



A Marine amphibious assault vehicle hits the beach through the Namsos fjord in March 2016 to support NATO allies and partners during the final training of Exercise *Cold Response 16*. The cold-weather training integrated air, land, and sea capabilities of 13 nations and more than 15,000 troops to improve capacity to coordinate and respond to threats as a team. (U.S. Marine Corps/ Chad McMeen)

# High North and High Stakes

## The Svalbard Archipelago Could be the Epicenter of Rising Tension in the Arctic

By Michael Zimmerman

500 nautical miles north of the city of Tromsø, off of the northern cape of Norway, lies the Svalbard Archipelago; a collection of islands nearly one fourth the size of continental Norway with a unique history and an even more unique status under international law.<sup>1</sup> Since its official discovery in the mid-1500s Svalbard has generally been an area of peace and cooperation due in large part to its location on the fringes of civilization.<sup>2</sup> However, Svalbard's tranquility has been punctuated by periods of competition and conflict when profitable resources are at stake. From whaling in the 1700s, coal in the late 1800s, and fishing in the present, profit from natural resources has been a consistent driver of instability in the area.<sup>3</sup> Outside of resource-driven tension, the island chain spent most of its pre-20<sup>th</sup> century existence as a de facto "no man's land" or global commons, ungoverned by any one nation.<sup>4</sup>

Svalbard's legal status changed under the 1920 Treaty of Paris, which marked the end of World War I and spawned the related Spitsbergen Treaty, bestowing Norway with sovereignty over the archipelago.<sup>5</sup> However, the Spitsbergen Treaty simultaneously granted the citizens of each party to the treaty "equal enjoyment" and "equal liberty of access" to the islands.<sup>6</sup> Nowhere else in the world does such a legal framework exist over a land mass with permanent human habitation; where an area is both under the full authority of one country and also subject to unrestricted access by citizens of dozens of other nations. Thus, Svalbard is a region where considerable ambiguity exists over who controls resources, especially in the adjacent sea, and under the sea floor.

One signatory to the Treaty, Russia, has paid particular attention to guarding its interests in the area. Russia has a historical presence on Svalbard dating back to the 1500s, but it is Svalbard's proximity to the Kola Peninsula, home of Russia's strategic Northern Fleet, that likely explains why Norway's eastern Arctic neighbor closely monitors developments on the remote island chain.<sup>7</sup> This added focus is cause for concern since Russia has shown a proclivity to exploit gray areas, where the rules and norms are less defined.<sup>8</sup> Whether by cyber incursions in the Baltics, little green men in the Ukraine, or manipulating domestic regulations to make excessive claims along the Northern Sea Route, Russia has used ambiguity as a means to accomplish its goals while obscuring its actions.<sup>9</sup>

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Svalbard's ambiguous status as both fully Norwegian and yet completely open to the interests of 46 other nations, including the United States and Russia, make it a ripe target for Russian aggression.<sup>10</sup> The addition of rich oil reserves in the seabed around Svalbard and the ability to exploit internal NATO division over the extent of Norwegian control pushes the potential for conflict even further.<sup>11</sup> This article will examine Svalbard's unique status under international law, and the current drivers of conflict, both political and economic.<sup>12</sup> The article concludes with the argument that maintaining a credible, Arctic-capable, amphibious force in Norway will be key to the United States' and NATO's interest in deterring armed aggression in the area; ensuring that competition remains peaceful and does not ripen into armed hostilities.

However, other instruments of national power must be coordinated as well to protect against aggression below the threshold of armed conflict. A unified front, leveraging the resources of NATO nations, must be arrayed to ensure that key terrain on NATO's northern flank does not become a critical vulnerability. One principal aspect of that will be resolving the ongoing disagreement among members of NATO concerning the 200 nautical mile zone surrounding Svalbard.

### **The International Law Problem: Unusual Beginnings and Unresolved Questions**

Svalbard's historical status as essentially a no man's land began to change in late 1800s when the Kingdom of Norway entered talks with Tsarist Russia to jointly administer the islands.<sup>13</sup> Those talks continued until 1914 and were nearing agreement when World War I broke out across Europe.<sup>14</sup>

During the war, Norway remained neutral but provided significant merchant maritime assistance to the Allied powers, which included Russia,

against the Central Powers of Austria-Hungary, Bulgaria, the Ottoman Empire, and Germany.<sup>15</sup> However, in 1918 the Russian revolution precipitated Russia's withdrawal from the conflict and resulted in the signing of a peace treaty with the Central Powers. A German–Russian supplement to that Treaty required the discussions from 1914 between Russia and Norway on the future of Svalbard to be reopened once the war was over; with Germany now included in the conversation.<sup>16</sup> However, the eventual defeat of Germany and the Central Powers rendered that agreement meaningless. Instead, the victorious Allied powers met in Paris in 1920 to divide up the spoils of war; Russia was not invited.<sup>17</sup>

At the 1920 Paris peace talks Norway was able to advance its interests in the Svalbard Archipelago. The Allies, undoubtedly preoccupied with much bigger issues over the ending of the World War I, acquiesced to Norwegian requests for sovereignty over Svalbard but in a unique way. The resulting Treaty of Spitsbergen granted Norway the authority to administer the islands as Norwegian territory subject to two qualifications.<sup>18</sup> Articles 2 and 3 of the Treaty give citizens of the signatories the same rights to live on and profit off of Svalbard and “its territorial waters” as Norwegian citizens.<sup>19</sup>

Thus, a novel construct under international law was born whereby Norway was granted “full and absolute sovereignty” in Article 1, only to have that sovereignty restricted by subsequent Articles of the Treaty. This legal structure creates significant ambiguity about the authority to control activities on Svalbard. In addition, the way Norwegian sovereignty was conferred—without Russia's involvement—set the stage for decades of tension among the Arctic neighbors.

In the years following the Spitsbergen Treaty, Russia was not shy about expressing its feelings on how the issue of Svalbard's sovereignty was

decided. Soviet Foreign Minister Vyacheslav Molotov publicly declared in 1946 that the whole Spitsbergen Treaty should be “thrown in the trash can.”<sup>20</sup> According to Molotov, Bear Island (the southernmost island lying almost exactly halfway between the north cape of mainland Norway and the southern tip of the main Svalbard island chain) belongs to Russia and the rest of Svalbard should be jointly administered by Norway and Russia.<sup>21</sup> Though Norway reopened negotiations with Russia about the joint administration of Svalbard in 1946,

Norway’s admission to NATO in 1949 and inclusion of Svalbard in the NATO defense area in 1951 quickly ended those discussions.<sup>22</sup>

By the 1970s Norway began a concerted effort to solidify and extend its jurisdictional reach over Svalbard.<sup>23</sup> This included attempts to establish an exclusive economic zone around Svalbard, consistent with the ongoing negotiations of the UN Convention on the Law of the Sea (UNCLOS).<sup>24</sup> Beginning in the mid-1970s, UNCLOS had the desired goal of codifying historic state practice



In 2018, a U.S. Marine with Marine Rotational Force–Europe moves into position before a mountainous assault on an enemy position during the field training portion of Exercise *White Claymore* in Norway. The U.K. Royal Marines-led training in northern Norway focuses on training in defensive and operations in winter conditions. (U.S. Marine Corps/Marcin Platek)

regarding the sea rights of coastal states while preventing abuse of natural resources or territorial overreach so that freedom of navigation could be maintained.<sup>25</sup> One of the results of the UNCLOS negotiations was the establishment of a 12 nautical mile territorial sea of a coastal state, extending from the baseline measurement, and the creation of a new exclusive economic zone (EEZ), extending 200 nautical miles from the baseline.<sup>26</sup> This new zone gave a coastal state sole authority of all resources below the surface of the water within that area. This includes fishing, mining and drilling rights within the EEZ.

With the ongoing UNCLOS negotiations in mind, the Norwegian Government quickly conceded that the terms of the Spitsbergen Treaty required the country to allow access and use of the islands as well as Svalbard's 12 nautical mile territorial sea. However, unlike territorial waters, the exclusive economic zone was not a concept that existed in 1920 and Norway took the position that the Spitsbergen Treaty did not apply to this newly created area.<sup>27</sup> Russia disagreed with Norway as did NATO nations such as Iceland, Spain, and the United Kingdom.<sup>28</sup> The United States adopted what can best be described as a tepid position; outwardly supportive of Norway's sovereignty goals, particularly as it related to disagreements with Russia, while maintaining claims to mineral rights in the EEZ around Svalbard.<sup>29</sup>

Not wanting to press what appeared to be an unpopular issue, Norway eventually changed course and established a Fisheries Protection Zone (FPZ) in the 200 nautical mile zone around Svalbard instead of an EEZ.<sup>30</sup> This new direction had its foundation in Article 2 of the Spitsbergen Treaty which allowed Norway "to maintain, take or decree suitable measures to ensure the preservation and, if necessary, the re-constitution of the fauna and flora of the said regions, and their territorial waters."<sup>31</sup> However several European countries, and

in later years the EU, have lodged objections to this exercise of authority.<sup>32</sup> Norway's corresponding attempts to enforce its regulatory power by seizing foreign vessels that violate Norwegian law has met with some tense interactions between Norway and members of the European fishing fleet, including Spain, Latvia, and Russia.<sup>33</sup>

The net effect of these actions by Norway and reactions by the international community is that significant questions exist about who has the right to exploit resources in the 200 nautical mile area around Svalbard. The Norwegian contention is that the Spitsbergen Treaty does not apply to the area outside of Svalbard's territorial waters, while many other nations believe that it does. This lack of certainty could have consequences as tension grows in the battle for natural resources and Arctic regional supremacy.

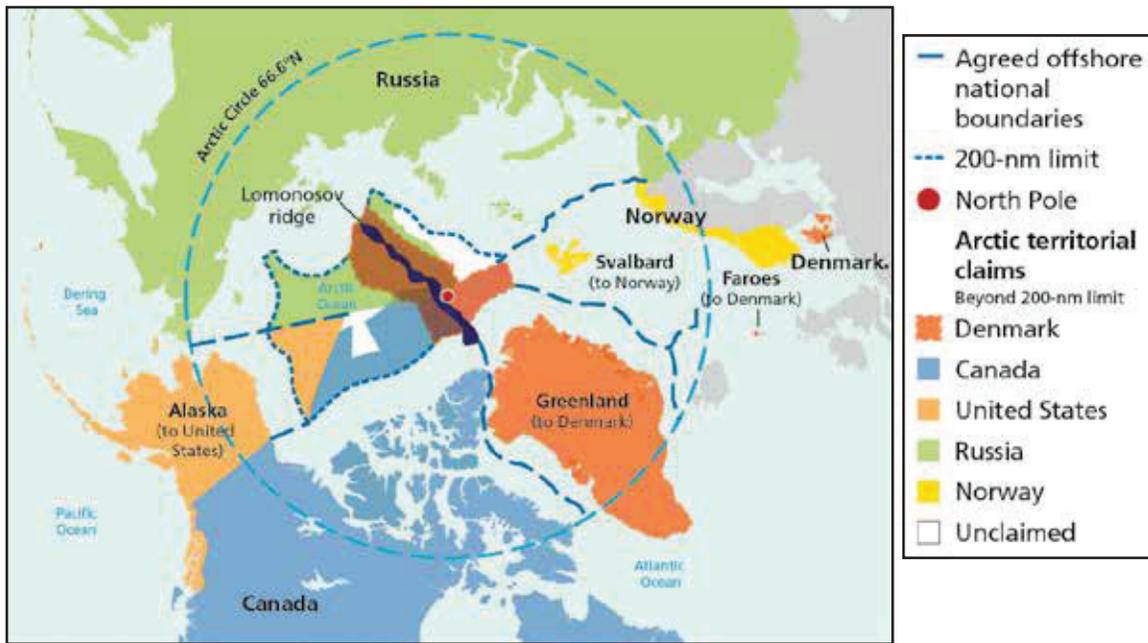
### **Potential Drivers of Competition and Conflict in the High North**

The unique international law landscape created by the Spitsbergen Treaty sets the conditions for competition and conflict to erupt. Though the Arctic has been an area where issues have ordinarily been handled peacefully, that has not precluded conflict over profitable resources.<sup>34</sup> Svalbard's unusual governance framework inadvertently exacerbates potential conflict drivers such as Russian national perceptions; natural resource competition; the strategic value of the islands based on their proximity to Russia's Northern Fleet; and the opportunity Svalbard presents to exploit seams in the NATO alliance.

#### ***Russian Perceptions***

To understand the real potential for conflict over Svalbard one must first understand the key role that the Arctic plays in Russian national pride and perception. The region is so intertwined with Russian national sentiment that Deputy Prime Minister Dimitry Rogozin recently tweeted in English that

**FIGURE 1: OVERLAPPING CLAIMS IN THE ARCTIC.**



RAND RR1731-3.3

Source: Stephanie Pezard, Abbie Tingstad, Kristan Van Abel, Soctt Stephenson, “Maintaining Arctic Cooperation with Russia: Planning for Regional Change in the Far North” (Santa Monica, CA: RAND Corporation, 2017) <[https://www.rand.org/pubs/research\\_reports/RR1731.html](https://www.rand.org/pubs/research_reports/RR1731.html)>. Reproduced with permission from the RAND Corporation.

“the Arctic is Russian Mecca” and that “Norwegians bring their tourists here in snowmobiles to explore the ‘Soviet heritage.’”<sup>35</sup> The “here” Prime Minister Rogozin was referring to was Svalbard, where Mr. Rogozin was visiting.

Mr. Rogozin’s tweets were provocative well beyond their stated message. Prior to becoming the head of Russia’s Arctic commission, Mr. Rogozin was heavily involved in Russia’s annexation of Crimea in 2014 and was subsequently placed on a travel ban in the EU and Norway.<sup>36</sup> His presence on Svalbard one year later was a not-so-subtle suggestion by Russia that Svalbard is not part of Norway, or at least that Norway lacks the authority to exclude Mr. Rogozin from the archipelago. This instance underscores how ambiguity in the authority over Svalbard is a potential source of conflict. Though the Treaty grants Norway full sovereignty, it also gives citizens of the parties equal access, so what authority

does Norway have to impose a travel ban in Svalbard on the citizens of a contracting party?

Mr. Rogozin also took the opportunity to explicitly refer to the Arctic in the Crimea context, stating that the two issues are essentially the same.<sup>37</sup> Viewing those comments in light of Foreign Minister Vyacheslav Molotov’s previous statements about Russian sovereignty in the archipelago and national resentment regarding the way Svalbard’s governance was determined and it is easy to see how conflict could ignite. More than just a struggle over control of resources, there is a Russian nationalistic chord to be struck in reclaiming the islands that would only need a pretext, like Crimea, to act upon.

That risk of hostilities is tempered by Russian actions in the Arctic, which have largely trended toward cooperation, and statements from Russian officials, including Mr. Rogozin, that diplomacy in the Arctic remains a priority.<sup>38</sup> However, the

current preference for cooperation over conflict is by no means a guarantee of future actions and needs only a precipitating event to change Moscow's calculus.<sup>39</sup> As a study from 2016 by the University of Copenhagen Center for Military Studies finds,

*the underlying rules governing the Russian game in the Arctic rests on the assumption that collaboration will benefit Russia the most, actively attempting to isolate the Arctic from the deteriorating Russian-Western relations—while modernizing its military forces. Internal changes in Russia might conceivably alter this course. A deteriorating economic crisis in Russia combined with continuously low oil prices, in turn generating low freight rates, might lead Russian decisionmakers to reconsider and lower their ambitions for developing the Arctic region . . . The combination of the symbolic and historical significance of the Arctic in Russian self-perception coupled with a tendency to view themselves as marginalized in international politics might lead Russian decisionmakers to view the Arctic as being more in need of protection, isolation, and defense rather than an area to be developed via international collaboration . . . The view prevails in Russia that Western sanctions are not so much linked to Ukraine, but rather to a long-term Western conspiracy to, primarily, undermining the Putin regime and, secondly, Russia's opportunity to maintaining and developing her superpower position generally. [Sic] According to this line of thought, the West will always try to limit or undermine Russian potential—also in the Arctic. If Russia is to realize her rightful interests, a confrontation is unavoidable.<sup>40</sup>*

Thus, while Russian policy currently favors collaboration in the region, there is no guarantee

that this trend will continue. Russia does not collaborate out of a sense of duty to an international system that generally demands that interstate disputes be resolved peacefully. If the West's system for resolving disputes benefits Moscow, so be it. If not, then Russia may simply elect to use more traditional means of exercising power within its sphere of influence. This is especially so given the manner in which Svalbard was acquired by Norway, with Russia excluded from the process, and how neatly that episode fits into the Russian narrative of marginalization by the West.<sup>41</sup> Add to that available justifications for aggression such as protecting Russian citizens, which are an estimated 10–20 percent of Svalbard's population, or Russian economic interests in oil and fishing rights, and one could easily see how Moscow might decide to solve its Svalbard problem the same way it solved its Crimea problem.<sup>42</sup>

### **High North Competition**

Competition for profitable resources could also fuel the rise of conflict in the region, as it has historically done. The Arctic has long been known to hold immense potential for oil and natural gas production. In 2008, the United States Geological survey estimated that the area above the Arctic Circle contained at least 13 percent of the planet's easily recoverable oil reserves and 30 percent of its natural gas.<sup>43</sup> Norway recently doubled its estimate of the oil contained in the 200 nautical mile zone around Svalbard, indicating that the area holds the equivalent of several billion barrels.<sup>44</sup> Figure 2 illustrates how the largest projected oil and gas fields lay directly beneath Svalbard and the adjacent sea. While the technological ability and profitability of drilling in the Barents Sea remain to be seen, the first attempts are already being made.<sup>45</sup> Russia has objected to Norwegian drilling permits issued in the area.<sup>46</sup> Those objections have recently manifested in Russia labeling Norway's Svalbard policies

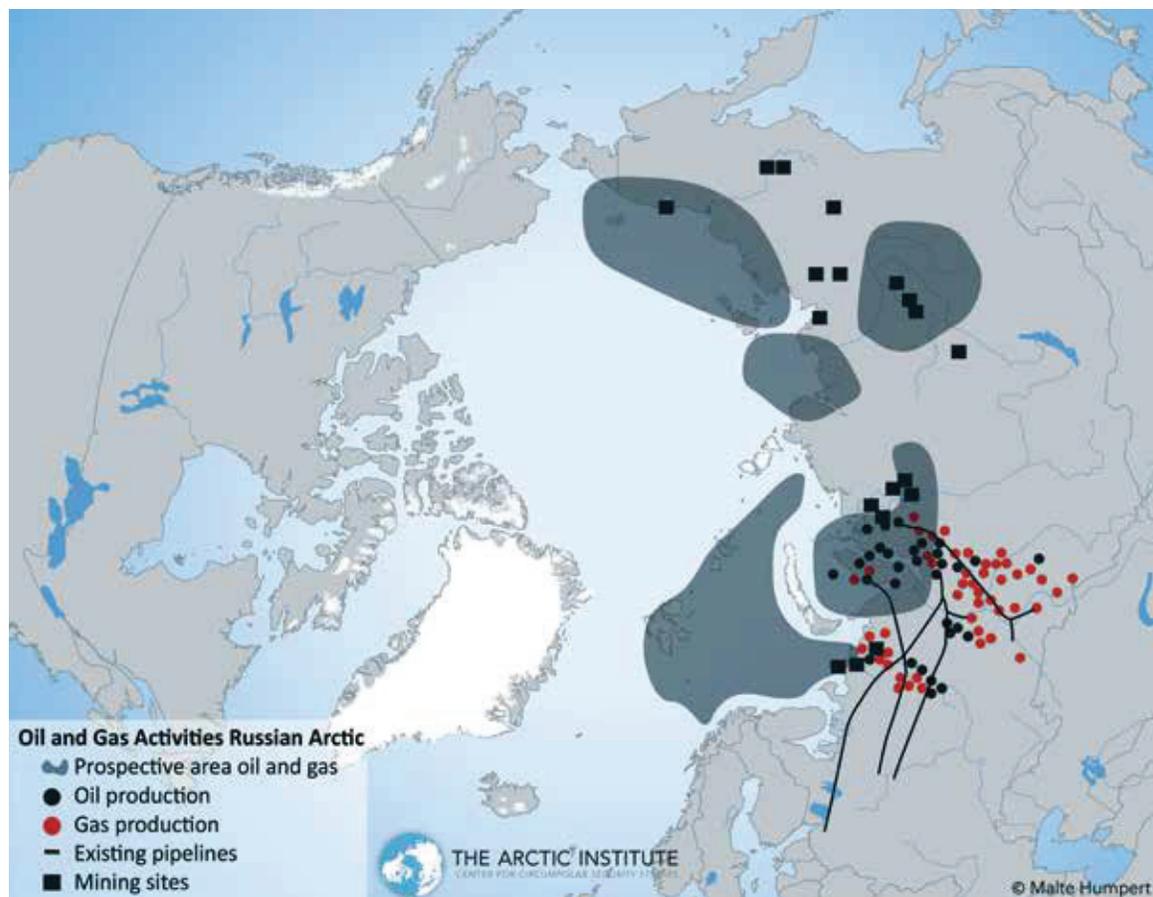
as a specific source of potential armed conflict in the region.<sup>47</sup>

In an odd twist, it may not end up being oil or gas that ends up pushing this issue towards conflict. There is currently a significant dispute between Norway and the EU regarding the right to control crab fishing in the sea adjacent to Svalbard.<sup>48</sup> Crabs are not only a valuable commodity in their own right, but are classified as a sedentary species and have the same status as mineral rights under international law.<sup>49</sup> Thus a decision on crab fishing rights could dictate the future for oil and gas in the region. That may be why the fight over the regulation of crab fishing has been so contentious.

### Strategic Key Terrain and Seams on The Northern Flank

Another potential driver of conflict is the location of the Svalbard Archipelago in relation to Russia's Northern Fleet, a critical strategic asset.<sup>50</sup> The Northern Fleet is Russia's largest naval force and is augmented with some of Russia's best infantry and aviation assets. Together those forces form Russia's "bastion" defense and are a keystone element of Russia's military might.<sup>51</sup> The Svalbard Archipelago, including Bear Island, sits just to the west of the Northern fleet's home port of Murmansk. The islands act as a bottleneck with the north cape of Norway that Russia describes as a "strait."<sup>52</sup> Russian

**FIGURE 2: OIL AND GAS ACTIVITIES IN THE RUSSIAN ARCTIC.**



Source: Map by Malte Humpert. Reproduced with permission from the Arctic Institute Center for Circumpolar Security Studies.

surface vessels and submarines must pass through that narrow area before proceeding past Greenland, Iceland and the United Kingdom, into the North Atlantic. That is a likely explanation for why Russia protests so stringently to the mere potential military use of Svalbard by another nation.<sup>53</sup>

Finally, the possibility of aggression in the area could rise because of the opportunity Svalbard presents to inject friction into the NATO Alliance. NATO's strength lies in Article 5 of the North Atlantic Treaty, which states that an attack on one is considered an attack on all.<sup>54</sup> However, that strength is still dependent on consensus; 29 nations must unanimously agree to invoke that provision. Thus, an adversary would logically look for ways to fracture that cohesion and pit allies against each other.<sup>55</sup> One way to do that would be to exploit ambiguous issues and intra-alliance divisions, particularly under the color of legitimate right. Svalbard presents just such an opportunity.

Several NATO member states hold views similar to Russia's in relation to Norway's claim to the 200 nautical mile zone around Svalbard.<sup>56</sup> Iceland, Denmark, Spain, and the United Kingdom all have objections to Norwegian interests that closely mirror those of Moscow.<sup>57</sup> Even the United States has had a position that, while outwardly supportive, still contains reservations concerning economic rights in the surrounding sea.<sup>58</sup> Thus, Svalbard is a fault line through which cohesion in the high north could be tested. Russian actions short of war, taken under the guise of enforcing an interpretation of the Spitsbergen Treaty identical to that of NATO members, could result in serious internal division within the Alliance.

The synergy between Svalbard's ambiguous international law status, Russian national perceptions, natural resource competition, and the strategic value of the islands creates an environment where tension and instability can quickly escalate. An appropriate barrier is needed to deter aggression and ensure that diplomacy and cooperation remain

the norm in solving disagreements over Svalbard, its adjacent sea, and the Arctic at-large. This includes an ability to respond to a competitor's actions across the spectrum of conflict; deterring armed invasion as well as "gray zone" activities.

### **A Case for an Arctic Capable, Forward Postured, Amphibious Force and Coordination of NATO Power**

Svalbard's unique international law status exposes the island chain to the risk of conflict in a manner unlike any other part of the High North. This risk is magnified as Norwegian attempts to exercise sovereignty are met with objections from not only Russia, but NATO allies. All of those factors could easily be stoked by the Russian narrative of western marginalization and thus raise the competitive temperature toward conflict.

The National Security Strategy of the United States (NSS) makes clear that deterring conflict is an endeavor best undertaken from a position of strength.<sup>59</sup> While mindful of the classic security dilemma, whereby increasing military capability to ensure peace can drive the opponent to do the same and trigger a destabilizing "arms race," armed hostility can be prevented by the forward presence of a credible counterweight.<sup>60</sup>

Russia's military expansion in the Arctic is the largest since the Soviet era.<sup>61</sup> Attempts to gain parity in Arctic capability would be expensive and time consuming.<sup>62</sup> However, tit-for-tat equality across the entire Arctic is not required to effectively deter the use of military action when settling disputes over Svalbard. A credibly sized force, postured and trained in the Arctic so that it has the capability to operate in the harsh climate, with an amphibious character, would serve as a strong buttress against hostility. A force capable of responding to and contesting the presence of "little-green-men" (though likely clad in arctic white) on the archipelago could have the desired effect of ensuring that negotiation



Carved into a frozen mountain in the Svalbard Archipelago is the Global Seed Vault (less formally known as the “doomsday vault,” for which the conflict in Syria triggered the first ever withdrawal in 2015. (Wikimedia/Dag Terge Filip Endresen)

and cooperation remain the norm on Svalbard. The NSS confirms the need for forward staging of troops, stating that “[w]e must be able to get to a theater in time to shape events quickly. This will require a resilient forward posture and agile global mobility forces.”<sup>63</sup>

The Marine Rotational Force–Europe (MRF–E), currently established in Norway, provides sufficient counterweight to deter armed aggression. While initially a small element located in central

Norway, MRF–E was recently expanded, at the invitation of the Norwegian government, to a total of about 700 Marines; a large portion of which will be located above the Arctic Circle.<sup>64</sup> MRF–E is not just an augmentation to Norwegian forces, rather the Rotation Force provides a significant amphibious capability to operate alongside Norway’s Brigade Nord, the Norwegian Army’s Arctic warfare specialist and its only standing Brigade. The Marine Corps elements in Norway are not a permanent presence

but are deployed on a rotational basis to train with the Norwegian Army and other partners in multinational exercises and gain critical Arctic expertise. The skill set generated from constant immersion in the environment is much more than can be garnered from an episodic deployment for training or from cold weather training areas in the United States.<sup>65</sup> The MRF-E units live in the Arctic environment for months at a time and learn how to deal with the mentally and physically demanding climate in a way that only daily experience can provide.

The Arctic is a treacherous place in large part due to the fact that cold weather is exceedingly dangerous. According to a British study covering multiple countries across the globe, cold weather is twenty times deadlier than hot weather.<sup>66</sup> Given this fact, it's not surprising that the history of warfare is littered with examples of the dangers associated with fighting in extreme cold weather when not properly trained or prepared. The Marine Corps learned this lesson during the Korean War. Colonel Homer Litzenberg, the Commander of Regimental Combat Team 7 during the Chosin Reservoir Campaign, specifically noted in his after action report that "hot weather, however uncomfortable it may be, is fighting weather as compared to sub-zero cold which seems to numb the spirit as well as flesh."<sup>67</sup> The cold of the northern Korean Peninsula inflicted more casualties on Marines than enemy action during the Campaign, making the extreme cold weather an adversary in its own right.<sup>68</sup> The bone chilling experience of the Marines during the Korean War is so enduring that it still resonates within Marine Corps ethos today.<sup>69</sup> This lesson is but one of many from history that serves as a stark warning for how different and dangerous extreme cold can be.<sup>70</sup>

Surviving and operating under Arctic conditions demands professional expertise as opposed to episodic familiarization. The rotational aspect of the MRF-E deployment provides the long-term, exposure to the conditions needed to build expertise in

small-unit Arctic survival skills. The frigid temperatures and ice covered landscape of Norway are home to the NATO Cold Weather Operations Center of Excellence for a reason, and offer the right training environment to ensure a capable force is postured in an area of high-stakes competition on NATO's strategically important northern flank.

In addition, MRF-E is the right force to provide tactical balance in the area because Marines are amphibious experts. The Svalbard problem set requires an ability to operate from the sea and project power from mainland Norway onto the islands of Svalbard if necessary. Having a forward posture coupled with the ability to move from ship to shore makes the regular presence of MRF-E a conflict deterrent, while the lack of overwhelming size makes it decidedly unlikely that their presence will trigger a destabilizing arms race. Though not a massive force, the MRF-E element is significant enough that an adversary must plan for dealing with it in the event of armed conflict and the Marine element could easily partner with Norwegian forces, such as Norway's Brigade Nord, to be the forward echelon of a more robust NATO response in a defense of Svalbard scenario.

A credible amphibious force necessarily requires Arctic-capable amphibious shipping. The regular presence of United States or NATO amphibious ships in the area would ensure that the MRF-E element could train to be rapidly delivered at the moment of need. This would likely require the addition of NATO Ally or Nordic Partner ice breaking capability since the United States has a significant icebreaker shortfall.<sup>71</sup> Exercises like *Trident Juncture*, a NATO-led multinational training event, provide the opportunity for critical naval focus and experience in the Arctic, but more consistent deployment of naval assets in the region is needed. A regular rotation of U.S. Navy, Allied, or Partner Nation amphibious ships, with necessary ice breaking capability, would allow the amphibious force to gain and maintain critical Arctic ship to shore capabilities.

Even without the requisite naval assets, aviation platforms like the MV-22 Osprey could be leveraged to accomplish the mission of maneuvering from the mainland onto Svalbard to respond to a crisis. However, regular exposure to and employment in the harsh environment is critical to ensure the Arctic capability of those platforms as well. The Marine Rotational Force does not currently possess its own aviation assets. Augmenting the force with its own aircraft and thus forming what the Marine Corps refers to as a Marine Air-Ground Task Force, while certainly beneficial, is not required. A frequent rotation of United States and Allied tilt-rotor or helicopter assets to the area would allow the force to regularly train on airborne maneuvers in the harsh climate.

While MRF-E is a great countermeasure to the most dangerous contingency, armed conflict on Svalbard, it is not a universal answer to all possible incursions on NATO's northern edge. The non-militarization clause found in Article 9 of the Spitsbergen Treaty prevents the use of the archipelago for warlike purposes. Thus, the western binary view of either being in an armed conflict or not can serve as an intellectual limiting factor when considering a response to borderline or below the threshold action because of Article 9's prohibitions. That means that military presence is an important bulwark to the most dangerous course of action, an armed invasion of the archipelago, but the more likely course of action, below the threshold incursion, requires engagement of other elements of national power.

Russia's preference to operate in the gray zone and achieve its objectives without crossing the line into armed conflict has been repeatedly displayed all along the NATO boundary. Svalbard presents an inviting opportunity to continue those activities in an area of multidimensional significance. The United States, Norway, NATO allies, and possibly other Nordic partners need to come together to discuss what steps can be taken

to counter any below-the-threshold threats to Norwegian sovereignty.

Non-military entities, such as the NATO Parliamentary Assembly, should take on the task of coordinating the other elements of Allied power to counter those threats and deter the most likely Russian course of action, a gray zone incursion. While the Arctic Council or the European Union (EU) might first come to mind as potential bodies to address the matter both of those forums have flaws. Russia is a member of the Arctic Council and would thus be privy to the discussion of how to counter the potential threat it poses. Norway is not a member of the EU and there has been significant tension between the two parties over fishing in the waters off of Svalbard.

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NATO, however, is both a political and military organization so a diplomatic effort is certainly within the purview of the Alliance. The Parliamentary Assembly "is an inter-parliamentary organization, which brings together legislators from NATO member countries to consider security-related issues of common interest and concern."<sup>72</sup> In May of 2017 the Assembly held a seminar in the city of Longyearben on Svalbard's main island "to discuss the changing

climate in the Arctic and the implications for regional cooperation and security.”<sup>73</sup> Therefore, the security issues Svalbard present are a matter that the Assembly can address and is already aware.

One vital action that the Parliamentary Assembly could take would be to hold discussions about the 200 nautical mile zone around Svalbard with the end goal of resolving internal alliance differences. If the Alliance can take the lead on a resolution to that issue and provide a unified diplomatic position on how Norway’s sovereignty impacts the rights of the international community in Svalbard’s adjacent sea, a potential seam between its members would be mended and a significant conflict driver removed. However, the longer that issue remains a source of division amongst NATO allies the more likely it is that the fuse on this thawing powder keg is eventually lit.

Resolving the issue of the applicability of the Spitsbergen Treaty to the adjacent waters of Svalbard would not only be a significant diplomatic achievement but would also clear the way for investment in fishing and petroleum exploration in the region. Whether the equal access provision of the Spitsbergen Treaty applies to the 200 nautical mile zone around Svalbard or not, corporations put a premium on certainty and having the issue resolved would undoubtedly spur greater investment. The resulting economic stimulus to Norway and NATO allies would increase resilience to Moscow’s actions, particularly in countries that border Russia. Furthermore, Europe presently suffers from a dependence on Russian Petroleum products that affords Moscow a significant measure of influence.<sup>74</sup> The increased investment in petroleum exploration, and eventually production, could have the ultimate benefit of further marginalizing the influence of Russian oil and gas if NATO Allies take the lead in extraction.

The end result of all of these efforts must be to deter Russia from importing its aggressive activities seen elsewhere along the NATO border

to the Arctic and protect key terrain on NATO’s northern approach. Far from being “no-man’s-land” the Svalbard Archipelago is a potential flash point of a looming Arctic regional power struggle. If Russian malicious acts are to be discouraged, across the spectrum, it is in the best interest of the United States and NATO to do so from a position of strength and unity. **PRISM**

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### Notes

<sup>1</sup> Though initially named Spitsbergen, by Willem Barents in 1596, the Kingdom of Norway changed the name to Svalbard, meaning “cold coast”, in 1925 to refer to the entire archipelago. See Christopher R. Rossi, “A Unique International Problem: The Svalbard Treaty, Equal Enjoyment, and Terra Nullius; Lessons of Territorial Temptation From History,” 15 Wash. U. Global Stud. L. Rev. 93, 95 n3, and 112 (2016). Since Svalbard is the official name this paper will refer to the area as Svalbard unless making specific reference to the Spitsbergen Treaty. Though one would think an area located so far north would be completely ice covered, Svalbard has an ice sheet that permanently covers just a little more than half of the land. See Valery Konyshev and Alexander Sergunin, “Russia’s Policies on the Territorial Disputes in the Arctic,” *Journal of International Relations and Foreign Policy* (March 2014) 2, no. 1, 73. In addition, far from being desolate, Svalbard boasts the world’s northernmost city. See Alan Taylor, “Svalbard: Halfway Between Norway and the North Pole,” *The Atlantic* (March 8, 2016), available at <<https://www.theatlantic.com/photo/2016/03/svalbard-halfway-between-norway-and-the-north-pole/472785/>>.

<sup>2</sup> *The Svalbard Archipelago: American Military and Political Geographics of Spitsbergen and Other Norwegian Polar Territories, 1941–1950*, ed. P.J. Capelotti, (© 2000 by McFarland & Company, Inc, Publishers). In that book the author details a few, small, allied operations on the archipelago to deny Nazi Germany access to Coal production facilities and weather stations during World War II.

<sup>3</sup> Christopher R. Rossi, “A Unique International Problem: The Svalbard Treaty, Equal Enjoyment, and Terra Nullius; Lessons of Territorial Temptation from History,” 15 Wash. U. Global Stud. L. Rev. 93 (2016), 113–20; Torbjørn Pedersen, “The Svalbard Continental Shelf Controversy: Legal Disputes and Political Rivalries,” 37 *Ocean Dev. & Int’l L.* 339, (2006) 345–46. See also Alexander Nurnberg, “An Arctic Circle Chase Pits Norway and Russia,” *The New York Times*, October 21, 2005, available at <<http://www.nytimes.com/2005/10/21/>

international/europe/an-arctic-circle-chase-pits-norway-and-russia.html>.

<sup>4</sup> Torbjørn Pedersen, “International Law and Politics in U.S. Policymaking: The United States and the Svalbard Dispute,” *Ocean Development and International Law*, 42 no. 11, (February 11, 2011), 122.

<sup>5</sup> Treaty Between The President of the United States of America; His Majesty the King of Great Britain and Ireland and of the British Dominions beyond the Seas, Emperor of India; His Majesty the King of Denmark; the President of the French Republic; His Majesty the King of Italy; His Majesty the Emperor of Japan; His Majesty the King of Norway; Her Majesty the Queen of the Netherlands; His Majesty the King of Sweden Concerning the sovereignty of Norway over the Archipelago of Spitsbergen, including Bear Island Signed in Paris February 9, 1920, University of Oslo available at <<http://www.jus.uio.no/english/services/library/treaties/01/1-11/svalbard-treaty.xml>>.

<sup>6</sup> See id.

<sup>7</sup> A.N. Vylegzhanin & V.K. Zilanov, “Spitsbergen: Legal Regime of Adjacent Marine Areas,” W.E. Butler ed. and trans., (Eleven International Publishing, 2007), 2.

<sup>8</sup> Throughout this Article the terms “gray,” “gray zone,” or “below the threshold” will be used to describe “conflicts as a segment of the conflict continuum [essentially occupying the space between peace and war] characterized by intense political, economic, information, and military competition more fervent in nature than normal steady-state diplomacy, yet short of conventional war.” John Chambers, “Counter Gray-Zone Hybrid Threats: An Analysis of Russia’s ‘New Generation Warfare’ and Implication for the US Army,” *Modern War Institute at West Point*, October 18, 2016, 13.

<sup>9</sup> Damien McGuinness, “How a Cyber Attack Transformed Estonia, British Broadcasting Corporation,” BBC, April 27, 2017, available at <<http://www.bbc.com/news/39655415>>. See also Christopher S. Chivas, “Understanding Russian ‘Hybrid Warfare’ And What Can Be Done About It,” testimony presented before the U.S. House of Representatives Armed Services Committee, March 22, 2017, available at <<https://www.rand.org/pubs/testimonies/CT468z1.html>>. The moniker “little green men” was created to describe the groups of armed men in military uniform but without any national markings that appeared in Crimea during the annexation. Julius Bodie, “Modern Imperialism in Crimea and the Donbas,” *Loyola of Los Angeles International and Comparative Law Review*, October 5, 2017, available at <<http://digitalcommons.lmu.edu/ilr/vol40/iss2/4/>>, citing: Vitaly Shevchenko, “‘Little Green Men’ or ‘Russia Invaders?’” *BBC News*, March 1, 2014, available at <[\[www.bbc.com/news/world-europe-26532154\]\(http://www.bbc.com/news/world-europe-26532154\)>. See also: Sally DeBoer, “Arctic Security and Legal Issues in the 21st Century: An Interview with Commander Sean Fahey,” Center for International United States Coast Guard, The Maritime Executive, March 1, 2017, available at <<http://cimsec.org/arctic-security-legal-issues-21st-century-interview-cdr-sean-fahey/31016>>.](http://</a></p>
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<sup>10</sup> Spitsbergen Treaty supra note 7; see also Trude Petersen, “North Korea Signs Svalbard Treaty,” *Anchorage Daily News*, February 2, 2016, available at <<https://www.adn.com/arctic/article/north-korea-signs-svalbard-treaty/2016/02/02/>>. Of note, China is also a signatory of the Spitsbergen Treaty and has some lofty Arctic ambitions. See Eleanor Ross, “How China’s Arctic Empire Will Upset the Global Balance of Power,” *Newsweek*, July 14, 2017, available at <<http://www.newsweek.com/chinas-arctic-goals-620794>>. The grey area Svalbard occupies under international law combined with rich natural resources, Russian national perceptions of how Svalbard’s sovereignty was decided and the opportunity to exploit NATO division form a perfect geopolitical storm that make the possibility of Russian aggression significant. One need only look at Deputy Prime Minister Dimitry Rogozin’s 2015 trip to Svalbard where he drew parallels to Crimea along with Russia’s recent foreign policy leak that listed Norway’s Svalbard policy as a risk of war to see that the foundation for aggression may already be in motion. Atle Staalesen, “Expansionist Rogozin looks to Arctic,” *Barents Observer*, April 21, 2015, available at <<http://barentsobserver.com/en/arctic/2015/04/expansionist-rogozin-looks-arctic-21-04>>; and Thomas Nilsen, Kommersant: Russia Lists Norway’s Svalbard Policy As Potential Risk Of War, *The Independent Barrents Observer*, October 4, 2017, available at <<https://thebarentsobserver.com/en/security/2017/10/kommersant-russia-lists-norways-svalbard-policy-potential-risk-war>>.

<sup>11</sup> NATO Publication 132 JOINT 17 E, NATO Parliamentary Assembly, Joint Special Seminar Report, paragraph 31, May 22, 2017; see also White House, *National Security Strategy of the United States of America*, December 2017, available at <<https://www.whitehouse.gov/articles/new-national-security-strategy-new-era/>>. On page 47, the NSS states “Russia is using subversive measures to weaken the credibility of America’s commitment to Europe, undermine transatlantic unity and weaken European institutions and governments.”

<sup>12</sup> The term “conflict” is meant to describe events occurring across the spectrum from competition short of armed conflict up to armed conflict.

<sup>13</sup> See Christopher R. Rossi, “A Unique International Problem: The Svalbard Treaty, Equal Enjoyment, and

Terra Nullius; Lessons of Territorial Temptation From History,” Washington University Global Studies Law Review, 15 issue 1, 2015, available at <[https://openscholarship.wustl.edu/law\\_globalstudies/vol15/iss1/7/](https://openscholarship.wustl.edu/law_globalstudies/vol15/iss1/7/)>.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* at 130–31.

<sup>16</sup> Peace Treaty of Brest Litovsk, German-Russian Supplementary Agreement, Article 33, March 3, 1918, available at <[http://avalon.law.yale.edu/20th\\_century/bl34.asp](http://avalon.law.yale.edu/20th_century/bl34.asp)>. The article states that contracting parties will endeavor to attain that in the international organization of the Spitsbergen Archipelago, provided for in the Spitsbergen conference of 1914, both parties shall be placed on an equal footing. For this purpose the Governments of both parties will ask the Royal Norwegian Government to convoke as soon as possible after the conclusion of general peace a continuation of the Spitsbergen conference.

<sup>17</sup> Though Russia’s new Communist government was not formally recognized at this point the interests of its citizens who were already on the island and engaging in mining operations was accounted for to some degree in Article Ten of the treaty. Svalbard Treaty *supra* note 7. However, this attempt to recognize Russian interests did not prevent significant Russian resentment over the handling of the issue. See Christopher R. Rossi, *supra* note 18, 132 (2016).

<sup>18</sup> The original name of the main island is Spitsbergen. The Kingdom of Norway later renamed the entire area Svalbard to refer to all of the islands. See *supra* note 3.

<sup>19</sup> Article 3 states:

*The nationals of all the High Contracting Parties shall have equal liberty of access and entry for any reason or object whatever to the waters, fjords and ports of the territories specified in Article 1; subject to the observance of local laws and regulations, they may carry on there without impediment all maritime, industrial, mining and commercial operations on a footing of absolute equality.*

*They shall be admitted under the same conditions of equality to the exercise and practice of all maritime, industrial, mining or commercial enterprises both on land and in the territorial waters, and no monopoly shall be established on any account or for any enterprise whatever.*

*Notwithstanding any rules relating to coasting trade which may be in force in Norway, ships of the High Contracting Parties going to or coming from the territories specified in Article 1 shall have the right to put into Norwegian ports on their outward or homeward voyage for the purpose of taking on board or disembarking passengers or cargo going to or coming from the said territories, or for any other purpose.*

*It is agreed that in every respect and especially with regard to exports, imports and transit traffic, the nationals*

*of all the High Contracting Parties, their ships and goods shall not be subject to any charges or restrictions whatever which are not borne by the nationals, ships or goods which enjoy in Norway the treatment of the most favoured nation; Norwegian nationals, ships or goods being for this purpose assimilated to those of the other High Contracting Parties, and not treated more favourably in any respect.*

*No charge or restriction shall be imposed on the exportation of any goods to the territories of any of the Contracting Powers other or more onerous than on the exportation of similar goods to the territory of any other Contracting Power (including Norway) or to any other destination.*

<sup>20</sup> See Christopher R. Rossi, “A Unique International Problem.” The author specifically notes that the “deep seated” national psychological impact of capitulating on Svalbard has framed Russian Diplomacy from 1946 to the present.

<sup>21</sup> *Id.*, 104.

<sup>22</sup> Matthew Melino et al., “History Lessons For The Arctic: What International Maritime Disputes Tell Us About a New Ocean,” Center for Strategic & International Studies,” December 19, 2016, 16–17, available at <<https://www.csis.org/analysis/history-lessons-arctic>>.

<sup>23</sup> Christopher R. Rossi *supra* note 26 at 104–07; and Matthew Melino et al *supra* note 28 at 17–20.

<sup>24</sup> See Matthew Melino et al *supra* note 28 at 17–20.

<sup>25</sup> UN, Division For Ocean Affairs And The Law Of The Sea, “The United Nations Convention on the Law of the Sea (A Historical Perspective),” available at <[http://www.un.org/depts/los/convention\\_agreements/convention\\_historical\\_perspective.htm#Historical\\_Perspective](http://www.un.org/depts/los/convention_agreements/convention_historical_perspective.htm#Historical_Perspective)>.

<sup>26</sup> UN General Assembly, *Convention on the Law of the Sea*, December 10, 1982, 1833 U.N.T.S. 397, Articles 2–5 and 55–57. Herein referred to as UNCLOS.

<sup>27</sup> Morgane Fert-Malka and Troy Bouffard, “The Unique Legal Status of an Arctic Archipelago, Arctic in Context,” *World Policy Journal*, December 6, 2017, available at <<http://www.worldpolicy.org/blog/2017/12/06/eyes-svalbard>>.

<sup>28</sup> Christopher R. Rossi, “A Unique International Problem,” 104–08.

<sup>29</sup> *Id.* citing Torbjørn Pedersen, “International Law and Politics in U.S. Policymaking,” 120, 131; see also “U.S. Policy Toward Svalbard,” National Security Decision Memorandum 325, April 20, 1976, available at <<https://fas.org/irp/offdocs/nsdm-ford/index.html>>. This reservation by the United States can most easily be understood in the desire to maintain good relations with Norway in an area of strategic import. The channel between the Svalbard archipelago and mainland Norway is narrow and located very near the Kola Peninsula, home to Russia’s Northern Fleet.

<sup>30</sup> The term “Fisheries Protection Zone” is not actually found in UNCLOS but the concept has a foundation in the control over the EEZ granted in Articles 61 and 62. According to one author term that was crafted to permit regulation over the area by Norway while the authority over the EEZ was in dispute. Dr. James Kraska, Victim Participation in the International Criminal Court: From Pariah to Partner—Russian-American Security Cooperation in the Arctic Ocean, 16 *ILSA J. Int’l & Comp L.* 517, 526 (Winter 2010). Christopher R. Rossi *supra* note 34 at 104–108. Norway’s claim in the Arctic regarding Svalbard changed to claiming that the islands do not have their own continental shelf but instead are an extension of Norway’s continental shelf to avoid the issue the applicability of the treaty. This view has been negatively received by the international community and even described by Norwegian allies like the United States as “wishful thinking.” See Torbjørn Pedersen, “International Law and Politics in U.S. Policymaking,” 120, 124. For ease and clarity the nuance of that position is not addressed in this paper since it appears that Norway’s position is not shared by the international community.

<sup>31</sup> The Svalbard Treaty *supra* note 7.

<sup>32</sup> See Christopher R. Rossi *supra* note 34 at 104–107 citing Torbjørn Pedersen, “The Svalbard Continental Shelf Controversy: Legal Disputes and Political Rivalries,” *Ocean Development & International Law*, 37 no. 3–4 (©Taylor&Francis, 2006), 339, 345–46.

<sup>33</sup> See Alexander Nurnberg, “An Arctic Circle Chase Pits Norway and Russia,” *The New York Times*, October 21, 2005, available at <<http://www.nytimes.com/2005/10/21/international/europe/an-arctic-circle-chase-pits-norway-and-russia.html>>; see also Christopher R. Rossi, “Norway’s Imperiled Sovereignty Claim over Svalbard’s Adjacent Waters,” *German Law Journal*, 18 no.6 (November 16, 2017), 1498.

<sup>34</sup> For example the Arctic Council is the governing entity in the region but more of a voluntary forum for dialogue among the eight Arctic nations—Canada, Denmark, Finland, Iceland, Norway, Russia, Sweden, and the United States—and representatives of the indigenous populations. For more information on the Arctic Council, see their background, which was last updated on January 3, 2018 and is available at <<http://www.arctic-council.org/index.php/en/about-us>>. Their website includes an “Agreements” page that details how the forum has been successful in advancing cooperative agreements on scientific, environmental and regional safety issues; see <<http://www.arctic-council.org/index.php/en/our-work/agreements>>.

<sup>35</sup> British Broadcasting Corporation, “Norway in Arctic Dispute with Russia over Rogozin Visit,” *BBC*

*News*, April 20, 2015, available at <<http://www.bbc.com/news/world-europe-32380101>>.

<sup>36</sup> Ishann Tharoor, “The Arctic is Russia’s Mecca Says Top Moscow Official,” *The Washington Post*, April 20, 2015, available at <[https://www.washingtonpost.com/news/worldviews/wp/2015/04/20/the-arctic-is-russias-mecca-says-top-moscow-official/?utm\\_term=.084fc183bfe2](https://www.washingtonpost.com/news/worldviews/wp/2015/04/20/the-arctic-is-russias-mecca-says-top-moscow-official/?utm_term=.084fc183bfe2)>.

<sup>37</sup> Atle Staalesen, “Expansionist Rogozin looks to Arctic,” *Barents Observer*, April 21, 2015, available at <<http://barentsobserver.com/en/arctic/2015/04/expansionist-rogozin-looks-arctic-21-04>>.

<sup>38</sup> Morgane Fert-Malka and Troy Bouffard, “The Unique Legal Status of an Arctic Archipelago, Arctic in Context,” December 6, 2017, available at <<http://www.worldpolicy.org/blog/2017/12/06/eyes-svalbard>>. “[f]or about a decade, Arctic experts have effectively debunked myths of a new “gold rush” or conflict over resources, territory, and navigation rights throughout the High North. The region has emerged as an example of successful cooperation and innovative governance”; see also Kristian Soby Kristensen and Casper Sakstrup, “Russian Policy in the Arctic After the Ukraine Crisis,” 26–27. Dmitry Rogozin, “The Arctic Herald,” *Arctic Portal*, 3 no. 14 (April 11, 2016), 3, available at <[http://library.arcticportal.org/1881/1/AH\\_No3\\_2015\\_view.pdf](http://library.arcticportal.org/1881/1/AH_No3_2015_view.pdf)>.

<sup>39</sup> Morgane Fert-Malka and Troy Bouffard, *supra* note 45, “[i]n any case, Svalbard will be worth keeping an eye on, if not two, in the coming years. If disagreements are not addressed peacefully, Svalbard would be the first instance of an escalating Arctic dispute that both international law and regional governance frameworks failed to keep in check.” See also Christopher R. Rossi, “A Unique International Problem,” *noting*: “the waters off Svalbard highlight increasing tensions regarding the legal status of the archipelago and its surroundings, making it an emerging centerpiece of a new global power race for influence and resources. ‘For anyone interested in geopolitics,’ noted the president of the Norwegian Scientific Academy for Polar Research, ‘this is the region to follow in years to come.’”

<sup>40</sup> Kristian Soby Kristensen and Casper Sakstrup *supra* note 45 at 33–34.

<sup>41</sup> Kristian Soby Kristensen and Casper Sakstrup *supra* note 45 at 28.

<sup>42</sup> Central Intelligence Agency World Factbook, Svalbard 2016, available at <<https://www.cia.gov/library/publications/the-world-factbook/geos/sv.html>>. Given that Svalbard’s total population is estimated to be only 2,500, the ratio of ethnic Russian’s could quickly and easily be manipulated.

<sup>43</sup> Kenneth J. Bird et al., “Circum-Arctic Resource

Appraisal: Estimates of Undiscovered Oil and Gas North of the Arctic Circle,” U.S. Geological Survey, (2008), available at <[pubs.usgs.gov/fs/2008/3049/](https://pubs.usgs.gov/fs/2008/3049/)>.

<sup>44</sup> Thomas Nilsen, “Norway Doubles Arctic Oil Estimates,” *The Independent Barrents Observer*, Apr 25, 2017, available at <<https://thebarentsobserver.com/en/industry-and-energy/2017/04/norway-doubles-arctic-oil-estimates/>>; see also Nerijus Adomaitis, “Norway Doubles Oil, Gas Resource Estimates for Barents Sea,” *Reuters*, April 25, 2017, available at <<https://www.reuters.com/article/us-norway-oil-arctic/norway-doubles-oil-gas-resource-estimates-for-barents-sea-idUSKBN17R0QQ>>.

<sup>45</sup> Thomas Nilsen, “Professor Says Goliat Will Likely Never Become Profitable,” *The Independent Barrents Observer*, November 6, 2017, available at <<https://thebarentsobserver.com/en/industry-and-energy/2017/11/professor-says-goliat-will-likely-never-become-profitable>>.

<sup>46</sup> Christopher R. Rossi, “A Unique International Problem,” 101–02.

<sup>47</sup> Thomas Nilsen, “Kommersant: Russia Lists Norway’s Svalbard Policy As Potential Risk Of War,” *The Independent Barrents Observer*, October 4, 2017, available at <<https://thebarentsobserver.com/en/security/2017/10/kommersant-russia-lists-norways-svalbard-policy-potential-risk-war>>.

<sup>48</sup> Morgane Fert-Malka and Troy Bouffard, “The Unique Legal Status of an Arctic Archipelago,” *Arctic in Context*, December 2017, available at <<http://www.worldpolicy.org/blog/2017/12/06/eyes-svalbard>>; see also Andreas Østhagen and Andreas Raspotnik, “Op-Ed: Crabtaacular! Snow Crabs on their March from Svalbard to Brussels,” *High North News*, April 3, 2018, available at <<http://www.highnorthnews.com/op-ed-crabtaacular-snow-crabs-on-their-march-from-svalbard-to-brussels/>>.

<sup>49</sup> *Id.*; see also UNCLOS Art 77, which states “The natural resources referred to in this Part consist of the mineral and other non-living resources of the seabed and subsoil together with living organisms belonging to sedentary species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the seabed or are unable to move except in constant physical contact with the seabed or the subsoil.”

<sup>50</sup> Christopher R. Rossi *supra* note 54 at 132; see also Kristian Soby Kristensen and Casper Sakstrup, “Russian Policy in the Arctic.”

<sup>51</sup> International Security Advisory Board, Report on Arctic Policy, September 21, 2016, 21–25

<sup>52</sup> Torbjørn Pedersen, “International Law and Politics in U.S. Policymaking,” 120, 122.

<sup>53</sup> Christopher R. Rossi *supra* note 54, at 132 noting that civilian capabilities that could be converted to military use are protested by Russia as a violation

of the Svalbard treaty’s non-militarization provision; see also Thomas Nilsen, “Moscow Says NATO Meeting on Svalbard is a Provocation,” *The Independent Barrents Observer*, April 21, 2017, available at <<https://thebarentsobserver.com/en/arctic-security/2017/04/moscow-says-nato-meeting-svalbard-provocation/>>; see NATO Publication 132 JOINT 17 E, NATO Parliamentary Assembly, Joint Special Seminar Report, May 22, 2017, which notes that Russian objections are unfounded as the NATO Parliamentary Assembly is a political vice military organization.

<sup>54</sup> The North Atlantic Treaty, April 4, 1949.

<sup>55</sup> Reuters, “Nordic Nations Agree on Defense Cooperation Against Russia,” April 9, 2015, available at <<https://www.reuters.com/article/us-nordics-russia-defence/nordic-nations-agree-on-defense-cooperation-against-russia-idUSKB-N0N02E820150409>>. This article by Reuters staff asserts that “Russia’s actions are the biggest challenge to the European security . . . Russia’s propaganda and political maneuvering are contributing to sowing discord between nations, and inside organizations like NATO and the EU.”

<sup>56</sup> Torbjørn Pedersen, “The Dynamics of Svalbard Diplomacy,” *Diplomacy & Statecraft*, 19 no.2 (June 14, 2008), 236–62. The article states that in “2006 the United Kingdom hosted a discussion regarding Svalbard and invited the United States, France, Germany, the Netherlands, Denmark, Russia, Spain, Iceland, and Canada. Norway was conspicuously left off of the list.”

<sup>57</sup> Christopher R. Rossi, “A Unique International Problem.”

<sup>58</sup> Torbjørn Pedersen, “International Law and Politics in U.S. Policymaking,”; see also National Security Decision Memorandum 325.

<sup>59</sup> White House, NSS, 3, 4, 26, 28.

<sup>60</sup> Kristian Soby Kristensen and Casper Sakstrup, “Russian Policy in the Arctic.”

<sup>61</sup> Andre Osborn, “Putin’s Russia In Biggest Arctic Military Push Since Soviet Fall,” *Reuters*, January 30, 2017, available at <<https://www.reuters.com/article/us-russia-arctic-insight/putins-russia-in-biggest-arctic-military-push-since-soviet-fall-idUSKBN15E0W0>>.

<sup>62</sup> For example, Russia currently has a fleet of more than 40 icebreakers, six of which are the only nuclear powered icebreakers in the world. The United States currently has two icebreakers. See Ryan Scarborough, “Ice-Cold War: Russian Icebreakers Outnumber U.S. Vessels In Vital Arctic,” *Washington Times*, February 19, 2017, available at <<https://www.washingtontimes.com/news/2017/feb/19/coast-guard-icebreakers-in-arctic-vital-to-us-acce/>>; see also Tom O’Connor, “Russia Leads World With New Nuclear Icebreaker Ship,

Putin's Latest Arctic Move," *Newsweek*, September 25, 2017, available at <<http://www.newsweek.com/russia-deploys-worlds-largest-and-most-powerful-nuclear-icebreaker-ship-bring-670621>>.

<sup>63</sup> White House, NSS, 29.

<sup>64</sup> Gwladys Fouche, "Norway to Invite More U.S. Marines, for Longer and Closer to Russia", *Reuters* June 12, 2018, available at <<https://www.reuters.com/article/us-norway-us-russia/norway-to-invite-more-u-s-marines-for-longer-and-closer-to-russia-idUSKBN1J8149>>.

<sup>65</sup> A recent After Action Report from the Battalion Commander of the MRF-E element echoed this point. Specifically the Battalion Commander was emphatic that the Marine Corps can send Marines to all of the formal cold weather training courses in the world but that does not replace immersion into the environment. Deployments for Training only allow the units to go through the survival phase but are not enough time to then learn how to maneuver and fight in the Arctic. In addition the Battalion Commander noted:

*Marines must have time to adapt to the environment before they can thrive. A three week [Mountain Training Exercise] or periodic [Deployments for Training] do not provide sufficient time to adapt to the environment. As a result, Marines never move beyond the survival phase. Summer/winter [Mountain Leaders Course] help, but cannot substitute for full unit immersion time. Accordingly, that type of deployment will not develop a [cold weather] capability or institutional knowledge for the Service. If the Marine Corps is committed to developing a [cold weather] capability, lengthy rotational deployments are key.*

<sup>66</sup> Antonio Gasparrini et. al, "Mortality Risk Attributable To High And Low Ambient Temperature: A Multicountry Observational Study," *The Lancet*, 386 no. 9991, July 25, 2015, 369.

<sup>67</sup> Lynn Montross and Nicholas A. Canzona, *U.S. Marine Operations in Korea 1950–1953, Volume III: The Chosin Reservoir Campaign* (U.S. Marine Corps Headquarters, 1957), 121.

<sup>68</sup> *See id.* and compare 351 and 381–82. The Chinese also sustained heavy casualties from the extreme cold weather during the Chosin Reservoir Campaign with estimated rates number in the 10,000's. *See id.* at 354.

<sup>69</sup> Gidget Fuentes, "Marines Celebrate 65th Anniversary of Cold Weather Training Center Rooted in Korean War Legacy," U.S. Naval Institute News, September 29, 2016, available at <[https://news.usni.org/2016/09/29/chosin\\_marine\\_corps\\_korea](https://news.usni.org/2016/09/29/chosin_marine_corps_korea)>.

<sup>70</sup> The Department of Defense's recent successful experience with familiarization training for desert deployments could serve to obscure the important difference

between extreme heat and extreme cold in the minds of decision makers. Extreme heat can be adapted to with some basic training in hydration and managing heat related casualties. The experiences in Iraq and Afghanistan have shown that the familiarization with a desert environment from pre-deployment training exercises was effective in training the military to fight in hot weather. History and the objective facts show that the Arctic is simply more demanding and deadly than other climates and requires more time to learn to survive and adapt. Numerous After Action Reports from recent Marine Corps cold weather training and exercises in the Nordics show that everything, no matter how trivial or complex, becomes exponentially more difficult in the extreme cold. Therefore, a fighting force must spend significant amounts of time simply learning how to stay alive before they can even begin to operate in this deadly climate.

<sup>71</sup> Ryan Scarborough, "Ice-Cold War: Russian Icebreakers Outnumber U.S. Vessels In Vital Arctic," *Washington Times*, February 19, 2–17, available at <<https://www.washingtontimes.com/news/2017/feb/19/coast-guard-icebreakers-in-arctic-vital-to-us-acce/>>.

<sup>72</sup> NATO, "NATO Parliamentary Assembly," November 13, 2017, available at <[https://www.nato.int/cps/ic/natohq/topics\\_50080.htm](https://www.nato.int/cps/ic/natohq/topics_50080.htm)>.

<sup>73</sup> NATO Publication 132 JOINT 17 E, NATO Parliamentary Assembly, Joint Special Seminar Report, Paragraph 1, (May 22, 2017).

<sup>74</sup> Ivana Kottasová, "Europe is Still Addicted to Russian Gas," *CNN Money*, June 5, 2018, available at <<http://money.cnn.com/2018/06/05/news/economy/russia-europe-gas-dependency/index.html>>.

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## Images

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