

# Arctic360

Canadian Roundtable:  
Mechanisms to Advance  
Safe and Reliable Marine  
Shipping in the Arctic



Canada 

# Strengthening the North American Arctic

Arctic360 works with Indigenous development corporations, Northern governments, the private sector, the federal government, Arctic leaders, and other stakeholders to help educate and attract Canadian and global investment to the North American Arctic.

We believe that a prosperous and sustainable North American Arctic relies on incorporating and expanding the intellectual and financial equity of those that live there. Further, we believe that only through earnest partnerships is it possible to generate a greater global understanding of the region as it attracts greater international attention and investment.

*Arctic360 works in Partnership with*



# Executive Summary

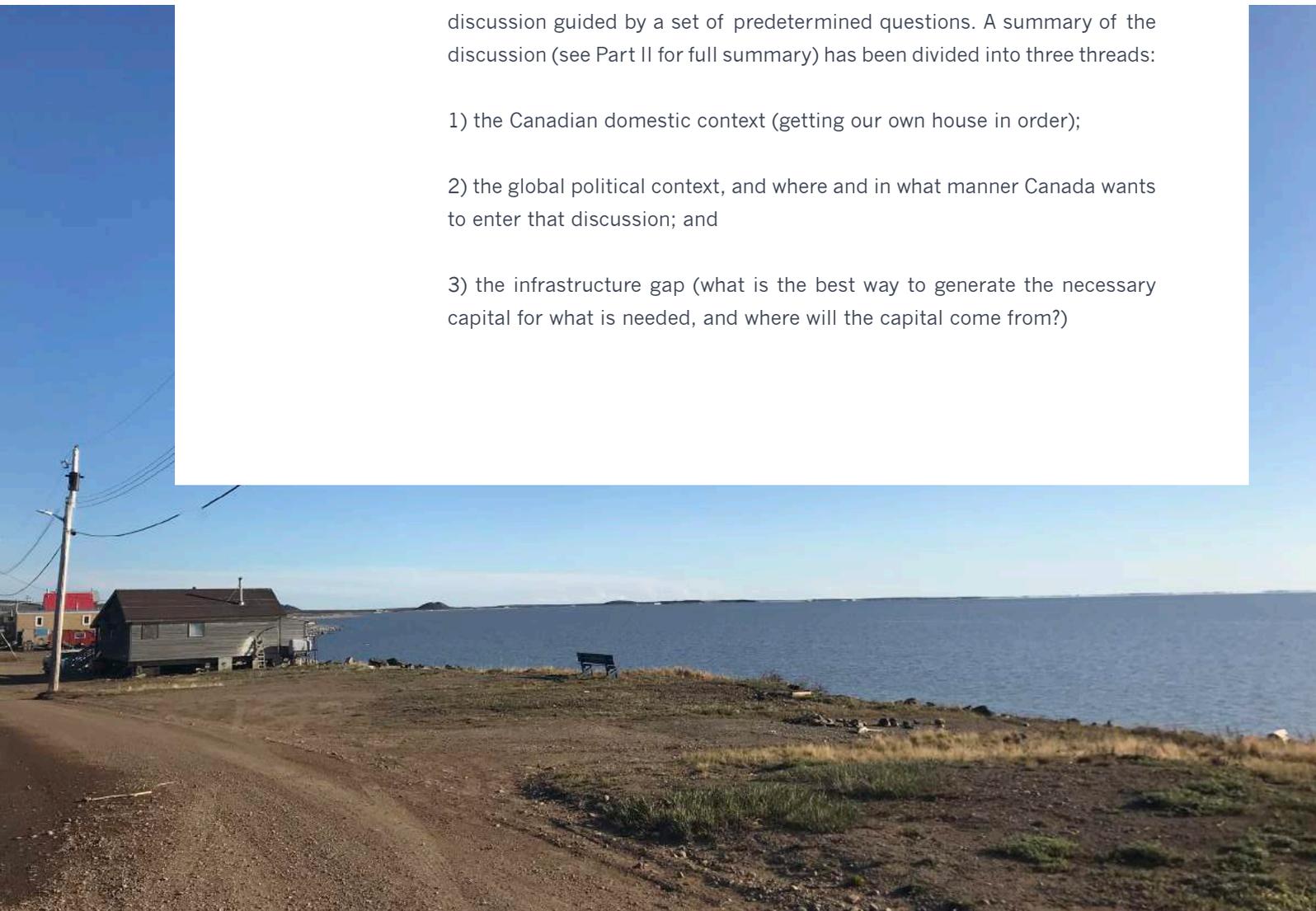
On the March 28, 2019, Arctic360 convened the first workshop in Canada that brought together the marine insurance industry, financial institutions, Northerners, the federal government, and academics to discuss what mechanisms Canada might pursue to ensure safe and reliable marine shipping in the Arctic, as well as generate revenue that could support economic development and infrastructure investment in Canada's North.

Organised in collaboration with the Canadian Coast Guard and Transport Canada, the basis of the workshop was a recognition that melting Arctic Ocean ice is increasing global interest in the region. As part of those changes, use and preparations for future use of the NW Passage is increasing, a trend that is expected to grow.

The workshop was divided into two parts. The first half of the day (Part I) was dedicated to presentations by a number of experts. The presentations offered an overview of existing laws and governance arrangements as well as questions, challenges, and opportunities of a non-frozen Arctic Ocean and its implications for Canada's role in regulating the NW Passage.

The second half of the day (Part II) was a Chatham House Rules-led discussion guided by a set of predetermined questions. A summary of the discussion (see Part II for full summary) has been divided into three threads:

- 1) the Canadian domestic context (getting our own house in order);
- 2) the global political context, and where and in what manner Canada wants to enter that discussion; and
- 3) the infrastructure gap (what is the best way to generate the necessary capital for what is needed, and where will the capital come from?)



# Executive Summary

The main takeaways from each thread are as follows:

a) Domestic: Canada's domestic regulatory landscape is complex and not well understood. Clarity should be the first order of business.

b) Canadian Foreign Policy: as a country, Canada could be doing a better job in taking a leadership role in the Arctic.

c) Financing Infrastructure: building infrastructure is central to a shipping framework for the NW Passage. To do so will require alternative forms of capital investment beyond the federal government. To bring in private investment, a business case for financing and building required infrastructure is necessary, and the business case must include a clearly defined strategy for the NW Passage put forward by the federal government.

In sum, the issue of the NW Passage is, and will continue to be, of great importance for Canada. Its strategic importance to the world at large is growing and will continue to do so. Canada has a critical opportunity at this moment to assume a leadership role in the region. As discussions over how and who will govern the NW Passage continue to take place at the global level (whether through multilateral institutions or unilaterally by various states) the federal government needs to determine when and where it intends to enter those discussions and further to act on them, if Canada hopes to play a role in defining the vision and leading the future governance the NW Passage and the whole of the region.



# Introduction

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Canada's Arctic is experiencing unprecedented change. Climate change is reshaping the environmental, social, cultural, geopolitical, and economic landscapes in the Arctic. Accompanying these changes is increasing attention to, and use of, the Arctic Ocean including the NW Passage as a means for shipping (whether for destination shipping, transarctic, for tourism, or otherwise).

In this context, organizations have begun to address the need to find mechanisms to support safer Arctic navigation. International efforts and actions taken in both the public and private sectors, include the IMO's adoption of the International Code for Ships Operating in Polar Waters (Polar Code) and the Arctic Council's agreements for Environmental Prevention, Preparedness and Response, among others. Lawmakers in the United States and industry partners have proposed the creation of an Arctic Seaway Authority, based on the existing model of the St. Lawrence Seaway.

In Canada, through the Ocean's Protection Plan, the federal government is investing in measures to improve marine safety and responsible shipping, protect Canada's marine environment, strengthen partnerships with First Nation, Métis and Inuit communities, and invest in science for evidence-based decision-making. The development of Northern Low-Impact Shipping Corridors in the Canadian Arctic is one such initiative. The Federal government is working in partnership with Indigenous organizations, provincial and territorial governments, and other non-government organizations to develop a governance framework and identify key priority geographic areas. This information will be used to inform marine services along the Corridors to support safer navigation, while respecting the environment and its ecological and cultural significance.

# Workshop

## Part 1

### Presentations

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#### **Neil O'Rourke**

*Assistant Commissioner,  
Arctic Region,  
Canadian Coast Guard*

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#### **Diane M. Sullivan**

*M.Sc. Manager,  
Domestic Shipping Policy  
Transport Canada*

Neil O'Rourke and Diane Sullivan discussed their ongoing work on the Northern Low-Impact Shipping Corridors project. Earlier studies undertaken have found that over the past ten years the Arctic has experienced significant reductions in sea ice cover. Sea ice reduction, has in turn, led to a longer shipping season with each passing year, subsequently attracting increasing numbers of cargo and passenger vessels.

Currently, Canada's Ocean Protection Plan includes \$1.5B in investments, a decision announced in November 2016. Altogether, Canada's Ocean Protection plan includes 57 initiatives which are led by: Transport Canada, Fisheries and Oceans Canada, Canadian Coast Guard, Environment and Climate Change Canada, and Natural Resources Canada. The most recent Ocean Protection Plan added new investments in several areas, including marine safety improvement and responsible shipping and protection for Canada's marine environment. The Ocean Plan is also focused on creating stronger Indigenous partnerships and engaging coastal communities.

The mandate of the Northern Low-Impact Shipping Corridors project is to build partnerships that will collaboratively design and manage future Arctic shipping corridors. Part of that work includes identifying priority areas for service enhancement and ensuring that corridors support safe and efficient marine transportation in the North. This will incorporate Indigenous knowledge and ocean science, as well as avoid culturally-significant and ecologically-sensitive areas. In 2020, governance models and identified priority geographic areas will be presented to the public.

# Workshop

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# Presentation

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## #2

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**Jessica Shadian**  
*President and CEO of  
Arctic360*

Jessica Shadian's presentation focused on possibilities for governing and financing the NW Passage.

Dr. Shadian began with a basic overview of the broader Arctic geopolitics that are important to understand before looking at possible framework options for the NW Passage. She addressed global interest in melting Arctic sea ice for present and future global shipping concerns. Countries including China, Singapore, Japan, and India are already actively investing in, using, and/or preparing for an open Arctic Ocean (including the present-day Northern Sea Route, the future potential of the NW Passage as a regular seaway, and the possibility of transit over the top of the North Pole).

Dr. Shadian then discussed three models for consideration with respect to shipping in the NW Passage. The first model is the Russian Sea Route (NSR). The NSR model is the outcome of the government's 2015 Integrated Development Plan for the Northern Sea Route 2015-2030. The aim of the report was to increase international transit cargo transportation in partnership with Asian countries. Based on the conclusions and strategy of the final plan, Russia began to make significant investments in icebreakers and other civil military equipment as well as ports and other infrastructure along the NSR. They also established ice-breaker services with accompanying user fees to ensure safe passage, and to generate revenue.

The second model discussed was an Arctic Seaway System under the Mission Council on Arctic Shipping and Ports, created in 2015. The premise of the Arctic Seaway System is to ensure the safety, security, and reliability of Arctic Seaways. One suggested mechanism for the Seaway System is to create a bi-lateral or international seaway

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## #2

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cooperation predicated on the St. Lawrence Seaway system which could include agreements on vessel routing measures, vessel tracking and monitoring, coordinated response to emergencies, coordinating vessel assist by icebreakers and other response vessels, joint response drills and exercises, inventories of current and projected port infrastructure, and local response capability. The activities would then be managed by established corporations in each participating country.

Further, an Arctic Seaway System would create the opportunity for establishing a tariff-based system to generate revenue that could be used to augment and maintain the System. The seaway system would also seek to create a tariff-based approach to create revenue for capital investments for infrastructure. In April 2019, the United States tabled the SEAL Act Bill which, if passed, would work to establish a congressionally-chartered seaway development corporation in the U.S. Arctic based on the recommendations of the Mission Council on Arctic Shipping and Ports.

The third example Shadian discussed was the Norwegian Clean Seas Association for Operating Companies (NOFO), a member organisation for all oil and gas operators on the Norwegian Continental Shelf. Under NOFO, each member pays a yearly fee and if a spill occurs, NOFO is responsible for all of the tactical and operational management of recovery resources in use. NOFO also organises courses, carries out preparedness and technology development, and is officially part of the national SAR and preparedness model that combines public as well as other private oil spill response resources.

The question posed by Dr. Shadian was whether Norway's NOFO model might be useful for creating a pay-into organisation (paid by ships going through the NW Passage) that would help coordinate and facilitate emergency preparedness and SAR through the NW Passage (whether alone or bi-laterally).

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## #3

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**François Lecavalier**  
*Head of Project Development,  
Canadian Infrastructure Bank*

François Lecavalier offered the group an overview of the Canadian Infrastructure Bank (CIB). The mandate of the CIB is to invest \$35 billion in Canadian infrastructure; to attract private capital into new infrastructure projects that are in the public interest; to transfer significant usage or demand risk; to provide advisory services including best practices, data, information; and to inventory Canadian infrastructure projects. The CIB also fills in gaps to improve the viability of projects. It does so by offering flexible returns, flexible instruments (e.g. debt or equity investment, senior/preferred or subordinated, long-term or short-term investments), and flexible terms.

The CIB's three areas of focus are: green infrastructure, public transit, and transport and trade. Their plan is to expand on the existing success of PPPs. The investment criteria for all projects are that a project must be in the public interest, sustainable, and transformative. Thus, the CIB actively works with the public and private sectors. To engage with the market, the CIB will develop a credible process for all levels of governments, market discovery of the financing gap for CIB, and develop a credible process for all levels of government to work with.

To help accomplish those goals, the CIB will undertake an inventory of Canadian infrastructure projects. The CIB intends to create more large-scale transformative projects; increase government demand for private investments; offer more equity and debt; a sophisticated unsolicited proposal process; and to generate more revenue, usage and operating risks and returns.

In terms of the North specifically, Lecavalier discussed social equity as most often being the objective; social equity requires infrastructure,

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which costs money. The solution, therefore, will be a combination of public and private funding, which is where the CIB comes in. It is important to point out that the CIB is project-driven and not policy-driven. Further, the CIB is also able to incur big losses. Yet, even with those losses, the CIB is a much more efficient way of developing infrastructure in Canada than the federal government building infrastructure with 100% public funds. Nevertheless, to successfully attain private sector investment, it is necessary to make that investment attractive to them, on their terms, and in language that will get their attention.

Projects in the North are going to be much smaller, and we have the flexibility to fund smaller projects because we recognize the difference in scale. The Arctic, for instance, has similar needs to Northern Ontario when it comes to, e.g., broadband. Going forward for the North, the CIB will be looking to projects where it can find private partners, such as mining companies.

In terms of 'green infrastructure', the CIB defines this as mostly renewable energy production. A transmission line that would allow for access to clean energy is one example. The CIB can also support clean technologies on an industrial scale, which it was noted, should be of interest to anyone involved in the North. One example is the Réseau Électrique Métropolitain in Montréal.

# Workshop Presentation

## #4

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**Dr. David L.  
VanderZwaag**

*Professor of Law,  
Canada Research Chair in  
Ocean Law & Governance,  
Dalhousie University*

David VanderZwaag provided the participants with an overview of the international legal and political considerations of the NW Passage. He organised his presentation into three specific areas: ongoing conflicts, areas of potential cooperation in the region, and questions that remain unanswered.

On the topic of conflict, Dr. VanderZwaag reminded participants that in preparing for increased shipping in the NW Passage it is critical to consider the existing international legal and political context of the Passage. First, there is the ongoing dispute over the legal status of the NW Passage. Canada considers the Passage an internal strait and has drawn straight baselines around the Canadian Arctic Archipelago. The United States considers the NW Passage to be an international strait. Considerable debate continues over whether the NW Passage is a 'strait used for international navigation' or part of Canadian internal waters.

Second, the United States and Canada disagree on the boundaries of the Beaufort Sea. The United States argues that an equidistance line should apply based on customary international law relating to maritime boundary delimitation. Canada, however, argues that the boundary should be drawn along the 141st meridian, based on the Great Britain-Russia Treaty (1825). That dispute remains unresolved.

Third, there are the ongoing tensions over Canadian coastal state legislative and enforcement jurisdiction bestowed by Article 234 of the UN Convention on the Law of the Sea (LOSC). Article 234 leaves substantial room for interpretation. According to the Article, Coastal States have the right to adopt and enforce non-discriminatory laws and regulations for the prevention, reduction, and control of marine pollution from vessels in ice-covered areas, within the limits of the exclusive economic zone. The particularly severe climate conditions and presence of ice covering such areas for most of the year create obstructions and/or exceptional hazards to navigation, and pollution of the marine environment could cause major harm to, or irreversible disturbance of, the ecological balance.

The implied meaning of Article 234 has become a source of several outstanding questions. For instance, what is the precise definition of ice-covered waters for 'most of the year'? And at what point is the definition applied in the context of rapidly-changing conditions in the Arctic Ocean? Is the Article applicable to an ice-covered strait used for international

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## #4

navigation? Can it be used to justify unilateral coastal state imposition of ship reporting and possibly routing measures? These questions remain unanswered.

Lastly, in July 2010, Canada imposed mandatory reporting requirements on certain classes of vessels preparing to navigate in the Northern Canada Vessel Traffic Services (NORDREG) Zone, which covers the Shipping Safety Control Zones and other northern waters such as the Hudson and James Bays. Canada chose to create the requirements unilaterally rather than work within the IMO to create and impose them. Consequently, the IMO, led by the U.S., questioned whether Canada's NORDREG system was in compliance with SOLAS under Chapter V of the IMO's requirements. Canada eased tensions with an explanatory note to the IMO, clarifying that foreign sovereign immune vessels would be requested to voluntarily comply with NORDREG, and asked the IMO to bring the NORDREG system to the attention of member governments.

The second area that Dr. VanderZwaag covered concerned the movement towards increasing cooperation at the bilateral, regional, and global levels. At the bi-lateral level, Canada and the United States reached a 'stalemate' Agreement on Arctic Cooperation in 1988. At that time, both parties agreed to set aside their jurisdictional dispute over the legal status of the NW Passage by 'agreeing to disagree'. The U.S. and Canada established that U.S. icebreakers would be subject to Canadian consent for transits within waters claimed by Canada to be internal. The two countries further agreed to share research information regarding the marine environment gained through icebreaker navigation (commercial and naval vessels not included).

Additional US-Canadian Arctic maritime cooperation includes the May 2006 decision to extend the North American Aerospace Defense Command (NORAD) to the maritime domain. Likewise, the United States and Canada maintain a cooperative surveillance program under the Joint Marine Contingency Plan for the Beaufort Sea (CANUSNORTH), which was last revised in 2013. In recent years, the United States and Canada have also agreed to place an informal moratorium on petroleum exploration/exploitation in the disputed Beaufort Sea zone. Canada has also agreed to match the United States' 'precautionary moratorium' on commercial fisheries, and the two countries have been actively cooperating on surveying the continental shelf.

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At the regional level, cooperation has evolved through several avenues. The first are the Agreements passed by the Arctic States under the auspices of the Arctic Council. Those include the Aeronautical and Maritime Search and Rescue Agreement, and the Agreement on Cooperation on Marine Oil Pollution Preparedness and Response. Second, the Protection of the Arctic Marine Environment (PAME) working group of the Arctic Council completed an Arctic Marine Shipping Assessment followed by the establishment of an Arctic Shipping Best Practice Information Forum in 2017. At present, PAME is further promoting the establishment of an MPA network across the Arctic through the Framework for a Pan-Arctic Network of Marine Protected Areas. In addition, the Arctic Coast Guard Forum, created by the Search and Rescue Agreement, is encouraging cooperative training efforts and information-sharing concerning operational approaches and challenges.

Likewise, efforts are being made for the IMO to allow a regional reception facilities approach in the Arctic and the Arctic Regional Hydrographic Commission (ARHC) has facilitated cooperation in undertaking surveys and enhancing nautical charting.

At the global level, Arctic-related cooperation – specifically through the IMO – has occurred on four main fronts: (i) by working to bridge international tensions over NORDREG and Article 234 of the Law of the Sea Convention; (ii) in 2017, the IMO adopted a mandatory Polar Shipping Code; (iii) ongoing discussions on whether to impose further bans on heavy fuel oil (HFO) carriage for use as fuel by ships in the Arctic; and (iv) the IMO is working towards controlling black carbon emissions from shipping to reduce the impact on the Arctic.

Finally, Dr. VanderZwaag offered a number of key outstanding questions for the group's consideration:

1. What are the prospects for Canada developing its own policy on the future of the Northwest Passage?
2. Would an Arctic Seaway Authority approach be politically feasible in light of differing Canadian and U.S. views on the legal status of the NW Passage?
3. What other options might be considered for strengthening Canada-U.S. cooperation related to Arctic shipping?
4. Might broader international cooperation be forged for encouraging sustainable shipping in the NW Passage, for example, involving other States such as China, South Korea, Japan?
5. Might the Beaufort Sea boundary dispute be resolved as part of a broader Canada-U.S. Arctic cooperation agreement?

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# Presentation

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## #5

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**Dr. Blair Feltmate**

*Head,  
Intact Centre on Climate  
Adaptation (ICCA),  
U. of Waterloo*

The final morning presentation was delivered by Blair Feltmate. Dr. Feltmate’s presentation focused on climate change and the implications of extreme weather for the North. Dr. Feltmate organised his presentation around four takeaways: (i) climate change and extreme weather risk is irreversible; (ii) the costs of climate change are increasing; (iii) Canada is adapting to climate change; and (iv) Northern Canada requires an immediate and comprehensive climate adaptation plan.

In his presentation, Dr. Feltmate pointed out that it is extremely likely that human influence has been the dominant cause of the observed warming since the mid-20th century. Yet, the reality is that the world’s energy needs are only expected to increase. At the same time, we know that extreme weather is the cause of growing catastrophic events and insurable losses. Recognising these contradictory forces (climate change is giving rise to increased catastrophic events and, at the same time, energy needs will continue to increase), Canada has published a number of new guidelines focused on adaptation. Those Guidelines are the Flood Protection Guideline for homes, the New Community Design Standard, the Existing Community Retrofits Guideline, and the Commercial Real Estate Retrofits Guideline.

Dr. Feltmate then narrowed his discussion to the North. He highlighted how climate change is the greatest in the Arctic because the Albedo factor means that climate change is driving further climate change, thus creating a positive feedback loop. The greatest challenge of climate change in the North is permafrost melt which itself further contributes to the Albedo factor. Northern Canada requires an immediate and comprehensive climate adaptation plan that can, among other factors, address current and expected permafrost melt.

# Afternoon Session

The afternoon session was a Chatham House Rules Discussion. Participants divided into groups to address the following questions, followed by a full group discussion.



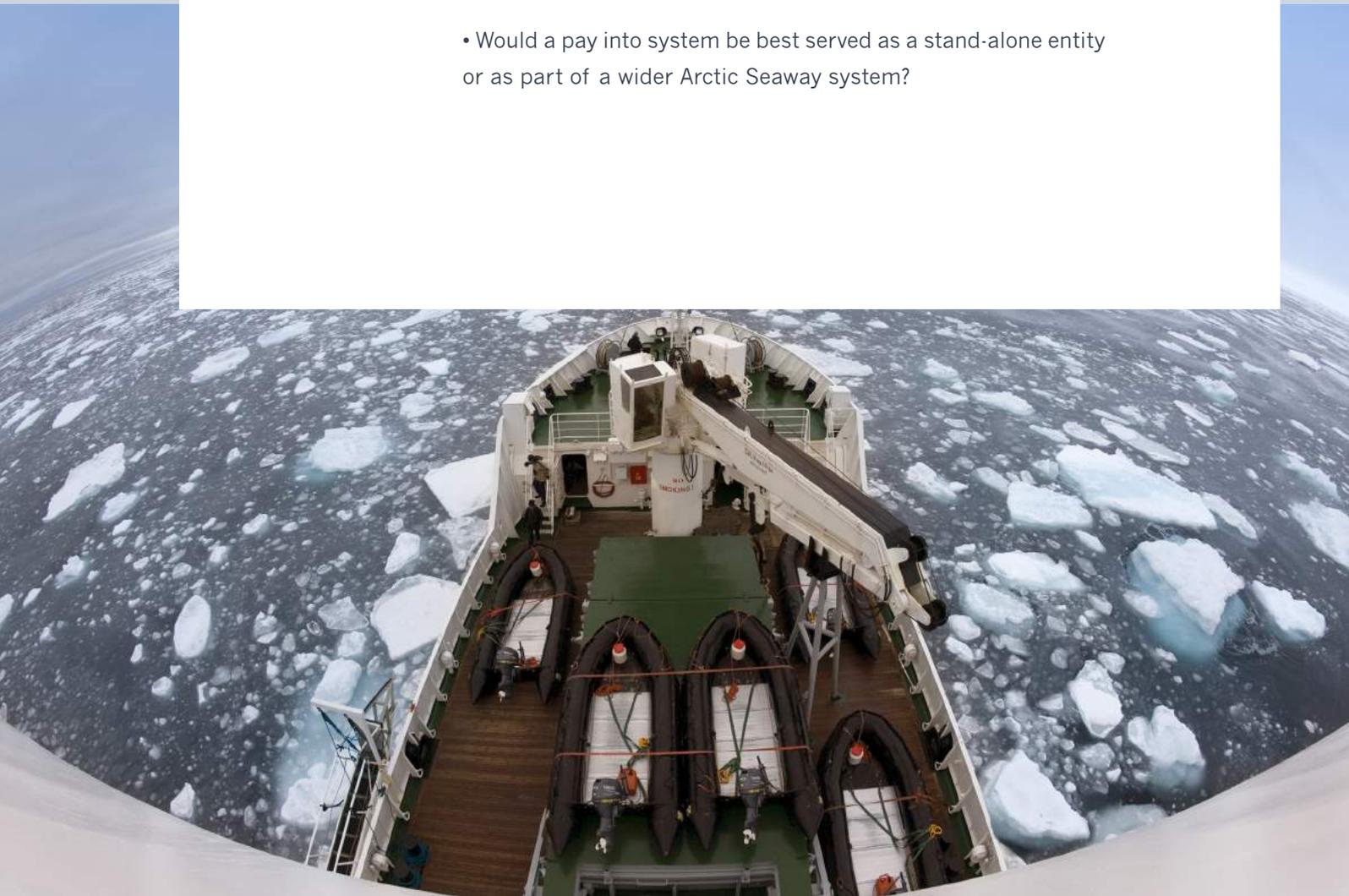
# Bilateral / Multilateral Agreements

- Do you think a bilateral Cooperation or Agreement (not a binding international treaty) could help Canada achieve its own aims to regulate the NW Passage and safeguard its sovereignty?
- Could working with the United States under a more formalised structure be a mechanism for:
  - strengthening SAR, ensuring environmental and safety protections are adhered to?
  - creating necessary safeguards for indigenous rights?
  - offering increased opportunities for Northern governments and Indigenous entities to serve as co-managers?
  - helping to create a mechanism to strengthen Indigenous relationships with their counterparts across the region?
  - sharing infrastructure costs?
  - generating increased capital for infrastructure?
- What would be the benefits of NOT entering into a cooperative agreement with the United States?
- What other bi-lateral or multilateral agreements might be beneficial in helping ensure Canada will be best able to continue to regulate the NW Passage?



# Arctic Seaway Authority

- Would an Arctic Seaway cooperation be welcomed by the insurance industry?
- Could creating a Canadian Arctic Seaway corporation be useful in helping to provide a structure for generating revenue to build infrastructure and managing the NW Passage?
- Could the Board of an established Canadian Arctic Seaway Corporation offer a mechanism for co-managing the Seaway (e.g., a Board composed of Indigenous development corporations and/or land claims regions, the territorial governments and the federal government)?
- Would a NOFO type of system be of interest to the marine insurance industry?
- Would a pay into system be best served as a stand-alone entity or as part of a wider Arctic Seaway system?



# Financial Investment

- What do financial institutions need to have in place in order to invest in Arctic maritime infrastructure? Is there a potential role for the CIB?
- Would financial institutions prefer individual state regulations to manage the Arctic's seaways versus bi-lateral /multi-state cooperation?
- Would a formal governance system for the NW Passage provide additional guarantees/incentives for financial institutions to make capital investments in infrastructure?
- Does the marine insurance industry have a preference for unilateral state regulations OR multilateral cooperation? Is there a preference?
- What mechanisms will marine insurance providers like to see in place for insuring ship transits through the NW Passage?
- What will credit rating agencies look for/expect to see regarding infrastructure projects along the NW Passage? Do credit rating agencies have a preference regarding unilateral or multi-state cooperation? Would a Seaway governance mechanism be viewed positively?

### *Three specific themes emerged out of the group discussions:*

- 1) Domestic issues pertaining to the NW Passage: we must get our own house in order.
- 2) The NW Passage from a global political perspective: how and where should Canada engage in those discussions with rest of the world?
- 3) The infrastructure gap is not a gap but a gaping hole. What is the best way to generate the necessary capital to fill the gap? Where will the capital come from?

At the conclusion of the discussion, participants agreed that the three themes deserve further follow-up discussions that must lead to action.

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## *The Domestic Situation Regarding the NW Passage:*

At the outset, it was agreed that creating and ensuring self-sustaining and vibrant economies in the North is central to the discussions. Likewise, Northern communities are the ones most affected by all events and activities along the NW Passage. To that end, there was a consensus that local knowledge is imperative for many aspects, including the Coast Guard's efforts to govern the NW Passage. One example used includes mandatory pilotage requirements. Whatever path is chosen for governing the NW Passage in the future, it must be a joint vision among all stakeholders.

One point made was that a major obstacle for increasing cooperation between Inuit and the Coast Guard is the low number of Inuit in the Coast Guard. Some possible options discussed included increased Coast Guard stations in the North, adding Coast Guard Training in the North, and conducting university courses and degrees in the North to train a new generation of Inuit entering the Coast Guard.

It was also noted that, while it is imperative that the federal government have the right conversations with the right partners, and arrive at a co-developed solution rather than rush through the process, those considerations cannot act as an excuse to

take too long to formulate a domestic position on the NW Passage. Time is very critical. The federal government must arrive at the point where it can confirm the outcome it is going to deliver, the specific business case for Canada to make the investment, and the Department of Finance's commitment to its share in the investment.

Taking a step back, the first effort towards articulating a Canadian position on the NW Passage is to have a clear division of regulations, and an understanding of who is responsible for what in the Canadian Arctic. At the present time there is little confirmation as to where the responsibility of one actor (e.g., federal, territorial, indigenous) begins, and where it ends. For instance, there are numerous regulatory rules that exist in Nunavut. Nunavut, like all of the Territories, has territorial parks and marine-protected areas. Each of those include specific tools for that park or area (e.g., making sure that tourism does not take place in a marine area). What is necessary and, to date, missing is the organization of all the existing tools and pieces in an integrated, systematic way. In many cases, the tools and regulations exist, but need to be coordinated. The question is who will do the coordinating.

## *Canada's Foreign Policy Engagement on the NW Passage:*

Most often Canadian foreign affairs relating to the North (international Arctic politics) is arrived at through unilateral decisions. Equally so, Canada's Arctic foreign policy is mediated and carried out through the Arctic Council directly or under the auspice of the Arctic Council. . Increasingly so, however, there are merging issues relating to Canadian Arctic foreign affairs, and specifically in terms of the NW Passage, that now extend well beyond the mandate of the Arctic Council (e.g., sovereignty and security).

In order to know where and how to best engage the foreign policy space to address the NW Passage, policymakers and other experts need to review and understand the scope of all bilateral agreements, and the benefits of both pursuing, and not pursuing, various efforts being put forth in the international arena. One participant stated that it is important to recognise that, at the outset of any discussion regarding the NW Passage, it is a fallacy to think or assume that if a framework for the NW Passage is created as part of a collaboration with other states it would mean that Canada is giving up its sovereignty. The reality is that whatever framework is decided on, it will have to apply international standards, laws, and governance mechanisms (which is by itself an admission to multilateral cooperation – whether through engagement with the IMO or the United States directly).

In terms of actual possible frameworks for the NW Passage – specifically a transit passage regime - geographical issues must be

taken into account and addressed, including the determination of and agreements on controlling marine and noise pollution. It was also noted that, while Canada has mostly worked unilaterally to date, it also engages heavily with the IMO to ensure tacit consent of its regulations and/or standards. The IMO, therefore, will be a very important mechanism to leverage when it comes to Canada's final decision for the NW Passage.

Legal considerations that need to be incorporated into a NW Passage framework include the Beaufort Sea Boundary, the 1984 Western Arctic Land Claims Settlement Act, the Inuvialuit Final Agreement, and the rules, regulations, and governance mechanisms established as part of those. In a discussion of the Beaufort Sea, the question was raised as to whether the Beaufort Sea boundary dispute might be resolved as part of a broader Canada-US Arctic cooperation agreement.

In terms of collaborating partners for consideration, several points were discussed. One participant stated that when it comes to cooperation with Alaska/the U.S., it cannot be assumed that because one State Senator (from Alaska) has tabled a bill, the federal government will be behind it. There is a disconnect in the U.S. and, perhaps surprisingly, basic awareness that Alaska is part of the United States is lacking.

That said, despite what may be taking place domestically in the U.S., there was an overall consensus that Canada cannot ignore what is

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### *Canada's Foreign Policy Engagement on the NW Passage:*

happening in the rest of the world. By taking apart the international components – and to set aside for now the issue about whether or not to work with the United States, and to what extent – a Canadian framework for the NW Passage is going to have to consider what other countries around the world are thinking, doing, and planning for the near future.

Considering the situation in that context, it was suggested that working internationally makes the most sense strategically, yet to do so also requires sound understanding of what other countries are planning to do. Moreover, participants pointed out that while there is a bit of reticence around working too closely with the United States given the outstanding sovereignty issue, cooperation would also create an ideal opportunity for Canada to take a leadership role. By acting proactively, Canada could get ahead of the game, assume a leadership role, and position itself strategically in a way that will strengthen Canadian sovereignty.

In terms of the specific considerations of a greater Canada - US cooperation, we need to know what options exist and which option would best strengthen that relationship. Likewise, there is a strong role for local knowledge to play, especially if a cooperation would allow for strengthening synergies among Indigenous communities of Northern Alaska and Canada. Participants also noted that it is important to keep in mind that the

conflicts and challenges between the U.S. and Canada relating to the NW Passage predate the current presidency. Therefore, working towards a cooperation at this time is not as restrictive as might be assumed. Given current regional and international attention to the Arctic, it is an ideal time to arrive at an international solution. The challenge is arriving at a cooperation between all parties and stakeholders.

One participant pointed out that if we compare Canada to the United States, Canada is further along in terms of general awareness of the North. When there is discussion relating to the Northern Corridor project, for instance, people are optimistic and interested in the topic. Despite the excitement about what a Northern Corridor could hold for the North, there is a need to improve coordination, which requires a robust and clear policy direction in addition to the other critical next steps that were discussed throughout the day.

Overall, when it comes to the international dimensions of cooperation and managing the NW Passage, the overwhelming consensus by participants was that regardless of what position Canada opts to take, it could be doing a better job in forging a leadership role in the Arctic.

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## *Financing Critical Infrastructure along the NW Passage:*

Being able to regulate increased NW Passage traffic, including through the creation of a shipping framework, requires infrastructure which does not currently exist. Participants understood that in Canada the federal government cannot fund all the required infrastructure, and the conversation turned to the role of private capital.

One participant questioned whether building infrastructure along the NW Passage is an area of potential interest for the CIB. Several participants noted that in both the case of private capital and the CIB, a business case needs to be made, which must include a commitment by the Department of Finance that the federal government will invest in and partner on projects.

Participants noted that the business case must also take account of international geopolitical changes and increasing use of the NW Passage. It also needs to be based on scientific studies relating to current and expected ice-melt in the NW Passage, as well as the whole of the Arctic Ocean. Along those lines, it was mentioned that the Panama Canal project was originally a huge investment. Similarly, the Russian government is heavily investing in infrastructure and civil military equipment to create the Northern Sea Route. It is also actively seeking foreign direct investment. Prior to Russia's investments, the government commissioned numerous feasibility studies,

and part of the due diligence of the Canadian government is to look at all existing sources of funding and alternate funding mechanisms.

In looking for sources of alternative funding it was suggested that it will be partly derived from Canadian companies that will directly benefit from doing business in the Arctic and/or are already benefiting from doing business in the North. The questions that need to be addressed are 'Who is bringing which commodity through; where is the risk in the system; and how can you pull that risk out and monetize it, all at once?'

Another suggestion for consideration is whether tariffs or a pay-into system could help provide an alternative source of capital, and what role the insurance industry could play in helping to collect tariffs or fees. There were suggestions that it could be useful to look at existing systems already in place in Canada, and whether there is an opportunity for any of those mechanisms to be extended to the North. Participants also inquired whether the prospects of having a system in place would lower marine insurance costs and/or be a positive consideration for the overall credit rating of a project.

The conversation then returned to attracting private capital, noting that consolidating a business case is the biggest necessity for financing and building the required

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### *Financing Critical Infrastructure along the NW Passage:*

infrastructure along the NW Passage. Again, the business case requires the federal government to demonstrate leadership, and to offer a strategy for its plans to develop the NW Passage. It will have to do something along the lines of the feasibility studies that Russia conducted prior to making investments in building the Northern Sea Route.

Participants also discussed the prospects of innovation in building the business case. One way for the federal government and others to understand and address the infrastructure gap in the North is through the lens of innovation, rather than building conventional infrastructure. For instance, some questioned the role that drones might come to play, and how AI and automation are going to change the way we think about transportation in the North, nationally, and globally. Moreover, what does that mean in terms of knowing what infrastructure needs to be built? The North offers a huge opportunity yet requires leadership with a vision.

The discussion then focused on the issue of what it will take for the federal government to play a leadership role and to regard the

North as an opportunity. One participant stated that it begins with finding a champion from the investment space. Once there is a champion, then others will join in, forcing the federal government to take an active role. In what seemed to be a chicken-and-egg situation, participants were reminded that finding a champion requires a business case to attract financial institutions at the outset. While diminishing risk is extremely important, without established demand, it becomes very challenging for the private sector to engage. Thus, another essential key of the business case is to define and scope out established demand.

Participants agreed that although it is critical that we build the infrastructure, the big picture is missing, which means that efforts to move things forward are limited. The question then becomes, how far can we go without a defined strategy? Without it, is there a way to try to move things forward in a way that does not alienate anyone in the process?

## Next Steps

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All participants agreed that the three themes discussed deserve further discussion, and that it is critical for those discussions to lead to decisions. It was stated that, first and foremost, the federal government needs to complete its Low Impact Corridors Study. Likewise, due to upcoming (October 2019) Canadian federal elections, a follow-up conversation on this topic will very likely have to wait until after the elections. Participants in the insurance industry agreed that the workshop offered a host of new information and was also a first for participating in an in-depth discussion about the Arctic Ocean.

In sum, the issue of the NW Passage is, and will continue to be, of great importance for Canada. Its strategic importance to the world at large is growing and will continue to do so. Canada has a critical opportunity at this moment to assume a leadership role in the region. As discussions over how and who will govern the NW Passage continue to take place at the global level (whether through multilateral institutions or unilaterally by various states) the federal government needs to determine when and where it intends to enter those discussions and further to act on them, if Canada hopes to play a role in defining the vision and leading the future governance the NW Passage and the whole of the region.





[www.arctic360.org](http://www.arctic360.org)

**Head Office**

93 Waverly Road  
Toronto, ON M4L 3T2  
Canada

**Northern Branch**

736 Igluik Drive, PO Box 2323  
Iqaluit, Nunavut X0A 0H0  
Canada