

The Yearbook of Polar Law

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Edited by

Gudmundur Alfredsson

Julia Jabour

Timo Koivurova

Akiho Shibata

Special Editors for Volume 14

Yelena Yermakova

Akiho Shibata



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Implementing the 2017 Arctic Science Cooperation Agreement: Challenges and Opportunities as regards Russia and Japan

Alexander Sergunin and Akiho Shibata***

Abstract

This study sought to identify the major barriers to the implementation of the Agreement on Enhancing International Arctic Scientific Cooperation (2017) and to uncover ways of facilitating the Agreement that may enhance Russia–Japan scientific cooperation in the High North. The Russia–Japan case exemplifies the difficulties as well as the potentials of the Agreement in enhancing Arctic scientific cooperation between Arctic states and non-Arctic states. Ultimately, the study identified several possible ways to facilitate the Agreement’s implementation. This paper first examines these means within the Agreement’s legal framework; more specifically, it explores how to operationalize the effective review process established under Art.12, utilize the 2000 Japan–Russia bilateral Science and Technology Cooperation Agreement to implement Art.17 on ‘Cooperation with non-Parties’, identify Arctic research projects and infrastructure available under the Agreement, and designate appropriate authorities as contact points under Annex 2 of the Agreement. The paper then examines the potential of linking the Agreement’s implementation with other forums and institutions. In particular, it recognizes the Arctic Council as a platform for enhancing Arctic scientific cooperation and considers how cooperation within various Arctic professional organizations and associations may be revived and how to create synergy between the Agreement and Arctic Science Ministerial processes. This paper’s discussion is largely based on information and political contexts before February 24, 2022, but the concluding section provides a few policy suggestions specific to the implementation of the Agreement in light of the post-Ukraine situation.

* Professor of International Relations, Department of International Relations Theory & History, St. Petersburg State University, St. Petersburg, Russia. *e-mail*: a.sergunin@spbu.ru.

** Professor of International Law and Director, Polar Cooperation Research Centre, Kobe University, Japan. *e-mail*: akihos@kobe-u.ac.jp.

Keywords

Agreement on Enhancing International Arctic Scientific Cooperation – implementation – Arctic science diplomacy – Russia – Japan

1 Introduction

The goal of the 2017 Agreement on Enhancing International Arctic Scientific Cooperation (hereinafter referred to as ‘the Agreement’)¹ is to facilitate access to research areas within the so-called ‘Identified Geographic Areas’ (IGA s; see Map 3.1) and to scientific platforms, infrastructure, facilities, materials, samples, data, and equipment in order to increase the scientific knowledge about the Arctic. Accordingly, it aims to remove various barriers to international collaborative research, such as visa denials and delays, difficulties in carrying equipment and samples across national borders, and denials of and restrictions on access to data. Notably, the Agreement is meant to be inclusive; thus, it also contains provisions designed to promote education, career development and training, traditional and local knowledges, and cooperation between non-Arctic nations.

The Russia–Japan case exemplifies the difficulties as well as the potentials of the Agreement in enhancing Arctic scientific cooperation between Arctic states and non-Arctic states. Looking at the Agreement from the perspective of Russia–Japan bilateral scientific cooperation in the Arctic, several articles are of special importance:²

- Art.1: Defines key terms such as ‘facilitate’, ‘Participants’, and ‘Scientific Activities’.
- Art.7: Requires Russia (and other Parties in the Agreement) to support full and open access to scientific metadata.
- Art.12: Advises that Agreement reviews may consider cooperative activities between Parties (e.g. Russia) and non-Parties (e.g. Japan).

1 Agreement on Enhancing International Arctic Scientific Cooperation, signed 11 May 2017 and entered into force 23 May 2018, accessed 1 May 2022. <https://oaarchive.arctic-council.org/handle/11374/1916>.

2 For detailed analysis of the provisions under the Agreement relating to non-Arctic States and their scientists, see Akiho Shibata, “The Arctic Science Cooperation Agreement: A perspective from non-Arctic actors,” in *Emerging Legal Orders in the Arctic: The Role of Non-Arctic Actors*, eds. Akiho Shibata, et al. (Abingdon: Routledge, 2019), 207–225.



AGREEMENT ON ENHANCING INTERNATIONAL ARCTIC SCIENTIFIC COOPERATION

ANNEX 1:
Identified Geographic Areas

This map shows the approximate extent of the Identified Geographic Areas described in Annex 1 of the Agreement on Enhancing International Arctic Scientific Cooperation. It is intended for illustrative purposes only.

- Approximate Extent of Identified Geographic Areas
- 62°N
- - - Arctic Circle

Continental shelf areas are not depicted.
U.S. Department of State, OES/OPA, 10/2017

MAP 3.1 Identified Geographic Areas
 SOURCE: U.S. DEPARTMENT OF STATE, 2017
[HTTPS://WWW.ARCTIC.GOV/SCIENCE-AGREEMENT/](https://www.arctic.gov/science-agreement/) (ACCESSED 1 MAY 2022)

- Art.17: As a Party, Russia may work to strengthen its cooperation with any non-Party (e.g. it may share Arctic data if it does so with this intention) and may apply the Agreement's measures in cooperation with a non-Party (e.g. Japan).

In considering how the Agreement may be effectively implemented through scientific cooperation between Russia and Japan across many areas of Arctic, it is important to first identify the numerous obstacles to fruitful cooperation between researchers in the Arctic, especially those identified by the Agreement. Thus, this study was driven by two research objectives: first, to identify major barriers to the Agreement's implementation and second, and more importantly, to examine how best to implement the Agreement while enhancing Russia–Japan scientific cooperation in the Arctic.

Recently, COVID-19 restrictions served as an additional barrier to effective collaboration between scientists; more specifically, the restrictions caused many joint projects to be put on hold or converted to an online format. Russia's recent actions in Ukraine (hereinafter refer to as 'the situation in Ukraine') have further complicated the landscape. The Russian government situates its actions in Ukraine as a special military operation. Meanwhile, the Japanese government views Russia's actions in Ukraine as aggression. Generally, the situation in Ukraine has had devastating consequences for Arctic scientific cooperation, one example of which is the seven Arctic states deciding not to travel to Russia for meetings of the Arctic Council and temporarily pausing participation in all meetings of the Council including its Working Groups where much of its scientific collaborative work are done.³ This study was largely based on information that was collected before the situation in Ukraine and this paper was written while the situation in Ukraine was ongoing and fluid. However, this paper's conclusion presents some suggestions for how the Agreement may best be implemented to encourage Russia–Japan Arctic scientific cooperation in light of the situation in Ukraine and the potential implications of such strategies.

³ Joint statement on Arctic Council Cooperation following Russia's Invasion of Ukraine, 3 March 2022, accessed 1 May 2022. <https://www.state.gov/joint-statement-on-arctic-council-cooperation-following-russias-invasion-of-ukraine/>.

2 Barriers to the Agreement's Implementation

2.1 *Security in the Arctic*

Some Arctic countries restrict scientist access to the IGAs defined by the Agreement, citing national security concerns. Along these lines, the polar regions of a number of Arctic countries are heavily militarized. In particular, the Arctic Zone of the Russian Federation (AZRF) and the American state of Alaska are the most militarized regions in the High North. The AZRF hosts numerous air force, naval, army, and border guard bases. Russia's Kola Peninsula is home to two-thirds of Russia's nuclear submarine fleet, including its Northern Fleet, which is based in Severomorsk. In addition to naval armaments, the Northern Fleet Commander is also responsible for a large land-based military group (14th Army Corps). Together, they form the Strategic Command 'North', which was created in 2014 in response to growing geopolitical tensions between Russia and the West after the Crimean crisis.⁴

Alaska hosts US armed forces designated for Indo-Pacific and Arctic military operations. Notably, the American radar and air force units in Alaska are integral to the North American Aerospace Defence Command (NORAD) system, which plays crucial roles in preventing surprise ballistic missile attacks from Russia and monitoring the Arctic airspace at large. NORAD also includes some Canadian and Greenlandic radar stations and air force bases. It should be also noted that the northern part of Norway and the adjacent seas are rather militarized and often host NATO military exercises, air and naval patrols, and anti-submarine warfare activities.

According to some accounts, Russia's IGA access practices have not significantly changed with the Agreement. For example, between 1990 and 2014, the US Department of State submitted 48 requests to Russia for US vessels to conduct scientific marine research in the Russian Exclusive Economic Zone. Of those requests, 20 (42%) were either denied or ignored (the State Department considered silence from Russia as a refusal to grant access).⁵ Because of this security situation, the activities of a number of Arctic states, including Russia, sometimes seem quite controversial. On the one hand, some states are in favour of giving foreign scientists access to their Arctic regions for joint research

4 Alexander Sergunin and Valery Konyshev, "Russian military strategies in the Arctic: change or continuity?" *European Security* 26, no. 2 (2017): 171–189.

5 John Farrell, "New Agreement to Enhance International Arctic Scientific Cooperation," ARCUS, accessed 1 May 2022. <https://www.arcus.org/witness-the-arctic/2017/2/article/27780>.

projects (as stipulated by the Agreement). However, on the other hand, these countries are also increasing their military infrastructures and activities in the Arctic, which prevents scientists – whether international or domestic – from working there. Some Arctic states, including Russia, block or limit access to Arctic data, ranging from data on ice or permafrost dynamics to environmental pollution; again, they do this on the basis of national security concerns.

2.2 *Bureaucratic Inertia*

More often than not, failures to access Arctic research areas or data are due to an ignorance of the procedures necessary to obtain permits in a particular Arctic country or low- or mid-level bureaucrat unwillingness to take responsibility for making such a decision. A report by UArctic based on a 2019 survey conducted with Arctic scientists confirmed that decreasing bureaucratic hurdles is imperative for increasing cross-border research in the Arctic.⁶

In many territories, including Russia, such bureaucratic hurdles begin with visa processes for foreign researchers. Russia requires researchers to obtain a visa for ‘academic purposes’; other types of visas (e.g. tourist, cultural exchange, business) are unacceptable for foreign scholars – indeed, foreign scholars conducting research on non-academic visas may be deported and subsequently banned from returning to Russia for five years. In practical terms, a foreign scholar can apply for an academic visa if they are invited to conduct a specific kind of research in Russia by a host scientist or institute based in Russia. Finding an appropriate Russian partner to issue such an invitation is crucial; Russian polar stations⁷ and research vessels⁸ belong to different entities. Meanwhile, the government may take several months to process a foreign scholar’s visa application (although sometimes visas can be obtained *via* a Russian visa centre more quickly at a higher cost). Although these bureaucratic practices are not necessarily illegal, they are exactly the kinds of practical impediments the Agreement tried to tackle.

Additionally, visa procedures can be vulnerable to political tensions between states, even those totally unrelated to the Arctic and/or scientific cooperation. For example, the spy scandals in the late 2010s (e.g. the Skripal Affairs) caused some states to tighten their visa requirements for applicants

6 Summary provided to the 3rd Arctic Science Ministerial Workshop: Addressing Gaps and Barriers in International Arctic Science Research, 2020, accessed 1 May 2022. https://asm3.org/library/Files/ASM3_Gaps-Barriers-Workshop-Final-Report.pdf.

7 INTERACT, “Field stations,” accessed 1 May 2022. <https://eu-interact.org/field-sites/>.

8 Inter-agency National Oceanographic Commission of the Russian Federation, “Russia’s research fleet,” accessed 1 May 2022. <https://ocean.extech.ru/ships/> (in Russian).

from particular countries and shut down consulates. Such measures and countermeasures impeded visa issuance processes between countries. Arctic researchers have not been exempted from these retaliatory measures, even with the Agreement.

Customs regulations and practices also introduce difficulties in transporting equipment and samples into and out of Arctic research areas. Art.4 of the Agreement applies here: 'Each Party shall use its best efforts to facilitate entry to, and exit from, its territory of persons, research platforms, material, samples, data and equipment of the Participants'. For example, in Russia, foreign scientists need reliable Russian partners who can help them complete a Russian customs freight declaration for every item they want to import into or export out of Russia (it is now possible to electronically submit import/export declarations). Moreover, in Russia, different rules apply for water samples, sand/soil, and rocks. Sand and water samples are relatively easy to handle; animal or fossil samples are not. In contrast, soil and rock samples taken by foreign researchers can be misconstrued as attempts to search for natural resources and are thus more challenging to export. While these customs regulations and practices may be standard, Arctic countries, including Russia, are bound by the Agreement to facilitate Arctic specific scientific cooperation with other Parties as well as with non-Parties when applicable.

In some cases, difficulties can emerge from a lack of coordination between the local organizations and officials responsible for managing access to specific research areas and federal authorities and rules. For example, when a Japanese-Finnish team working on a joint research project on the energy sector in the Russian Arctic visited the Yamal-Nenets Autonomous Area in September 2015, it was given a rather cool reception by the local authorities. These foreign scientists had not only received Russian visas, but also permission to visit this border region from the federal government. The municipal and regional authorities opened up to the foreign scientists only when they found reliable local partners, and they were able to visit the biological station and fish breeding plant in the Polar Urals and the habitat of the Indigenous people (Nenets), including reindeer pastures and the local slaughterhouse. However, despite all their efforts, the foreign team failed to get to Sabetta, where the Yamal LNG plant was being built, even though Japanese companies and engineers were responsible for the LNG technology at the Russian gas company (Novatek) and were actively working there.⁹

9 Personal experience of one of the authors.

Additionally, bureaucratic regulations and practices related to drone use also frustrate international scientific cooperation in the Russian Arctic.¹⁰ The Agreement acknowledges such difficulties in paragraph 3 of Art.6, which requires Parties to ‘facilitate joint Scientific Activities that require airborne scientific data collection in the IGA s’ and suggests concluding specific implementing arrangements pertaining such activities.

2.3 COVID-19

The coronavirus pandemic has severely damaged international Arctic scientific cooperation, mostly due to travel restrictions imposed by countries that are home to and that receive Arctic scientists. Most polar expeditions are international in nature; accordingly, as noted above, Arctic scientific endeavours are particularly vulnerable to immigration restrictions. In the Arctic, research and logistic team members usually work physically close together at field sites, aboard research vessels, and in research stations – social distancing in Arctic field research is next to impossible.¹¹ In addition, field researchers must be responsive to the ways in which Indigenous Arctic communities are uniquely vulnerable to and resilient in the face of COVID-19.¹² Given these concerns, many joint expeditions and projects at polar stations were cancelled during the pandemic and most conferences and seminars on the Arctic were moved to an online format or postponed.

The urgency of the pandemic and a lack of scientific evidence about the virus and the effectiveness of related regulations compelled many countries to impose varying levels of immigration-related and other restrictions – some involve different certificates and conditions, provide exemptions on different grounds, and change relatively often. These regulations posed extra obstacles for international researchers seeking access to the field or overseas institutions. For example, many Western Arctic states did not recognize Sputnik v and other Russian vaccines; this made it difficult for Russian citizens, including Arctic researchers, to enter these countries for research.¹³ Meanwhile, based

10 “Drone laws in Russia,” accessed 1 May 2022. <https://uavcoach.com/drone-laws-in-russia/> For permit application, Federal Air Transport Agency of Russia, accessed 1 May 2022. <https://www.favt.ru/poryadok-ispolzovaniya-bespilotnyh-vozdychnih-sudov/> (in Russian).

11 Arctic Institute, “COVID-19: how the virus has frozen Arctic research,” accessed 1 May 2022. <https://www.thearcticinstitute.org/covid-19-virus-frozen-arctic-research/>.

12 Andrey Petrov, et al., “Building resilient Arctic science amid the COVID-19 pandemic,” *Nature Communications* 11, no. 6278 (2020).

13 World Health Organization: accessed 1 May 2022. https://extranet.who.int/pqwweb/sites/default/files/Pharmastandard_SummaryReport-PreliminaryInspectionFindings_23June2021_0.pdf. European Medical Agency: accessed 1 May 2022. <https://www.reuters.com>

on the epidemic situation in each country/region, risk assessments of current COVID-19 inflows, and vaccine efficacy, Japan has implemented very complex border measures characterized by different conditions, such as isolation places and periods and vaccination requirements.¹⁴ Notably, Japan did not grant people vaccinated with Sputnik v shorter isolation periods or exemptions. These Japanese measures were based on transparent information and did not target certain nationals. In fact, since Japan relaxed its border restrictions on 1 March 2022, Russian scholars have been able to obtain ‘professor’ visas and, after isolation and testing, conduct research at academic institutions in Japan.

3 The Expected Role of the Agreement: Not a Panacea but an Important Process

3.1 *The Agreement as a Process*

Generally speaking, treaties between states with legally binding rights and obligations are carefully negotiated with concrete objectives. In particular, ‘law-making’ treaties are developed to establish long-term legal obligations and mechanisms, which institutionalize cooperative endeavours among parties to achieve common goals. Such treaties often contain flexible obligations (e.g. ‘as appropriate’, ‘make best efforts’, ‘in accordance with national legislation’)¹⁵ to give parties some discretion in implementing their obligations and the opportunity to tighten them as cooperation develops. In such a legal framework, it is important to establish an institutional mechanism for the periodic review of the treaty’s progress, including appropriate collective recommendations for strengthening the cooperative endeavour. The Agreement is a typical law-making treaty. Its particular goal is ‘to enhance cooperation in Scientific Activities in order to increase effectiveness and efficiency in the development of scientific knowledge about the Arctic’ (Art.2).

.com/world/the-great-reboot/exclusive-european-efforts-assess-russias-sputnik-v-vaccine-stymied-by-data-gaps-2021-07-13/.

Russia, however, rejected these allegations explaining the WHO and EMA positions influenced by political considerations as well as by competition between vaccine manufacturers. Moscow notes that Sputnik v was registered and successfully used in 67 countries.

14 Ministry of Foreign Affairs of Japan, “Border measures to prevent the spread of novel coronavirus (COVID-19),” accessed 1 May 2022. https://www.mofa.go.jp/ca/fna/page4e_001053.html#section3. Ministry of Health, Labour and Welfare, “Japanese Border Measures,” accessed 1 May 2022. <https://www.mhlw.go.jp/stf/covid-19/bordercontrol.html>.

15 Akiho Shibata, “International and Domestic Laws in Collaboration: An Effective Means of Environmental Liability Regime-Making,” *L’Être Situé, Effectiveness and Purposes of International Law*, eds. Shotaro Hamamoto et al. (Leiden: Brill, 2015), 193–213.

More specifically, the Agreement was negotiated and adopted with the concrete objective of lowering – if not removing – the many bureaucratic and often unintended barriers encountered by international scientists conducting research on and in the Arctic.¹⁶ The Agreement was not designed with the ambition of removing these barriers overnight. Rather, it was created to institute a process in which the Parties collectively acknowledge that there are barriers, share their experiences in overcoming them, and encourage other Parties to act upon those barriers within their legal limits. Thus, the Agreement itself does not intend to annul the existing national and subnational legislations or even the customary practices that impede Arctic scientific cooperation; instead, the Agreement encourages the Parties themselves to utilize – and amend if necessary – their national and subnational regulations and procedures to facilitate scientific cooperation (see Art.1 for the Agreement’s definition of the term ‘facilitate’ and Art.10 on national and subnational laws and regulations). The Agreement also encourages the Parties to respect specific agreements between other Parties or Participants to enhance scientific cooperation (Art.3). While the Agreement gives Parties some discretion in when and how to carry out their obligations, it does not seek to maintain the status quo.¹⁷ Indeed, the Agreement encourages change to ensure that the Parties achieve their shared goal by advising a review process under Art.12, as outlined above (also see Subsection 3.2).

Notably, the Agreement does not address or intend to solve extra-treaty issues around Arctic scientific cooperation, such as those related to security in the Arctic or political tensions between certain Parties in the Agreement. For example, when negotiating Art.5 on access to research facilities for Scientific Activities in IGAs,¹⁸ the Parties ensured that this provision would only apply to ‘national civilian research infrastructure and facilities’, specifically excluding military research facilities. The Agreement assumes that each Party has its own security concerns and does not intend to override their related regulations. As discussed above, some of the bureaucratic barriers the Agreement

16 For its negotiating history including the context in which this Agreement had been considered as necessary, see Akiho Shibata and Raita Maiko, “An Agreement on Enhancing International Arctic Scientific Cooperation: Only for the Eight Arctic States and Their Scientists?” *The Yearbook of Polar Law* 8 (2016): 129–162. Paul Arthur Berkman et al., “The Arctic Science Agreement Propels Science Diplomacy,” *Science* 358 (2017): 596–598.

17 Farrell, “New Agreement to Enhance International Arctic Scientific Cooperation”. Malgorzata Smieszek, “The Agreement on Enhancing International Arctic Science Cooperation: From Paper to Practice,” *Arctic Yearbook* 6 (2017): 439–445.

18 Note that this provision may apply to research facilities physically located outside of IGA. Shibata, “The Arctic Science Cooperation Agreement”, 211.

tries to remove, such as cumbersome visa procedures, may well be intensified by security/political issues unrelated to the Arctic or scientific cooperation. However, such unfortunate situations do not mean the Agreement has failed. In order to objectively evaluate the effectiveness of the Agreement, it is important to distinguish extra-treaty elements from the barriers the Agreement was designed to tackle. At the same time, it is also important to remember that the Agreement is being implemented within the particular context of Arctic security and, more generally, world security.

The COVID-19 pandemic and related immigration restrictions are other examples of extra-treaty elements that had tremendous adverse effects on international Arctic scientific cooperation. However, states and scientific institutions have still made great and encouraging efforts to continue Arctic scientific cooperation during the pandemic, evidenced, for example, in the MOSAiC expedition.¹⁹ Although these efforts themselves may not be the legal consequences of the Agreement, they still speak to the Agreement's spirit. In its Preamble, the Agreement recognises 'the importance of international scientific cooperation' for 'increased actions to mitigate and adapt to climate change' and for 'the sustainable use of resources, economic development, human health, and environmental protection' in the Arctic.

3.2 *Review Process for Agreement's Implementation*

Art.12 establishes that the Parties shall use a multilateral review process to collectively promote and strengthen the Agreement's flexible obligations for its goal of enhancing Arctic scientific cooperation. More specifically, Art.12 advises 'meetings ...[to] consider the implementation of this Agreement, including successes achieved and obstacles to implementation, as well as ways to improve the effectiveness and implementation of this Agreement'. Although much simpler in its stipulation, this provision effectively establishes a Meeting of the Parties (MOP) similar to those established in many multilateral environmental agreements (MEAs) to review the implementation of the agreements and make necessary recommendations. Such MOPs have been instrumental in steadily promoting and strengthening the implementation of flexible and discretionary obligations, typically by encouraging parties to adopt institutional decisions and non-binding recommendations, such as guidelines, best

19 "Even when, due to the coronavirus pandemic, virtually every other expedition around the globe was cancelled, thanks to the broad support of the international scientific community and to the tireless efforts of the entire team, MOSAiC was able to continue". IASC, "Multidisciplinary drifting Observatory for Study of Arctic Climate (MOSAiC)," accessed 1 May 2022. <https://iasc.info/our-work/working-groups/cross-cutting-activities/mosaic>.

practices, and even model national legislations to achieve the agreements' common goals.²⁰ Thus, it is not an overstatement to say that the effective implementation of the Agreement fundamentally depends on the effective operationalization of the review process established under Art.12.

The effective operationalization of the Agreement's review process is in turn dependent upon the legal design of the institutions, procedures, and functions agreed upon by the Parties. Art.12 only provides a skeleton of such a design – the Parties must work out the rest. Paragraph 1 of Art.12 situates the Agreement's depository, the government of Denmark, as the convener of the first meeting and advises that the Parties may elect to convene such meetings 'in conjunction with meetings of the Arctic Council including inviting Arctic Council Permanent Participants and Arctic Council Observers to observe and provide information'. This stipulation is particularly noteworthy for two reasons: first, it gestures to a possible institutional link between the Agreement and the Arctic Council; second, it allows for contributions from Indigenous organizations ('Permanent Participants') and non-Arctic states and inter-governmental and non-governmental organizations ('Arctic Council Observers') in the Agreement's review process.²¹ At the same time, it explicitly states that Indigenous organizations and non-Arctic states and organizations, when invited, are to observe and provide information; that is, they are not to take part in decision-making. It should also be noted at the outset that, unlike an MEA, the Agreement does not establish an administrative apparatus, such as a secretariat, to assist with the day-to-day operations conducted to realize its objectives. Because the Agreement links the Agreement with the Arctic Council, it is possible that the Arctic Council Secretariat may be designated as the Agreement's secretariat. However, the Agreement seems to assume that the government hosting a meeting would serve as the secretariat. This approach was used for Consultative Meetings for the Antarctic Treaty from its first meeting in 1961 until 2003.²² All other details of the review process would be provided in the Terms of Reference (ToR) of the Implementation Meeting to be agreed upon by the Parties.

20 Robin Churchill and Geir Ulfstein, "Autonomous Institutional Arrangements in Multilateral Environmental Agreements: A Little Noticed Phenomenon in International Law," *American Journal of International Law* 94, no. 4 (2000): 623–659.

21 Shibata, "The Arctic Science Cooperation Agreement," 222–223.

22 Patrizia Vigni, "The Establishment of the Secretariat of the Antarctic Treaty," *Italian Yearbook of International Law* 13 (2003): 147–155; Akiho Shibata, "The Legal Significance of the Establishment of the Antarctic Treaty Secretariat," *Okayama Law Review* 53, nos.3–4 (2004): 119–182 (in Japanese).

The first meeting for the Agreement was convened by the government of Denmark on 11 March 2019 in Helsinki, Finland just before the Senior Arctic Officials meeting of the Arctic Council in Ruka, Finland. At the meeting, it was decided that the chair of the Arctic Council would host all meetings going forward.²³ This decision strengthened the institutional link between the Agreement and the Arctic Council, although the Agreement itself is formally outside of the concerns of the Arctic Council. Additionally, the Arctic Council Secretariat was not involved in arranging the meeting, as an Arctic Council Secretariat personnel responded: ‘after the Task Force on Scientific Cooperation concluded its work, ... the Arctic Council Secretariat has not been involved in any follow up or implementation (of the Agreement)’.²⁴ The second meeting was originally planned for April 2020 and was to be convened by Iceland, the chair of the Arctic Council at that time, in conjunction with the Arctic Science Summit Week (ASSW) in Akureyri, Iceland. However, the meeting was postponed due to the pandemic. This decision showed the Parties’ preference for holding their meeting alongside a large science-oriented gathering rather than the politically-oriented meetings of the Arctic Council.²⁵

On 19 April 2021, the second meeting on the Implementation of the Agreement on Enhancing International Arctic Scientific Cooperation was co-convened by the Icelandic Ministry of Education, Science and Culture and the Icelandic Center for Research (RANNIS), the two institutions listed in Annex 2 (Authorities and Contact Points) of the Agreement. This meeting was held entirely online.²⁶ This was the first time Arctic Council Observer States, including Japan, and many other stakeholders were officially invited to attend. The invitations were sent to 2020 ASSW participants. The meeting was divided into two parts: the first part was open to all stakeholders, and the second part was closed to the Parties of the Agreement. In the first part, under the agenda item ‘Stakeholder presentation on barriers and opportunities’, Germany, Japan, Switzerland, the European Commission, the European Polar Board, the International Council for the Exploration of the Sea (ICES), and

23 Arctic Council, Report: SAO Plenary meeting, Ruka, Finland, 13–14 March 2019, 20–21.

24 An email exchange with André Skrivervik; Office Manager, Arctic Council Secretariat, 28 October 2020.

25 An interview with Mr. Frej Sorento Dichmann, a Deputy head of division, Danish Agency for Science and Higher Education, October 2020. Liu Han, Akiho Shibata and Ri KyongSa, “Arctic Science Cooperation Agreement: Implications for Asian Countries and their Scientists,” presentation made at 13th Polar Law Symposium, online, 12 November 2020.

26 Akiho Shibata, “Report on the 2nd meeting of the Implementation of the Agreement on Enhancing International Arctic Scientific Cooperation,” ArCS II website, 31 May 2021 [in Japanese], accessed 1 May 2022. <https://www.nipr.ac.jp/arcs2/dispatch/2021-05-31-1/>.

the International Arctic Social Sciences Association (IASSA) made brief presentations. Many of these stakeholders emphasized the importance of using the Agreement to facilitate access, particularly to data. The breadth of invitations and the opportunities observers were given to speak demonstrate the Parties' willingness to engage wider stakeholders in their implementation of the Agreement.

Discussions on the draft ToR of the Implementation Meeting and the Protocol on Alleged Violations of the Agreement began during the second meeting and continued under Russia's chairmanship after May 2021. According to the draft ToR, the Implementation Meeting should bring together the competent national authorities (CNAs) of the Parties to the Agreement to exchange information, discuss issues, and suggest further ways of advancing their shared objective, including a review of any alleged violations of the Agreement and how they were resolved. In comparison with the political and ministerial style of MOPs under MEAS, the Implementation Meeting would be more practical and technical. As to its function, the use of the expression 'suggest further means' rather than 'take measures' or 'make recommendations' indicates its facilitative nature. It is also interesting that the first substantive item the Parties took up was the issue of 'alleged violations' and their reporting schemes.

Through intersessional discussions among the Parties, the final ToR were expected to be adopted at the third meeting, which was originally planned to be held in conjunction with the 2022 ASSW in Tromsø, Norway, under Russian chairmanship. However, the meeting was forestalled due to the situation in Ukraine.

3.3 *Implementing the Agreement with Non-Arctic States and Their Scientists*

It has been well documented²⁷ that the Agreement incorporates the interests of non-Arctic states and their scientists in its legal regime and expects Arctic states (as Parties), such as Russia, and non-Arctic states (as non-Parties), such as Japan, to facilitate its implementation through increased cooperation. Japan has reiterated that it is interested in properly implementing the Agreement and that it is willing to support this work through different processes; in particular, Japan has specifically mentioned Art.17 and Art.12 of the Agreement.²⁸ The eight Arctic Council Foreign Ministers, including the Russian minister, Sergey

27 Shibata, "The Arctic Science Cooperation Agreement," 216–223.

28 Ministry of Foreign Affairs, Participation by Keiji Ide, Japan's Ambassador on Arctic Affairs, in the Arctic Frontiers Meetings, 31 January 2018, accessed 1 May 2022. https://www.mofa.go.jp/mofaj/fp/msp/page25_001219.html (in Japanese).

Lavrov, emphasized that ‘the Agreement [...] confirms that the Parties have the discretion to extend benefits under the Agreement to non-Parties (including Arctic Council Observer states) when they cooperate with Arctic states.’²⁹

The key provisions for this purpose are Art.17, which is on ‘Cooperation with non-Parties’, and Art.12, which is on the review process (examined above). The gist of Art.17 lies in its second paragraph: ‘Parties may in their discretion undertake with non-Parties cooperation described in this Agreement and apply measures consistent with those described in this Agreement in cooperation with non-Parties’. Paragraph 1 of Art.12 stipulates that these cooperative efforts between the Agreement’s Parties (e.g. Russia) and non-Parties (e.g. Japan) may be taken into account when reviewing the implementation of the Agreement. Although the Agreement technically leaves this to the Parties’ discretion, Art.17 situates cooperation between Parties and non-Parties as a common issue and effectively mandates it for the multilateral review process. Moreover, this review would be conducted with non-Arctic states and institutions, which may very well be partners in the cooperative activities under review.

Russia is very keen to cooperate with non-Parties. It believes these countries are just as capable of contributing to Arctic scientific cooperation as Arctic states themselves. It is noteworthy (see Table 3.1) that non-Arctic countries, such as Germany and Japan, equally and sometimes much more actively cooperate with Russia in scientific projects than a number of Arctic states. During negotiations on the definition of ‘Participants’ in Art.1, Russia insisted on inserting the concept of ‘partner’ so that foreign scientists may benefit from facilitative measures as ‘Participants’ under the Agreement.³⁰ Although this may prevent non-Arctic nationals not being partnership with either of the Parties from obtaining ‘Participant’ status under the Agreement, under the Russian practice, having a Russian partner in scientific research in Russian IGA s smooths international scientific collaboration. In step with its focus during negotiations, Russia has not hesitated to implement the Agreement by working with non-Arctic countries and their scientists.

One potential and promising legal method for implementing Art.17’s enabling provision to ‘undertake cooperation with non-Parties’ is to utilize the bilateral science and technology cooperation agreements (STCA s)

29 Arctic Council, Senior Arctic Official’s Report to the Ministers, Fairbanks, Alaska, 11 May 2017, para.79, as adopted by the eight foreign ministers of the Arctic Council in Fairbanks Declaration on the Occasion of the Tenth Ministerial Meeting of the Arctic Council, 11 May 2017, para.45.

30 Shibata, “The Arctic Science Cooperation Agreement,” 218–219.

TABLE 3.1 Foreign countries' joint research projects with Russian regions and marine expeditions (2020–2021)

Russian regions	Kola peninsula	Nenets Autonomous Area	Yamal-Nenets Autonomous Area	Taimyr	Yakutiya-Sakha	Chukotka Autonomous Area	Oceanic studies	Total
Arctic states								
Canada	1	–	–	1	1	2	–	5
Denmark	–	–	–	1	1	1	–	3
Finland	6	3	1	1	2	–	1	14
Norway	12	4	1	2	1	1	2	23
Sweden	–	2	2	–	3	–	2	9
USA	4	1	2	1	2	5	2	17
Non-Arctic states								
China	–	–	–	–	2	2	1	5
Germany	4	2	2	2	5	2	3	20
Japan	–	–	–	–	5	1	2	8
Republic of Korea	–	–	–	–	2	1	1	4
United Kingdom	1	1	1	–	1	–	1	5

SOURCE: CONSTRUCTED BY THE AUTHORS, BASED ON ARKADIY TISHKOV, CHAIR REPORT ISIRA: VIEW FROM MOSCOW 2021, ACCESSED 1 MAY 2022. [HTTPS://IASC.INFO/IMAGES/ISIRA/MEETINGS/2021/1_-_CHAIR_REPORT_-_ISIRA_MEETING_2021_TISHKOV.PDF](https://iasc.info/images/isira/meetings/2021/1_-_CHAIR_REPORT_-_ISIRA_MEETING_2021_TISHKOV.PDF) (ACCESSED 1 MAY 2022)

concluded by many Arctic and non-Arctic states.³¹ Between Russia and Japan, the Japan–Russia Science and Technology Cooperation Agreement concluded in 2000³² can provide a legal avenue for Russia to implement paragraph 2 of Art.17 of the Agreement with Japan. Japan may also urge Russia to utilize its STCA to examine the possibility of extending the cooperative measures provided in the Agreement, such as facilitative measures, to give Japanese scientists access to research areas in IGAs to conduct Scientific Activities (Art.6) and scientific information obtained by Russian scientists in connection with Scientific Activities under the Agreement (Art.7). The Japan-Russia Joint

31 For an analysis on the legal relationship between the 2017 Agreement and bilateral STCAs, see Shibata and Raita, “An Agreement on Enhancing International Arctic Scientific Cooperation,” 139.

32 Agreement between the Government of Japan and the Government of Russian Federation on Cooperation in Science and Technology, done on 4 September 2000, *Ministry of Foreign Affairs Notice No. 458* (24 October 2000) (in Japanese and Russian).

Committee established under the 2000 STCA can further specify the facilitative measures that could be applied to Japan and related scientific institutions. On a reciprocal basis, the Committee can also identify relevant measures that Japan can take to promote international Arctic scientific cooperation with Russia, including access to its research infrastructure, such as its Arctic research vessel, the *MIRAI*, and its scientific data relating to the Arctic.

The last Joint Committee meeting under the 2000 STCA was held in April 2018 in Tokyo. Arctic research was one of the agenda items.³³ Due to the situation in Ukraine, it is now difficult to expect when or whether the next meeting in Russia may be scheduled.

3.4 *Identifying Arctic Research Projects and Infrastructure Available under the Agreement*

Art.5 of the Agreement obliges Russia as a Party to the Agreement to ‘use [its] best efforts to facilitate access by the Participants [including Japanese scientists] to national civilian research infrastructure and facilities and logistical services for the purpose of conducting Scientific Activities in IGA’s’. One possible facilitative measure to implement Art.5 through Art.17 of the Agreement *vis-à-vis* Japan would be for Russia and Japan to discuss and prepare an update of the Arctic research projects and infrastructures, facilities, and logistical services they may be able to contribute to collaborative research. Such a discussion could be held officially at the governmental level under the 2000 STCA in the Joint Committee meetings. Alternatively, such updates and lists may be informally prepared by Russian and Japanese research institutions responsible for Arctic research.

Arctic studies have become a high priority for the Russian government. In September 2020, the Arctic Science Council was established under the auspices of the State Commission for the Development of the Arctic. Its tasks include coordinating Arctic research in Russia and developing strategic priorities for cooperation with international partners.³⁴ It would be advisable to involve a representative from the Arctic Science Council in future discussions on collaborative efforts in the Arctic between Russian and Japanese governments and research representatives. Arctic research has increased Japan’s prominence in foreign policy and national research, as demonstrated in Japan’s 2015 Arctic

33 Ministry of Foreign Affairs of Japan, *The 13th Meeting of the Japan-Russia Science and Technology Cooperation Committee*, 9 April 2018, accessed 1 May 2022. https://www.mofa.go.jp/mofaj/press/release/press4_005904.html (in Japanese).

34 TASS, “Nauchny sovet sozhdadut pri Goskomissii po Arktike” [A Science Committee will be established under the aegis of the State Commission on the Arctic], 18 September 2020, accessed 1 May 2022. <https://tass.ru/obschestvo/9493911> (in Russian).

Policy, updated by the 2018 Ocean Basic Plan, and its flagship national Arctic research projects, the Arctic Challenge for Sustainability (ArCS, 2015–2020) and the ArCS II (2020–2025).³⁵

Russia has a well-developed icebreaking fleet (comprising more than 40 nuclear and diesel icebreakers) as well as several dozen research vessels. Russia also has a network of polar stations in the Arctic, including 52 standard meteorological, 44 marine hydrological, 10 actinometric, and 7 aerological stations. Among them, 32 stations are difficult to access because of distance, transport, and logistical problems; 27 are reference stations; and 23 are correspondents of the World Meteorological Organization.³⁶ In addition, Russia plans to launch a year-round international Arctic Hydrogen Energy Applications and Demonstrations station, called ‘Snowflake’, in the Polar Urals in the Yamal-Nenets Autonomous Area in 2023. This polar station will provide Russian and international Arctic scientists with unique opportunities for various observations and experiments in the AZRF.³⁷ By 2025, Russia plans to build a similar station in Teriberka (Murmansk Region).³⁸

Moreover, Russia regularly conducts high-latitude Arctic expeditions open to foreign scholars. For example, since 2012, an innovative educational project, the Arctic Floating University (AFU), has been implemented with the support of the Russian Geographical Society, the Northern (Arctic) Federal University (NARFU), and the Federal Service for Hydrometeorology and Environmental Monitoring (Roshydromet).³⁹ The members of the expedition/AFU come from different societal sectors and include politicians, businessmen, Russian and foreign students, and postgraduates and scholars from universities and other research institutions.

35 Romain Chuffart, et al., “Assessing Japan’s Arctic Engagement during ArCS Project (2015–2020),” *Yearbook of Polar Law* 12 (2020): 328–348. Juha Aaunavaara and Fujio Ohnishi, “Arctic Challenge for Sustainability II: Japan’s New Arctic Flagship Project,” *Current Developments in Arctic Law* 8 (2020): 40–43. Arctic Challenge for Sustainability II official webpage, accessed 1 May 2022. <https://www.nipr.ac.jp/arcs2/e/>.

36 Polar stations of the Arctic’s Russian sector (2022), accessed 1 May 2022. <https://geographyofrussia.com/polyarnye-stancii-rossijskogo-sektora-arktiki/> (in Russian).

37 Tatyana Shibaeva, “Zachem v Arktike Snezhinka?” [Why is the Snowflake in the Arctic?], 23 January 2020, accessed 1 May 2022. <https://goarctic.ru/work/zachem-v-arktike-snezhinka/> (in Russian).

38 The Barents Observer, “Teriberka gets Russia’s second Arctic research station powered by renewables,” accessed 1 May 2022. <https://thebarentsobserver.com/en/arctic/2021/06/teriberka-gets-russias-second-arctic-research-station-fueled-renewables>.

39 Northern (Arctic) Federal University, “Ekspeditsiya “Arkticheskiy Plavuchiy Universitet – 2021” [Expedition “The Arctic Floating University – 2021”] (2021), accessed 1 May 2022. https://narfu.ru/science/expeditions/floating_university/2021/ (in Russian).

In May 2022, Russia launched the *North Pole* ice-resistant self-propelled platform. In September 2022, the platform began its expedition to the eastern part of the Arctic Ocean, where it was frozen in ice and will drift for two years. There are 15 scientific laboratories on board the platform, which cover the entire scope of existing research on the natural environment of the Arctic. The upper deck is equipped with a helipad. The ship can accommodate up to 34 scientific personnel,⁴⁰ and foreign scientists are mostly welcome.

Finally, the 'Northern Forum' will provide an excellent platform for cooperation with scientists, including those from Japan. The 'Northern Forum' is an international association of northern regions that was established in 1991 in Anchorage, Alaska. After a hiatus, the Forum resumed its work in 2013 with the support of the regional government of the Republic of Sakha (Yakutia). The Forum is a platform for dialogue between the northern regions of different countries. Its status as an international organisation gives its representatives (which include political elites, multinational companies, scientists, and heads of educational institutions) direct access to the international platform and the opportunity to report research results, present initiatives to improve the socio-economic development of the Arctic, and suggest concrete recommendations for the solution of Arctic problems.⁴¹ Moreover, the leadership of the Northern Forum pays significant attention to the development of international scientific cooperation in the region; to this end, it organises the Northern Forum on Sustainable Development on the annual basis in Yakutsk.⁴²

Art.12's note on Implementation Meetings assumes such information exchanges on multilateral and cooperative Arctic infrastructures and research projects. However, due to the situation in Ukraine, such information sharing may need to take place in non-governmental, academic forums.

3.5 *Designation of Appropriate Competent National Authority*

To successfully implement the Agreement in Russia, it is important to properly designate a competent national authority (or authorities) as the responsible point of contact (see Art.13 and Annex 2 of the Agreement). Whether barriers

40 The Arctic and Antarctic Research Institute, "North Pole' ice-resistant platform," accessed 1 May 2022. <https://www.aari.ru/projects/lsp?> (in Russian).

41 Northern Forum, "About us (2021)," accessed 1 May 2022. <https://www.northernforum.org/en/the-northern-forum/about-us>.

42 North-Eastern Federal University, "SFUR: docent SVFU Daryana Maksimova rasskazala pro osobennosti rossiysko-kanadskikh nauchnykh othosheniy" [NFSU: NEFU docent Daryana Maksimova told about the specifics of the Canadian-Russian academic relations], 1 October 2020, accessed 1 May 2022. https://www.svfu.ru/news/detail.php?ELEMENT_ID=143651 (in Russian).

to scientific cooperation can be effectively removed very much depends on the point of contact's ability to authoritatively and competently make decisions about IGA access for foreign scholars, observation data and databases, visas, and permits for the international transport of equipment and samples. The draft ToR emphasizes the importance of designating a competent national authority (CNA) for the Agreement in advising that the Implementation Meeting should be a yearly meeting of CNAs and that they should use this meeting to present and discuss any 'alleged violations'.⁴³

Russia named the Ministry of Higher Education and Science as its point of contact for the Agreement. The problem with this agency is that it plays a minor role in AZRF decision-making. Russia's Defence Ministry, Foreign Ministry, Federal Security Service, and Border Guard Service (including the Coast Guard), Ministry of Interior, Ministry for the Development of the Far East and Arctic, and Customs Service are the real players regulating access to research areas and data, visas, and cross-border shipments.⁴⁴ In addition, nine regional governments that represent the AZRF should be also taken into account; according to the Russian Constitution, they have some say in this sphere.

It seems advisable to establish a sort of a coordinating body to bring together the above Russian actors to assist the Ministry of Higher Education and Science in implementing the Agreement. These agencies could also provide the Ministry and the international academic community with proper maps that indicate where research is really allowed in IGAs and which areas are off limits to foreign scholars. Such a coordinating body could also publish special guidelines (both in Russian and English) on relevant concerns, such as access to IGA research areas and data, which Russian polar stations may be available to international scientists, and Russian customs.

If such a coordinating body is established, the organ with real competence should be officially listed in Annex 2 under the Agreement and in the CNA list under the ToR. According to Art.14 of the Agreement, Annex 2 does not constitute an integral part of the Agreement and is not legally binding; thus, Annex 2 may be easily changed.

43 Shibata, "Report on the 2nd meeting of the Implementation of the Agreement on Enhancing International Arctic Scientific Cooperation".

44 Alexander Sergunin and Valery Konyshov, "Forging Russia's Arctic strategy: actors and decision-making," *The Polar Journal* 9, no. 1 (2019): 75–93.

4 Linking the Agreement's Implementation with Other Forums and Institutions

There are several possible ways to facilitate the implementation of the Agreement and enhance Russia–Japan Arctic scientific cooperation by linking its implementation process with other forums and institutions.

4.1 *In Tandem with the Arctic Council*

Russia believes that since the Agreement was negotiated within and concluded under the auspices of the Arctic Council, this inter-governmental forum (and especially its working and expert groups) can be a proper venue for the Agreement's implementation. Moscow's intention to actively use the Arctic Council to foster the implementation of the Agreement during its chairmanship (2021–2023) is evidenced by paragraph 16 of the 2020 Russian Arctic Strategy, which refers to the active participation of Russian state and public organisations in the Arctic Council and other international forums devoted to Arctic issues.⁴⁵ According to presidential advisor Anton Kobryakov, the Russian chairmanship planned to organize 38 academic events under the Council's auspices. In addition, 50 other events, to be organized in cooperation with 17 federal agencies, 11 members of the Russian Federation, and 12 universities and NGOs, were scheduled to take place in Russia itself.⁴⁶ Indeed, the 2019 decision by the Parties to the Agreement to put the responsibility of its implementation, including convening the yearly Implementation Meetings and overseeing their intersessional works, under the Arctic Council's rotating chairmanship has been instrumental for these Russian initiatives, until the situation in Ukraine overturned these efforts.

During its Arctic Council presidency, Russia worked to enhance Arctic scientific cooperation by promoting joint projects aimed at ensuring the sustainable development of the Arctic and preserving the cultural heritage of

45 Vladimir Putin, Ukaz Prezidenta RF ot 26 oktyabrya 2020 g. no. 645, "O Strategii razvitiya Arkticheskoi zony Rossiyskoi Federatsii i obespecheniya natsional'noi bezopasnosti na period do 2035" [RF President's decree no. 645, October 26, 2020, "On the Strategy for the Development of the Arctic Zone of the Russian Federation and Ensuring National Security up to 2035"] (2020), accessed 1 May 2022. <http://static.kremlin.ru/media/events/files/ru/J8FhckYOPAQQfxN6Xlt6ti6XzpTVAvQy.pdf> (in Russian).

46 The Government of the Russian Federation, "Yuri Trutnev provel pervoe zasедanie organizmiteta po podgotovke i obespecheniyu predsedatel'stva Rossii v Arkticheskom soвете v 2021–2023 godakh" [Yuri Trutnev held the first meeting of the organizing committee on preparations for the Russian chairmanship in the Arctic Council in 2021–2023]. 17 February 2021, accessed 1 May 2022. <http://government.ru/news/41562/> (in Russian).

small-numbered Indigenous peoples.⁴⁷ The expectation was that Russian initiatives to study the effects of climate change, the environmental problems of the region, the conservation of biodiversity, and the traditional ways of life of the Indigenous peoples of the North would attract a greater number of stakeholders from both Arctic and non-Arctic countries. After the Ukraine situation started in February 2022 and a joint statement by the other seven Arctic states on March 3, 2022, which strongly condemned Moscow's actions in Ukraine, Russia announced that its 'chairmanship will be reoriented to solve national problems'.⁴⁸

For Arctic Council Observer States actively engaging in the work of Arctic Council Working Groups and their scientific projects, such as Japan, the initiatives to link the Arctic Council scientific work with the implementation of the Agreement would have brought further opportunities for them to contribute to the process.

4.2 *In Tandem with Professional Associations and Networks*

Various Arctic professional organizations, associations and networks are able to contribute to implementing the Agreement.

Until recently there has been no official overview of the permits and regulations of the Arctic states most relevant to Arctic scientific cooperation. Such country-specific information has often been distributed across several websites with no or limited coordination. Some professional associations and networks have sought to improve this situation. For example, the International Network for Terrestrial Research and Monitoring in the Arctic (INTERACT) and the Association of Polar Early Career Scientists (APECS) recently launched the first ever comprehensive platform for permits and regulations relevant to scientific fieldwork in all Arctic Council member states.⁴⁹ INTERACT and APECS underline that this platform was created to support the Agreement.

This platform aims to help scientists search for relevant rules, regulations, and permits to do fieldwork in the Arctic, including Alaska (US), Canada, the Faroe Islands and Greenland (Kingdom of Denmark), Finland, Iceland, Norway, Russia, Svalbard (Norway), and Sweden. With this new platform, INTERACT and APECS hope to make things easier for Arctic scientists, including ones

47 Putin, "Ukaz Prezidenta RF ot 26 oktyabrya 2020 g. no. 645".

48 Russian Ministry of Foreign Affairs, "Discussion of the current Arctic agenda in the interest of the inhabitants of the region will continue as part of Russia's chairmanship of the Arctic Council," 14 March 2022, accessed 1 May 2022. <https://mid.ru/ru/detail-material-page/1804009/> (in Russian).

49 INTERACT, Permits and regulations for Arctic fieldwork (2022), accessed 1 May 2022, <https://eu-interact.org/accessing-the-arctic/arctic-fieldwork-permits-and-regulations/>.

from non-Arctic states, such as Japan, by providing links and contact information for the most common types of regulations and permits.⁵⁰ They plan to update the platform on a regular basis. However, since INTERACT and APECS are not directly associated with Arctic governments, they may not always be able to keep track of all regulatory changes and updates. For this reason, they encourage Arctic scientists to share new information with them so they can update the platform. Assuredly, in such non-governmental settings, Japan and Japanese scientists can effectively contribute to such information sharing and thereby indirectly contribute to the effective implementation of the Agreement.

The International Arctic Science Committee (IASC) has historically been at the forefront of activities encouraging international scientific cooperation in the region. Both Russia and Japan are full and equal members of the IASC. The committee's section on 'emerging issues concerning international scientific cooperation' in its 2021 *State of Arctic Science Report* emphasizes that 'the Arctic research community places high hopes in the implementation of the Arctic Science Cooperation Agreement'.⁵¹ In 1993, the IASC created an International Science Initiative in the Russian Arctic (ISIRA) to promote scientific cooperation and sustainable development in the region. The collapse of the Soviet Union further reduced real cooperation between Western and Russian scientists and research funding and increased roadblocks, such as language barriers – to name but a few of the problems faced by foreign scientists set to explore the Russian Arctic in the 1990s. During the ISIRA's existence, a number of major social and natural science projects were implemented. The ISIRA has largely helped to solve the problems foreign scientists have historically faced in trying to conduct research in the Russian Arctic.⁵²

The ISIRA has not lost its significance today. The ISIRA's activities include improving scientific access to the Russian Arctic and updating information on policies, regulations, and logistics within the Russian Arctic⁵³ – both practices very relevant to the Agreement. In 2017, Japan reported 4 academic meetings, 12 research projects, and 5 other activities that occurred in collaboration with

50 As discussed above, in the case of Russia, these facilitative measures would practically mean the establishment of a scheme where the other Parties and their scientists would easily be able to find a reliable Russian partner who can help to overcome those bureaucratic procedures and get all necessary permissions.

51 IASC, 2021 *State of Arctic Science Report*, 34–35.

52 IASC, "Our work: ISIRA," accessed 1 May 2022. <https://iasc.info/our-work/isira>.

53 IASC, *International Science Initiative in the Russian Arctic (2021)*, accessed 1 May 2022. <https://iasc.info/isira>.

Russian scientists and institutions working under the ISIRA.⁵⁴ Even during the pandemic from 2020 to 2021, Japan and Russia managed to implement five joint research projects in Sakha-Yakutia, including one in the Chukchi Autonomous Area and two marine expeditions (see Table 3.1). Moving forward, Japanese scientists and Japan more broadly should more actively engage with the ISIRA to indirectly assist in the implementation of the Agreement, especially by working bilaterally with Russia. The ISIRA's chair, Arkadiy Tishkov, recommends further improving the ISIRA's activities by listing which Russian polar stations foreign scholars can use and where they may access necessary legal and logistical support.⁵⁵

4.3 *In Tandem with the Arctic Science Ministerial (ASM)*

The Arctic Science Ministerial (ASM) was initiated in 2016 by the Obama administration to broaden and deepen collaborative science efforts in the Arctic. The first ASM meeting was hosted by the US White House and attended by science ministers from the eight Arctic states, 14 additional states (China, France, Germany, India, Italy, Japan, the Republic of Korea, Netherlands, New Zealand, Poland, Singapore, Spain, Switzerland, and the United Kingdom), and the European Union. At this first meeting, the ASM, in partnership with Arctic Indigenous representatives, declared that the meeting's participants 'owe this legacy of cooperation to future generations.'⁵⁶ The first ASM meeting welcomed the 'consensus reached on a legally binding agreement on enhancing international Arctic scientific cooperation under the auspices of the Arctic Council' and resolved that 'all nations conducting research in this region must work together to enhance and deepen scientific knowledge and understanding of the Arctic.'⁵⁷ The second ASM was co-hosted by Finland, Germany, and the European Commission in October 2018. It also welcomed the Agreement's entering into force on 23 May 2018 and acknowledged 'its relevance for

54 ISIRA National Report, Japan 2017, accessed 1 May 2022. <https://iasc.info/our-work/isira/isira-national-reports>.

55 Arkadiy Tishkov, "Chair Report ISIRA: View from Moscow 2021," accessed 1 May 2022. https://iasc.info/images/isira/meetings/2021/1_-_Chair_Report_-_ISIRA_meeting_2021_Tishkov.pdf.

56 United States, "Joint Statement of Ministers, on the occasion of the first White House Arctic Science Ministerial, 28 September 2016, Washington, DC, USA," accessed 1 May 2022. <https://obamawhitehouse.archives.gov/the-press-office/2016/09/28/joint-statement-ministers>.

57 Id.

improving international scientific cooperation'.⁵⁸ Thus, although institutionally separate processes, the ASM and the 2017 Agreement have been recognized since their inceptions as working in tandem to achieve the common goal of enhancing international cooperation to increase scientific knowledge about the Arctic.

Therefore, the question is how these two processes could be arranged to fulfil mutually reinforcing roles geared to achieve their shared goal. In answering this question, it is important first to understand the different characteristics and strengths of each process and, second, to examine the possible ways in which their strengths and weaknesses may be complementary. The ASM forges political processes at the ministerial level between international policies related to Arctic scientific cooperation. The ASM's most important outcome is its ministerial statements; as intergovernmental documents based on consensus, they carry political weight if not legal force. Ministerial statements are based on comprehensive information on and scientific assessments of ongoing Arctic scientific projects, logistical capacities, and funding opportunities and provide policy directions for strengthening Arctic scientific cooperation. For example, the ASM-2 ministerial statement indicated that 'cooperation in facilitating international access to Arctic research infrastructure' should be further promoted in order to 'enhance reciprocal collaboration and coordination efforts on Arctic observations of all types' and 'reduce costs by further promoting the sharing of research infrastructure'.⁵⁹ The third ASM ministerial statement, which was written while Iceland and Japan were co-chairs, demonstrated a renewed focus on international cooperation for data collection and sharing, particularly through the Sustaining Arctic Observing Networks (SAON) initiative.⁶⁰

However, the ASM lacks a process for the international review of the progress made toward fulfilling the agreed-upon policy commitments declared in the ministerial statement. Those commitments are non-legally binding and

58 Germany, "Joint Statement of Ministers, on the occasion of the second Arctic Science Ministerial, 26 October 2018, Berlin, Federal Republic of Germany," accessed 1 May 2022. https://www.arcticsscienceministerial.org/arctic/en/conference/conference-background/conference-background_node.html.

59 Germany "Joint Statement of Ministers", 6.

60 Japan, "Joint Statement of Ministers, on the occasion third Arctic Science Ministerial, 9 May 2021 Tokyo, Japan, 4–5, accessed 1 May 2022. <https://asm3.org> By ASM-3, in addition to eight Arctic states, 17 further states (Austria, Belgium, China, Czech Republic, France, Germany, India, Italy, Japan, Republic of Korea, the Netherlands, Poland, Portugal, Singapore, Spain, Switzerland and United Kingdom) and the representative of the European Union participated in the process.

assumed to be self-implemented by each national signatory under the authority of the Minister. Although efforts have been made to honour and deepen the themes of previous ministerials, each ASM is fundamentally separate and under a new chair; accordingly, reviews of the progress made toward the policy commitments of previous ministerial statements rarely occur.

The 2017 Agreement, for its part, established periodic reviews of the implementation of the Agreement's legally-binding obligations, including discussions on 'alleged violations' and 'suggestions' for improvement. Its forum, the Implementation Meeting, is characterized as being a practical and technical gathering of competent national authorities. The strengths of the Agreement's process, therefore, lie in its legally-binding nature and institutionalized periodic review process; notably, its Implementation Meeting's mandate to consider concrete and practical suggestions for improving the real problems facing international Arctic scientific cooperation is especially crucial. However, because reviews are only conducted by representatives from the eight decision-making Arctic states, they may miss out on insights related to the broader political landscape. Moreover, the 'suggestions' agreed upon by mid-level bureaucrats in the Implementation Meeting may lack the required political weight to actually influence the behaviour of the Parties.

ASM and Agreement processes may complement each other. First, the ASM can provide a vision of a broader political framework and direction for Arctic scientific cooperation within which the Agreement should be implemented. If the science ministers from all eight Arctic states, the 18 ministers from other countries and the European Union active in Arctic science, and Indigenous organizations agree that data collection and sharing through SAON is important for international Arctic scientific endeavours, then focus should be given to implementing access to data, as per Art.7 of the Agreement. At the same time, in order for the policy commitments made under the ASM ministerial statement to be periodically reviewed using the Agreement's review process, they should be rephrased in the language of the Agreement and situated as concrete suggestions for facilitative measures under a specific article of the Agreement. Second, after the deliberation stage of the Agreement's review process, which culminates in 'suggestions for further means' for implementing the Agreement, the Parties may communicate their suggestions to the ASM and ask the ministers to consider whether the suggestions can be incorporated into the ministerial statement – doing so would allow them to gain broader support from other ministers and therefore political weight. It is important to note that the collaborative efforts described above require strong information flows between the ASM and Agreement processes.

Institutionally, the two processes have the potential to be mutually reinforcing. The ASM is typically co-chaired by one Arctic state (the chair of the Arctic Council) and one non-Arctic state. Thus, the fourth ASM (2021–23) is being co-chaired by Russia (the chair of the Arctic Council) and France.⁶¹ The Implementation Meeting under the Agreement is now also chaired by the Arctic Council chair. Thus, through the Arctic Council chairmanship, both the ASM and Agreement processes can indeed work in tandem (with member consent). Indeed, during the second meeting of the Implementation Meeting of the Agreement in April 2021, Japan, the co-host of ASM-3, and Germany, the co-host of ASM-2, suggested such interactions between the two processes.⁶² However, the Agreement's Parties still seem generally hesitant to officially link the two processes.

5 Conclusion: Post-Ukraine Situation

The 2017 Agreement on Enhancing International Arctic Scientific Cooperation holds great potential for enhancing Russia–Japan Arctic scientific cooperation if it is implemented effectively and innovatively. The Agreement and its eight Arctic state Parties explicitly recognize the potential benefits it offers non-Arctic states, such as Japan, and their scientists in Art.17 (regarding ‘cooperation with non-Parties’) and Art.12 (regarding the Agreement’s review). There are still several layered barriers to international Arctic scientific cooperation. The main objective of the Agreement is to steadily lower – if not entirely remove – bureaucratic barriers to accessing things like Arctic research areas; scientific data obtained through Arctic research; and research infrastructures, facilities, and logistical services useful for Arctic research. The Agreement does not intend to address or override extra-treaty security and/or political concerns and regulations or time-bound special measures to cope with exigencies, such as COVID-19. However, the Agreement undoubtedly works best when the Arctic and the relationships between the eight Arctic states are peaceful, stable, and cooperative.

61 France, “The Arctic Science Ministerial 4 handover: Russia and France”, 2021 Arctic Circle Assembly presentation, 27 October 2021, accessed 1 May 2022. <https://www.youtube.com/watch?v=XHEHapYqZUE>.

62 Shibata, “Report on the 2nd meeting of the Implementation of the Agreement on Enhancing International Arctic Scientific Cooperation”.

The ongoing situation in Ukraine has brought a dark shadow to the future of the Agreement, not only in terms of the relationships between its eight Parties but also in terms of the relationship between Russia and Japan. According to the 1969 Vienna Convention on the Law of Treaties (VCLT)⁶³ and the Draft articles on the effects of armed conflicts on treaties adopted by the United Nations International Law Commission (ILC) in 2011,⁶⁴ the existence of an armed conflict does not *ipso facto* terminate or suspend the operation of the Agreement (ILC draft art. 3). The Agreement itself does not provide an explicit provision on its termination, withdrawal, or suspension; thus, its susceptibility to such actions by the Parties in the event of armed conflict must be evaluated in accordance with the criteria suggested by the ILC (ILC draft Art.6). First, the State Party committing aggression shall not be given the benefit of terminating or withdrawing from the Agreement or suspending its operation due to an armed conflict resulting from its act of aggression (ILC draft Art.15). Second, multilateral law-making treaties, namely those that create rules of international law for regulating the future conduct of the Parties, should be considered as indicative of its continued operation even during armed conflict (ILC draft Art.7). Consequently, because the Agreement is such a law-making treaty, its susceptibility to termination, withdrawal, or suspension by other Parties should be strictly interpreted. This demonstrates the legal stability of treaty relations even during periods of turmoil, such as armed conflicts. The legal regime established by the Agreement should be distinguished from cooperative mechanisms established by non-legally binding instruments, such as the Arctic Council.

A treaty's continued legal force and operations do not necessarily ensure its effective implementation during an armed conflict. This is particularly the case for the Agreement in light of the post-Ukraine situation: unfortunately, the Agreement's implementation is closely linked with the initiatives and leadership of the Arctic Council chair, which, as noted above, is currently Russia. Under the current agreement of the Parties, the negotiation during the intersessional period on the draft ToR of the Implementation Meeting must be conducted with Russia as the chair, and the third meeting to adopt the ToR would also need to be convened by Russia – although it was originally planned to take place in Tromsø, Norway in conjunction with the 2022 ASSW. Until the Arctic Council chairmanship changes and/or 'the necessary modalities that

63 Vienna Convention on the Law of Treaties, done on 23 May 1969, entered into force on 27 January 1980, *United Nations Treaty Series* 1155, 331.

64 United Nations, "Draft articles on the effects of armed conflicts on treaties, with commentaries", *Yearbook of the International Law Commission, 2011*, vol. 11, Part Two, 106.

can allow [the seven Arctic States] to continue the Council's important work⁶⁵ are installed, the work of the Implementation Meeting under the Agreement will also be suspended.

In practice, the Agreement will most frequently be carried out in bilateral contexts, such as those in which Party X's scientists face difficulties in accessing a field research area in Party Y's territory. In such cases, the Agreement obliges the competent national authority of Party Y to consider any facilitative measures under Art.6 of the Agreement for the benefit of Party X's scientists, which it situates as 'Participants' under Art.1, and to inform the competent national authority of Party X of such measures. In the post-Ukraine situation, under the Agreement, Parties and other stakeholders may continue Arctic specific scientific cooperation in such bilateral and practical contexts. As between the seven Arctic states as well as with non-Parties (e.g. Japan) cooperating under Art.17 of the Agreement, the Agreement would most likely be implemented as it was originally intended. Such cooperation should be strongly promoted, even with the current difficulties in international travelling due to flight restrictions and higher fuel costs caused by the situation in Ukraine. Additionally, Parties and non-Parties could make extraordinary efforts to implement the Agreement to support Russian researchers engaged in Scientific Activities as defined in the Agreement; however, this would have to take place only in specific and well-defined cases in which such cooperation would directly help the Agreement to realize its goals 'to advance understanding of the Arctic through scientific research' (Art.1) and 'to increase effectiveness and efficiency in the development of scientific knowledge about the Arctic' (Art.2). Such achievements would benefit all Arctic societies, rather than the particular countries engaged in the scientific cooperation.⁶⁶

Regarding government-level relations between Russia and Japan, the window of opportunity to implement the Agreement is becoming increasingly narrower. The Japanese government has made it clear that, because of the situation in Ukraine, Japan can no longer have the same relationship with Russia that it used to.⁶⁷ Indeed, Japan is incrementally imposing sanctions on

65 Joint statement on Arctic Council Cooperation following Russia's Invasion of Ukraine, 3 March 2022.

66 This was exactly the message from the Arctic Science Diplomacy Webinars convened right in the middle of the Ukraine situation in February to March 2022. Paul Berkman, Jenny Baeseman and Akiho Shibata, "Arctic science diplomacy maintains Russian co-operation," *Nature*, Vol. 604 (2022): 625.

67 Press Conference by the Prime Minister regarding Japan's Response to the situation in Ukraine, 27 February 2022, accessed 1 May 2022. https://japan.kantei.go.jp/101_kishida/statement/202202/_00014.html.

Russia.⁶⁸ For its part, Russia designated Japan as an ‘unfriendly state’⁶⁹ and suspended bilateral talks on a peace treaty.⁷⁰ In this context, it is difficult to imagine Russia and Japan holding a Joint Committee meeting under their 2000 STCA. Moreover, other governmental forums at which the two states may discuss Arctic scientific cooperation – namely, Arctic Council and ASM forums – are now effectively suspended.

Professional and non-governmental level scientific activities hold more promise than those at the government level. For example, Russian researchers and institutions may collaborate with Japanese counterparts and informally exchange updates on their respective Arctic research projects or lists of Arctic research infrastructures and facilities available for their researchers, which may be utilized in the context of implementing the Agreement. The Science Council of Japan expressed deep concerns that the situation in Ukraine may impact international cooperation in the sciences; however, unlike some European countries,⁷¹ Japan did not sever its academic exchanges with Russian academic institutions.⁷² The Japan Association of National Universities promised to take appropriate measures so that both Ukrainian and Russian researchers and their families in Japan would not be disadvantaged by the situation.⁷³ The Japanese government has so far not imposed any entry ban on Russian individuals based on the situation in Ukraine. As of April 2022, the Japanese government has been issuing ‘professor’ visas to Russian scholars, and the Japan Society for the Promotion of Science (JSPS) has provided funding for duly accepted Russian scholars to visit Japan for research. In this regard, the Russian government’s recent refusal to admit 63 Japanese individuals,

68 Japanese Government, “Japan stands with Ukraine,” updated 21 April 2022, accessed 1 May 2022. https://japan.kantei.go.jp/ongoingtopics/pdf/jp_stands_with_ukraine_eng.pdf.

69 TASS, “Russian government approves list of unfriendly countries and territories,” 7 March 2022, accessed 1 May 2022. <https://tass.com/politics/1418197>.

70 Russian Foreign Ministry statement on measures in response to the decisions of the government of Japan, 21 March 2022, accessed 1 May 2022. https://mid.ru/en/foreign_policy/news/1805541/.

71 Finnish Ministry of Education and Culture, “Finland freezes higher education and research cooperation with Russia,” 9 March 2022, accessed 1 May 2022. <https://valtioneuvosto.fi/en/-/1410845/finland-freezes-higher-education-and-research-cooperation-with-russia-support-for-ukrainian-students-in-finland>. UArctic statement by Board Chair, 3 March 2022, accessed 1 May 2022. <https://www.uarctic.org/news/2022/3/uarctic-statement-on-ukraine/>.

72 Kajita Takaaki, President, Science Council of Japan, “Russia’s invasion of Ukraine,” 28 February 2022, accessed 1 May 2022. <https://www.scj.go.jp/ja/head/pdf/20220228e.pdf>.

73 JANU, “Statement on the situation in Ukraine,” 4 March 2022, accessed 1 May 2022. <https://www.janu.jp/eng/news/1330/>.

including six university professors (some experts in Russian politics and society), was an unfortunate development.⁷⁴

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74 Statement by Russian Foreign Ministry on retaliatory measures against the policy of Japanese government towards the Russian Federation, 4 May 2022, accessed 4 May 2022. https://www.mid.ru/ru/foreign_policy/news/1811646/ (in Russian).