

Governance of the Arctic in Times of
Geopolitical Uncertainty
CIL-UiT Arctic University of Norway Workshop
Singapore-Norway Week
26 September 2023 (Tuesday)
Singapore

Keynote Address by Tommy Koh, Chairman, International
Advisory Panel, CIL

Salutations

H.E. Eivind S. Homme, Ambassador of Norway to Singapore,
Prof Dag Rune Olsen, Rector of UiT the Arctic University of
Norway
Dr Nilufer Oral, Director of CIL,
Excellencies, distinguished guests, ladies and gentlemen.

Thank CIL-UiT

I would like to begin by thanking UiT – The Arctic University of
Norway and the Centre for International Law for inviting me to
share a few thoughts with you this morning. I would also like to

extend a very warm welcome to our friends from Norway and Singapore and thank the Norwegian Embassy of Singapore for generously hosting this workshop as part of the Norway-Singapore Science Week.

In accordance with my wife's advice, I will make only three points:

First, some background for my Singapore colleagues who are not familiar with the Arctic. The Arctic is an ocean surrounded by five States – Canada, Denmark (Greenland), Norway, Russia and the United States. The three other States which have territory in the Arctic Ocean, north of the Arctic Circle, are Iceland, Sweden and Finland. These are the 8 Arctic States.

The Arctic was a scene of tension during the Cold War. But after the fall of the Soviet Union in 1991, steps were taken to enhance cooperation among the eight Arctic States. In 1996, the eight Arctic States agreed to form a council, without legal personality, under the Declaration on the Establishment of the Arctic Council, or the Ottawa Declaration. The Ottawa Declaration states that the Council will not deal with matters related to military security. The focus of the Arctic Council has been on promoting

sustainable development, cooperation on environmental protection and research on climate change.

A unique feature of the Arctic Council is that organizations of indigenous peoples in the Arctic are “Permanent Participants” with full consultation rights in connection with the negotiations and decision of the Council.

The land above the Arctic Circle is not terra nullius or land without people. There are more than 7 nations of indigenous people, the two largest of which are the Inuits and the Saamis. I have visited an Inuit community in Northern Canada. They felt threatened by modernisation and development. They wanted to be able to maintain their way of life, their culture and their customs. My visit was not a happy one. The Inuits were living in a Reservation. They could not pursue their normal way of life which consisted of hunting and fishing. There were few job opportunities on the Reservation. They were surviving on welfare payments by the Federal Government.

There are 13 non-Arctic States which are observers at the Arctic Council: 8 European States and 5 Asian States. The 5 Asian States are: China, India, Japan, South Korea and Singapore.

During the past twenty-six years, the Arctic Council has played an important role in the governance of the Arctic Ocean. It has supported cooperative initiatives of other bodies such as the International Maritime Organization (IMO) on the Polar Code for shipping. It has provided an informal basis for legally binding agreements among member states such as the 2011 Search and Rescue Agreement. It has also helped to shape policy on emerging issues such as climate change.

The Arctic and UNCLOS

My second point is that the Arctic Ocean, like other oceans, is governed by the UN Convention on the Law of the Sea (UNCLOS), which has been described as the “Constitution for the oceans”. UNCLOS establishes rules on rights and jurisdiction over the Arctic ocean’s resources and delineates maritime zones.

The five States bordering the Arctic have made claims to an EEZ and an extended continental shelf. There is a fairly large area of “high seas” beyond the limits of the EEZ claims, and a smaller area of the seabed that is beyond national jurisdiction.

On 28 May 2008, in Ilulissat, Greenland, the five coastal States bordering on the Arctic Ocean – Canada, Denmark, Norway, Russia, and the United States – adopted a declaration confirming that UNCLOS provides an appropriate governance framework for the Arctic Ocean.

If the sea ice continues to melt, the “Northern Sea Route” along the Russian coast, will become free for international navigation, all year-round, between East Asia and northern Europe. When this happens the regimes of passage for ships will be governed by UNCLOS and the relevant IMO conventions and annexes.

Climate Change and Russian Invasion of Ukraine

My third point concerns the impact of the Russian invasion of Ukraine on cooperation in the Arctic and the implications for the rest of the world. Cooperative research on the impact of climate change in the Arctic is crucially important not only to Arctic Council members and the indigenous peoples in the Arctic but also to the rest of the world. I understand that a significant portion of this research has taken place in the Russian Arctic.

All cooperation with Russia in the Arctic was halted after its invasion of Ukraine in February 2022, when Russia was serving

as the Chair of the Arctic Council. Although the 1996 Declaration on Arctic Council provides that it will not deal with matters relating to maritime security, the reality is that the Arctic has become a security issue. When both Finland and Sweden become members of NATO, the permanent members of the Arctic Council will consist of 7 NATO members and Russia. It is my hope that as the current Chair of the Council, Norway, will be able to use its diplomatic expertise to find a way to address this crisis and restore cooperative research that is in everyone's interest. I recall that both President Gorbachev and President Putin have called for the Arctic to be a zone of peace and cooperation.

I hope that the discussions today will yield ideas for addressing some of these issues. A final question I want to ask Norway is whether the Arctic needs a treaty like the Antarctic Treaty? Is it too late to negotiate one?

Thank you.

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