards into their work.

The follow-up to these exhortations to involve and work with the business sector have so far mainly been through a recently initiated project to develop a mainstreaming case study for the mining industry under the Arctic Council Working Group on the Conservation of Arctic Flora and Fauna (CAFF). Mining and other extracting industries are key economic drivers in the Arctic while also having potential adverse effects on biodiversity and traditional ways of life in the region. A series of CAFF-hosted workshops have been held in 2018 and 2019 with representation from the mining industry and related companies, government agencies and Indigenous peoples. The workshops were followed up by a CAFF report to the Arctic Council on challenges and proposed solutions for mainstreaming biodiversity in Arctic mining. The report concludes by expressing hope that the mining industry project will pave the way for future work on mainstreaming with other industry sectors that operate in the Arctic.

Influencing the Arctic Network

What do these two brief illustrations tell us about the role of business actors in the Arctic? While the private sector was more prominent in the work on oil spill pollution prevention, this work has yet to result in any binding agreements or concrete circumpolar regulatory changes. Private sector participants have been included as experts on technological solutions and challenges for industry in this field. This kind of input may not have immediate results in the form of changed regulations, incentives or formulations about best practices. However, it does inform the policy baseline and gives state and other actors insight into what solutions industry would be quick to implement and what might be more problematic.

In terms of Arctic biodiversity work, business

actors have not been important members of the network created by the Arctic Council, nor has the industry been particularly involved in the drafting of best practices or policy positions. However, there are indications that this longstanding network is beginning to incorporate private sector actors in hopes of achieving better biodiversity-related outcomes and more use of the collective baseline of knowledge and best practices developed by Arctic science-policy networks.

It is also important to note that the private sector is engaging in increasingly higher levels of ‘self-governance’ on questions of importance to Arctic environmental governance. Examples include development of best practices guidelines for various topics and sectors being developed within the Arctic Economic Council working groups, the adoption of voluntary, Arctic-specific guidelines by the Association of Arctic Expedition Cruise Organizations (AECO), and the oil and gas industry’s work on developing a suite of Arctic-specific petroleum-related guidelines within the International Standards Organization (ISO).

If we think of the Arctic Council as a focal point for a policy network, we can think more broadly about pathways of policy influence. This does not mean that players with less influence (such as observers, scientists and business actors) decide the general direction of the Council, but that the leading actors (member states and permanent participants) cannot ignore them. It is at this intersection – where Member States’ desire for political control confronts a wide range of actors with different agendas and different opportunities to influence issues of relevance to Arctic development – that governance outcomes are hammered out.

Findings and recommendations

1) Harness the benefits of networks for innovation and implementation

The Arctic Council has created an arena where different players can come together, and networks are created. Such a network has value as it establishes a legitimate venue for the exchange of views. It is perhaps precisely this networked characteristic that explains why the Arctic Council has been a success in several areas and influenced policy at the national and international levels. Inclusive processes also have the benefit of having the potential object of regulation or best practices-style recommendations at the table. While this may weaken the process from the perspective of those who see regulation as

instruction from authorities, it will likely amplify the reach and usage of anything below the level of formal regulation.

Open and inclusive processes should be maintained when possible, even if this results in some overlap/duplication of responsibilities and issue areas and can be resource-demanding. Open participation, including actively recruiting newer actor groups (such as the private sector), can be a resource for innovation and getting all relevant expertise gathered around the table. Involving business actors in formulating best practices and plans for implementation of soft law/best practices will likely result in higher levels of implementation.

2) Consensus and a growing network

The establishment of the Arctic Economic Council and the recent MOU between the AEC and the Arctic Council suggests a shared willingness or at least a consensus amongst Arctic Council members to have an organization in place for business actors in a regional, circumpolar body. This changes what was a longstanding norm or practice of non-participation/non-admittance of business actors to formal Arctic Council work. There are benefits to an inclusive network, as outlined above. However, as the network changes and grows, it may not be possible or reasonable to maintain Arctic Council outputs as consensus-only style documents.

We recommend that working groups and task forces consider formats for working group or policy

conclusions that includes dissenting opinions/avenues for further discussion to indicate where views diverge.

3) Evaluate self-governance efforts to create a ‘race to the top’ for Arctic environmental governance

Monitoring and enforcement of regulation will always be a challenge across Arctic maritime space and vast distances. Furthermore, there are always likely to be governance gaps that emerge as economic activities develop. Therefore, good governance outcomes are also reliant on the private sector’s interest in robust self-governance and commitment to implementation. Assessing how well the sector meets their own standards and considering how well private sector-developed standards correspond with existing challenges and securing positive outcomes is, therefore, an important task for the research community. Likewise, ranking companies on the environmental performance may contribute to creating a ‘race for the top’ amongst companies (for an interesting example, see the Arctic Environmental Responsibility Index, which ranked the Arctic extractive sector).

We recommend that funding bodies prioritize research on the private sector’s performance and potential in shaping Arctic environmental governance and support maintenance of ranking and scorecard efforts by the research and NGO sector.

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Further resources

Read more about the Arctic Environmental Responsibility Index at https://www.nupi.no/nupi_eng/About-NUPI/Projects-centers/The-International-Panel-on-Arctic-Environmental-Responsibility