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STEEL, ICE AND DECISION-MAKING
THE VOYAGE OF THE POLAR SEA AND ITS AFTERMATH:
THE MAKING OF CANADIAN NORTHERN FOREIGN POLICY

by

Rob Huebert

Submitted in partial fulfillment of the requirements
for the degree of Doctor of Philosophy

at

Dalhousie University
Halifax, Nova Scotia
December, 1993

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ISBN 0-315-93774-2

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THIS THESIS IS LOVINGLY DEDICATED TO:

MY FAMILY

AND ESPECIALLY TO MY MOTHER AND SHABNAM.

IT MAY BE A CLICHE, BUT IT COULD NOT BE DONE WITHOUT YOU GUYS!

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ABSTRACT

On August 1, 1985, the American icebreaker, the POLAR SEA entered the Northwest Passage. Its mission was to re-supply the American base at Thule, Greenland and then to engage in scientific research off the coast of Alaska. Under normal circumstances, each mission would have been undertaken by separate American icebreakers. However, a series of events in 1985 resulted in the United States Coast Guard being overcommitted with inadequate resources to meet its requirements. Its response to this problem was to deploy the POLAR SEA for both missions. But, in order to do so, it was necessary for the vessel to transit the Northwest Passage. The status of the Passage was an issue of longstanding disagreement between Canada and the United States. As a result, this particular voyage while uneventful in itself, was to unleash a series of events that would culminate as the defining event for the creation of Canadian northern foreign policy in the second half of the 1980s. The objective of this thesis is to determine why and how this occurred.

In order to do so, it is necessary to provide a means of analysis by which it is possible to explain how a state makes foreign policy. It is the contention of this thesis that a decision-making model provides the most promising means of understanding how foreign policy is made. Therefore, this thesis will ask two questions:

- 1) How is foreign policy made?; and
- 2) How was Canadian northern foreign policy made following the voyage of the POLAR SEA?

ACKNOWLEDGEMENTS

This thesis could not have been written without the support of a large number of individuals. While it is impossible to cite the names of all who contributed, there were several individuals whose assistance must be recognized.

Elisabeth Mann Borgese's role as my supervisor was central to the successful completion of the thesis. Despite her other world-wide commitments, I could always count on Professor Borgese to have read and critically evaluated my drafts in very short order. In fact, I often submitted several chapters to her, and then attempted to relax in the mistaken belief that I could take it easy waiting for her comments before moving on to the next section. However, she would then contact me within a week, saying "I have something for you in the office...", and I would discover that she had read everything that I had given her and had prepared a detailed set of critiques for what seemed to be every page. I must also credit her with being my main academic inspiration. Anytime that I felt that the task of completing the thesis would be insurmountable, I only had to observe her efforts at what seemed to me to be an almost singlehanded effort to ratify the United Nations Law of the Sea Convention. In such a context, the work for the thesis then appeared more manageable.

I am also indebted to the rest of my supervision committee comprising of Bob Boardman and Danford Middlemiss. Bob Boardman also provided me with a source of wonder and inspiration through his ability to return work to me in incredibly short periods of time. I could also always count on Bob's door being open for discussions regarding the theoretical model of the thesis as well as answering any other questions regarding my research methods. Of course any errors pertaining to any of these issues contained in this thesis

were simply the inability of myself to always fully comprehend his advice.

The third member of the committee, Danford Middlemiss had an appreciated ability to not only offer concise and insightful comments on the detail of the work submitted to him but, was able to also offer equally important suggestions on the overall direction of the research. While there were times that I did not want to see a stack of his trademark 14" x 8" sized yellow paper in my mail box, I always knew that if there was a problem or mistake in my work, he would find it. I must also express my appreciation to Dan for the support that he provided me in his capacity as director for the Centre for Foreign Policy Studies (CFPS). The various positions that I held with his support, provided me with both the financial assistance and intellectual environment, that while admittedly may have slightly delayed my completion, nevertheless made the thesis much richer than it might otherwise have been. And while mentioning the CFPS, I must also thank Marilyn Langille and Eileen LeVine for their friendly and helpful assistance.

I am also indebted to the support provided by the Canadian Institute for International Peace and Security (CIIPS). Their fellowship provided both an important source of financial and moral support for this project. I can only hope that CIIPS or an equivalent organization will soon be resurrected so that other students of Canadian foreign policy can also benefit from similar encouragement. I am also grateful for the financial assistance provided by the faculty of Graduate Studies of Dalhousie University, which supported my research conducted in Washington, DC.

My research in Ottawa was greatly facilitated by the cooperations of officials within the Department of External Affairs. In particular, the assistance provided by Hector

Mackenzie of the Academic Relation Division and Ian Mundell, Coordinator for the Access to Information and Privacy Protection Office, as well as several officials from the Bureau of Legal Affairs were all instrumental for most of my primary sources.

On a less formal basis, I must also acknowledge the assistance provided by Peter Haydon and Aldo Chircop. Their support and willingness to seriously discuss any issue or idea that I raised, no matter how off the wall it may have seemed, served as an important sounding boards. While they may have slightly different interests in the study of foreign policy, their insights were always of extreme importance to me.

I also would like to express my appreciation to two other "sounding boards". Bruce Pardy and Grant Matheson were running partners who even in the midst of training for a marathon were always willing to discuss my thesis, except of course when we ran out of breath! I would also like to thank my friends in Winnipeg for their continued if somewhat humorous support, and in particular, Gunnus, Colleen, Tim, Darrell, Charlene, Jeannie, Brian, Debbie and Anupam.

Without the friendship of Jonathon Higdon my research in Ottawa would have been either much more expensive or much less extensive. His willingness to let me stay at his place was an integral element of my ability to interview a large number of officials and to review documents at External Affairs. I simply could not have done it as I did without his generosity. I must also note that Jonathon's experience as a government decision-maker was also important for me as a means of keeping my research realistic. We would often engage in extensive discussions regarding my thesis, which would force me to answer the question that all academics fear, "so what is your point?" Whenever I could not provide an answer to his

satisfaction, I knew I needed to rethink my approach to that issue.

I have to make special mention of the assistance and support provided by Fred Crickard. His role in the completion of my thesis was varied and extensive. He was a mentor, source of information, colleague and most important a friend. No matter how busy he was, he always had time to have a discussion with me on any questions that I had, or any issue that I would raise. The strong support that he provided me through the Centre for Foreign Policy Studies was also invaluable, and I very much appreciate the confidence that he showed in me.

I am also forever indebted to my family. While it is a cliché, it nevertheless remains true that I could not have finished, let alone start this thesis with the support of my mother, father, brother and sister. My parent's confidence in me was a very important source of strength for me, as well as their own belief in the merits of hard work. In particular, I must thank my mother, Sophie Huebert. It is impossible to list all of the ways in which she helped me to get through this task. All I can say is "see what happens when you buy so many books for your kids. You never know what type of bad habits they will instill!" It is my mother who instilled in me my love for reading and she taught the entire family the importance of being able to make intelligent arguments.

And of course there is the support, encouragement, assistance, and love provided by Shabnam Datta. Her assistance was clearly above and beyond the call of duty. She proof-read every draft of every chapter in an extensively meticulous fashion. She was also always willing to discuss at any time any problems that I had in writing the thesis. There were times when I don't remember discussing anything else but the thesis and yet she never once complained. And of course her belief in me kept me

going through all of low points of this project. All told,
this thesis could not have been written without her.

CHAPTER I

INTRODUCTION

On August 1, 1985, the American Coast Guard vessel, the POLAR SEA, left the American base in Thule Greenland to begin its passage through the Northwest Passage. The ship, the pride of the American Coast Guard, was on a mission to resupply the base in Thule Greenland and to conduct scientific and military research off the coast of Alaska. Normally, these missions were undertaken by two different vessels. However, events conspired in 1985 to force the Americans to rely on one vessel, thereby necessitating the transit of the Northwest Passage. While the voyage itself was uneventful, it unleashed a chain of events that was to have a significant effect on Canadian foreign policy.

Central to the issue is a longstanding disagreement between Canada and the United States over the status of the Northwest Passage. The United States maintains that the Passage is an "international strait subject to transit passage," through which the vessels of all nations, itself included, can sail without seeking the permission of the Canadian Government.¹ Conversely, the Canadian Government is of the view that the Passage is within the internal waters of Canada and, therefore, is within Canadian sovereignty.² As such, the dispute is an area of concern for Canada.

There are influential individuals and groups who are particularly sensitive to actions that may be perceived as American encroachment on the Canadian Arctic. Thus, the POLAR SEA's transit through the Northwest Passage was viewed by many Canadians as a deliberate challenge of Canadian sovereignty. In turn, these individuals and groups criticized the government's policies which they believed were too passive. Mounting criticisms convinced Canadian decision-makers to believe that they had to take a more assertive stand. This study seeks to understand how this stand was arrived at.

The core of the Canadian Government's action was articulated in a policy statement made by Secretary of State for External Affairs Joe Clark in the House of Commons.³ Clark announced that the Canadian Government had made the decision to undertake six measures by which to "come up to speed in a range of marine operations that bear on our capacity to exercise effective control over the Northwest Passage and our other Arctic waters."⁴

The measures were:

- 1) immediate adoption of an order-in-council establishing straight baselines around the Arctic archipelago to be effective January 1, 1986;
- 2) immediate adoption of a Canadian Laws Offshore Application Act;
- 3) immediate talks with the United States on cooperation in Arctic waters, on the basis of full respect for Canadian sovereignty;
- 4) an immediate increase of surveillance overflights of our Arctic waters by aircraft of the Canadian Forces, and immediate planning for Canadian naval activity in the Eastern Arctic in 1986;

- 5) the immediate withdrawal of the 1970 reservation to Canada's acceptance of the compulsory jurisdiction of the International Court of Justice; and
- 6) construction of a Polar 8 Class 8 icebreaker and urgent consideration of other means of exercising more effective control over our Arctic waters.'

THE VOYAGE OF THE POLAR SEA AND CANADIAN FOREIGN POLICY

The American decision to send the POLAR SEA through the Northwest Passage, and the subsequent Canadian reaction, offers researchers an excellent opportunity for study on two counts. First, little research on this issue has been undertaken to date. Second, and equally important, the context of the interaction between American and Canadian decision-makers offers several important analytical advantages for understanding how foreign policy is made.

Despite the pivotal role that the voyage played in Canadian northern foreign policy formation in the second half of the 1980s, few attempts have been made to understand its full consequences for Canada.⁶ Most studies have focused on the international legal ramifications of the voyage and have limited themselves to questions of a legal nature.⁷ The objective of this thesis is to fill this void and to provide a better understanding of the voyage and how it transformed Canadian northern foreign policy in the 1980s.

Furthermore, this case study lends itself particularly well for analysis. It was a significant event within the framework

for analysis. It was a significant event within the framework of Canadian foreign policy in the second half of the 1980s; as will be shown, it occurred over a relatively concise period of time; and it directly involved a wide range of decision-makers, including the prime minister of Canada and the president of the United States. Furthermore, although of a sensitive nature, it was not surrounded by as much secrecy as are many other issue areas such as defence or trade negotiations.

UNDERSTANDING THE MAKING OF CANADIAN FOREIGN POLICY

In order to understand the making of Canadian foreign policy, this study proposes to employ a decision-making model to isolate the relationships between the decision-makers and their decisions as they reacted to the voyage in this specific case. By doing so, this study will continue the Canadian tradition of utilizing a case study format to allow a detailed examination of the issue of concern while at the same time testing the bounds of new theoretical approaches.

CASE STUDIES

The struggle to understand the making of Canadian foreign policy through the use of case study and decision-making analysis has a long tradition. The classic series of studies undertaken by Eayrs represents this approach at its finest.⁸

Each of his five volumes sets the standard for the examination of the interactions of the decision-makers who formulated Canada's foreign policy.

Upon examining the more recent literature, it is obvious that the employment of case studies has continued to provide important contributions to the field. Authors such as Tucker and Ross have based their entire research on one or a small number of case studies which they utilized to explain how Canadian foreign policy is made.⁹ Other authors have used the case study method to provide a comprehensive understanding of a specific issue area without necessarily providing a theoretical overview.¹⁰

Perhaps one of the best, and recent, examples of the use of the case study approach, which includes both a detailed emphasis on the subject material and a useful model of analysis, was provided by Riddell-Dixon.¹¹ In her study on Canada's role at the negotiations for the United Nations Convention on the Law of the Sea, she focused her attention on the interaction of the relevant decision-makers who formulated the policy. While providing a detailed study on the substance of the Canadian policy at the negotiations, her study also provided important insights on foreign policy-making in general. Going beyond the traditional approach of identifying only the main political and foreign service personnel common

to most studies, she undertook efforts to identify actors from the provinces, unions and interested companies that played a role in the proceedings and explained how they interacted.

DECISION-MAKING

The focus on decision-makers is thus a long-standing tradition in the study of Canadian foreign policy. This is partly the result of the publication of a large number of memoirs of retired officials.¹² This focus on the role of decision-makers in the making of Canadian foreign policy has continued. There are numerous studies on the function of the political elites;¹³ the bureaucracy;¹⁴ the legislature;¹⁵ the provinces;¹⁶ interest groups;¹⁷ and public opinion.¹⁸ Even the most recent studies, while focused on themes such as multilateralist tradition, or Canadian arms control, inevitably focus on the role of the decision-maker within the Canadian system.¹⁹

Common to most recent studies that focus on the decision-maker is the recognition that the foreign policy/domestic policy separation is diminishing (assuming that there ever was such a dichotomy in the first place).²⁰ Traditionally, most researchers had limited their definition of the relevant decision-makers to include the political elites and the foreign ministry personnel. A current shift in the literature

now finds researchers more willing to examine the role played by decision-makers outside of these main classifications.

However, despite the focus on decision-makers in the formulation of Canadian foreign policy, there have been few, if any, attempts to understand the theoretical aspects of this approach. For the most part, researchers have tended to either accept the traditional view of the foreign policy making process, or have simply utilized existing models. The question then emerges: Is it possible to develop a better model of decision-making based on a Canadian case study of foreign policy formulation? In other words, is it possible to provide a more complete understanding of the basic relationships between decision-makers as they make foreign policy, or is the current level of knowledge on this subject as complete as it can possibly be? This is the second important question of this study.

OUTLINE OF CHAPTERS

This study has been divided into two main sections in order to answer the two principal questions of this analysis -"How did the voyage of the POLAR SEA affect Canadian foreign policy?"; and "Is it possible to develop a better model of foreign policy decision-making, and if so how?" Part I, consisting of chapters II and III, addresses the main theoretical questions of this study. Part II, comprising of chapters IV through VII,

will be made up of the case study on the voyage of the POLAR SEA.

The main question posed in chapter II concerns the best theoretical means of understanding how foreign policy is made. In order to answer this question, the chapter will be divided into three sections. The first will review the contributions of the main theoretical approaches to the study of international relations theory and foreign policy theory. The second section will then focus on the insights provided by decision-making theory, followed by an examination of the epistemological issues that are raised by this theory.

Chapter III builds on these findings to create a model of foreign-policy decision-making. This model will then provide both the framework to organize the case study and the means by which to analyze it. In order to develop this model, chapter III will consist of four sections. The first will be a comparison of decision-making theory with the other main international relations theories. Section II will then provide a critical assessment of existing decision-making theories. This section will focus on the shortcomings of existing decision-making theories, in order to allow this analysis to build and improve on them. Section III will present the decision-making model to be used in this study. Section IV will explain the methodology that will be employed to apply

this model to the case study.

Part II of this study provides an examination of the voyage of the POLAR SEA and the Canadian reaction to it, utilizing the model outlined in chapter III. Section I of chapter IV begins with an analysis of the decisions leading to the voyage of the POLAR SEA. Specifically, why did American decision-makers believe that it was necessary to send one of their icebreakers through an area that was certain to provoke an outcry in Canada? Who were the officials responsible for this decision and what was their motivation? The United States and Canada have had a long history of disagreement over the status of the Northwest Passage. Therefore, was the voyage a deliberate American challenge of the Canadian position, or can the voyage be explained by other reasons?

Section II of this chapter will then assess the immediate reaction of Canadians when the voyage was announced. What was the initial position of the Canadian decision-makers to the American announcement, and why did they take it? In addition to the governmental decision-makers, what was the reaction of Canadians in general? It is often assumed that there had been substantial public opposition to the voyage. But was this really the case? This section will identify those who criticized the Canadian Government and will examine the effect that they had on the subsequent reaction from Ottawa.

Section III will review the actual voyage. While most of it proceeded without problem, there were some events that occurred which are not well known. Therefore, it is necessary to determine the impact that these events had on the foreign policy-making process.

The last section of this chapter will examine the Canadian Government's reaction once the voyage was completed. Reacting to the criticism identified in section II, the new Conservative Government believed it necessary to be perceived as responding forcefully to what was then regarded as an American incursion into Canadian waters. How then did it prepare its response and what did it decide to do?

Following on this, chapters V and VI provide a detailed examination of the six main policies announced by Secretary of State for External Affairs Joe Clark on September 10, 1985. Chapter V examines the four policies that, for the most part, already existed or required little real effort on the part of the government to implement. These include: the establishment of Straight Baselines in the Canadian Arctic; the adoption of a Canadian Offshore Application Act; increased surveillance overflights by Canadian forces aircraft and immediate planning for naval activity in the eastern Arctic; and the withdrawal of the 1970 reservation to Canada's acceptance of the compulsory jurisdiction of the International Court of Justice

(ICJ).

Chapter VI will examine the two most substantial elements of the September 10, 1985 policy statement. These were the decision to undertake the construction of a Polar 8 class icebreaker and to conduct negotiations with the United States on cooperation in Arctic waters.

In order to provide an understanding of the process by which each of these policies were developed, as well as testing the model of section I, each of the policies will be examined in as much detail as is possible. Specific attention will be given to identifying each of the decision-makers that were involved in the process, as well as tracing the development, selection and implementation of the decisions that created the six different policies.

Once the six primary policy decisions announced in the September 10, 1985 announcement have been analyzed, five more indirect, but important, decisions that were influenced by the POLAR SEA's voyage will be assessed. Chapter VII will examine the impact of the voyage on the following: the foreign policy review; the 1987 Defence White Paper; the conduct of polar science; other transits of the Northwest Passage; and the use of the POLAR SEA as a political weapon in Parliament.

ENDNOTES

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3. Canada, House of Commons, Debates, September 10, 1985, pp.6462-6464.
4. *Ibid.*, p.6463.
5. *Ibid.*, p.6464.
6. There have been a small number of studies that have examined the impact that the voyage had on Canada-United State relations. These include: Philip Briggs, "The Polar Sea Voyage and the Northwest Passage Dispute," Armed Forces and Society 16 (Spring 1990); Nathaniel French Caldwell Jr., Arctic Leverage: Canadian Sovereignty and Security (New York: Praeger, 1990); and Nicholas Howsen, "Breaking the Ice: The Canadian-American Dispute over the Arctic's Northwest Passage," Columbia Journal of Transnational Law 26 (1988).
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10. See for example, the series of studies on Canadian international resource policy contained in David G. Haglund, ed., The New Geopolitics of Minerals: Canada and International Resource Trade (Vancouver: UBC Press, 1989).
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13. See for example, Stephen Clarkson, Canada and the Reagan Challenge: Crisis and Adjustment, 1981-85 (Toronto: James Lorimer & Company, 1985); Kim Richard Nossal, The Politics of Canadian Foreign Policy (Scarborough: Prentice-Hall, 1985), pp.73-121; and Bruce Thordarson, Trudeau and Foreign Policy (Toronto: Oxford University Press, 1972).

14. For a study on the Department of National Defence see Douglas Bland, The Administration of Defence Policy in Canada, 1947 to 1985 (Toronto: Ronald P. Frye and Company, 1987); and Danford Middlemiss and Joel Sokolsky, Canadian Defence: Decisions and Determinants (Toronto: Harcourt Brace Jovanovich, 1989). For a good review of the Department of External Affairs see Nossal, Canadian Foreign Policy, pp.123-162. And for the official early history of the department see John Hilliker, Canada's Department of External Affairs: Volume I The Early Years, 1909-1946 (Montreal and Kingston: McGill-Queen's University Press, 1990).

15. David Taras, ed., Parliament and Canadian Foreign Policy (Toronto: CIIA, 1985).

16. P.R. Johnson, "Provincial International Activities," International Journal 33 (Spring 1978).

17. Donald Barry, "Interest Groups and the Foreign Policy Process: The Case of Biafra," in Pressure Group Behaviour in Canadian Politics, edited by Paul Pross (Toronto: McGraw-Hill Ryerson, 1975). While now somewhat dated, this was one of the first studies to recognize the role played by interest groups in the foreign policy process.

18. Don Munton, "Public Opinion and the Media in Canada, from Cold War to Detente to new Cold War," International Journal 39 (Winter 1983-84); and Denis Stairs, "Public Opinion and External Affairs: Reflections on the Domestication of Canadian Foreign Policy," International Journal 33 (Winter 1977-78).

19. For example, see the recent study on multilateralism in Canadian foreign policy by Tom Keating, Canada and World Order: The Multilateralist Tradition in Canadian Foreign Policy (Toronto: McClelland & Stewart Inc., 1993). And for one of the most recent additions to the Canadian arms control literature see, Albert Legault and Michel Fortmann, A Diplomacy of Hope: Canada and Disarmament 1945-1988 (Montreal and Kingston: McGill-Queen's

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PART I

CHAPTER II

THE THEORETICAL UNDERSTANDING OF THE MAKING OF FOREIGN POLICY

INTRODUCTION

In order to create a model for understanding both the actions and reactions of Canadian and American foreign policy decision-makers, the findings and insights of authoritative analysts need to be examined. There are two main issues for examination. First, the contributions that have been made to the understanding of how foreign policy is made and their particular weaknesses. Secondly, the best theoretical methods to utilize for assessing and analyzing the decision-makers' actions. Thus, the objective of this chapter is to establish the theoretical foundations for an understanding of these problems.

In order to accomplish this objective, this chapter will be divided into three sections. The first section will briefly review international relations and foreign policy literature to determine what insights may be gleaned for explaining how foreign policy is made. The second section will review the main decision-making models and evaluate their strengths and weaknesses. This will provide the foundation for the model that will be used to examine the case study later in this discussion. The third section will examine the major

epistemological factors that are considered prior to implementation of a decision-making model.

SECTION I

INTERNATIONAL RELATIONS AND FOREIGN POLICY THEORY

INTERNATIONAL RELATIONS THEORY

In summarizing the main schools of thought on international relations and foreign policy, it is impossible to provide a universally accepted set of divisions of the various schools of thought.¹ Nor is it possible or desirable, for the purposes of this chapter, to attempt to incorporate a review of all of these divisions. Therefore, in the context of this analysis, only the main approaches will be assessed for their contributions to the understanding of the making of foreign policy.

REALISM

Realism is regarded as the most widely accepted paradigm among the North American, and possibly European, approaches to international relations theory.² Realism centres on four principal premises. First, the major unit of analysis is the state. Second, the controlling factor is power. The third premise is that the international system exists in a state of anarchy. The fourth premise is that a spectrum of capabilities exists within the states within the international system. Therefore, the state's actions will be directed towards the

maintenance of its power in order to protect itself in the international system.

This explanation of state action has not gone unchallenged.¹ There are substantial criticisms of each of the main points of the realist approach. A number of these criticisms give rise to the conclusion that the international system does not need a coercive authority to control itself.⁴ Bull found that order exists in the system because there is a "sense of common interests in the elementary goals of life."⁵ Claude, in agreement with Bull, argues that the realists have made a fundamental error by basing their assessment of the anarchical nature of the system on an erroneous analogy to the domestic functioning of the state.

The realists have argued that the only manner by which the state is able to maintain order is to employ a police service and a court system capable of punishing citizens who disobey the laws of the land. They argue that since there is no corresponding police and court system governing the conduct of the international system, that system is anarchical. Therefore, order will only come about when one state is so strong as to impose order or when there is a balance of power among the major states.

Claude states that this analogy is wrong. He argues that the

state's ability or inability to avoid civil war, and not its ability to coerce individual citizens, should be examined. The high incidence of civil war suggests that a state's coercive powers are not as great as the realists make them out to be. As a result, Claude states that the principal power of the state is not based on its coercive abilities. Though it occasionally may be necessary for a state to enforce its power, the vast majority of the citizenship will voluntarily obey the rules of their state. Therefore, Claude argues that since the state maintains order through the cooperation of its citizens, there is no reason why states in the international system could not behave similarly.

What conclusions may be drawn about the realist contribution to understanding the making of foreign policy? Their main thesis is that the state's major concern is the pursuit of power. However, there is substantial disagreement with this position. Both Bull and Claude have shown that the actions of states are based on more than simply the pursuit of power. The question which then needs to be addressed is what these other factors are.

POST-REALISTS

Post-realism's major assumption is the belief that although power is a major variable in explaining how the international system works, it alone cannot account for the operation of the

international system. Other factors are attributed to the functioning of the international system and these will be discussed in later sections.

Post-realists also contend that it is possible to establish order within the international system through means other than a balance of power. The five types of post-realism that will be discussed are: complex interdependence; international political economy; neorealism; regime theory; and the third debate.

COMPLEX INTERDEPENDENCE THEORY

The main conceptual elements of complex interdependence are vulnerability and sensitivity.⁶ Vulnerability refers to the state's susceptibility to the harm that has been created by the actions of other states. Sensitivity is similar to vulnerability except that it differs in the degree of harm that a state experiences. Proponents of complex interdependence attempt to explain the connection that exists between actors in the international system and leads to the interdependence, through the development of these two constructs.

Complex interdependence theory recognizes the important role that non-state actors have in the international system. This includes entities such as multi-national corporations, or the

United Nations. While the state is recognized as the main unit of analysis, other groups are included as important players in the international system.

The complex interdependence approach has suggested that the relationship between actors in the international system is much more complicated than the classical realists suggest. States are increasingly required to share the world stage with non-state actors in a system that is not solely controlled by levels of power.

INTERNATIONAL POLITICAL ECONOMY

In addition to the constructs of vulnerability and sensitivity, economic factors are increasingly recognized as important factors in international relations.⁷ The international political economy literature (IPE) encompasses a fairly wide spectrum of viewpoints. Its identifying theme is that economic variables play a much greater role in the functioning of international relations than the realists have suggested. In summarizing this field, Moon writes that "[t]he political economy family of approaches centres upon theoretical conceptions of the state and its structural relations with the economy within which it is embedded."⁸ Thus, IPE's main contribution is the introduction of factors, in addition to the concept of power, as sources of state action.

The concept of the system is inherent to most IPE approaches, specifically the international monetary system and the international trading system. Thus, actions of states are influenced or controlled by economic forces outside their own boundaries. Additionally, a state's actions are not the direct result of the actions of any one state. Rather, they are the result of a cumulative effect of the actions of other states and non-state actors.

NEOREALISM

In a similar fashion, the use of the system level analysis, rather than the state focus analysis, constitutes the basis of the concept of what has become termed "neorealism."⁹ The primary distinction between the neorealists and the realists is the neorealists' contention that the international system as a whole is the main source of state action. No one state is able to completely control its own destiny because of its need to respond to the system.

However, neorealism has been the target of many critics.¹⁰ Ashley attacks neorealism for its emphasis on structure.¹¹ He contends that it ignores the political factors that lead to the creation and implementation of the system.¹²

While Ashley may be criticized for blaming neorealism for errors that it is not responsible for, he does raise some

important points.¹³ First is the issue of change in the international system. If the system is the key unit, how does change then become possible? For example, a key to Waltz's approach was the bipolar relationship between the former Soviet Union and the United States. What was within the system that caused the Soviet Union to collapse, and if the collapse was not the result of the system, what was? If it can be demonstrated that it was not the system, but elements within the state itself that contributed to the collapse, it would suggest that the traditional realists may be correct in focusing on the state, as opposed to the system, in studying the making of foreign policy.¹⁴

REGIME THEORY

While some authors trace the development of regime theory to the work of Ruggie, it is Krasner's work that provides the definitive conceptualization of the term.¹⁵ He defines an international regime as:

...sets of implicit or explicit principles, norms, rules and decision-making procedures around which actors' expectations converge in a given area of international relations. Principles are beliefs of fact, causation, and rectitude. Norms are standards of behaviour defined in terms of rights and obligations. Rules are specific prescriptions or proscriptions for action. Decision-making procedures are prevailing practices for making and implementing collective choice.¹⁶

Thus, the focus is on a system which exists in a more flexible, functional and cooperative manner than that postulated by the neorealists.¹⁷

Promising work has emerged from the international regime approach and one of the leaders in the field is Young.¹⁸ He disagrees with the realists' approach regarding the ability of state actors to freely pick and choose the rules they wish to follow within any one regime.¹⁹ It is clear from his discussion that reasons exist to explain why it is difficult for states to break away from a regime despite the absence of "authorized enforcement mechanisms."²⁰

Young's second important point is that the functioning of regimes can partially be traced to the actions of individual actors within a state.²¹ He argues that various departments or actors within a state often find that it is in their interests to support a particular regime. These actors then will pressure the state to support that regime. Thus, state action is not regarded as the monolithic action of a "black box." Instead, the policies are the result of the preference of particular units or individuals within the state.

This position has also been supported by the work of Haas. He has persuasively demonstrated how epistemic communities have been instrumental in the creation of environmental policy in the Mediterranean.²²

Haas has shown how the scientific communities of several North African states were able to convince their political leaders

to adopt more environmentally sound policies. The ability to do this was based on the connections that had been created by the regime consisting of the members of the scientific community of the Mediterranean. In short, Haas shows how the regime altered the existing power structure.

Young also addressed the issue of how a regime is created. Regimes are created through the actions of a multitude of actors. But he raises the point that these actions are not conscious actions on the part of these actors. Instead, Young describes them as "self-generating or spontaneous arrangements." Quoting Hayek, Young states that regimes are "the product of the action of many men but...not the result of human design."²³ This suggests that the regime represents the cumulative action of many individuals within the affected states.²⁴

Such a proposition has important ramifications when one considers how foreign policy is created. It suggests that foreign policy may partly be the unplanned result of the cumulative actions of many individuals. In turn, this means that it is not only necessary to examine the intent of the individual actors, but that it is also necessary to examine the net effect of their actions on the making of foreign policy.

Regime theory does have its critics. Some are doubtful as to whether or not the study of regimes based on principles, rules, norms and decision-making procedures constitutes a useful means of examining international relations. Critics remain sceptical about their importance, suggesting that while it may be possible to create regimes for relatively unimportant issues, dominant states will ensure that their vital interests are not affected by regimes.²⁵

The disagreement between regime theorists and their critics is a matter of degree. The regime theorists do not dispute their critics' assertion that the core interests of dominant states will be maintained, even with the use of force if need be. Nevertheless, they argue that the creation of regimes has resulted in a high rate of compliance on other issues. The settlement of this dispute is beyond the scope of this study. However, the regime analysts do make an important contribution to this study with their explanation of how systems or regimes are created, and their identification of the importance of individual actors' actions in the creation of foreign policy.

THE THIRD DEBATE

The Third Debate constitutes a number of separate attacks on the realist approach. One of the more difficult tasks pertaining to the Third Debate is to identify its supporters. It is unclear as to whether there is an identifiable group of

challengers to realism, or whether there are several separate and unconnected critiques.²⁶

Thus, the opponents of the realist approach are alternately referred to as post-positivists, post-modernists, critical theorists and post-structurists. Furthermore, those who identify themselves under any one of these terms cannot agree upon a common term for labelling their position. Nevertheless, it is possible to isolate some common themes in this approach.

The important unifying theme of the Third Debate is the assertion that theory cannot be neutral, and that facts cannot be separated from value. Therefore, the act of theorizing is a political act. Cox argues that all theories are designed with a purpose.²⁷

To illustrate, he argues that the realists are providing a justification for the dominant interests in the international system to maintain the status quo. This argument on the part of the critical theorists automatically leads to the next common theme of the debate which is a call for the reform of the system. There is a strong theme of reform throughout much of the critical theory literature. For example, Hoffman concludes his review of critical theory by writing that international relations theory "must offer more than mere description and an account of current affairs. It must also

offer us a significant choice, and a critical analysis of the quality and direction of life."²⁸ This view is echoed by Cox, Ashley, and Walker, all of whom argue that an objective of an international relations theorist should be to consider how the system may be improved.²⁹

The next common theme of the critical approach is a re-examination of the division between the domestic sphere and the international system. Although it is impossible to identify a "critical theory" of international relations, most of its proponents now agree that the realists' focus on the state is misdirected. The suggestion has been made that the traditional assumption that a division exists between the international system and domestic sphere (assuming that it ever existed) is no longer relevant. Instead, analysts should focus on the interactions between the state and society and their subsequent roles in the international system.³⁰ Critical theorists believe that the international system will be improved by recognizing these links between the civil society and the state. However, a major problem of the critical approach is that it is not certain as to how this is to occur.

In conclusion, the main problem of any attempt to employ elements of the Third Debate is its lack of an alternative approach to realism.³¹ The third debate does suggest that a

more historical approach should be taken, and that values associated with any facts of a study should be taken into consideration. However, there is little agreement as to what the realist approach should be replaced with.

SUMMARY

This study's primary concern is the identification of the key variables in the making of foreign policy. Both realism and the various forms of post-realism accept the state as a key actor. While the realists contend that it is the key actor, the post-realists also accept the state as the most powerful actor amongst several actors. A recent challenge has been made by the critical theorists to the use of the state as the key actor. Unfortunately, their suggestion to focus on the role of society in the international system has not produced a viable, alternative unit of analysis.

It is an overstatement to suggest that the state is some mythical entity ("a hidden hand") that simply knows what to do, or that the power relations within the international system determines its actions. The question which remains to be answered is what makes the state work. Of the various approaches that have been reviewed, regime theory is the most promising for understanding how the process works. Its focus on the creation and maintenance of a regime offers important insights for how decision-makers, both within and between

states, make foreign policy. However, regime theory suffers from several weaknesses that prevent its acceptance without reservation.

A second related question centres on the importance of power. If the standard definition of power as the ability to make others do what you want them to do is accepted, the question arises as to who is to decide what is wanted.³² In other words, without questioning the assumption that states act primarily in the interests of power, who decides where that power is to be applied and to what end?

The realists' approach is unable to adequately answer these questions. Although both the realists and the post-realists provide a good description of international relations theory, they do not completely explain why the state does what it does, and provide no means of predicting future action. The critical theorists illuminate some of the difficulties facing realism, but do not provide an alternative model of analysis.

This review of the literature has not provided much guidance in reaching an understanding of how foreign policy is made. Instead, it has only really demonstrated what should not be used. Nevertheless, it has highlighted specific concerns that must be considered. A unit of analysis remains elusive at this point. There are sufficient criticisms of the system, the

state and society which raise serious doubts as to their applicability as the main unit of analysis for understanding how foreign policy is made. Therefore, how can one reach an understanding of how foreign policy is made? It is also necessary to be aware of the values that may be unintentionally introduced into the study by the selection of the unit. Thus, any such selection must be made carefully.

Since the review of international relations theory has been inconclusive in explaining how foreign policy is made, the next step is to examine the literature on foreign policy.

FOREIGN POLICY THEORY

The previous section clearly indicated that the making of foreign policy is not explained by theories of international relations. The next logical step is to examine whether the foreign policy literature provides any insight on the matter.

FOREIGN POLICY DEFINITION

One difficulty in attempting to review the foreign policy literature is the lack of agreement within the field on a definition of foreign policy. As Munton puts it:

The disturbing but nonetheless accurate conclusion to be drawn from the contemporary literature is that students of foreign policy do not have even a reasonably clear or agreed upon notion of the very concept "foreign policy". Few have bothered to define the concept at all, and those who have done so often leave as much or more confusion in their wake as existed before.³³

K. Holsti provides one of the better definitions of foreign policy.³⁴ He agrees that there has been little consensus on defining "foreign policy":

The student who analyzes the actions of a state toward external environment and the conditions - usually domestic - under which those actions are formulated is concerned essentially with foreign policy.³⁵

Holsti separates the terms "foreign policy" and "international relations" in the following manner:

Distinction between the terms may be more academic than real, but it is roughly the difference between the **objectives** and **actions** (decisions and policies) of a state or states, and the **interactions** between two or more states.³⁶

Thus, a state's government conducts foreign policy when it makes a decision or policy in response to the international environment.³⁷

Although there is no unanimous definition of foreign policy, several elements that are assumed to be included in the definition may be deduced from the literature. The most apparent elements are why and how the states decide to act, and why and how those decisions are implemented in the international system.³⁸ In effect, the foreign policy of any state is the accumulation of the creation and implementation of those decisions. The identity of the particular independent variable that creates those decisions, which is usually identified as the particular nature of the international

system, varies with the research approaches.³⁹

THE DIFFERENCE BETWEEN FOREIGN POLICY AND DOMESTIC POLICY

The current definitions of foreign policy that exist identify two main elements of foreign policy. First, foreign policy focuses on the actions of a state occurring "outside" of its own national boundaries. The second assumption is that foreign policy is somehow "different" from the domestic policies of a state's government. These elements stem from the belief that a state government is able to enforce its decisions within its own boundaries when it so chooses. Conversely, the state cannot enforce any of its decisions in the international arena, short of employing its military power. As demonstrated by the Vietnam and Afghanistan conflicts, the strongest state does not necessarily win the war. Therefore, the argument is made that governments of states have more control over the implementation of their domestic policies than they do over their foreign policies.

It was traditionally accepted that a state government's foreign policy was different from its domestic policy. Analysts, such as Kissinger, acknowledged that while domestic factors could, and did, influence a state's foreign policy, there were fundamental differences between the two.⁴⁰ These differences were rooted in a distinction between "high" and "low" politics. At its simplest level, the difference was one

of security versus economic considerations. High politics was viewed as the maintenance of the security of the state through diplomatic and military means.⁴¹ Low politics was defined as the economic functioning of the state. A state's foreign policy was assumed to be connected with only high politics due to the belief that a state could control its own economy. However, this was not the case regarding its own security which was dependent on the actions of other states. As Spanier and Uslaner stated:

All states need a foreign policy because they all exist in an essentially anarchical world in which each state lives in fear and must seek its own security. There is no world government which protects the individual states.⁴²

As a result, states have difficulty trusting each another, to the extent that "[e]ven when one state extends the hand of friendship, the other wonders why."⁴³ So even if a state did not want to involve itself in the international system, security issues compelled it to do so.

However, this position is increasingly being called into question.⁴⁴ Many analysts now argue that the old distinction between domestic and foreign policies is blurring, while others argue that there was never a separation, but only a mistaken belief of one. The argument that the difference between domestic and foreign policy has faded is based on the changing role of economic considerations in the international system.⁴⁵ Since the late sixties, and particularly since the

oil shortages of the early 1970s, North American analysts have become aware of the increasing importance of economic factors.

As Allison and Szanton put it:

Times have changed. "Foreign" policy has almost disappeared as a distinct and specialized realm. The tightening economic and physical interdependence of nations causes actions in one country to affect the daily lives and therefore the domestic politics of others.⁴⁶

Thus, issues that were believed to be concerned only with domestic policy are now viewed as being important in the international system, and international concerns are correspondingly viewed as being important for the domestic sphere.⁴⁷ As Ferguson and Mansbach indicated:

...no approach has as yet resolved the central ambiguities inherent in the study of "foreign policy." What exactly is "foreign" policy, when so much of "domestic" policy (e.g., interest rates, environmental protection regulations, tax rules, minimum wage legislation) has profound "international" consequences-and vice versa? ⁴⁸

They correctly assert that a state cannot control its own economy which is very much affected by the actions of other governments of states.

Having assessed that the subject material of domestic and foreign policy is becoming increasingly blurred, the next question that must be asked concerns the implementation of foreign policy. That is, whether or not a difference exists between the manner by which a state's government implements its foreign policy and the manner by which it implements its domestic policy. If there is a difference, it is presumed to

be caused by the anarchical nature of the international system. Analysts have suggested that as there is no police or judicial system overseeing the international system, governments have no means of enforcing their foreign policy decisions.⁴⁹ They may resort to the use of force, but as the defeats of both the former Soviet Union in Afghanistan and the United States in Vietnam demonstrate, even the most powerful states do not always achieve their objectives with the use of force. On the other hand, a state government can authorize the legitimate use of force through its police and judicial system to ensure that its domestic policies are obeyed. Therefore, as the argument goes, the methods that governments of states use to implement foreign policy decisions will be different from the methods that governments use to implement domestic policy. In order to implement foreign policy, a government will negotiate and bargain, and will possibly threaten governments of other states, but it will be unable to legislate in regards to them. Regarding its domestic policy, a state's government will also bargain, negotiate and/or threaten, but it will retain the ability to authoritatively impose its will on its citizens.⁵⁰

While there is little doubt that a government's ability to legitimately use force to enforce its domestic decisions is different from its ability to enforce its foreign policy, this difference should not be exaggerated. If enough members of a

state disagree with the decisions of a state, then rebellion can, and often does, occur. To a lesser degree, mass public opposition to a domestic policy can result in its repeal or can influence the government to refrain from taking action. The Canadian government's inability to create an abortion law is an example of the government's unwillingness to impose its will in the face of resistance to any of its policies on the issue. Generally, a government possesses a greater likelihood of having its domestic policies enforced than it does of having its foreign policies enforced, but this is a matter of degree.⁵¹

This discussion carries important ramification for this study. Since it is apparent that little distinction exists between the making of foreign and domestic policy, any study that focuses on the making of foreign policy must incorporate considerations of how domestic policy is made.

FOREIGN POLICY APPROACHES

There is a vast literature on foreign policy. Despite the lack of agreement on a definition, there has been no shortage of attempts to come to terms with an understanding of foreign policy. Therefore, any attempt to classify foreign policy is bound to run into the same problem of categorization discussed in the section on international relations.

The literature may be divided into three broad categories: 1) traditional foreign policy studies; 2) comparative foreign policy (CFP); and 3) foreign policy decision-making. Other divisions may be possible, and it is likely that there are omissions made by this division of the literature. Nevertheless, these three categories entail the most important contributions for this study.

TRADITIONAL FOREIGN POLICY ANALYSIS

The traditional approach to foreign policy studies is based on the major premises of realism. The state is the main unit of assessment. There is little attempt to move beyond the "black box" in order to understand how the state creates its foreign policy. This process, as explained in the literature, is clearly influenced by the works of Easton and Almond.⁵² Typically, the analysis focuses on the actions of a single state (usually the United States, the United Kingdom, or one of the other lesser great powers). The main concern of the studies is the inputs into the state that "cause" it to react. The state in question would process these inputs and would then respond with some form of foreign policy action, which was usually of either a diplomatic or military nature.

Many authors using the traditional approach have upgraded and reprinted their major works on this topic numerous times.⁵³ K. Holsti and Macridis are two authors regarded as experts in

this field.⁵⁴ Typical of this approach, both have concentrated their examinations on the inputs and outputs of foreign policy.⁵⁵

Several generalizations may be made from this brief summary of the literature. First, the connection to realism is clear. The maintenance of the security of the state is paramount. Although military power is not the sole source of power, strategic issues remain the most important. The national interest is assumed to be the driving force behind most policy choices.

The state is usually the main unit of analysis in the traditional approach. Most analysts using the traditional approach acknowledge that the state is not a "black box", where foreign policy inputs enter and then leave as foreign policy outputs.⁵⁶ They recognize that there are separate components to the state's government, such as the bureaucracy, and they also acknowledge that public opinion plays a role in the formulation of foreign policy.⁵⁷ However, they do not adequately explain how these various components or actors interact to create policy. It is possible that the inability to explain the causal nature of these relationships, rather than to simply describe them, has served to inspire the next grouping of foreign policy analysis - comparative foreign policy.

COMPARATIVE FOREIGN POLICY (CFP)

Whereas the traditional approach is connected with the realist school of thought in international relations, CFP is more closely associated with the post-realist schools. In fact, upon examination of the CFP literature, it is difficult to determine whether it is only a new form of methodology or whether it is in fact a separate field of study. This problem is further exacerbated by the fact that the proponents of CFP have had difficulty answering this question themselves.⁵⁸

Though it is difficult to generalize about CFP, several trends important to understanding how foreign policy is to be made, and therefore of importance to this study, may be identified.⁵⁹ First, this field has been concerned with identifying the most important variables that led to the creation of foreign policy, followed by the comparison of the foreign policy with those of other states. This effort can largely be traced to James Rosenau's influential paper which called for the need to identify and compare variables in order to determine the relationships that have been identified in the making of foreign policy.⁶⁰

Second, CFP has placed great emphasis on methodological issues. The traditional approach attempted to list the major factors that it believed were important in the creation of foreign policy. On the other hand, CFP attempts to

scientifically isolate these factors in order to allow for a greater understanding of the relationships that bind them.

Third, CFP has made several important discoveries concerning the cognitive factors that affect foreign policy decision makers in the making of their choices.

One of the more striking aspects of recent reviews of CFP is the agreement that it has not fulfilled its promises.⁶¹ Both practitioners and non-practitioners of this approach have made this criticism. Therefore, it is necessary to examine why CFP is deemed to have shortcomings and to determine the ramifications of these criticisms on determining the making of foreign policy.

One such criticism of CFP is that it is static. As early as 1976, Ashley observed that the field was a "static or degenerating research nucleus."⁶² While he does not offer evidence to support this claim, there appears to be a consensus that the field of CFP has not seen much progress.⁶³ Others have suggested that the concepts that have been developed are too deeply rooted in realism, thereby creating a strong power bias in CFP.⁶⁴

Further damaging criticisms are that CFP does not provide a specific set of conceptual terms for understanding foreign

policy, and that the methodology that it does offer is of limited value. Munton, one of the strongest critics of the approach, argues that there are no conceptual issues at the heart of CFP and that it only represents a method of studying international relations phenomena. Therefore, it is not a new field.⁶⁵

Kegley is slightly less critical when he writes that the comparative approach has become a "prisoner" of its own methodology. By focusing on the need to develop variables that are both measurable and comparable, the comparative approach has omitted factors that could be important to the making of foreign policy. A particular concern is the lack of attention given to decision-making.

Our genre of research has become imprisoned, in the first instance, by its overwhelming reliance on a particular kind of data, events and national attribute data (for example, see Kegley et al., 1975). In the second instance, its progress has been blocked by the lack of systematic attention to the foreign policy-making process: to the decisions and the policy makers who make them. Many in the field have proceeded as if those individuals who make foreign policies-their characteristics, as well as the procedures they follow in the formulation and implementation of foreign policy-do not count.⁶⁶

Kegley is critical of those analysts who discount variables that are not readily measured. Specifically, he suggests that these tend to be variables that are connected with decision-making.⁶⁷

McGowan and Shapiro also agree that CFP efforts to isolate measurable variables has not been appropriate.

The techniques that we have used so far in our quantitative research have been largely inappropriate for the tasks we have set ourselves. Foreign policy behaviour, its causes and consequences, comprises a complex set of interacting variables that are not necessarily related in a linear fashion and whose relationships are open to change over time. Yet, our field persists in using cross-sectional, bivariate correlation techniques as the principal mode of quantitative hypothesis testing. The world is not bivariate, it is probably not linear, and it is not static!⁶⁸

Therefore, it is clear that there are major concerns expressed by both those who are identified with CFP, like McGowan and Shapiro, and those who are not, like Munton, over the ability of most CFP studies to measure what they claim to measure.

In addition to the criticisms regarding the use of quantitative data, there is further criticism concerning the use of comparison as a method of study. The case study method is currently touted as a better means of understanding the making of foreign policy than is the multiple comparisons method. Indicative of this trend is the fact that even Rosenau has been downplaying the importance of the comparative approach. He has begun to look more favourably on the utilization of single case studies, and suggests that the single country case study is necessary when he writes,

A theory of a single country is founded on the premise that at any moment in time that country's behaviour is a product of two convergent sets of dynamics. One is the distinctive features of its

political structure, economic organization and cultural history. The second embraces all those processes that are common to countries with the same characteristics.

In other words, any country is both different from all others and similar to some of them, the differences stemming from its unique circumstances and the similarities being the result either of structural requirements inherent in politics, economies and societies at comparable stages of development or of forces at work on a transnational scale in a particular era. Hence any single-country theory must synthesize idiographic and nomothetic knowledge, that is, the most salient aspects of a country's uniqueness as well as the dynamics it shares with other countries.⁶⁹

All states have differences which must be understood if a general theory of foreign policy is to be formulated. Only after each individual state's foreign policy is known in detail will it be possible to undertake any form of meaningful comparison.

Munton bases his strong argument for the use of case studies on practical implications. He questions the usefulness of an examination involving a large number of states with which the researcher is unfamiliar, suggesting that few individuals have a detailed understanding of the foreign policy process of more than a few states. He argues that analysts have only a superficial knowledge of the foreign policy processes of most states in question in a comparison method.

Most foreign policy analysts obviously do not have what could be regarded as a considerable knowledge of the foreign policies and processes of a large number of countries. Thus, studies based on a large cross-national samples are more likely than other varieties to suffer what might be termed

substantive malnutrition.⁷⁰

Therefore, he argues that it is more useful if the researcher acquires detailed knowledge about one state or a small number of states, rather than gaining little knowledge about a large number of states.

These criticism throw serious doubt on the ability of CFP to serve as a means of examining how foreign policy is made. Two different strategies for attempting to deal with the criticisms have been suggested. First, some analysts suggest that CFP should move away from its strict adherence to scientific methodology. The other strategy is to consider cognitive factors that deal with decision-making, but which are not easily measured, in any theory of foreign policy.

Rosenau's most recent studies have attempted to move CFP away from its strict behaviouralism approach. Rosenau provides a fascinating study that is important for its major shift from his previous works in terms of concepts, methodologies and, to a certain extent, epistemology. In this study, he concludes that foreign policy and international theory have been unable to provide a proper understanding of the complexity of world politics. It is important to note that he shifts from his previous call for strict empiricism to a much more "fuzzy" methodology which he refers to as "potential observability."⁷¹ Rosenau is concerned that strict requirements for data

gathering and interpretation may hinder the ability of analysis to stay abreast of the rapidly changing international system.⁷² He suggests that analysts should not be overly concerned about the testability of their analyses but should focus on identifying the processes that cause the creation of foreign policy.⁷³

Mefford agrees that CFP has moved away from its efforts to utilize strict scientific methods and is now moving towards an appreciation of cognitive factors.

Comparative foreign policy (CFP) is undergoing a most remarkable change. The earlier preoccupation with observable attributes and behaviour is giving way to a new-found interest in cognitive mechanisms.

Discarding the atomism and behavioralist insistence that concepts correspond in some immediate way to objects that can be counted, researchers in the field are now freely experimenting with increasingly complex notions of how perception and preference interact in real contexts to shape behaviour. Evidence of this thrust is apparent in the new direction the CREON project is taking, in particular the efforts to revitalize the notion of the decision maker's "definition of the situation" (Hermann and Coate, 1982; Hudson, 1983; Hudson, Hermann and Singer, 1985).⁷⁴

Powell, Dyson and Purkett agree that CFP has been inordinately concerned with understanding the macro behaviour of states at the expense of understanding its micro behaviour. They view most efforts of CFP as not providing a sound examination of the manner by which foreign policy is made.⁷⁵

...the effort to develop a comparative theory at

the micro level has been slowed by a lack of systematic research on how decision makers achieve an understanding of a problem, make choices, and justify those decisions to relevant client groups.⁷⁶

Therefore, Powell, Dyson and Purkett argue that a renewed focus on the cognitive processes that decision-makers employ in the making of foreign policy is now necessary:

...the time is now ripe for a renewal of research interest in the study of foreign policy decision making at the micro level. Although there has been a recognition of the centrality of decision making to an understanding of foreign policy making, at least since the appearance of Snyder's (1954) decision-making framework, a research effort at the micro level is now more likely to produce useful results.⁷⁷

It is clear that critics of CFP have shown that an overly strict adherence to measurable variables are not necessarily the best means of model building. Rather, it seems that researchers should employ less empirical methods in their attempts to explain foreign policy behaviour.

In closing, it is apparent that the answers proposed to address the problems facing CFP are to be found in an examination of the foreign-policy decision-making process. Furthermore, it is also apparent that a detailed examination of a small number of cases or a single case study is the best means of providing new insights into the manner by which foreign policy is made.

FOREIGN POLICY DECISION-MAKING

Some theorists, citing the writings of Thucydides, suggest that it is possible to find evidence of the first use of a decision-making approach to the study of foreign policy in the classical period.

The decision-making approach to an understanding of international politics is not novel. Twenty-four centuries ago the Greek historian Thucydides in his Peloponnesian War, examined the factors that led the leaders of city-states to decide the issues of war and peace, as well as alliance and empire, with as great precision as they did under the circumstances confronting them.⁷⁸

At its simplest level, decision-making refers to the selection of an option amongst others. There may be several options, or there could be one (that is, whether or not to act. The decision to do nothing is still a decision). The point to be made is that the individual has a choice.

The appeal of the decision-making approach applied to international relations is that it enables analysts to examine the smallest unit of decision-making, the individual. Those who use the decision-making approach believe that examining the individual will provide the best understanding of all other levels of aggregation within the international system.

The major problem facing the decision-making approach concerns the present understanding of the process. There is no universal acceptance of the manner by which individuals involved in foreign policy-making are to interpret incoming

information, to evaluate it, and then to decide on a course of action. Further complicating the problem are the effects of group dynamics and stress.

There are three important groups of theorists in the study of foreign policy decision-making responsible for its development. Snyder, Bruck and Sapin are recognized as the founding fathers of the application of decision-making to the study of foreign policy.⁷⁹ Likewise, the work of Brecher and his associates has been instrumental in the initial development of the field.⁸⁰ Their work on the impact of crisis on decision-making and the psychological prism by which decision-makers function is of lasting importance. The third most important author is Allison.⁸¹ His study on the Cuban Missile Crisis using the bureaucratic-politic model is still considered a classic even by those who disagree with its findings.⁸²

As previously mentioned, it is possible to trace the decision-making approach in the study of international relations and foreign policy to Thucydides. However, the authors most closely associated with the first application of this approach to the study of the modern international system were Snyder et al.

They argue that a decision-making approach will serve as the

best means of understanding "why states behave as they do."⁸³ Upon examining the problems facing those who study foreign policy, Snyder et al. hold that the decision-making approach will enable researchers to provide a framework that avoids many of the problems facing other means of analysis.⁸⁴

An influential article on decision-making, written by Brecher, Steinberg and Stein, followed the efforts of Snyder et al.⁸⁵ The major contribution of this work lay in its efforts to create a decision-making system of analysis that incorporates the international environment, the actors in the decision-making unit, the structure in which they participate and the processes of the system.⁸⁶ A second major contribution is the recognition of the importance of cognitive factors in the making of foreign policy. A specific separation is made between the operational environment (the way things are) and the psychological environment (the way the decision-makers see things). Brecher et al.'s third contribution involves efforts to portray foreign policy decision-making in a more dynamic manner than had previously been done. Their model, as well as its testing, demonstrated a need to recognize the dynamic nature of decision-making. While it is somewhat questionable as to how well they succeeded in this task, there is no doubt that such a consideration is important.

Among the three authors involved in the original project,

Brecher is best known for his continued work in the field of decision-making in foreign policy. Shifting his attention to the study of decision-making in crisis, he has focused on the Middle East. Building upon his previous work, he identifies the decision as the dependent variable, the decision-maker's perception of the crisis as the independent variable, and the following four factors as the intervening variables: 1) the search and absorption of information; 2) consultation among decision-makers; 3) the forum in which the decision is made; and 4) the consideration of alternatives.⁸⁷

Continuing Snyder et al.'s effort to dissect the decision in foreign policy making, Brecher also identifies five important elements of the decision. The first is the cost of the decision which is referred to in both financial and manpower terms. The second element is the gravity and/or importance of the decision. The third is the complexity of the decision. The fourth is the systemic domain of the decision which focuses on the extent of its effects. The last element is the result of the implementation of the decision, either in verbal or physical terms.⁸⁸ All of these elements are important considerations and must be considered in any future development of a decision-making model.

Allison has become synonymous with the term "bureaucratic-politics" (which is somewhat ironic, given the fact that he

called his model the "governmental politics" model).⁸⁹ It is not necessary to go into great detail about his contributions because the bureaucratic-politics model will be examined in detail later.

Nevertheless, it is important to recognize the significance of Allison's approach to the field. The main thrust of his model is that bargaining by decision-makers within the decision-making unit is a key element in the formation of foreign policy. Allison has recognized that this is a result of the different interests of the members of the decision-making unit. The magnitude of these differences varies according to the nature of the individual's organizational membership. The response to a foreign policy problem would be the result of the negotiations occurring between the various actors as they attempt to protect and promote their own interests.

While these studies have provided an important starting point for determining the foreign policy decision-making process, there are still problems with this approach. Little attention has been paid to the identification of the decision-making units in the context of foreign policy making. Kegley has argued that this lack of attention to the decision-making unit is one of the major causes of the failure of foreign policy analysts to make inroads into the field of decision-making.⁹⁰

Although some attention has been focused on the various units, no attempt has been made to provide an understanding of the impact of these units on the making of foreign policy. In addition, little comprehensive effort has been undertaken for the systematic identification of the relevant actors. Nevertheless, it is possible to cite some research that has examined the following decision-making units: the individual, the single group, multiple groups and dyadic groupings.

Most researchers examining the role of the individual in the decision-making process have examined either the cognitive approaches by which the decision-makers process information, how their beliefs are structured and what their beliefs are, or they attempted to classify the various types of leaders.⁹¹ Research into the identification of the group has generally focused on its internal dynamics.⁹² Although the assumption is made that the group exists, little actual work on how the group is formed or who its members are has been undertaken.

This is also true for studies regarding multiple groups. It is possible to cite a number of studies that examine issues such as the bargaining and bureaucratic process that occurs between groups, as well as studies that identify the general public as an outside group influencing the decision-making process.⁹³

There has been almost no research to identify the relevant

decision-maker beyond the framework of the state. The assumption was that if the decision-makers in one state are known, then efforts to identify other states involved in the decision-making process are redundant. Yet Anderson argued:

...when decision makers act in a state they are not acting in isolation. Foreign policy analysts make the mistake of postulating an actions-state-reaction sequence that misinterprets the fact that most foreign policy actions take place at the same time that other states are also making policy, and thus the researcher needs to investigate, "the interdependent decisions of (minimally) two state decision-making leaderships simultaneously."⁹⁴

He argues for understanding the decision-making process across state boundaries. Anderson sees a need to look not only at the state making the foreign policy, but also at the decision-makers of the state that the policy is being directed at.

Few studies have made an effort to take such a perspective. A series of studies were carried out on dyadic relationships by Dolan et al.⁹⁵ At its simplest level, dyadics is the attempt to study the relationship between two states. Dolan et al.'s efforts centred on examining, and measuring, the economic interaction between two states of unequal power. The aim was to provide a means of determining foreign policy behaviour. Although this dyadic model has been abandoned, it did provide a means of linking the actions of the decision-makers of the two states.⁹⁶

Therefore, it is clear that most foreign policy analysts have

not given much attention to the identification of the relevant decision-makers. In most cases, such identification is treated as a given. Additionally, little attention has been given to the interaction of the various units. Once again, most authors tend to identify the level or units that they are employing and then proceed with their examination.

However, there are two notable exceptions to this overall trend. One is the work of Margaret and Charles Hermann and their development of the concept of the "ultimate decision unit", and the second relates to Rosenau and his process of "aggregation". The Hermanns are among the few foreign policy analysts who have attempted to evaluate the impact of the structure of the decision-making unit on foreign policy process. Rosenau also examined this issue, but progressed further by conceptualizing a means by which the various decision-making units are able to interact.

The Hermanns place great importance on identifying the decision-making unit.⁹⁷ Their main contribution to this issue has developed in a series of articles and focuses on the development of a concept they term the "ultimate decision-making unit."⁹⁸

Although we recognize that numerous domestic and international factors can and do influence foreign policy behaviour, these influences must be channelled through the political structure of a government that identifies, decides, and implements foreign policy. Within this structure is a set of

authorities with the ability to commit the resources of the society and, with respect to a particular problem, the authority to make a decision that cannot be readily reversed. We call this set of authorities the "ultimate decision unit," even though in reality the unit may consist of multiple separate bodies rather than a single entity. It is our contention that the configuration and dynamics of such an ultimate decision unit help shape the substance of foreign policy behaviour.⁹⁹

Thus, the "ultimate decision-making unit" is defined by:

- i) the ability to commit or withhold the resources of the government in foreign affairs
- ii) the power or authority to prevent other entities within the government from overtly reversing their position without significant costs (costs which these other entities are normally unwilling to pay).¹⁰⁰

The focus of the Hermanns' study was to determine whether or not the type of decision-making unit makes a difference in the policy outcome. They did so by tracing the development of a state's foreign policy through a "decision tree". This tree follows the route of foreign policy formation depending on the type of group which is developing it. Upon completion of their study, the Hermanns found three types of decision-making units that can function as the ultimate decision unit: the predominant leader, the single group and the multiple autonomous actor. Within each division, they identified the different factors that will affect the manner by which decisions are made.

Although their study has provided important insights into the making of foreign policy, their approach is still open to several criticisms. The first, and most problematic, is that

the Hermanns do not offer convincing proof that the series of questions in their decision tree is the correct procedure for determining who makes foreign policy decisions. While their concept of the decision tree is logically sound, the question which needs to be answered is whether decision-makers actually follow it. The Hermanns indicate that all foreign policy issues enter a state at the top level of government. Only if the dominant leader is unable or unwilling to deal with the issue does it then pass to other actors. However, such a premise cannot account for the possibility that a problem may enter at a lower level of government and work its way towards the top level of government.

The Hermanns assume that each problem that enters the system is a new problem that is subsequently resolved. However, they make no allowances for the possibility that a foreign policy problem may not be resolved by any one of the three decision-making units. This prevents them from accounting for any unresolved problems at the end of the decision tree. How does the process deal with a problem that is not immediately resolved?

In summary, the Hermanns demonstrated that different types of decision-making units do have different types of influences on the making of foreign policy. But they do not convincingly show how the units are selected. However, to a large degree,

this issue is directly addressed by Rosenau's introduction of the process of aggregation.¹⁰¹

The focus of Rosenau's examination is to account for change in the international system. However, in order to do so, he has recognized that it is necessary to provide a systematic understanding of the decision-making units involved in the making of foreign policy. Equally importantly, he has also provided a means of understanding the manner by which they interact.

A core concern of Rosenau's study was to account for the increasing influence of non-governmental actors on the foreign policy process. Relying heavily on the foundation established by structuration theory (which will be discussed in greater detail in the third section of this chapter), Rosenau identifies elements of both the agent and the structure involved in the process. The micro, or agent, level includes: the citizen, the official or leader, and the private actor.¹⁰²

The citizen is defined as the individual who belongs to a macro collectivity, and is subject to "aggregation, mobilization and control".¹⁰³ The leader or official is the individual who aggregates, mobilizes or controls the individuals.¹⁰⁴ The private actor is the individual who is able to "carry out independent actions in the global arena

that may be consequential for the course of events."¹⁰⁵

Rosenau then identifies five macro actors (or structures): the state, subgroups, transnational organizations, leaderless publics and movements.¹⁰⁶ He draws a distinction between the first three in terms of authority:

...states are not subordinated to the authority of any other collectivity, subgroups are at least formally subject to the authority of states, and transnational organizations are neither over nor under the authority of states, but instead, span state boundaries.¹⁰⁷

He adds to the definition of the subgroup by including "enduring memberships and specifiabale authority relationships in which their members and leaders are located in a hierarchy of roles."¹⁰⁸ This includes economic and societal organizations, as well as political subgroups such as local governments or bureaucracies. He includes both governmental and nongovernmental organizations in the transnational grouping. Examples of the former are the United Nations (UN) and the North Atlantic Treaty Organization (NATO), while examples of the latter would include professional, artistic or commercial associations.

The fourth macro group, the leaderless public, is defined as an entity that results from "the separate but convergent actions of many individuals who do not share organizational membership."¹⁰⁹

Rosenau's fifth macro group is a movement. While exhibiting much of the same characteristics as the leaderless public, the major distinction of a movement is that it is a loosely formed organization.¹¹⁰ It tends to be based on a "cause" to which its members are dedicated, such as the environment, abortion rights, right-to-life, or any other such movements. While leaders do exist within this structure, the authority they exert over the membership is limited to the individuals' commitment to the issue of concern at the time.

Having clearly identified both the micro and macro components of his theory, Rosenau then provides a detailed explanation of how they interact. This enables him to provide answers to the critique of the Hermann analysis; to provide a remedy to the micro-macro problem; and to provide a possible empirical testing of the theory of structuration. He does so by introducing the concept of aggregation.¹¹¹ At its simplest level, this refers to the manner by which the smaller units aggregate into the larger ones or the larger units disaggregate into smaller units.¹¹²

One of the most important elements of this approach is its dynamic nature. The aggregation model recognizes that while some macro units, such as states, usually display little change in structure, aggregation or disaggregation can occur very quickly. Thus, West Germany and East Germany merged into

a larger macro unit, whereas the Soviet Union disaggregated into its subgroups, and in some areas continues to disaggregate.¹¹³

A second major strength of the aggregation approach is that it enables analysts to view the macro as more than simply the sum of its own parts, but at the same time allows for that whole unit to change.¹¹⁴ Thus, it is possible to discuss states and bureaucratic units within a state, but aggregation allows for the transformation of these units.

SUMMARY

This section has examined three of the main subdivisions within the foreign policy literature and asked: "how is foreign policy made?" The traditional approach did not provide a satisfactory answer upon examination. While analysts of the traditional approach attempted to create a typology of factors that were deemed to make up the foreign policy, no effort was made to understand how these factors were related.

The comparative foreign policy approach arose as a result of the dissatisfaction with the traditional approach. The theme of the comparative approach was its objective to provide a scientific understanding of the relationships among variables related to the study of foreign policy. However, in an effort to determine the nature of these relationships, there was a

tendency to "throw out the baby with the bath water." Proponents of the comparative method were so intent on understanding the causal links between variables that they tended to discount any factors that could not be easily measured. This has given rise to the criticism that CFP studies are incapable of explaining the means by which foreign policy is created and/or implemented. The recurrent theme of these critics was a call for a detailed understanding of the decision-making process.

An examination of the foreign policy decision-making literature did answer some of the criticisms against both the traditional and CFP approaches. While the literature on decision-making is vast, most studies will be connected to one or more of these three sets of authors. Snyder *et al.* initiated the use of the decision-making approach. Brecher *et al.* expanded upon this through their consideration of the psychological factors that influence the decision-maker. Allison's main contribution is his recognition of the bargaining nature of the process.

The last part of this section provided a more detailed review of the current literature to establish what is theorized about who are the relevant decision-makers. Surprisingly little research has been undertaken. Yet studies by the Hermanns' have illustrated that the type of the decision-making unit

involved will have an important bearing on the policy that is made.

The work undertaken by both the Hermanns and Rosenau have shown that it is important to identify the relevant decision-makers in as great of detail as possible. The Hermanns have demonstrated that the type of decision-making unit will have an important bearing on the outcome of foreign policy action. Rosenau provides important insights into the manner by which decision-makers may be categorized. What now remains to be done is the development of model to test these categories.

In conclusion, it can be seen that the decision-making approach does promise to offer more insights into the making of foreign policy than was found to be the case with the international relations and foreign policy literature. The question now arises as to what are the **processes** by which decision-makers make foreign policy?

SECTION II

THE DECISION-MAKING PROCESS

The objective of this section is to review the major elements of the literature dealing with the study of the decision-making process.¹¹⁵ In order to bring some coherence to this field, this section examines the following question: "What insights does decision-making theory hold regarding the making of foreign policy?"

The seven main models of decision-making are identified as follows: the rational-actor, satisficing, incrementalist, mixed-scanning, cybernetic, bureaucratic politics and mixed choice models. While each has a different focus, all have attempted to explain how decision-makers react to a foreign policy problem. However, the abilities of both the individual decision-maker - the micro unit - and the organization (a state, a foreign policy-making bureaucracy and any other organization involved in the process) - the macro unit - to react to a problem and to make a decision or a set of decisions in response varies in each model. The satisficing, incrementalist and mix-scanning models argue that the individual decision-makers are limited in their abilities to make decisions. On the other hand, the cybernetic and bureaucratic models, while acknowledging the limitations of the individual, instead focus on the limitations created by structural factors. The last model, mixed choice, is an

attempt to synthesize the best elements of each model above.

RATIONAL-ACTOR MODEL

The most commonly cited model of decision-making is the rational-actor model. Even authors who propose alternative decision-making models tend to compare and contrast their "new" model to the rational-actor model. Thus the rational-actor model appears to be a hallmark for all other models.¹¹⁶

The key to understanding the rational-actor decision-making process lies in understanding the meaning of the term "rational".¹¹⁷ However, the meaning will vary depending on the level of analysis that is employed. The most frequently used level of analysis focuses on the ability or inability of the macro decision-making unit (government) to follow a rational decision-making process. A second type of analysis examines the ability of the micro (individual) decision-makers to select policy options rationally. Thus, it is important to bear in mind whether the macro or the micro decision-maker is being described as rational.

The rational-actor decision-making process should operate by beginning with the introduction of a problem that requires decision-makers within government either to take or to not take some type of action in order to provide a solution.¹¹⁸ In theory, the decision-maker must follow several steps in the

rational decision-making process.

The first step is to determine the alternative solutions to the perceived problem. This is followed by a decision-maker's evaluation of the costs and benefits of each alternative solution. This allows the decision-maker to determine which solution will have the lowest costs and the greatest benefits. The solution with the ratio of the greatest benefits and the lowest costs will be chosen by the decision-maker and applied to the problem. The last step in the rational process requires the decision-maker to continually monitor the problem to ensure that the selected option performs as expected.

Critique of Rational-Actor Model

The major critique of the rational approach centres on how accurately this model reflects the reality of the decision-maker's actions. Many analysts agree that policy decisions should be made on the basis of the rational-actor model.¹¹⁹ However, they question the extent to which decision-makers can apply the requirements of this model in the real world. For example, Doern and Phidd assert that every decision-maker is faced with an overwhelming number of issues that must be evaluated. The quantity of issues limits the amount of time that may be devoted to the evaluation of each issue. A further problem is the division of responsibility among the decision-makers. It is seldom possible for any one decision-maker

within government to single-handedly select the policy choice.¹²⁰ This is particularly true of a federal state, such as Canada, which has a number of decision-makers involved in the decision-making process.

Institutional constraints also limit the manner by which the individual decision-maker will process a decision. Case studies by Heclo, Heclo and Wildavsky, and Allison indicate that even if the decision-maker does function in a rational fashion, the environment in which he or she operates poses constraints. In their study on the United Kingdom's finance department, Wildavsky and Heclo determined that previous decisions limited the range of current decisions that were available to the budget decision-makers.¹²¹ In his study of the Cuban Missile Crisis, Allison demonstrated that the American decision-makers faced severe time and information limits in their decision-making process.¹²² They were never completely aware of Soviet intentions nor did they have the time to find them out.

The theme common to all of these criticisms is that a government is unable to completely follow or observe all the criteria of the rational-actor decision-making process. Critics contend that it is impossible to have a perfectly rational decision-making process because there are impediments to the process.¹²³ However, there is disagreement as to

whether these impediments are significant enough to completely invalidate the rational decision-making model, or whether the model only requires some modifications.

Anderson accepts the critique that limitations on decision-makers prevent the rational-actor model from being fully implemented and followed.¹²⁴ However, he has argued that decision-makers still attempt to follow the steps of the model. Upon examining the Cuban Missile Crisis, Anderson found that the decision-makers did follow a rational procedure (in contrast to Allison's findings):¹²⁵

Although individuals have a limited ability to process information, they are not stupid; in simple solutions their behaviour is largely indistinguishable from that which would be produced by a mechanism with unlimited cognitive capacity. But sometimes, when the complexities of the task overwhelm our limited capacity to process information, something of the underlying process shows through in the form of bias, mistakes and errors.¹²⁶

In short, Anderson discovered that although decision-makers could not always proceed in accordance with the rational-actor model, they nevertheless believed that it was in their interest to do so due to the perception that this model would produce the "best" solution.

Other authors have argued that the conditions surrounding the issue determine whether or not the rational-actor model is followed. Janis and Huth agree that there will be instances where the rational approach is both followed and not

followed.¹²⁷ They explicitly state that a pure rational actor model can never be followed because:

...such an approach requires complete knowledge and anticipation of the consequences that will follow from every conceivable choice. Because we can neither predict the future nor know every alternative course of action in most cases, human beings cannot fully meet the requirements of a normative rational model. Instead, we must be satisfied with working to the best of our limited abilities within the confines of available organizational resources.¹²⁸

Thus, they suggest that decision-makers should strive to emulate the rational-actor model as closely as possible. However, they are aware that human limitations interfere with the achievement of this goal. Therefore, in order to understand the complete decision-making process, especially when the rational-actor model cannot be achieved, it is necessary to examine the models that incorporate such limitations.

In summary, most authors accept the rational-actor model as the ideal manner by which decisions should be made. However, it is apparent that decision-makers face significant constraints which serve to inhibit the full application of the rational process. These include organizational and institutional constraints that limit the time and effort that a government may spend to rationally assess policy options.

More importantly, there is reason to believe that individual decision-makers cannot operate in a rational manner because

cognitive factors heavily influence an individual's decision-making ability. Thus, if decision-makers individually cannot decide on a rational process, it is unlikely that an entire body of decision-makers can do so on a cumulative basis. Therefore, understanding the role of cognitive factors is vital to understanding the decision-making process. This issue will be examined in greater detail in the next chapter.

SATISFICING MODEL

The importance of cognitive factors was recognized in the satisficing model of decision-making, which was outlined by Simon.¹²⁹ Citing social psychology studies, he suggests that the human mind is limited in acting "rationally." Because an individual faces limitations, any decision that is made within a macro unit, such as a government, will also be limited. Simon argues that if the human mind is incapable of performing in a rational fashion, it is questionable whether a government can do so.

A brief examination of the current literature in the social psychology field indicates that since Simon's research, progress has been made in understanding how the mind processes information. The study of social cognition provides evidence that researchers are now beginning to uncover the existence of definite patterns of information-processing within thought processes.¹³⁰

However, the question which remains is whether or not these processes are rational. Because they are not yet fully understood, the view is that such processes are irrational. Nevertheless, it can be argued that the perception of irrationality only means that researchers do not understand the processes of rationality, and not that such a process does not exist.

Simon argues that analysts should not attempt to find instances of pure rationality in the acts of decision-makers. Instead, he argues that all individuals, including decision-makers, will function within what he has termed, "bounded rationality."

Bounded rationality is defined as the result of operating within the constraints that limit the ability to follow the classical rational decision-making process. Simon argues that individuals are generally conservative in nature. There is a marked tendency among individuals to make decisions that avoid radical shifts. In other words, there is a tendency to want to avoid "rocking the boat." This desire to avoid change is amplified by the corresponding tendency of individuals to avoid uncertainty. Simon also makes the argument that the nature of political organizations will serve to limit the ability of the decision-maker to act in a rational fashion. Rarely will the options available to a decision-maker be

readily comparable. In most instances, the decision-maker must choose from options that are the proverbial "apples and oranges".

Having critiqued the decision-maker's ability to function in a rational manner, Simon argues that decision-makers will nevertheless attempt to follow through with the rational process.¹³¹ However, the limitations are significant enough that the decision-maker will tend not to pursue the ideal option (that is, highest benefits and lowest costs), but will instead focus on the option with the minimum of standards sufficient to meet the perceived need. Thus, the decision-maker will not expend great amounts of energy to seek out the best option. Instead, the decision-maker will settle on an option that can be achieved with a minimum of effort. Simon terms such action "satisficing behaviour."

Critique of Satisficing

Dror identifies one major conceptual flaw in Simon's satisficing decision-making model. He makes the point that Simon never clarified the factors that cause the decision-maker to accept the minimum possible option.¹³² More importantly, Dror indicates that Simon does not adequately explain why a decision-maker would pursue a satisficing option as opposed to a rational-actor option.

INCREMENTALISTS

The inability to adequately explain the manner in which the mind functions and, hence, the definition of rationality, provides the foundation for another critical reaction to the rational-actor decision-making model. Proponents of the incremental model view policy formation as a piecemeal, reactive and disjointed activity, and criticize the rational-actor model as being nothing more than a means by which its supporters "wish" policy was constructed.

Lindblom and Braybrooke are most closely associated with the incrementalist approach.¹³³ Their analysis isolated several factors that interfere in the decision-making process. Policy analysis is always costly and thereby limits the ability of decision-makers to fully examine all options for all decisions due to a finite amount of resources. They also argue that the inability to separate fact from value renders it difficult to evaluate all options. What may be an option of fact to one decision-maker may be unacceptable to another because it conflicts with their value system.¹³⁴ The combination of these limitations results in policy decisions that are remedial, serial and exploratory.

Critique of Incremental

A criticism of the incremental approach is found in works by Dror, and Doern and Phidd. Dror accepts that the incremental

model has some important strengths.¹³⁵ He argues that the model provides a more reasonable explanation of the decision-making process in modern society than does the rational-actor model. Most decisions are piecemeal, reactive and disjointed. Nevertheless, the incrementalist approach does not account for all decision-making activity. Dror contends that the model cannot explain radical or new policy initiatives because the incremental model concerns itself only with minor policy adjustments. Decision-makers do follow the rational-actor model when developing new, major policies. In addition, Dror regards the term "incremental" to be unclear: "[t]he very concept of "incremental" change is vague, because the same change may be "incremental" and "radical" in a different system at different times."¹³⁶ Likewise, Doern and Phidd agree with most of Dror's critique and ask "when is a change fundamental as opposed to incremental?"¹³⁷

The main problem of the incremental approach lies in its conceptual "fuzziness". The point at which a decision is to be made through an incremental process is unclear, as is what an incremental decision comprises. All of these questions remain unanswered and, hence, illustrate a weakness of the incremental model.

MIX-SCANNING

The decision-making process of "mixed scanning" was Etzioni's attempt to create a model that combined the best elements of both the incrementalist and the rational-actor model.¹³⁸ He argues that decision-makers in any society will employ two types of decision-making processes:

- 1) a high-order fundamental policy-making process which sets the basic directions of the society, and
- 2) an incremental process which guides the day-to-day operation of government.¹³⁹

In effect, the decision-maker would use both the rational and the incremental process of decision-making for both long and short-term planning. Etzioni claims:

Mixed-scanning allows for greater realization of goals than either the rationalistic or the incremental approach, and its requirements can be met. The combination of both incrementalism with contextual decision-making provides both a short-term probing and a long-term criterion for revaluation, both a realization of the inability to take into account all alternatives and a "trigger" mechanism to recall broader considerations when necessary.¹⁴⁰

His core argument is that decision-makers tend to act in an incremental fashion in response to the minor, day-to-day functions of government, but employ a rational process to pursue long-term policy objectives.

Critique of Mix-Scanning

Mixed scanning's main weakness is its inability to explain why some policy actions follow rational planning while others follow an incremental reaction. This weakness is a result of

Etzioni's failure to clearly distinguish between the causal factors that influence the decision-maker to make either an incremental decision or a high-order fundamental decision.

However, taking the Etzioni study into consideration with studies that have examined the policy process in detail may alleviate such objections. One of Heclo's studies supports Etzioni's theory. He examined the manner by which social policy was formulated in Sweden and the United Kingdom. Heclo found that policy was formulated at a slow pace and in an incremental fashion. Much of this inertia was the result of what he termed "policy inheritance."¹⁴¹ That is, decision-makers tend to be constrained by previous actions in non-crisis situations.¹⁴² However, in the face of a major crisis, decision-makers are not constrained by previous decisions and introduce radical changes in social policies, as was the case in the Depression. Therefore, according to Heclo's evidence, it is possible that a society will normally function in an incremental fashion. Only when faced with a major issue will the decision-makers then introduce major long-term policy initiatives.

This suggests that the events or catalysts that influence the decision-maker to consider a new decision have an important role in determining whether their reaction is incremental or rational. If decision-makers perceive the event to be

significant, they will react in a rational fashion. But if the events are not perceived as being significant, the reaction will be incremental. Who makes the determination as to whether the event is significant, or the criteria that is used to make such a determination is unclear.

CYBERNETICS

Although Etzioni has been unable to account for the factors that lead to the differences between a rational and an incremental decision-making process, he has provided some useful insights regarding the manner by which a society functions. Etzioni suggested that decision-makers approach minor decisions in a cybernetic fashion. He used the term "cybernetic" to refer to the control and communications of, and between, major societal units within a society. However, Etzioni never fully defined his interpretation of the term "cybernetic". He apparently believed that a society has set responses to certain low-level problems. In these circumstances, the government will respond automatically and it is this automatic response that Etzioni views as cybernetics.¹⁴³ As he explains it, cybernetic behaviour is limited to decisions concerning ordinary, day-to-day issues. Major policy decisions will be made using the rational actor decision-making model.

Steinbruner is most closely associated with the cybernetic

model in the context of foreign policy decision-making.¹⁴⁴ This is somewhat ironic because although the title of his best known work is The Cybernetic Theory of Decision, he ends his study by concluding that a cognitive theory of decision-making, and not the cybernetic model, provides the best means of understanding foreign policy decision-making.

Steinbrunner demonstrates that the cybernetic model utilizes a process that acts as a standard operating procedure to deal with known problems. He suggests that the decision-maker will have a,

repertoire of operations which he performs in sequence while monitoring a few feedback variables. He produces an outcome as a consequence of completing the sequence, but the outcome need not be conceptualized in advance.¹⁴⁵

Therefore, the focus is on the need for the decision-maker to screen out uncertainty, and to have prepared decisions in advance to respond to anticipated problems. Thus:

The cybernetic thesis then is that the decision mechanisms screen out information which the established set of responses are not programmed to accept. That is, uncertainty control entails highly focused sensitivity.¹⁴⁶

The advantage of this approach is the ability to deal with the issue relatively quickly provided that the decision-makers are dealing with known situations.¹⁴⁷ However, problems occur when the decision-maker is not familiar with new situations as they develop. As Steinbrunner states:

The routine behaviour of men in organizational settings - behaviour which commonly gives rise to outrage and frustration at the insensitivities of bureaucratic government - often has a very important functional basis when viewed within the perspective of cybernetic logic.¹⁴⁸

In brief, the cybernetic process is incapable of dealing with new or unexpected problems.

The most important aspect of Steinbrunner's approach is the importance that he places on the development of standard operating procedures (SOP). Instead of focusing on the rational assessment of the issues, the cybernetic model argues that the organization, and the decision-makers within it, structure their decision-making efforts to simplify issues to match previous decisions. Steinbrunner observes:

If, in addition, the simplicity of the individual decision-maker mechanism is to be preserved, then coordination must be rather rigid, inflexible, heavily structured. To the cybernetic theorists this is the reason that organizational routines, once established, are not readily changed. This is why large organizations are often observed to persist in activity which appears stupid and damaging in the analytic perspective.¹⁴⁹

By providing a model that places a premium on SOP, Steinbrunner is able to explain why large organizations sometimes appear unable to deal with new and uncertain circumstances, though they are able to deal with a high volume of expected issues. Therefore, it is important that the organization coordinate its behaviour to ensure smooth operations rather than analytically evaluate all choices that the organization may face. This means that the decision-

maker's primary focus will be removing uncertainty and "thus reducing the burdens of processing information."¹⁵⁰

Critique of Cybernetics

Three main types of criticisms may be levelled against the cybernetic model, two of which are general critiques and one which may be made specifically against Steinbrunner.

Upon examination of Steinbrunner's development of the cybernetic model, it is apparent that much of his evidence is based on analogies. He relies heavily on the examples of the Watt governor, the bee, and the tennis player to make his case, only one of which is human in nature. While such analogies are useful for describing his theory, the validity of using such examples to prove his point is questionable.

A second, more general critique is the inability of the cybernetic model to explain its own creation.¹⁵¹ While the model explains how decisions are made, it does not explain how the decision-making unit came into being. Steinbrunner recognizes the cybernetic model's inability to explain how a structure is created or changed:

Organizational arrangements are susceptible to human manipulation, and the problem is readily removed to the question of how organizational structure becomes established.¹⁵²

However, the cybernetic model fails to account for any change or for the creation of a new organization.

The third criticism of the cybernetic model is similar to one made against the incremental approach. Cybernetics cannot explain how non-routine, major decisions are made. Steinbrunner acknowledged his inability to explain linking the making of a cybernetic decision with, what he terms, an analytical decision in order to account for this shortcoming.¹⁵³ Additionally, the point at which a cybernetic decision is distinct from an analytical decision is unclear. Therefore, cybernetics, like the incrementalist approach, can account for only a small section of the decision-making process.

BUREAUCRATIC-POLITICS MODEL

The major premise of the bureaucratic-politics model of decision-making is that each individual unit of the governmental decision-making body will have its own objectives and goals. Further, each will attempt to achieve these goals through internal forms of bargaining and negotiations, regardless of whether this hinders the state's overall objective.

Allison is most closely associated with the bureaucratic-politics model.¹⁵⁴ His now classic work, Essence of Decision, examines the decision-making process of the United States government during the Cuban Missile Crisis.¹⁵⁵ Allison analyzes three models of decision-making: the rational-actor

model, organizational model and governmental (bureaucratic) politics model, and applies each of them to his case study.

Allison's study has three important findings with ramifications for the making of foreign policy. The first is the recognition of the multiple actors and the role of the organizations. The second is the importance of bargaining among these units in the creation of foreign policy. The third finding is the absolute need to consider the implementation of the decision as an integral component in the making of foreign policy. Allison demonstrates that the making of foreign policy is the combined result of both the making of a decision and the implementation of the decision.

Multiple Actors

Allison's recognition of the role of multiple actors has had a two-fold result. First, he has shown the importance of understanding the dynamics of organizations within government. There are specific "rules" that govern the method by which individuals function in an organization as well as the manner by which the organization functions in government. Secondly, Allison has demonstrated the need to understand the actions of lower level actors. The other decision-making models tend to focus only on the actions of senior decision-makers.

One point to be made, but which is not always fully

appreciated, is that the bureaucratic-politics model does not refer only to bureaucrats. Not all analysts have realized that the model refers to all actors involved in the foreign policy-making process. Thus Nossai, one of the few non-American authors who has examined the bureaucratic-politics model, writes of the Canadian foreign policy making process:¹⁵⁶

...bureaucratic politics is not only concerned with bureaucrats. Securing a minister's approval for a foreign policy action; securing cabinet agreement; or securing the implementation of a cabinet directive are all outcomes of 'politics'. Ministers as well as bureaucrats are the focus of the bureaucratic politics approach, however inappropriate the nomenclature.¹⁵⁷

Halperin, who has also closely examined the bureaucratic-politics model, found that there are four broad generalizations that may be made regarding the nature of organizations within the foreign policy making process:

- 1) All organizations seek influence.
- 2) Participants in a policy decision examine any proposal to gauge whether or not it would help their particular organization carry out its missions.
- 3) Organizations with expensive capabilities will be particularly concerned about budget decisions and about the budgeting implications of policy decisions.
- 4) All organizations seek to have influence in order to pursue their other objectives. Those that have large operational capabilities seek influence on decisions, in part, to maintain the capability to perform their mission.¹⁵⁸

Briefly, organizations attempt to take actions that further their own interests.¹⁵⁹ It is the pursuit of these interests that leads to the bargaining that occurs among organizations, that in turn leads to the existence of bureaucratic politics.

The importance of organizational behaviour has two major ramifications for a decision-making theory. First, it indicates, more clearly than do most other models, that it is necessary to take into consideration a larger number of decision-makers. Secondly, the manner by which the individual makes a decision will be heavily conditioned by their involvement in the organization.

Allison has demonstrated that even during crisis, the actions and decisions of both middle and lower level decision-makers play an important role in the creation of foreign policy. Whether it was a decision to postpone the withdrawal of the Jupiter missiles from Turkey, or a decision to continue to send spy planes during the height of the Cuban Missile Crisis, all involved lower to middle ranking governmental officials, and all played a significant role in the shaping of subsequent American action.

The importance of mid-level officials' involvement was Bacchus' key concern. He centred his attention on the decisions of middle ranking officials within the American State Department. Bacchus found that a significant amount of policy is made at this level:

There are several reasons for directing attention to State's country directors in this kind of inquiry. The working level in the foreign affairs bureaucracy is usually slighted or ignored, even in studies concerned with intragovernmental and/or bureaucratic politics as a major factor in policy-

making. Yet officials of this level do make key decisions, and by virtue of their specific expertise, may often be the source of policy alternatives that are refined and ultimately selected much higher up. They are also likely to be involved intimately with carrying out the decisions of government, wherever made, an essential part of the conduct of effective relations with other states.¹⁶⁰

Bacchus contends that the net impact of examining the role of mid-level decision-makers is that it makes the process "collective and continuous...[c]omplexity is the norm, due to the many ramifications of problems faced and the multiplicity of participants confronting them."¹⁶¹

The ramifications of mid-level decision-makers as a factor in policy-making are often ignored in the other decision-making models. While Bacchus explicitly recognizes the importance of mid-level decision-making, other bureaucratic-politic models do so also. One example is Allison's description of the manner in which Kennedy's decision to remove the Jupiter missiles from Turkey was postponed by lower level officials.¹⁶² It is also possible to find evidence in bureaucracy studies of the power that lower level officials can have.¹⁶³

Role of Bargaining

Allison's second major finding is the importance of bargaining within a state's government. Allison established that officials in the various government departments involved in resolving the crisis were bargaining with each other in order

to further their own organizational and personal interests.

Some critics of the bureaucratic-politics model mistakenly believe that all bargaining must be undertaken in a conflictual setting.¹⁶⁴ Nossal provides a good explanation of the cooperative aspect of bargaining within government.¹⁶⁵ He clearly pointed out that bargaining amongst government actors may be congenial. As Nossal points out,

...it is too often assumed that this interaction [of the bureaucratic politics process] must be marked by conflict, and that only when conflict exists will there be outcomes shaped by bureaucratic politics, and the bargaining and "pulling and hauling" associated with the model. The basic premise of the model is that when any two players look at an issue, their views as to the "best" outcome, or how best to achieve goals, will differ. The magnitude of this difference may be great or small, and may or may not produce conflict. However, it is how the resolution of that difference affects the flow of policy that the bureaucratic politics approach is ultimately concerned. Thus, if the resolution of differences results in a compromise position being forwarded to, and ultimately endorsed by, cabinet, that is as much an indication of an outcome shaped by bureaucratic politics as a full-blown battle between competing bureaucracies with deeply entrenched interests that requires mediation by the leaderships.¹⁶⁶

Essentially, the bureaucratic process is the reshaping of the original position of the various actors, into one that represents a compromise created by bargaining.

Another component of the bargaining process that is often overlooked is the "rules" under which it occurs. These rules are a set of guidelines by which the bargaining occurs. Some

of these rules are officially established, while others do not have any formal status, but are still influential in the bargaining process. Halperin describes these as follows,

There are numerous written and unwritten rules governing how an issue may enter the system, who can become involved, who must be consulted etc. The rules of the game are devices for ordering how minds are brought to bear on a problem. Some rules derive from constitutional and legislative delegation of power. Others are spelled out in executive orders and other executive documents. An unwritten code of ethics determines how a participant must relate to others in the bureaucracy. This code is constantly evolving through changes in the written rules, personnel, and the general environment.¹⁶⁷

The fact that these rules include a written and unwritten code of conduct makes it difficult for the outside observer to recognize the existence of these rules.¹⁶⁸

Therefore, it is understandable why analysts often do not mention them. Halperin explains the manner by which these rules are enforced:

Incentives to obey the rules of the game derive from law, habit, and organizational pressures. Some rules must be obeyed on penalty of a jail sentence.

Even when habits and legal requirements are not compelling, participants will obey the rules if they feel that the advantages of disobeying or ignoring the rules to achieve a particular objective will in the long run be outweighed by the adverse consequences of having once ignored the rules.¹⁶⁹

Individuals or actors who do not follow these rules face real costs. The main one is the loss of credibility. Once an official is deemed to have broken too many rules, other

officials will avoid contact with him or her.

Implementation of Decisions

The third major contribution of the bureaucratic-politics model is the significance it places on the implementation of the decision-makers' decisions. All preceding models of decision-making have examined only the making of the decision. Allison clearly indicated that the making of the decision is only part of the total creation of foreign policy.

Halperin has ascertained that decisions are seldom directly translated into the policy they were intended to be due to four reasons:

- 1) officials at the operations level may not know what it is that senior officials want them to do;
- 2) they may be unable to do what they have been ordered to do;
- 3) they may resist doing what they have been ordered to do;
- 4) overzealous implementation.¹⁷⁰

Each of the above may affect how the decision is made. The implication is that in order to understand the decision-making process, it is necessary to follow it from the making of the decision to its implementation.

Critique of Bureaucratic-Politics Model

There are significant criticisms of the bureaucratic-politics model despite its acceptance by many researchers. The most significant criticism is that its focus is much too narrow and

therefore misses much of the actual decision-making process.¹⁷¹

Such criticism does not actually contradict the bureaucratic-politics model. Allison's model was based on a crisis that did not involve actors such as the United States Congress. Allison's model did not suggest that had the crisis been different, Congress would not have been involved. As other analysts have argued, the bureaucratic-politics model includes all relevant decision-makers and is not limited to the bureaucracy.¹⁷²

MIXED PATH TO CHOICE

Maoz has provided the most comprehensive foreign policy decision-making model currently found in the literature.¹⁷³ While Maoz does not provide much new material, he has provided one of the most detailed syntheses of the decision-making process to be found in the literature.¹⁷⁴ Expanding the works by Snyder et al., Brecher and Rosenau, Maoz argues that previous efforts to synthesize foreign policy decision-making models had failed because of four factors: 1) a lack of parsimony; 2) a lack of formal specification over the working of their theories; 3) a failure to focus on the dynamic aspects of the foreign policy making process; and 4) confusion regarding the units of analysis.¹⁷⁵

Labelling his model, the "Mixed Path to Choice", Maoz has

attempted to provide a detailed explanation of the decision-making process. After providing an exhaustive overview of what he terms the analytical, cybernetic and cognitive methods of decision-making, Maoz concludes that each method is applicable under the proper conditions.¹⁷⁶ He contends that regardless of which method best describes the decision-maker's actions, it will follow the same sequence of events: 1) the search for decision options; 2) revision of their position; 3) evaluation of the decision; and 4) selection of choice. However, the manner by which each of these steps are pursued will determine which model fits best. For example, if decision-makers search for all relevant information; revises their positions according to the information received; and critically evaluate their choices and make a selection, then they are following the analytical model.¹⁷⁷

Maoz identifies the individual decision-maker as the most important unit in the entire process.

The principal theme of this theory is that complex structures and processes in international politics do not have a life of their own which is independent of and - to a large extent - determines the behaviour of the units. Rather what we observe at the systemic level is a consequence of the interaction among its units, each of which has its own logic of operation and each of which has its own behavioral principles.¹⁷⁸

After identifying the individual decision-maker as the most important unit, Maoz examines the effect of decision-making within a group. The most important elements that must be taken

into account in group decision-making are: the rules of the group; the degree of conviction of each member; the expertise of the individuals; the comprehensiveness of the individuals' choice process; and the pivotness of the individuals' preferences relative to other individuals.¹⁷⁹

Maoz has attempted to isolate the principal variables involved in the decision-making process for decisions made both by individuals and by individuals in a group. In the case of the individual decision-maker, Maoz hypothesises that the decision behaviour (the type of decision making: analytical, cognitive or cybernetic) is equal to the situation variables, plus the personality variables of the individual, plus the role variables. In the case of the decision-maker in a group, Maoz argues that the decision behaviour was equal to the situation variables, plus the group politics, plus the group structure.¹⁸⁰

Maoz's approach is significant for his effort to isolate the type of foreign policy decision-making processes that are used by decision-makers. More importantly, Maoz has also attempted to identify the conditions under which the three main methods are used. While it is possible to dispute Maoz's attempts to apply his models, the importance of his efforts to recognize the "mixed path to choice" of foreign policy decision-makers cannot be disputed.

Critique of Mixed Path to Choice

The main difficulty in assessing Maoz's approach to decision-making is the magnitude and complexity of his model. A complete critical review of his work is beyond the scope of this research. Nevertheless, several important concerns may still be raised.

Although Maoz's model is comprehensive, he has some difficulty in applying it to his case studies. For example, he assigns values to various decision-makers' options when he attempts to demonstrate the manner in which decision-makers follow either an analytic, cognitive or cybernetic approach.¹⁸¹ Maoz attempts to demonstrate how various decision-makers selected their own options and then attempted to pursue them in a cabinet meeting by implementing the Israeli reaction to the Entebbe hijacking as his case study. His approach suffers as the assignment of values to each decision-maker is somewhat arbitrary in nature.¹⁸² Thus, although Maoz has an intriguing theory, the reader is sceptical as to its testability.

SUMMARY

Upon examining all seven decision-making models, it is clear that analysts agree that the rational-actor model is the preferred method of making foreign policy. However, there is considerable disagreement over the ability of decision-makers

to employ the procedures outlined by the model.

Those who support the incrementalist, satisficing or mixed-scanning models have argued that it is impossible to follow the rational process. Although these supporters acknowledge the strengths of the rational-actor approach (that is, determine the pros and cons of each option, evaluate all, and make a selection), they argue that there are too many factors that constrain the decision-maker. Limited information, limited resources to undertake a detailed review and limited time to make a decision, all act as a constraint on the decision-maker. In addition, the possibility that the human mind may be incapable of operating in a rational fashion may prevent the employment of a rational method of decision-making.

However, the incrementalists fail to account for policy decisions that are the result of carefully and rationally planned courses of action. Decision-makers follow the rational method, usually for major foreign policy issues only. The question that is not answered by the incrementalists is: when do decision-makers act incrementally, and when do they act rationally?

The mixed scanning model is an attempt to answer this question. Its effort to merge the rational-actor model with

the incremental model appears to be an obvious solution. But any effort to utilize this model faces the question of how to distinguish between major and minor policy decisions. That is, when does a decision-maker decide that an issue is a major policy decision and warrants rational consideration, and when does the decision-maker decide that it is minor. The proponents of the mixed scanning model need to provide a means of isolating the decision-makers scanning processes before the model is capable of answering this question.

Criticisms of the mixed-scanning model may also be applied to both the cybernetic and satisficing models. Both suggest that there are conditions under which the decision-maker does not have to consider all the options open to him or her. It is not clear what these conditions are. The proponents of the satisficing model never explain when an option becomes "good enough" to be selected. The model argues that decision-makers select the first option that meets their minimal acceptance criteria. The question which needs to be answered is how the criteria of "good enough" are set. Likewise, the cybernetic model does not explain when decision-makers will make a decision on the basis of the cybernetic model or when they will make a decision on the basis of the analytic model.

It is important to note that all three of the non-analytical models of decision-making offer important insights. Some

policy is made incrementally with small ad hoc changes; decision-makers sometimes do select options that fit a minimum requirement; and established standard operating procedures sometimes do lead to decisions on the basis of cybernetics. However, the conditions under which this occurs is not clear.

The bureaucratic-politics model offers the strongest alternative to the rational decision-making process. There is evidence to support the contention that a state's foreign policy is the result of intra-governmental bargaining and negotiating. However, this approach does not negate the validity of the rational-actor model and, instead, may be used to improve it. The individual units within government may be viewed as acting in a rational fashion when they engage in the types of behaviour that Allison identified. The overall process may not follow the rational-actor decision-making process, but the individual units do. Therefore, the bargaining that occurs is a rational process for individuals within government. It is possible that elements of the satisficing, mixed-scanning, and cybernetic models are represented within the bargaining of the various decision-making units. The type of decision process that occurs and the factors that lead to a particular process still need to be identified.

In summary, as comprehensive as these models are, they do not

provide a complete explanation of how foreign policy is made. It is necessary to develop a better understanding of the conditions under which decisions are made. Each model that currently exists only partially explains the process. These models need to be synthesized. Although Maoz has best attempted to do so, the problems associated with his case studies have limited its applicability. Therefore, a model that accounts for the various components in the decision-making unit is needed, as is a better understanding of the conditions by which that policy is made. Therefore, the objective of the next chapter will be to create a model employing the most useful contributions of these models while, at the same time, compensating for their weaknesses.

SECTION III

THE EPISTEMOLOGY OF DECISION-MAKING

Prior to examining the development of a model that tries to incorporate the strengths of these models and remedy their weaknesses, it is necessary to consider the epistemological ramifications of the decision-making approach. There are two main issues. The first deals with the free will/determinism dichotomy. Decision-making assumes that the decision-maker has the freedom to choose among alternatives. It also accepts that it is possible to determine why certain choices are made. The paradox that confronts all researchers is simple: how is it

possible to establish causal explanations for a choice, if the individual making that choice is truly free to choose?

A second issue is the ability of the researcher to examine macro units, such as the state or the international system, by focusing on the micro units (the individual decision-maker). The question that needs to be answered is whether it is possible to understand the macro units through a micro examination or whether it is not possible because they represent a phenomenon that goes beyond the separate components.

While there are no clear answers to either question, the objective of this section is to consider the ramifications of these two issues.

FREE-WILL VERSUS DETERMINISM

One of the most difficult epistemological issues in decision-making is the issue of free will and determinism. The foundation of decision-making is based on the acceptance of the premise that when examining a decision-maker, it is possible to isolate the inputs affecting their evaluation of the situation and then to examine their decision. The problem underlying this process is that it may be too deterministic. It assumes that our lack of understanding of the decision-making process is due to incomplete knowledge of the process

but that once the knowledge of this process is perfected or completed it is possible to understand the process. However, this means that the researcher should be able to isolate all causal factors. If that happens, the logical conclusion is that decision-makers are not making decisions of their own free will but are only responding to the incoming stimulus.

Conversely, if the decision-maker acts despite the fact that there are no causal variables, then he or she is acting in a random manner. If this is true, then choices of a random nature cannot be analyzed for a decision-making process because there are no causal factors influencing the choice of one decision over another.

The observer of the international system may respond to this dilemma by suggesting that there is a little bit of both; that some events have a direct, causal link, while others are random events. But this is intellectually unsatisfactory. Why are some events controlled by outside forces while others are not? More importantly, how can this occur and why would it occur? It may be suggested that the random factor is the decision-maker. It may be that it is not possible to fully understand humans as they are too complex. But such a statement does not resolve the conflict between determinism and free will at the decision-making level. Rather, it

reflects the current lack of understanding of the process by which individuals think. The inability to isolate causal relationships does not mean that they do not exist. For example, the structure of DNA has always existed. The fact that humans were unaware of it until this century has not negated its existence. Likewise, the inability of analysts to provide an understanding of the thought process does not mean that it is impossible to do so. Thus the possibility exists that cognitive processes may at one point be understood as well as genetic processes are now understood.

Gorman is one of few analysts who attempt to address these issues.¹⁸³ As he puts it:

Decision-making theory presupposes that each individual acts according to his own perceptions of his environment and is, therefore, a free agent participating in the social process. Yet the whole intent of the theory is to create a scientific model for gathering empirical data to determine the exact causes of specific actions of the national decision-makers.¹⁸⁴

Thus, the theory of decision-making is attempting to identify why decisions-makers act in a certain fashion, while at the same time attributing to the decision-maker the freedom to make these decisions. If a successful model of decision-making is developed at some point in the future, it will explain why decision-makers act as they do. This would allow an understanding of the causal relationships influencing a decision-maker's choice. However, the problem is that such an understanding would imply that the individual decision-maker

could no longer "decide" because he or she was simply reacting to the existing causal inputs. This means that the decision-maker is in fact not making a decision, but instead is only responding to the existing environment that has already "decided" their options.

Shackle posed a closely related problem.¹⁸⁵ He focused on the fact that decisions are made by a large number of individuals who are capable of influencing each other even though they are unaware of each other. When a decision-maker makes a decision regarding a particular target, that target is also a decision-maker who is making a decision regarding their target, that is, the former decision-maker. To illustrate, when A makes a decision concerning B, B may also be making a decision regarding A at the same time. As a result, the decision-making environment is in a state of constant flux because the two sets of decision-makers are making their decisions in the absence of information concerning each other's current decision. The consequence is that decisions are being made on the basis of incomplete information.

The decision-making approach assumes that the decision-maker makes a decision with an objective in mind. However, the objective might not be achieved as events continually change. Shackle states:

...the sequel of an action chosen by one man will be shaped by circumstance, and its circumstances

will include the actions chosen now and the actions to be chosen in time by other men. If, therefore, choice is effective, it is unpredictable and thus defeats, in some degree, the power of choice itself to secure exact ends.¹⁸⁶

As discussed above, individuals, including leaders of governments, usually make decisions regarding their intended targets at the same time that the latter make decisions regarding the former. To a certain degree, it is apparent that no one decision-maker will be in a position where all other decision-makers wait for him or her to make a decision. In effect, Shackle is suggesting that since all decision-makers exist in the same temporal plane, conditions will never remain as they were when the decision was made because decisions which were made by others at the same time are constantly changing. So the question which needs to be answered is how it is possible for an analyst or decision-maker to have anything other than a rudimentary approximation of the circumstances surrounding the actions of a decision-maker.

There are no readily apparent answers for either issue. On the one hand, the first issue raises the possibility that the first researcher who "discovers" the full meaning of the decision-making approach will be too successful, for he or she will have determined that individuals do not decide their fate but respond only to existing stimuli. Conversely, the second issue suggests that it will never be possible to isolate the actions of any one decision-maker. Thus, any "conclusion"

regarding these debates are inconclusive.

THE MACRO-MICRO DEBATE

A second major problem facing decision-making theory concerns its focus at the micro-level. For example, Waltz argues that reductionist theories (that is, those that operate at the micro level) do not adequately explain how the international system works.¹⁸⁷ The question which arises is whether or not it is possible to understand the making of a state's foreign policy vis-a-vis a micro level of analysis.

In the past, researchers examining the making of foreign policy have tended to separate the level of analysis in their studies regardless of whether a system level analysis, a state level analysis or a micro level analysis was employed. David Singer has termed this "the level of analysis problem in International Relations."¹⁸⁸

However, there are indications that this concept is now being challenged. While the challenge has yet to be developed completely, two related efforts to re-think the level of analysis issue can be identified: 1) the micro-macro debate; and 2) structuration.¹⁸⁹

The micro-macro debate, also known as the "agent-structure", "parts-whole", or "actor-system" debate, focuses on the same

problem of conceptualizing the relationship between social actors (or agents) and societal structures.¹⁹⁰ The core of this problem is best summed up by Wendt who writes:

The agent-structure problem has its origins in two truisms about social life which underlie most social scientific inquiry: 1) human beings and their organizations are purposeful actors whose actions help form the society in which they live; and 2) society is made up of social relationships, which structure the interactions between these purposeful actors. Taken together these truisms suggest that human agents and social structures are in one way or another, theoretically interdependent or mutually implicating entities.¹⁹¹

In other words, any social action on earth is based on the individual, although the social organizations created by these individuals are often greater than the sum of their parts.

In the international system, states are created by individual human beings. Without the existence of humans, there would be no state entity. But the action of the state usually extends beyond the actions of any one individual or grouping of individuals. Therefore, any study that focuses on the actions of the individual decision-maker must also account for the role of the structure in the decision-making process.

Not surprisingly, sociology has the greatest interest in this issue. The first modern effort to come to terms with the problem can be traced to the works of Weber and Parsons.¹⁹² The sociological approach has focused on placing the individual within the social constructs of society. Some, such

as Garfinkel and Boudon, have argued that it is the individual who shapes his or her environment and, therefore, the answer to the problem is to focus on the agent.¹⁹³ Conversely, others, such as Blau, argue that it is the structure, and not the agent, that determines the actions of the agent.¹⁹⁴ Others, such as Giddons, take the middle road and state that both the agent and the structure have to be examined as one concept.¹⁹⁵

While this debate has been actively pursued in sociology, the same cannot be said of political science. In part, this would appear to stem from the general acceptance of the "solution" provided by Singer. In his article, "Levels of Analysis", Singer addressed the issue of whether researchers should utilize a state level or a system level of analysis.¹⁹⁶ After considering the benefits and costs of both, he suggests that the best answer is to simply realize that this issue exists.¹⁹⁷ At no point in his discussion does he consider the problems being raised by sociologists such as Parsons or Garfinkel, neither does he suggest how the different levels of analysis could be combined. As such, there has been little consideration of the issue by those interested in the study of international relations.¹⁹⁸ Generally speaking, analysts tend to adopt Singer's suggestion by indicating the one level at which they are making their examination. However, there have been a few who also consider the nature of this dilemma.

As mentioned at the beginning of this section, Waltz is one of the few authors who has attempted to deal directly with the issue.¹⁹⁹ Waltz takes a position similar to Blau by explicitly stating that adopting a structure position is the best means of understanding world politics. Waltz labels efforts to explain world politics at the micro level as reductionist and argues that since no one state can control the system, world politics cannot be explained either at the state or system level of analysis.²⁰⁰ In effect, he is putting forward the argument that the structure of the system is more powerful than any one unit. Therefore, one needs to examine the system, and not its components, to properly understand the phenomena.

However, this position is criticized by both Dessler and Wendt, two of the other few authors who have examined the micro-macro issue in the context of international relations.²⁰¹ Both criticize Waltz for ignoring the role of the agent and for focusing on only the system. Dessler and Wendt argue that the researcher must include both micro and macro elements. They also agree that the best means by which to achieve this goal is found in Giddon's works, specifically his theory of structuration.²⁰² As Wendt puts it, "[s]tructururation theory is a relational solution to the agent-structure problem that conceptualizes agents as mutually constituted or co-determined entities."²⁰³

The main thrust of the approach is that it postulates the impossibility of separating the agent from the structure. Although the two elements are different, they cannot exist without the other.

This theory recognizes that structure cannot exist in isolation from the individual. Without the existence of individual humans, there can be no structures such as a family, a city, a state or an international system. But individual humans need these structures to exist, and once they are constituted, the structures are more than a mere sum of the individuals.

Structuration theory, then, conceptualizes agents and structures as mutually constitutive yet ontologically distinct entities. Each is in some sense an effect of the other; they are "co-determined." Social structures are the result of the intended and unintended consequence of human action, just as those actions presuppose or are mediated by an irreducible structural context. This understanding of the agent-structure relationship is made possible by conceptualizing each from the start as ontologically dependant upon the other, by conceptualizing agents in terms of the internal relations that define them as such, and by conceptualizing social structures as existing only through the medium of the agents and practices that they constitute.²⁰⁴

However, the major problem with structuration theory is that it does not allow itself to be readily applied to empirical testing.²⁰⁵ It tells the researcher how to think about the social world, but it does not explain the manner by which this should be done. For example, any attempt to apply structuration theory to an understanding of the making of

foreign policy would recognize that it is necessary to identify the agent (the decision-maker) and the structure (government, state), and to then focus on both. But the question which remains is how this is to be accomplished.

SUMMARY

There are no clear answers to the issues concerning free will/determinism. It is not at all clear how one can reconcile an assumption that a decision-maker is "free" to select among options when, at the same time, the ultimate goal of the researcher is to explain why the particular option was selected.

A somewhat more satisfying answer to the question of whether it was possible to understand foreign policy making was determined by focusing on the individual. The theory of structuration provides a means by which it is possible to include both micro and macro units in a model of decision-making. Rosenau's work has provided several important insights regarding how this approach may be used to understand foreign policy making.

CONCLUSION

The objective of this chapter was to provide a theoretical review in order to assess the literature for the most important contributions that have been made to the

understanding of how foreign policy is made. While it was determined that much of the international relations theory does not have a direct bearing on this issue, regime theory holds some relevant insights. Specifically, its examination of how epistemic regimes are created and maintained demonstrates how the cumulative series of decision made by individuals can create a set of rules and procedures. These in turn determine the development of existing policy. Regime theory also shows the importance of middle-level officials in the creation of policy, as well as explaining how they have achieved this importance.

The most important contribution of the foreign policy literature was found in the field of decision-making. Both the Hermanns and Rosenau have shown the importance of identifying and including all relevant decision-makers both within and outside government. Furthermore, the Hermanns have shown the significance of the type of the decision-making unit on the outcome of foreign policy. Allison also supports these findings. He has shown the importance of not only the need to identify all levels of decision-makers, but also to identify the decision-implementor.

Examining the decision-making literature in detail, one of the key questions that has yet to be fully addressed is the question of rationality versus irrationality. Most of the

models reviewed focused on this issue without resolving it. Thus the question remains, when is foreign policy rationale and when is it not?

Directly related to this problem are unresolved questions over the process of making foreign policy. When is the policy incremental and when is it not? Under what conditions does policy formation follow a standard operating procedure, and when does it follow a "rationale" process?

Work undertaken by Brecher *et al.* and Snyder *et al.* has demonstrated that an important consideration for any decision-making approach includes a detailed examination of the decision itself. What are its components? How is it to be implemented? Who implements it? How much does it cost? All of these are important considerations.

The objective of the next chapter will be to build a model that incorporates these findings and builds on the identified weaknesses in order to examine the voyage of the POLAR SEA and the resulting foreign policy formation.

ENDNOTES

1. For a very insightful discussion of this problem see, K.J. Holsti, The Dividing Discipline: Hegemony and Diversity in International Theory (Boston: Unwin Hyman, 1985), pp.4-6. In this section he cites at least five different attempts to identify the major competing paradigms in international theory. And not surprisingly, there is very little agreement. Additional attempts to categorize the study of international relations/politics can be found in: Hedley Bull, The Anarchical Society, a Study of Order in World Politics (London: MacMillan Press, 1977); and Ernie Keenes, "Paradigms of International Relations: Bringing Politics Back In," International Journal XLIV (1988-9).

Michael Banks has also argued that the term paradigm may be inappropriate to use:

"Today, the field contains not one but three such general explanations: realism, pluralism and structuralism. Strictly, they should be called 'paradigms', but they are also more casually termed perspectives, approaches, world views, frameworks or general theories."

Michael Banks, "The Inter-Paradigm Debate," in Margot Light and A.J.R. Groom, International Relations: A Handbook of Current Theory (Boulder: Lynne Rienner Publishers Inc., 1985), p.9.

2. In most works that identify themselves as realists, there is a tendency to credit Thucydides, The Peloponnesian War, trans. Rex Warner (Harmondsworth: Penguin Books, 1954), and Niccolo Machiavelli, The Prince and The Discourses, ed. Max Lerner (New York: Modern Library, 1950), as being the original realists. This is an issue of some debate, but if it is accepted that their works are focused in the realist mode, neither ever identified themselves as realists.

The modern authors most widely associated with the realist school of thought are Morgenthau, Wolfers and Aron. Hans Morgenthau, Politics Among Nations 5th ed. (New York: Knopf, 1973); Arnold Wolfers, Discord and Collaboration (Baltimore: Johns Hopkins University Press, 1962), and "The Pole of Power and the Pole of Indifference," in International Politics and Foreign Policy rev. ed., edited by James N. Rosenau (New York: Free Press, 1969); and Raymond Aron, Peace and War (New York: Praeger, 1966).

3. One of the better critiques of realism has been made by John Vasquez. See his The Power of Power Politics: A Critique (London: Frances Pinter, 1983). He has also attempted with Richard Mansbach to offer an alternative approach to realism. Focusing on the resolutions of issues in the international system they argue that "the characteristics of the issue on the agenda, the pattern of friendship-hostility among contending actors, and the nature of the institutional context in which allocation decisions must be made,"

should act as the focus for researchers. Richard Mansbach and John Vasquez, In Search of a Theory: A New Paradigm for Global Politics (New York: Columbia University Press, 1981).

4. Hedley Bull, The Anarchical Society, A Study of Order in International Politics (London: Macmillan, 1977); and Inis Claude, Swords into Ploughshares (New York: Random House, 1964).

5. Bull, p.65.

6. Robert Keohane and Joseph Nye, Power and Independence (Glenview, Illinois: Scott, Foreman and Company, 1977).

For an interesting, albeit limited application of this approach see: Chung-in Moon, "Complex Interdependence and Transnational Lobbying: South Korea in the US," International Studies Quarterly 32 (March 1984). While Moon does provide a good discussion on the complexity of the complex interdependence approach, his application is somewhat off target. His case study is more of an examination of lobbying within the US than the study of international relations.

7. For two of the better examples of such works see: Joan Sepro, The Politics of International Economic Relations, 2nd ed. (New York: St. Martin's Press, 1981); David Blake and Robert Walters, The Politics of Global Economic Relations, 2nd ed. (New Jersey: Prentice-Hall, 1983).

8. Bruce Moon, "Political Economy Approaches to the Comparative Study of Foreign Policy," in New Directions in the Study of Foreign Policy, ed. Charles F. Hermann, Charles Kegley Jr., and James N. Rosenau (Boston: Allen & Unwin, 1987). The two sources cited by Moon are: James O'Connor, The Fiscal Crisis of the State (New York: St. Martin's Press, 1973); and David Gold, C. Lo, and Erick Olin Wright, "Recent Development in Marxist Theories of the State," Monthly Review 27 (1975): 29-43, 36-51.

9. Kenneth N. Waltz, Theory of International Politics (Reading Massachusetts: Addison-Wesley, 1979). It is significant to note that this work is now considered by many to be one of the first and most significant works termed neorealism. For a good overview of neorealism see Dougherty and Pfaltzgraff, Jr., pp.119-127. For a very complete but verbose critique see Richard Ashley, "The Poverty of Neorealism," International Organizations 38 (1984).

10. See John G. Ruggie, "Continuity and Transformation in the World Polity: Towards a Neorealist Synthesis," World Politics 35 (January 1983).

11. Ashley, p.258.

12. *Ibid.*, p.228.

13. As Robert Gilpin does in a direct response to Ashley in: Robert Gilpin, "The Richness of the Tradition of Political Realism," International Organizations 38 (1984).

14. Maoz has also taken a very strong position against neorealism writing:

Specifically, I shall argue that systemic variables can be useful in understanding international processes only to the extent that the weak version of the approach is accepted. The strict version has no real value in international political analysis: it is useless theoretically, it is empirically meaningless, and it is normatively objectionable. p. 549

He argues that it cannot: 1) account for change; 2) account for the rise and fall of states; 3) and that individual rulers can manipulate the rules of the system. Zeev Maoz, National Choices and International Processes (Cambridge: Cambridge University Press, 1990), pp.549-557.

15. Robert Keohane, After Hegemony: Cooperation and Discord in the World Political Economy (New Jersey: Princeton University Press, 1984), p.57.

John Ruggie, "International Responses to Technology: Concepts and Trends," International Organizations 29 (Summer 1975).

While originally published as a volume for International Organizations, Krasner's work is more widely known in its book form; Stephen Krasner, ed. International Regimes (Ithaca: Cornell University Press, 1983).

16. Krasner, International Regimes, p.2.

17. Keeley has found that one of the most promising aspects of regime theory is that it allows for a consideration of the interactions between states:

The regime concept allows a fruitful extension of a line of thinking that has opened up, particularly since the recognition of interdependence in the theoretical literature, that actors (states and other) are caught in a set of strategic interdependent relations of both zero-sum and non-zero-sum character, that these actors both act within and create systems of regularized behaviours and expectations and that their understandings of the world constitute significant factors in international relations.

James F. Keeley, "The Latest Wave: A Critical Review of Regime Literature," in World Politics: Power, Interdependence and Dependence edited by David Haglund and Michael K. Hawes (Toronto: Harcourt Brace Jovanovich, 1990), p.564.

18. Oran Young, Resource Politics: Natural Resources and Social Institutions (Berkeley: University of California Press, 1982).

19. Referring to them as the "Orthodox Account", in Oran Young, International Cooperation: Building Regimes for Natural Resources and Environment (Ithaca: Cornell University Press, 1989), pp.59-62.

20. *Ibid.*, p.79.

21. *Ibid.*, p.77.

22. Specifically, he writes,
Epistemic communities may introduce new policy alternatives to their governments, and depending on the extent to which these communities are successful in obtaining and retaining bureaucratic power domestically, they often lead their governments to pursue them.

In Peter Haas, "Do Regimes Matter? Epistemic Communities and Mediterranean Pollution Control," International Organization 43 (Summer 1989), p.402.

23. Friedrich Hayek, Rules and Order, vol.1 of Law, Legislation, and Liberty (Chicago: University of Chicago Press, 1973), p.37; as footnoted in Young, p.85.

24. In his words, Young writes:

...regimes are distinguished by the facts that they do not involve conscious coordination among participants, do not require explicit consent on the part of subjects or prospective subjects, and are highly resistant to efforts at social engineering.

Young, International Cooperation, pp.84-85.

25. Strange has argued that there are five main problems (or as she puts it, "dragons") facing regime theory.

"The five counts (or "dragons" to watch out for) are first, that the study of regimes is, for the most part a fad, one of those shifts of fashion not too difficult to explain as a temporary reaction to events in the real world but in itself making little in the way of a long-term contribution to knowledge. Second, it is imprecise and woolly. Third, it is value-biased, as dangerous as loaded dice. Fourth, it distorts by overemphasizing the static and underemphasizing the dynamic element of change in world politics. And fifth, it is narrow-minded, rooted in a state-centric paradigm that limits vision of a wider reality."

She has suggested that it offers no new insights into the study of international relations.

Susan Strange, "Cave! hic dragones: A Critique of Regime Analysis," International Organizations 36 (Spring 1982), p.479.

26. Ferguson and Mansbach have succinctly summarized this situation writing that:

Neo-Marxists and feminists clash with neorealists (see Keohane, Molyneux, and Whitworth 1989), and none of these schools agree among themselves. "Structuration" theorists pose and seek to resolve a central actor-structure problem. Gramscian Critical Theory (see Cox 1983, 1986, and 1987) contends with Habermasian Critical Theory. Self-styled "post-structuralists" like James Der Derian, Richard Ashley, and Michael J. Shapiro recognize the power relations inherent in theory and reject the possibility of theoretical growth by incorporating perspectives from literary "deconstruction".

Yale Ferguson and Richard Mansbach, "Between Celebration and Despair: Constructive Suggestions for Future International Theory," International Studies Quarterly (1991), p.364.

27. Robert Cox, "Social Forces, States and World Orders: Beyond International Relations Theory," Millennium 10 (1985).

28. Mark Hoffman, "Critical Theory and the Inter-Paradigm Debate," Millennium 16 (1987): 244-245.

29. Cox, 1981; Ashley, "Poverty of Neorealism"; R.B.J. Walker, "Realism, Change, and International Political Theory," International Studies Quarterly 31 (March 1987).

30. Hoffman, p.237.

31. In a review of both the traditional and the critical approaches (which he calls reflective), Keohane states that supporters of the third debate still must "develop testable theories, and to be explicit about their scope."

Robert Keohane, "International Institutions: Two Approaches," International Studies Quarterly 32 (December 1988), p.393.

32. For a good examination of this, see Glenn H. Snyder and Paul Diesing, Conflict Among Nations: Bargaining, Decision Making, and System Structure in International Crises (Princeton: Princeton University Press, 1977), pp.3-32.

33. Don Munton, "Comparative Foreign Policy: Fads, Fantasies, Orthodoxies, Perversities," in In Search of Global Patterns edited by James N. Rosenau (New York: The Free Press, 1976), pp.258-59.

34. K.J. Holsti, International Politics: A Framework for Analysis, 3rd ed. (New Jersey: Prentice-Hall, 1977), pp.20-22.

35. *Ibid.*

36. *Ibid.* He cites the work of Fred A. Sondermann, "The Linkage Between Foreign Policy and International Politics," in International Politics and Foreign Policy: A Reader in Research and Politics (1st ed.), edited by James N. Rosenau (New York: Free Press, 1961), pp.8-17.

37. Waltz has made an even more explicit distinction between the study of international relations and foreign policy,

Systems theories, whether political or economic, are theories that explain how the organization of a realm acts as a constraint and disposing force on the interacting units within it.

He goes on to say,

Conversely, theories at the unit level tell us why different units behave differently despite their similar placement in a system. A theory about foreign policy is a theory at the national level.

A theory of international politics bears on the foreign policies of nations while claiming to explain only certain aspects of them. It can tell us what international conditions national policies have to cope with. To think that a theory of international politics can in itself say how the coping is likely to be done is the opposite of the reductionist error.

Waltz, Theory of International Politics, p.72.

38. See Steve Smith, "Theories of Foreign Policy: An Historical Overview," Review of International Studies 12 (January 1986); James E. Dougherty and Robert L. Pfaltzgraff Jr., Contending Theories of International Relations: A Comprehensive Survey 3rd ed. (New York: Harper & Row Publishers, 1989), chapter 11; Hermann, et al., New Directions in the Study of Foreign Policy; and Yale Ferguson and Richard Mansbach, The Elusive Quest: Theory and International Politics (Columbia: University of South Carolina, 1988), chapter 7.

39. Smith, "Theories of Foreign Policy", p.14.

40. Henry Kissinger, "Domestic Structure and Foreign Policy," in Comparative Foreign Policy: Theoretical Essays, edited by Wolfram F. Handrieder ed. (New York: David McKay Company, 1971), pp.22-23.

41. For one of the best written proponents of this position see: Harold Nicolson, The Evolution of Diplomatic Methods (New York: Harper and Row, 1955).

42. John Spanier and Eric Uslaner, Foreign Policy and the Democratic Dilemmas 3rd ed. (New York: Holt, Rinehart and Winston, 1982), pp.11-12.

43. *Ibid.*, p.12.

44. One of the first analysts within the foreign policy community to address this convergence was James Rosenau, "Toward the Study of National-International Linkages," in his The Scientific Study of Foreign Policy (New York: Free Press, 1971).

45. A finding that serves as the main theoretical justification for the growing popularity of IPE.

46. Graham Allison and Peter Szanton, Remaking Foreign Policy: The Organizational Connection (New York: Basic Books, 1976), p.x.

47. There are some analysts who make the argument that the distinction between foreign policy and domestic policy can be related to the dominant position of American foreign policy analysts. Halperin makes this point when he discusses the tendency of the American political system to assume a bi-partisan approach to foreign policy. He questions whether this has been true in reality, but it has created the myth in American politics that there is no domestic politics in foreign policy. In turn, this could be partly responsible for the separation of the two. Thus according to this perspective, the separation is the result of researchers' bias, rather than an objective reality.

See Morton Halperin, Bureaucratic Politics and Foreign Policy (Washington: The Brookings Institution, 1974), pp.63-64.

48. Ferguson and Mansbach, Elusive Quest, p.163.

49. See the section on realism in the last chapter.

50. For a good example, one just has to examine the negotiations that went on between the federal and provincial governments, and the aboriginal groups in Canada regarding the Constitution. The federal government had either used or threatened to use all four methods cited (negotiations, bargaining, threats, and legislation). But it has not been able to simply legislate.

51. One of the most obvious examples of the inability of states to enforce its own domestic policies is the huge drug problem faced by most. The use of drugs except for medical purposes, is outlawed in almost all states. Yet, this has not resulted in the elimination of such usages despite massive efforts. Obviously, the state by merely outlawing an activity cannot prevent its occurrence unless it such action has the broad acceptance of its population.

52. While Almond is best known for his work on development issues and comparative politics, the influence of his work on the functional approach of early studies on foreign policy can easily be seen. For the best development of his ideas see, Gabriel Almond and G. Bingham Powell, Jr., Comparative Politics: A Developmental Approach (Boston: Little, Brown and Co., 1966); While the best known of Easton's system approach is in his Framework for Political Analysis (New Jersey: Prentice-Hall, 1965), much of the development

of his input-output model of state behaviour was developed as early as 1953 in his The Political System: An Inquiry into the State of Political Science (New York: Alfred K. Knopf, 1953) and in his article, "Limits of the Equilibrium Model in Social Science," Behavioral Science (April 1956).

53. Some examples are: John Spanier, Games Nations Play: Analyzing International Politics (New York: Praeger, 1972); Joseph Frankel, Contemporary International Theory and the Behaviour of States (New York: Oxford University Press, 1973), and his The Making of Foreign Policy (London: Oxford University Press, 1963); and Ken Waltz, Foreign Policy and Democratic Politics (Boston: Little, Brown, 1967).

54. Roy Macridis, ed. Foreign Policy in World Politics 5th ed. (New Jersey: Prentice-Hall, 1976); K.J. Holsti, International Politics 3rd ed. (New Jersey: Prentice-Hall, 1977).

55. For example, Macridis lists three major sets of inputs into a state's foreign policy: 1) "relatively permanent material elements" (geography, natural resources); 2) "less permanent material" (industrial establishment, military establishment, and changes in industrial and military capacity); and 3) "the human elements" (quantitative - population; qualitative - policy makers and leaders, the role of ideology and the role of information). Kenneth W. Thompson and Roy Macridis, "The Comparative Study of Foreign Policy," in Foreign Policy in World Politics ed. by Macridis, p.6.

56. See Wallace and Frankel for examples.

57. Holsti, p.392.

58. For a very good discussion of this problem see Part Three, In Search of Global Patterns, edited by Rosenau.

59. A good indication of the vast literature that exists on the subject is the bibliography of New Directions in the Study of Foreign Policy, edited by Hermann et al., pp.475-524. It is almost 50 pages long and while extensive, it is not exhaustive.

60. While the paper has been reprinted in numerous forums, it first appeared as the following: James Rosenau, "Pre-Theories and Theories of Foreign Policy," in Approaches to Comparative and International Politics, ed. R. Barry Farrell (Evanston, Ill.: Northwestern University Press, 1966). The initial form of the paper was presented at the Conference on Comparative and International Politics in April 1964.

61. For a good critique of CFP see Part Two of In Search of Global Patterns, ed. Rosenau, pp.145-216.

62. Richard Ashley, "Noticing pre-paradigmatic process," in Rosenau (ed.), In Search of Global Patterns, p.155.

63. See In Search of Global Patterns, ed. Rosenau; and New Directions in the Study of Foreign Policy, eds. Hermann et al. Both contain numerous review articles that begin by citing the lack of current direction of CFP.

64. Patrick McGowan, "The Future of Comparative Studies: An Evangelical Plea," in In Search of Global Patterns, ed. Rosenau, p.227.

65. Don Munton, "Comparative Foreign Policy: Fads, Fantasies, Orthodoxies, Perversities," in In Search of Global Patterns, ed. Rosenau, p.268.

66. Charles W. Kegley, Jr., "Decision Regimes and the Comparative Study of Foreign Policy," in New Directions in the Study of Foreign Policy, ed. Rosenau, p.247.

67. Rosecrance, who shares Kegley's position, cites Bull to take this position even further by arguing that most qualitative data employed by CFP does not measure what it is supposed to. See Richard Rosecrance, "The Failures of Quantitative Analysis: Possible Causes and Cures," in In Search of Global Patterns, ed. Rosenau, p.175.

68. McGowan, "The Future of Comparative Studies," p.228.

69. James Rosenau, "Towards Single-Country Theories of Foreign Policy: The Case of the USSR," in New Directions in the Study of Foreign Policy, eds. Hermann et al., p.64.

70. Don Munton, "Comparative Foreign Policy: Fads, Fantasies, Orthodoxies, Perversities," in In Search of Global Patterns, ed. Rosenau, p.262.

71. James Rosenau, Turbulence in World Politics: A Theory of Change and Continuity, (Princeton: Princeton University Press, 1990), p.27.

72. The rationale for much of his rethinking is directly related to the vast changes that are occurred in the international system at the end of the 1980s. These changes to a large degree can be traced to five factors: 1) the shift from the industrial era to the post-industrial, 2) the emergence of issues such as terrorism, pollution, etc. that are the result of this shift; 3) the reduced ability of states and governments to deal with these problems; 4) the emergence of sub-systems in the international system to deal with these problems; and 5) increase in the ability of the individual through better training/education to deal with the world. *Ibid.*, pp.12-13.

73. He also offers a fascinating means of examining these processes. But this will be examined in more detail in the next chapter.

74. The CREON project is an attempt to create a large data bank from which it is hoped that further insights about foreign policy and international relations. Dwain Mefford, "Analogical Reasoning and the Definition of the Situation: Back to Synder for Concepts and Forward to Artificial Intelligence for Method," in New Directions in the Study of Foreign Policy, eds. Hermann et al., p.221.

75. Charles A. Powell, James Dyson, and Helen Purkitt, "Opening the 'Black Box': Cognitive Processing and Optimal Choice in Foreign Policy Decision Making," in New Directions in the Study of Foreign Policy, eds. Hermann et al., p.205.

76. *Ibid.*, p.203.

77. *Ibid.*, p.203.

78. Dougherty and Pfaltzgraff, Contending Theories of International Relations, p.469.

79. Richard C. Snyder, H.W. Bruck, and Burton Sapin, ed., Foreign Policy Decision-Making: An Approach to the Study of International Politics (New York: The Free Press of Glencoe, 1962).

80. Michael Brecher, Blema Steinberg, and Janice Stein, "A Framework for Research on Foreign Policy Behaviour," Journal of Conflict Resolution 8 (March 1969).

81. Graham T. Allison, Essence of Decision: Explaining the Cuban Missile Crisis (n.p.: Harper Collins, 1971).

82. Jonathan Bendor and Thomas Hammond, "Rethinking Allison's Models," American Political Science Review 86 (June 1992).

83. *Ibid.*, p.105.

84. Backing up their assertion, Bendor and Hammond list five main causes of problems within the general field of foreign policy studies. First, there is the problem of secrecy. Data is suppressed by governments hindering the efforts of the researcher in his/her efforts to understand the making of foreign policy. Second, the huge number of variables involved in the process may overwhelm any one examining the issue. Third, the phenomena involved was large. Foreign policy involves almost the entire world in one way or the other. The fourth problem is created by the problem of chance, 'chance is caused by nothing'. This refers to the possibility that the event being studied occurred by chance. While the ramifications of this particular problem will be examined in greater detail

subsequently, if an event has occurred through chance, there is no way to isolate its causal factors, thereby excluding the possibility to predict its reoccurrence. The last problem facing researchers is what they refer to as the problem of simultaneity. Nothing in the real world happens one thing after another thereby allowing for a neat examination. *Ibid.*, pp.56-59.

85. Brecher, et al., "A Framework for Research on Foreign Policy Behaviour."

86. *Ibid.*, p.80.

87. Michael Brecher, Decision in Crisis: Israel 1967 and 1973 (Berkeley: University of California, 1980), p.16.

88. *Ibid.*, p.29.

89. Allison, Essence of Decision, pp.144-184.

90. Charles W. Kegley, Jr., "Decision Regimes and the Comparative Study of Foreign Policy," in New Directions in the Study of Foreign Policy, eds. Hermann et al., p.247.

91. Some of the more important studies on this subject: Alexander George, "The Causal Nexus Between Cognitive Beliefs and Decision-Making Behaviour: The 'Operational Code' Behaviour," in Psychological Models of International Politics, ed. Lawrence Falkowski (Boulder: Westview Press, 1979); Ole Holsti, "Foreign Policy Viewed Cognitively," in Structure of Decision, ed. Robert Axelrod (Princeton: Princeton University Press, 1976); D. Stuart and Harvey Starr, "The 'Inherent' Bad Model Reconsidered: Dulles, Kennedy, and Kissinger," Political Psychology 3 (1981-1982); and Stephan Walker, "The Motivational Foundations of Political Belief System: An Re-Analysis of the Operational Code Construct," International Studies Quarterly 27 (1983).

There have also been some attempts to examine the manner in which the beliefs of a large number of American leaders corresponded to their domestic beliefs. A very extensive study has been undertaken by Ole Holsti and James Rosenau who sent out written questionnaires to over 2,000 American leaders. The purpose was to assess how closely their foreign policy beliefs corresponded with their domestic beliefs. Using a scale in which the respondents were classified on a foreign policy scale as: hard liners, internationalists, isolationists, or accomodationists and on a domestic policy scale as an economic liberals, social liberals, economic conservatives, or social conservatives. They found that a "strong and consistent relationship between foreign and domestic beliefs did exist. In addition, they also found that 'ideology, party and occupation are strongly correlated with beliefs, whereas education, age, military service, travel experience and gender are weakly related to beliefs." Ole R. Holsti, and James N. Rosenau,

"The Domestic and Foreign Policy Beliefs of American Leaders," Journal of Conflict Resolution 32 (June 1988): 248.

The leading experts in the study of belief system regard are Holsti and Rosenau. See the following: Ole Holsti and James Rosenau, "America's Foreign Policy Agenda: the post-Vietnam Beliefs of American leaders," in Challenges to America: United States Foreign Policy in the 1980s, eds. C.W. Kegley, Jr., and P.J. McGowan (Beverly Hills: Sage, 1979); Idem, "U.S. Leadership in a Shrinking World: the Breakdown of Consensus and the Emergence of Conflicting World Belief Systems," World Politics (April 1983); Idem, American Leadership in World Affairs: Vietnam and the Breakdown of Consensus (Boston: Allen & Unwin, 1984); Idem, "Consensus Lost. Consensus Gained?: Foreign Policy Beliefs of American Leaders, 1976-1980," International Studies Quarterly (December 1986); and Idem, "The Domestic and Foreign Policy Beliefs of American Leaders," Journal of Conflict Resolution 32 (June 1988).

Kissinger has attempted to divide world leaders into three categories: the bureaucratic-pragmatic type, the ideological type and the revolutionary type, in: Henry Kissinger, "Domestic Structure and Foreign Policy," in Comparative Foreign Policy, ed. Handrieder, p.28. In identifying the three types, Kissinger provides a very close resemblance to the Weber model of decision-maker type, though he provides no footnote.

92. The best known work in this regard is Irving Janis, Victims of Groupthink (Boston: Houghton Mifflin, 1972).

93. The bureaucratic-politics model will be examined in much greater detail in the next section but some of the major authors associated with this approach are: Allison, Essence of Decision: Explaining the Cuban Missile Crisis (Boston: Little Brown and Co., 1971); I.M. Destler, Presidents, Bureaucrats and Foreign Policy (Princeton: Princeton University Press, 1972); and Halperin, Bureaucratic Politics and Foreign Policy (Washington: The Brookings Institution, 1974).

Building on the studies undertaken by Holsti and Rosenau on elite opinion consensus and national security issues, Hinckley has examined the attitudes of the American public on issues of foreign affairs. He found that the American public is fractured along several dimensions. Most importantly he found that it will be difficult for a president to be able to marshal long term support because of the shifting coalitions. Ronald Hinckley, "Public Attitudes Toward Key Foreign Policy Events," Journal of Conflict Resolution 32 (June 1988).

Shapiro and Page have also undertaken research on the impact of the American public on the U.S. Foreign policy making process. They have found that the collective opinion has tended to remain somewhat stable. While this is an important finding in itself, what

is of even greater significance to this study was the argument that the public does respond in a rational fashion. When they acknowledge that at times the public may seem "foolish or confused" this possibly results from the providers of information. Thus,
 When leaders explain international realities clearly and correctly, the public generally responds sensibly, based on its underlying values. When information is unbiased, public opinion is very much worth taking into account in policy making.

Robert Shapiro and Benjamin Page, "Foreign Policy and the Rational Public," Journal of Conflict Resolution 32 (June 1988): 243-44.

94. Neil Richardson, "Dyadic Case Studies in the Comparative Study of Foreign Policy Behaviour", in New Directions in the Study of Foreign Policy, eds. Hermann et al., p.161.

95. Brian Tomlin, Maureen Molot and Harald Von Riekhoff, "Foreign Policies of Subordinate States in Asymmetrical Dyads," Jerusalem Journal of International Relations 5 (1981); Michael Dolan, Brian Tomlin and Harald Von Riekhoff, "Integration and Autonomy in Canada-United States Relations, 1963-1972," Canadian Journal of Political Science 15 (June 1982); Michael Dolan, Brian Tomlin, Maureen Molot and Harald Von Riekhoff, "Foreign Policies of African States in Asymmetrical Dyads," International Studies Quarterly 24 (September 1982); and Michael Dolan, Brian Tomlin, Maureen Molot and Harald Von Riekhoff, "Asymmetrical Dyads and Foreign Policy: Canada-U.S. Relations 1963-1972," Journal of Conflict Resolution 26 (September 1982).

96. Discussion with one of the authors.

97. Both Charles and Margaret Hermann have been interested in this problem since at least 1979. The following is a citation list of some of their studies that consider the issue: Charles Hermann, "Decision Structures and Process Influences on Foreign Policy," in Why Nations Act, eds. M.A. East, S.A. Salmore and Charles Hermann (Beverly Hills: Sage Publication, 1978); and Margaret Hermann, "Explaining Foreign Policy Behaviour Using Personal Characteristics of Political Leaders," International Studies Quarterly 24 (1980).

98. Their first effort was the following: Margaret Hermann, Charles Hermann, and Joe Hagan, "How Decision Units Shape Foreign Policy Behaviour," in Hermann et al., New Directions in the Study of Foreign Policy. This was later expanded into Margaret G. Hermann and Charles F. Hermann, "Who Makes Foreign Policy Decisions and How: An Empirical Inquiry," International Studies Quarterly 33 (1989). While both papers are somewhat similar, the 1989 paper goes further into the process by which the selection of the unit involved in the decision-making is reached.

99. Hermann and Hermann, "Who Makes Foreign Policy Decisions and How: An Empirical Inquiry," p.362.

100. *Ibid.*, p.363.

101. Rosenau, Turbulence in World Politics, chapter 7, p.141-180.

102. *Ibid.*, pp.118-119.

103. *Ibid.*, p.118.

104. *Ibid.*

105. *Ibid.*

106. *Ibid.*, pp.124-126.

107. *Ibid.*, p.124.

108. *Ibid.*, p.132.

109. Examples include the uprisings against the Communist regimes in Eastern Europe, and the stock market crash in 1987. All of these actions are the result of the cumulation of massive numbers of individual decisions. Although they are not coordinated, they nevertheless have a major impact on international politics.

Ibid., p.125.

110. *Ibid.*, p.126.

111. Rosenau cites four major reasons justifying the employment of the concept of aggregation: 1) its ability to include face-to-face interaction in the study of global politics; 2) it focuses attention on the dynamics of how macro units are able to cohere and exist; 3) it 'assures a preoccupation with the processes whereby micro parts are transformed into macro wholes'; and 4) it facilitates the study of those who speak on behalf of the macro units. *Ibid.*, p.152-155.

112. *Ibid.*, p.152.

113. Of course in both cases there still may be further processes of aggregation and disaggregation. For example, the current problems occurring in Germany suggest that the question of unification has not been completely settled. However, such problems of uncertainty only serves to underline the usefulness of Rosenau's approach.

114. *Ibid.*, p.157.

115. For a concise but very good review of the approaches to decision-making research across a large range of disciplines see: John S. Carroll and Eric Johnson, Decision Research: A Field Agenda (Newbury Park: Sage Publications, 1990).

116. Christopher Hill and Margot Light, "Foreign Policy Analysis," in their International Relations: A Handbook of Current Theory, p.157.

117. Stein has argued that there are three levels of rationality. She includes the two that are discussed in this paper, as well as including the use of logic as a third type of rationality. As she puts it,

Some concentrate on the quality of the selection and consider rationality to be the choice of the most appropriate means to achieve given ends. Rationality then becomes a capacity for efficient choice. Others emphasize the quality of the procedures decision-makers use to make their choice and pay particular attention to processes of inference and estimation. The third and most inclusive concept of rationality emphasizes the logical quality of argument which shapes both the process of choice and its outcome. To be fully rational, a decision-maker must be an efficient chooser, an optimal estimator and a logical thinker."

Janice Gross Stein, "Can Decision-Makers be Rational and Should They Be? Evaluating the Quality of Decisions," Jerusalem Journal of International Relations 3 (Winter-Spring 1978), p.319

118. E.S. Quade, Analysis for Public Decisions (New York: Elsevier, 1975); D. Lerner and H.D. Lasswell ed., The Policy Sciences (Stanford: Stanford University Press, 1951).

119. Bruce Doern and Richard Phidd, Canadian Public Policy: Ideas, Structures, Process (Toronto: Methuen, 1983), p.95.

120. *Ibid.*

121. Hugh Heclo and Aaron Wildavsky, The Private Government of Public Money: Community and Policy Inside British Political Administration (London: MacMillan, 1974), p.25.

122. Allison, Essence of Decision.

123. David Braybrooke and Charles Lindblom, A Strategy of Decision: Policy Evaluation as a Social Process (New York: Free Press, 1963).

124. Paul A. Anderson, "What Do Decision Makers Do When They Make a Foreign Policy Decision? The Implications for the Comparative Study of Foreign Policy," in New Directions in the Study of Foreign Policy, eds. Hermann, et al.

125. Anderson found the following sequence of decision-making in his examination:

1) A problem is defined and a global goal is identified, which produces a rough description of an acceptable resolution to the

problem.

2) A course of action is proposed. The alternative will be accompanied by an argument describing the positive outcomes associated with undertaking the action.

3) The proposed course of action will produce one of three responses:

a) If there is general agreement on the desirability of following the course of action, it will be ratified.

b) If there is no support and no formal opposition, the alternative will die for what amounts to the lack of a second.

c) The third and most interesting case is when there is an objective to the alternative. Objections are framed in terms of the negative or undesirable consequences of the alternative, and the effect is to propose constraints, beyond the global goal, that further define an acceptable resolution of the problem.

4) If there is disagreement over the newly introduced constraint, a secondary discussion on the merits of the new goal may ensue. Only if there is an imperative to act will a competing course of action be proposed.

5) In the absence of an imperative to act the original alternative is generally discarded and a different course of action is proposed.

6) each of the various organizations look at the action to support their position

7) the various organizations ask to implement their choices at the meetings.

8) the President must control the various units.

Anderson, "What Do Decision Makers Do When They Make a Foreign Policy Decision?" p.304.

126. *Ibid.*, p.307.

127. Gregory Herek, Irving Janis and Paul Huth, "Decision Making During International Crises," Journal of Conflict Resolution 31 (June 1987).

128. *Ibid.*, pp.203-204.

129. The term "Satisficing" was coined by Herbert Simon to define a policy decision in which the decision-maker selected an option that while not the best was good enough. Thus it was a combination of satisfactory and maximizing decision.

Simon, Administrative Behaviour (New York: Macmillan Company, 1957).

130. Another good overview of the literature is provided by Kelly G. Shaver, Principles of Social Psychology 3rd ed. (New Jersey: Lawrence Erlbaun Associates, Publishers, 1987).

131. Support for this position in the foreign policy literature can be found in Michael Shapiro and Matthew Bonham, "Cognitive Process and Foreign Policy Decision-Making," International Studies Quarterly 17 (June 1973): 162-171.

132. Yehezkoel Dror, Public Policy-Making Reexamined (San Francisco: Chalder, 1968), p.148.

133. Braybrooke and Lindblom, A Strategy of Decision.

134. For example, during the Iran/Iraq war, the Iranian decision-makers decided that an option that was acceptable was to employ children as expendable mine detectors. The Western value of children would prevent NATO countries from even considering such an option.

135. Dror, Public Policy-Making, p.146.

136. *Ibid.*

137. Doren and Phidd, Canadian Public Policy, p.142.

138. Amital Etzioni, The Active Society (New York: Free Press, 1968).

139. *Ibid.*, p.209.

140. *Ibid.*, p.305.

141. Hugh Heclo, Modern Social Politics in Britain and Sweden (New Haven: Yale University Press, 1974), p.163.

142. Interestingly, Heclo found that in regards to social policy in Britain, only once did decision-makers in 1931 ever attempt to reduce the benefits provided by its social policy (p.120). This suggests that once a policy is initiated it cannot be removed. Yet in Canada, the elimination of universality for family allowance payments demonstrate that such benefits are now being reduced.

143. The usual explanation of cybernetics will make use of the thermostat analogy. Just as the thermostat will react (by engaging the heater) when a certain stimulant becomes present (the temperature of the room dropping below the setting of the thermostat), so too will the government react.

144. John Steinbruner, The Cybernetic Theory of Decision: New Dimensions of Political Analysis (New Jersey: Princeton University Press, 1974).

145. *Ibid.*, p.55.

146. *Ibid.*, p.67.

147. *Ibid.*, p.13.

148. *Ibid.*

149. *Ibid.*, p.78.

150. *Ibid.*, p.78.

151. This critique of course is one shared by most systemic models. This problem of a systems inability to explain its own creation was previously discussed in the section on neorealism.

152. Steinbruner, Cybernetics, p.87.

153. *Ibid.*, p.329.

154. However, it is generally recognized that the first effort to understand the impact of the bureaucratic process was really Richard Neustadt, Presidential Power (New York: John Wiley, 1960). However, he was more interested in understanding the powers and actions of the president. While he in effect described the bureaucratic process, it was not until Allison's study that the process was explicitly recognized.

155. Allison chose that particular case study because he had wanted to be able to isolate the specific actions of an identifiable set of decision-makers as they functioned in a crisis. For his purposes, a crisis presented the analytical advantage of having the entire attention of the decision-makers concentrated on one issue.

156. Herman Weil has attempted to determine whether it is the rational-actor model or the bureaucratic model that could be used to explain the behaviour of North Vietnam during the Vietnam War. In his conclusion he asserted that there is enough evidence to show that both models are appropriate, but there is not enough evidence to determine the conditions under which either is more appropriate. Herman M. Weil, "Can Bureaucracies be Rational Actors? Foreign Policy Decision-Making in North Vietnam," International Studies Quarterly 19 (December 1975).

Another more specific attempt to apply the bureaucratic model to a non-North American setting was made by Jiri Valenta. He found that it was possible to explain Soviet action during the Czechoslovakia crisis of 1968. He does warn however, that much of his examination was based on speculation and suspect sources because of the obvious problems with sources. Jiri Valenta, "The Bureaucratic Politics Paradigm and the Soviet Invasion of Czechoslovakia," Political Science Quarterly 94 (Spring 1979).

157. Kim Richard Nossal, "Allison through the (Ottawa) Looking Glass: Bureaucratic Politics and Foreign Policy in a Parliamentary System," Canadian Public Administration 22 (Winter 1979), pp.615-616.

158. Halperin, Bureaucratic Politics and Foreign Policy, pp.26-27.

159. To a large degree Halperin explains this as a function of an organization's "essence", which he defines as the "view held by the dominant group in the organization of what missions and capabilities should be". p.28.

In turn the "essence" is supported in the following manner:

- 1) An organization favours policies and strategies which its members believe will make the organization as they define it more important.
- 2) An organization struggles hardest for the capabilities which it views as necessary to the essence of the organization. It seeks autonomy and funds to pursue the necessary capabilities and missions.
- 3) An organization resists efforts to take away from it those functions viewed as a part of its essence.
- 4) An organization is often indifferent to functions not seen as part of its essence or necessary to protect its essence.
- 5) Sometimes an organization attempts to push a growing function out of its domain entirely. It begrudges expenditures on anything but its chosen activity.
- 6) Career officials of an organization believe that they are in a better position than others to determine what capabilities they should have and how they should best fulfil their mission. Pp.38-51.

160. William I. Bacchus, Foreign Policy and the Bureaucratic Process (New Jersey: Princeton University Press, 1974), p.11.

161. Bacchus, Foreign Policy, p.31.

162. The officials had never meant to ignore the decision, but had wanted to wait before withdrawing the missiles in order not to upset Turkish concerns regarding other issues. Allison, Essence, pp.141-142.

163. For a good debate as to the power of a deputy-minister versus a minister see: Flora MacDonald, "Who is on Top? The Minister or the Mandarins?" and Mitchell Sharp, "A Reply From a Former Minister and Mandarin," both in Paul Fox and Graham White eds., Politics Canada 7th ed. (Toronto: McGraw-Hill Ryerson, 1991).

164. Roger Hilsman, The Politics of Policy Making in Defence and Foreign Affairs: Conceptual Models and Bureaucratic Politics (New Jersey: Prentice-Hall Inc., 1987), p.78.

165. Nossal, "Allison".
166. *Ibid.*, pp.615-616.
167. Halperin, Bureaucratic Politics and Foreign Policy, pp.104-105.
168. Much of the literature on lobbying often recognize the importance of knowing the "rules of the game". For example see Charles Doran and Joel Sokolsky, Canada and Congress: Lobbying in Washington (Halifax: Centre for Foreign Policy Studies, 1985).
169. Halperin, Bureaucratic Politics and Foreign Policy, p.110.
170. *Ibid.*, pp.238-250.
171. Amos Perlmutter, "The Presidential Political Center and Foreign Policy: A Critique of the Revisionist and Bureaucratic-Political Orientations," World Politics 27 (October 1974), p.92.
172. Nossal, "Allison through the (Ottawa) Looking Glass".
173. Zeev Maoz, National Choices and International Processes (Cambridge: Cambridge University Press, 1990), p.360.
174. Maoz has also provided one of the most comprehensive bibliographic review of the literature on foreign policy currently in existence. See chapter 2-3 in National Choices.
175. Maoz, National Choice, pp.82-83.
176. *Ibid.*, p.218.
177. This perspective is supported by the works of Vertzberger. While the latter is mainly concerned with the manner in which the decision makers processes information. In his words, the foreign policy decision-making process can be,
 broadly described as having three interrelated stages in which 1) information is gathered and interpreted; 2) alternative courses of action are derived and evaluated in terms of some comparative cost-benefit calculus or in some other, less analytic manner and a choice is made among them; and 3) the preferred alternative is implemented or at least formally becomes the preferred action orientation even when domestic or external constraints prevent its actual implementation. The process within each of the stages and the transition process from one stage to the next and do not necessarily unfold consciously. Nor are they necessarily rational-analytic processes; they may be cybernetic or cognitive.
 Yaacov Y.I. Vertzberger, The World in Their Minds: Information Processing, Cognition, and Perceptions in Foreign Policy Decision-

making (Stanford: Stanford University Press, 1990), p.8.

178. *Ibid.*, p.531.

179. *Ibid.*, pp.169-176.

180. *Ibid.*, p.357, p.333.

181. Maoz, Mixed Choice, pp.85-148.

182. *Ibid.*, see p.100. The values of an Israeli cabinet minister's, such as Allon, opportunity perceptions are based on interviews and biographical material and thus are founded on factual material. But it seems beyond the current state of the art to be able to objectively determine the values of Allon as precisely as Maoz has done. But without such a precise set of calculations the rest of his theory cannot be tested.

183. Robert A. Gorman, "On the Inadequacies of Non-Philosophical Political Science: A Critical Analysis of Decision-Making Theory," International Studies Quarterly 14 (December 1970).

He goes on to provide a fascinating study of the various philosophical roots of the various aspects of decision-making, drawing special attention to the works of Edmund Husserl, Ludwig Wittgenstein and David Hume. While the direction that Gorman takes the reader is beyond the scope and direction of this study, anyone interested in the philosophical roots of decision-makers should read Gorman's article.

184. *Ibid.*, pp.398-399.

185. G.L.S. Shackle, "Decision: The Human Predicament," The Annals of the American Academy of Political and Social Science 412 (March 1974).

186. *Ibid.*

187. Waltz, Theory of International Politics, chapter 2 and chapter 4, pp.18-37, 60-78.

188. David Singer, "The Level-of-Analysis Problem in International Relations," in International Politics and Foreign Policy rev.ed., ed. Rosenau, pp.20-29.

189. It must be acknowledged that at this point there is no universal acceptance of terminology. Thus there will undoubtedly be some questioning of the choice of terms selected here, but given the lack of agreement, the author feels justified in his selection.

190. Alexander Wendt, "The Agent-Structure Problem in International Relations Theory," International Organization 41 (Summer 1987), p.338.

191. *Ibid.*, pp.337-338.

192. Max Weber, Economy and Society (Berkeley: University of California Press, 1978); Talcott Parsons, The Structure of Social Actions (New York: Free Press, 1937).

193. Harold Garfinkel, Studies in Ethnomethodology (New Jersey: Prentice-Hall, 1967); Raymond Boudon, "Individual Action and Social Change," British Journal of Sociology 34 (1983); and Raymond Boudon, "The Individualistic Tradition in Sociology," in Jeffrey C. Alexander, Bernard Giesen, Richard Munch, and Niel J. Smelser ed. The Micro-Macro Link (Berkeley and Los Angeles: University of California Press, 1987).

194. Peter Blau and Joseph Schwartz, Crosscutting Social Circles (Orlando: Academic Press, 1984); and Peter Blau, "Contrasting Theoretical Perspectives," in Jeffrey C. Alexander, Bernard Giesen, Richard Munch, and Niel J. Smelser ed. The Micro-Macro Link (Berkeley and Los Angeles: University of California Press, 1987).

195. Anthony Giddens, Central Problems in Social Theory: Action, Structure and Contradiction in Social Analysis (Berkeley and Los Angeles: University of California Press, 1979) p.195.

196. Singer, "The Levels-of-Analysis Problem in International Relations."

197. *Ibid.*, p.28.

198. In an extensive review of the social sciences approach to this issue, Wendt identified only two authors out of 18 surveyed that have assessed this issue in terms of the international system See footnote #5 in Wendt, "Agent-Structure Problem," p.338.

199. Waltz, Theory of International Politics.

200. See Waltz, Theory of International Politics, Chapter 4, pp.60-101.

201. David Dessler, "What's at Stake in the Agent-Structure Debate?" International Organization 43 (Summer 1989); Wendt, "Agent-Structure".

202. Most literature tends to identify structuration with the works of Giddens since it is he who provided the term (see Anthony Giddens, Central Problems.) But Wendt has identified the following authors as also being identified with the theory (see his footnote #2, p.336): Nigel Thrift, "On the Determinism of Social Action in Space

and Time," Society and Space 1 (March 1983); Pierre Bourdieu, Outline of a Theory of Practise (Cambridge: Cambridge University Press, 1977); Roy Bhaskar, The Possibility of Naturalism (Brighton, U.K.: Harvester Press, 1979); and Derek Layder, Structure, Interaction, and Social Theory (London: Routledge & Kegan Paul, 1981).

203. Wendt, "Agent-Structure," p.350.

204. *Ibid.*, p.360.

205. *Ibid.*, p.354.

CHAPTER III

THE MODEL

INTRODUCTION

The main objective of this chapter is to construct a model in order to examine theories of how foreign policy is made. The preceding chapter has indicated that such a model, based on a decision-making format, is the most promising for providing an understanding of how foreign policy is made. It is apparent that the existing decision-making models are incomplete and, therefore, need to be modified if they are to provide new and useful insights.

Therefore, the overall objective of this chapter is to develop a model of foreign policy decision-making. In order to do so, it is necessary first to review the advantages of a decision-making model over other alternative explanations. Secondly, a summation of the weaknesses of existing decision-making approaches must be presented. It will then be possible to offer a modified model of decision-making that builds on the strengths of existing models and corrects for any weaknesses.

SECTION I

STRENGTHS OF THE DECISION-MAKING APPROACH

Chapter II has examined in detail the various alternate explanations of foreign policy formation. However, it is

important to provide a full and comprehensive review of the arguments in favour of a decision-making approach. Simply put, why does decision-making provide the best format of explanation for this analysis?

REALISM AND DECISION-MAKING

As discussed in Chapter II, the core thesis of the realist theorists lies in the identification of the state as the principal unit. In turn, the pursuit of power is the main process by which states interact. Although the realist model dominates the literature, it is by no means universally accepted. There are two commonly cited criticisms of it: that power is no longer relevant (or as relevant) in the international system, and that the state is the wrong unit on which to base the analysis.

Realism's focus on the state creates conceptual problems that can be corrected by a decision-making model. Close scrutiny of the works of most realists indicates their failure to provide any substantial definition of the state, except to define it as a "black box".¹ Analysts such as Hilsman contend that no matter what type of "black box" realists use, they must look ultimately at the individuals within the organization. As he puts it,

Concepts that treat states as if they had these capabilities (ie minds of their own) are not "scientific" theories but mere analogies. In foreign affairs, as in all human action, individual

or group, a choice must be made among different courses of action, and this choice can be made only by individual human beings and not by nations or institutions.²

Realism does not provide a useful definition of the state. On the other hand, a decision-making model can provide a precise definition through its detailed identification of the constituent components of the state. In fact, a decision-making model requires the identification of all relevant actors that play a role in the making of the state's foreign policy.

A decision-making model also provides a means of avoiding the conceptual problems concerning power that confront realists. As discussed in Chapter II, power is defined by the realists as the ability of an actor to make another actor follow its (his or her) wishes, and as such is the central objective of the state. Though the realist model is useful for describing conflictual situations, it does not account for instances of cooperation. Since much of the activity in the international system is of a cooperative nature, the realist model is therefore limited. By using a decision-making approach to explain the making of foreign policy, it is possible to retain the most useful aspects of the concept of power while remedying some of its deficiencies.

The decision-making model's more precise definition of the actors involved in the making of foreign policy will allow for

a clearer determination of who is attempting to get other actors to follow their wishes. All individual action is an attempt to achieve a specific decision-maker's set of objectives. If the actors involved share the same objectives, then cooperative behaviour may occur. On the other hand, if their objectives conflict, then both will attempt to get the other to follow their respective objectives; that is, in realist terms, to utilize their power. If one is successful, *de facto* that one is more "powerful".

A decision-making approach allows the analysts to employ power as a concept, but only when it is appropriate. Where conflicting interests collide, actors will use power to pursue their objectives. Yet in situations of cooperation, objectives will not be pursued through conflictual behaviour but instead through cooperation. Therefore, by focusing on the decisions made by the actors, the analysts employing a decision-making approach can examine both conflictual and cooperative behaviour.

These arguments do not conclusively demonstrate that a decision-making approach is definitively superior to the realists. But they make the case that a decision-making model retains the important elements of realism. Yet it may be superior by providing a more detailed point of reference for the understanding of the concepts of state and power.

INTERNATIONAL POLITICAL ECONOMY AND DECISION-MAKING

As discussed in Chapter II, there is a growing recognition of the key role played by economic factors in the conduct of international relations. By extension, therefore, such factors must also play an equally important role in the creation of foreign policy.

Although there is a wide range of material that falls under the rubric of international political economy, as demonstrated in Chapter II, it is possible to identify several unifying themes among them. The principal theme contends that control of economic factors has gone beyond the command of any one state. In turn, this severely limits the ability of governments to maintain their jurisdiction over the direction of their foreign policy. Given the growing globalization of world trade, this inability to control foreign policy then affects the ability of the state's decision-makers to make their own domestic policy. For example, the Canadian economy is based primarily on international trade. This means that international trade agreements (or their breakdown) will significantly affect the Canadian domestic economy. Yet, while events such as the threatened trade war between the EEC and the United States over the European agriculture subsidies threatens to drastically affect Canada, often there is little that Canadian policy-makers can do to influence or affect the conflict's resolution.³ Thus, economic factors beyond the

control of a state's decision-makers can affect that state's ability to function. In turn, these economic factors now act as a primary driving force for foreign policy.

Nevertheless, upon closer examination there is nothing within this argument that hinders or diminishes the usage of a decision-making approach for the study of foreign policy. There is no doubt that the existing evidence supports the argument that international economic issues are playing an increasingly important role in foreign policy. It is also apparent that the ability of individual states to control the economic component of their foreign policy is diminishing. This means that the identification of the relevant decision-makers is changing, and not that there is suddenly some "invisible hand" now guiding the economic well-being (or lack thereof) of actors in the international system. It is difficult to identify the decision-makers who engage in the myriad components of the international economic system, such as exchange rates. All economic interactions, both domestic and international, are the result of multiple decisions taken by a great number of individual decision-makers. To a large degree, macro concepts, such as exchange rates or the balance of trade, are only a short-hand to describe the decisions taken by a large group of individuals.

The challenge of bringing a decision-making approach to such

an environment lies in the identification of the many important decision-makers that are involved. Several problems arise from this challenge. Economists contend that the huge number of actors involved dooms any efforts to undertake a meaningful examination of the issues involved.⁴ However, an analogy to chemistry provides a counter-argument to this position. Gold is different from iron; hydrogen is different from uranium. Yet it is possible to understand their basic processes through a study of their molecular structure. All elements contain the same set of basic building blocks: protons, electrons and neutrons (and in turn even these particles are made of even more basic components such as quarks). However, the manner in which these building blocks are arranged will create entirely different substances. By understanding the core concepts of chemistry, it is possible to understand how all elements are created, and then how to determine their characteristics. Likewise, with the vast number of actors involved in international political economy, it is possible to understand the system by focusing on the basic units of the process; that is, the decision-makers and their decisions. Through this examination, the interaction of a large number of actors can be understood. However, it is also necessary to understand how they interact, both within and between states.

NEOREALISM AND DECISION-MAKING

Neorealism represents the most direct challenge to a decision-making model of foreign policy. Waltz, who is generally regarded as one of the main proponents of neorealism, specifically discounted any models that focused on the individual, including decision-making, as being too reductionist.⁵

The main argument of neorealists is that the overall system is much more important than any one of its constituents parts, be it an individual decision-maker or an individual state. The neorealists contend that it is the system that drives the actions of the parts and not vice versa. As such, the central concept in neorealism is the balance of power. No one state or individual can achieve their objectives except through the system. For example, neorealists would argue that the efforts of Pierre Trudeau to reduce the threat of nuclear war in the early 1980s were doomed from the beginning because one individual decision-maker cannot by himself or herself cause change within the system.⁶ Likewise, Jimmy Carter recognised that, despite his intention to improve relations with the Soviet Union, he was still forced to take a belligerent stance against it as his term progressed. These examples suggest that the key variables determining the outcome of events in the international system will be beyond the control of individuals or any single state. This, in turn, implies that the system is

the most important component to be examined.

However, as discussed in Chapter II, such an approach is not without criticism. Critics contend that neorealism is too ahistorical, and that it places too much emphasis on the structure of the system. Both of these arguments may be further developed to support a decision-making model as the best means of examining the making of foreign policy.

The ahistorical nature of the neorealism approach has come under increasing attack by those who contend that it is too static in nature.⁷ Critics argue that neorealism's focus on the international system as the main variable precludes any possibility of change within and of the system itself. If the system is the determining factor in the international system, the question remains as to how it was determined. It is acknowledged that the modern international system has existed for only about four hundred years. The question which remains to be asked is what created that system in the first place. However, any answer would imply that there was something more powerful than the system itself; powerful enough to have created the system in the first place.

The modern international system was created by the actions of many individuals over a prolonged period of time. An example is the elevation of the Soviet Union and the United States to

their positions as superpowers in the latter half of the 20th century. It is impossible to provide a summary of the events leading to the creation of these states, but it is sufficient to state that the superpower status of both states was shaped by a series of actions taken by a large number of individuals. While no one individual, including a decision-maker such as Carter, was usually able to immediately change the system, over time an individual's actions could become significant. Therefore, an understanding of how these actions interact over time is required.

Additionally, there are rare instances where the actions of a decision-maker are decisive. For example, in the period from 1988 to the present, the international system underwent dramatic change. The drastic shift in Soviet policy at the end of the 1980s can be attributed to the change of leaders. The rise of Mikhail Gorbachev to power and his policies of Glasnost and Perestroika were major factors, if not the defining ones, in the recent transformation of the international system. Without Gorbachev's ascent to power, it is difficult to perceive how the Soviet Union could have otherwise undertaken such a drastic transformation. There is difficulty in incorporating Gorbachev's impact on the international system into the neorealist model. Instead, it is much easier to argue that his impact illustrates the ability of an individual to alter the entire international system

under the proper circumstances. More importantly, a focus on the decision-maker allows for a better means of accounting for the transformation of the system. Of course it is necessary to understand how the circumstances arose, but once again this can be accomplished through an examination of the actions of the decision-maker who allowed for his or her rise to power.

The second criticism of neorealism deals with structure. Critics have argued that neorealism focuses too heavily on the structure of the international system to the neglect of all other aspects.⁸ In particular, neorealism is criticized for its conceptualization of the balance of power. As reviewed in Chapter II, the argument is that a balance of power does not provide an adequate explanation of the manner by which the international system works. The question that is often asked is: what is the balance? How can it be defined and operationalized?⁹

A decision-making model provides a means of answering such criticisms. A balance of power is in reality nothing more than the cumulative action of individuals in the international system. Waltz makes it clear that in his opinion, the most important balance of power in the international system can be found to exist between the main powers of the system.¹⁰ Yet the creation of the military power of both the United States and the Soviet Union was the result of decisions taken over

time by individuals.

While the basis of this balance is the existence of nuclear weapons, there is nothing within the international system that preordained their existence. Roosevelt could have decided that the proposals of both Einstein and Oppenheimer were wrong and that an American project on nuclear power was misdirected. Stalin could have decided that it was in the Soviet Union's interest to maintain the alliance with the Anglo powers beyond the end of the Second World War and that it did not need to develop its own nuclear weapons programme. There was no unseen system that somehow forced the Soviet Union or the United States to develop nuclear weapons. Actual decisions to do so were made. Canadian decision-makers, after all, did make the decision not to develop nuclear weapons when they had the capability to do so.

This line of reasoning can be carried on and on. The point is that there was nothing deterministic of the system itself that had to lead to the nuclear balance of terror. Instead, the nuclear balance is traceable to the actions of a large number of individuals taken over time. The questions that neorealists have been unwilling and unable to answer are who these individuals are and what drives their actions.

The argument can be made that the theories of neorealism (as

was the case for realism) represent only a form of analytical shorthand. This shorthand is an attempt to come to terms with the results of the actions of a large number of individuals over a lengthy period of time. While this shorthand is a convenient tool to express the functioning of the international system, it does not enable the analysts to come to a proper understanding of the dynamics of the most important variables in the creation and maintenance of the international system. However, by shifting the focus to the identification of the key decision-makers and the processes that guide their actions, any analysis can become much more meaningful.

REGIME THEORY AND DECISION-MAKING

Of the models that attempt to explain the workings of the international system and the making of foreign policy, decision-making theory is most greatly reflected in regime theory. The main thrust of regime theory centres on the existence of a set of decision-makers who have a shared set of values and interests. These interests and values are based on a specific subject-area within the international system. As these decision-makers interact, they develop a shared set of norms and operating procedures under which they function, and which are entrenched over time.

The most interesting aspect of regime theory for this study is

its explanation of the creation of principles, rules and norms. It shows how a group of decision-makers, who were initially unconnected, begin to respond to a particular problem in the international system. Over time, these interactions become entrenched, thereby influencing any future decisions that are to be made regarding the issue. Of even greater relevance to this study is the fact that these decision-makers will usually be middle-ranking officials and non-governmental personnel. Both Haas and Young have demonstrated that under the proper conditions, these officials can direct the actions of more senior officials and thereby act as the deciding factor in the creation of a state's foreign policy.¹¹

Regime theory differs from the decision-making approach in its focus on the role and significance of principles, rules and norms. Although these factors are unquestionably important, it is necessary to recognize that unless they are accepted, they are meaningless. They gain meaning only when the decision-makers are compelled to redirect their behaviour according to their existence. So the more important question to ask is why decision-makers feel compelled to accept and follow these "rules, norms and principles," and secondly, who the decision-makers who accept these "rules, norms and principles" are. The answers to these questions will be found through a detailed examination of the decision-making process of all

relevant decision-makers.

THE THIRD DEBATE AND DECISION-MAKING

The difficulty in identifying a single theory of international relations amongst the group of analysts who are referred to as belonging to the "third debate," has been previously discussed, but it is nevertheless important to consider their contributions in the context of decision-making.¹²

The main theme connecting those who subscribe to the third debate is the necessity to recognize the value system that exists within each form of analysis. For example, "third debaters" argue that realists are not only describing a means of assessing the international system, but that they are also actively justifying the status quo.¹³ In other words, an analyst such as Henry Kissinger is not only explaining the international system, he is also acting to shape it.¹⁴

A second, and related, consideration raised by supporters of the third debate that has direct relevance to this analysis is the need to be sensitive to the "boundaries" used to examine the international system. As Peterson states:

The boundaries employed are not historical "givens" but social constructions that carry history - and - baggage that belies the categorical separation of subject from object and knower from known.¹⁵

In her critique, she argues that traditional international relations theory has excluded from its boundaries the role

played by women. As such, there is a need for a theory that will not automatically omit a large proposition of decision-makers simply because it has been tradition to exclude them. It is necessary to have a model that is able to include all relevant decision-makers.

However, the proponents of the third debate have not yet offered a coherent alternative explanation of how the international system interacts. Thus, it is impossible to make a valid comparison of the decision-making approach to the third debate. But the proponents of the third debate have raised an important point pertaining to the subjective nature of theory building. The background of the researcher should always be considered when reviewing the works of any analyst. Upon examining the researchers that support a certain approach and then asking why they do, it may be possible to determine that proponents of the various schools support their particular theories for common reasons. For example, it may be that there is a common aspect of their upbringing or education that leads individuals to develop a realist perspective. Or there may be some commonly shared element in their careers that result in the acceptance of the tenants of regime theory. Of course any such findings would probably be much more complicated. But the point remains that by bringing a decision-making perspective to examine the background of the researchers themselves, it may be possible to better

appreciate the values contained within each theory.

SUMMARY

It is impossible to "prove" that a decision-making approach is superior to the other models surveyed in this section. However, from the preceding section it can be determined that the employment of a decision-making model provides the means to overcome many of the deficiencies of these other approaches. Therefore, decision-making offers the best means of understanding the dynamics of the processes that shape the international system and therefore the creation of foreign policy. But, before it is possible to implement such a model, it is necessary to review the weaknesses of existing decision-making models in order to know how to improve and strengthen them.

SECTION II

CRITIQUE OF DECISION-MAKING APPROACH

While this chapter has focused on the strengths of the decision-making model compared to those of other approaches to the understanding of how foreign policy is made, it is also important to note the weaknesses of the decision-making approach.

DECISION-MAKING AS ONLY A METHODOLOGY AND NOT A THEORY

One of the more significant critiques of the decision-making model is that it provides only a means of organizing the components of a state's foreign policy machinery, and that it does not offer a means of explaining how these elements interact. That is, it provides a framework but not a model or theory. This line of reasoning is based on the fact that in many decision-making approaches, the units of analysis are clearly identified (the decision-makers), but there is little effort to establish why these units behave as they do. This was a common critique of the works of Snyder *et al.*, and a close examination of their work will demonstrate that such a critique is valid.¹⁶ But it must be remembered that they were pioneers and that their work was not intended to be the final word on the subject. Upon examination of the recent additions to the decision-making literature, it is clear that the more recent models have advanced beyond being simply an organizational technique. The works of Maoz, Rosenau and the Hermanns illustrate that the decision-making approach is capable of providing a means for identifying and explaining causal relationships between variables. However, a means of successfully testing these models is required.

THE PROBLEM OF FEEDBACK

The concept of feedback is contained within most decision-making models. Feedback is an effort by theorists to come to

terms with the problem of time progression. It was first introduced in the model proposed by Brecher et al. as an attempt to incorporate an element of time and learning.¹⁷ In most instances, feedback is symbolized as a loop that leads back to the main units of the model. For example, the rational actor model of decision-maker draws heavily on the concept of feedback. In it, the decision-maker evaluates the many options open to him/her, selects the optimum choice, implements that selection, and proceeds to adjust the policy as "feedback" is gathered. What is really happening is that other decision-makers are reacting to the decision of the rational decision-maker by making their own decisions, and thereby altering the environment in which the original decision was made. Thus, feedback is really the making of new decisions and not the minor alteration of an existing decision.

The main theoretical problem of employing feedback as a conceptual tool is that it creates a misleading impression of what is occurring in the process. Decisions take place over time. What must be recognized is that the element of time is unidirectional and ongoing.¹⁸ Therefore, feedback is a theoretical construct that distorts the actual dynamics of the process. Decision-makers cannot go back in time and adjust previous decisions. Instead, they can only make new decisions to take into account the results of their previous decisions and the preceding actions of others. Therefore, any model must

provide a better means of establishing the cumulative effect of multiple decision-makers over time.

THE PROBLEM OF THE STATIC MODEL IN A DYNAMIC WORLD

Closely related to the problem of feedback is the difficulty of attempting to understand a dynamic process through a static model. The environment in which international relations and foreign policy phenomena occur is one of constant action and activity. While certain periods of time may be more active than others, there is never a period in which activity does not occur. Yet, due to the limitations of attempting to explain such activity via the static communication medium of writing, all models of international relations and foreign policy must attempt to provide some form of explanation in a static mode. Once researchers finish writing their findings, those findings become rigid. For example, a person could have been writing on the development of East German foreign policy at the end of the 1980s only to literally awaken one day to find that they must shift their focus from political science to history.

However, models based on decision-making are particularly vulnerable to this problem because of their emphasis on the actions of individuals. The decision-making model must accurately capture the actions of the most relevant decision-makers. However, the constant changes and interactions that

are occurring make this a difficult task to accomplish. Thus, a model must have a capacity to account for new developments as they occur.

LIMITATION OF THE UNDERSTANDING OF COGNITIVE PROCESSES

The fourth limitation of the decision-making approach lies in the existing understanding of cognitive processes. It is abundantly clear that the current status of knowledge in this field is limited. However, this is also a field that is now experiencing a revolution, and as such, is probably one of the most exciting areas to follow in the immediate future.¹⁹ Nevertheless, although the present knowledge base is important, it does not yet provide a complete understanding of how decision-makers process their thoughts. Ideally, researchers would understand the motivating factors for any decisions and actions that are undertaken by these individuals. Such knowledge would answer the many questions regarding the manner by which information is processed. However, it is not yet certain when or how the field will advance to the stage in which such answers may be satisfactorily provided.

LACK OF NON-WESTERN STUDIES OF DECISION-MAKING

A fifth problem facing researchers who wish to utilize a decision-making approach is the lack of study as to how non-western decision-makers act. As Dougherty and Pfaltzgraff

write:

We must admit that we do not know a great deal about foreign policy decision-making in non-western capitals, particularly those far removed from a constitutional democratic experience.²⁰

Part of the problem lies in the authoritarian nature of many of the non-western states. It is difficult for researchers, native or foreign, to gain access to officials in countries like China or the former Soviet Union. In states which have a democratic form of government, such as India, legacies of history (for example, the British tradition of government secrecy) severely handicap researchers. It must also be remembered that even in "open" states such as the United States and Canada, the development of the "freedom of access" to government information is a new and tenuous development. Ultimately, any non-western researcher who attempts to utilize a decision-making approach faces substantial difficulties and any such research is currently limited.

THE PROBLEM OF SECRECY

A problem that underlines almost all studies on foreign policy and in particular, those using decision-making approaches, but which are not always explicitly stated, concerns secrecy. In general, governments do not like to publicize their operations. This is true of both democratic and non-democratic countries. For example, even though Canada is a democratic state, and has clearly established rules of law, it is difficult to receive information on the internal functioning

of government. Even though Canada is a parliamentary government, based on the principle of a strong (but loyal) opposition, members of the opposition will often find that even they are not provided with necessary information.²¹

There may be several reasons for secrecy. The one most commonly cited by governments is that of national security. There is a fear that if the government is not protective of its information, foreign elements may use it against the interests of the state. A second, commonly cited reason is the fear that if economic information is released, it may give an unfair advantage to the competitors of state's businesses. This is said to be particularly true as the economic system becomes more and more international in scope. A third, specifically Canadian reason, is the necessity of ensuring Cabinet secrecy. The argument is that since the executive of our country is based on Cabinet discussion and agreement, the members of Cabinet must be guaranteed that whatever they say, will not be publicly released. The logic is that such a guarantee will enable the members to engage in a more "frank" and "honest" discussion. Thus, Canada's Freedom of Information Act specifically prohibits the release of any information made in Cabinet.

On the negative side, it may be suggested that it is in the government's interest to keep its actual deliberations from

the public in order to hide its mistakes; to hide any forms of corruption that may be influencing decisions; or to hide the fact that certain groups or individuals have a special influence based on an "unfair" advantage. It is of course impossible to know for certain because of the secrecy.

Regardless of the reasons for secrecy, it is a reality. It often is difficult to gain access to the full story. However, this does not mean that efforts to understand foreign policy are impossible, but only that such efforts face such problems.²²

SUMMARY

The preceding section has argued that, in theoretical terms, a decision-making approach is most likely to be successful for understanding the making of foreign policy. And success in this context means the theory that will best explain how events occur in "reality."

How is this model of decision-making to be constructed? While the argument has been made that a decision-making approach is the best, existing models are by no means perfect. There are significant theoretical and practical difficulties that must be overcome. The following sections will offer a modified decision-making model that addresses these difficulties but retains the main strengths of the decision-making approach.

SECTION III

A DECISION-MAKING MODEL

The two main variables of this model are the decision-maker and the decision. Both are of equal importance and each acts to shape the other. While the decision-maker makes the actual decision, previous decisions determine who the decision-makers are. Because of the ongoing nature of time, it is impossible to ever determine which came first.²³ As a result, both must be examined as separate components that make up one unit.

On the basis of the above argument, foreign policy is defined as the cumulative effect of the decisions made by the decision-maker across state boundaries. The only factor that differentiates foreign policy from domestic policy is that the foreign policy decision-makers involved are from more than one state.

Thus, the argument of this study is that the best means of determining how foreign policy is made is by undertaking a detailed examination of the decision-makers and their decisions. This model is differentiated from previous efforts by its definition of the identification of the decision maker and focus on the decision itself. This thesis contends that foreign policy is best understood as a cumulation of individual decisions taken by a large number of actors over a

period of time. By understanding the dynamics of who is making the decision and the cumulative effects of the decision, the main processes of how foreign policy is made may be best explained.

While such an approach is not difficult to summarize, it is much more difficult to implement through a practical research agenda. In adopting this model of foreign policy, it is necessary to identify as many decision-makers as possible, as well as provide an understanding of the linkages between all of them. It is also necessary to identify the decisions made and provide a means by which they can be compared. Of course some decision-makers will be more important than others, but there is a problem in pre-determining which are more important than the other. As such, it is necessary to examine all of the decision-makers before judgement may be made on their respective importance.

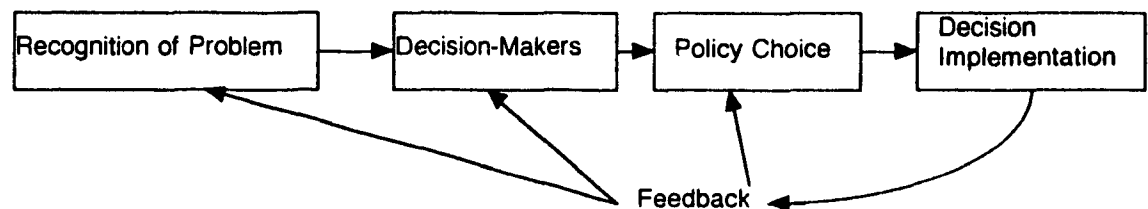
THE MODEL

The proposed model follows on the developments pioneered by the works of Snyder et al. and Brecher et al.²⁴ Both sets of analysts postulated that the process would begin when the decision-makers perceived the emergence of a problem requiring action. The problem need only be perceived as existing and does not need to exist in reality. The decision-making elites of the state then process this problem through their

psychological environment, decide on a course of action and attempt to implement it.²⁵ Figure 3-1 provides a schematic representation of this process.

FIGURE 3-1

TRADITIONAL DECISION-MAKING MODEL



However, as previously discussed, such a model has limitations. The manner in which decision-makers process information through their psychology is not adequately understood; the concept of feedback is misleading; and the models are too limited in their definition of decision-makers.

In reality, the decision-making process exists as a vast chain of individual interactions. The actors involve a vast number of individuals and extend throughout the entire international system. However, such a reality is extremely difficult to both visualize and conceptualize. Figure 3-2 attempts to illustrate

the multiple connections between decisions and decision-makers that exist in the international system. It is meant only as a representation and does not suggest to approximate the true number of interactions in the international system. An important point it shows is the extremely large number of decision-makers involved and the even larger numbers of decisions made between them as time progresses. Figure 3-2 conveys the complex interactions that occur and that must be recognized if the process is to be correctly understood.

This has been better understood by writers of science fiction and poetry. In his poem, "The Road not Taken", Robert Frost reflects on the impact of decisions made throughout life.²⁶ In it, a traveller reflects on how different his life may have been had he made a different choice at a fork in the road. Likewise, science fiction television programs, such as "Star Trek: the Next Generation", often examine how the entire universe may be changed by one small decision. In one such episode, "Yesterday's Enterprise", the crew of the Star Ship Enterprise suddenly finds their entire lives transformed when another ship passes through time, and thereby completely changes history as they know it. Of course this is just fiction, but a valid point is made. One decision can have a tremendous impact on the entire world. Imagine what the world would be like today if Adolf Hitler's mother had decided she did not want children, or if the Germans had not allowed

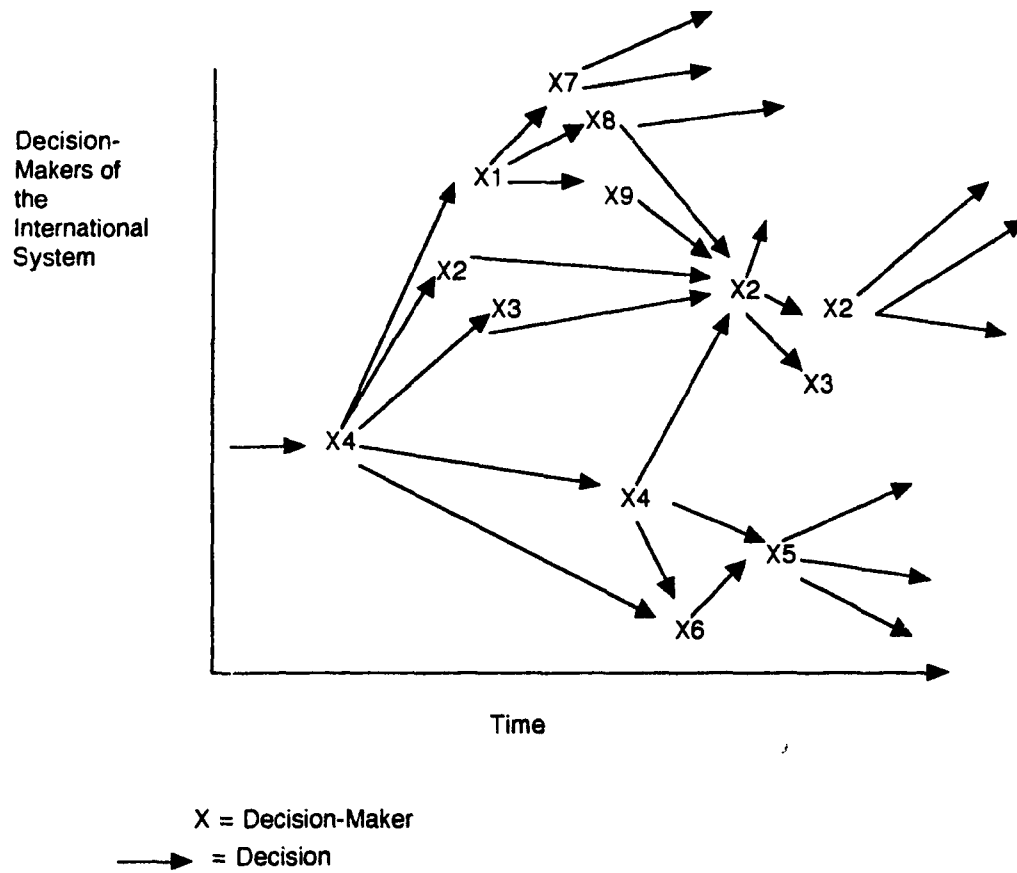
Lenin's train to pass through Germany during World War I.

It is easy to intuitively grasp the importance of the decision-making chain that makes up the international system. However, a systematic and rigorous means of assessing this chain is lacking. Thus, the principal difference of the model in figure 3-2 from the traditional model of decision-making is the inclusion of a much greater number of decision-makers and decisions. Since the traditional definition of who the decision-maker is is incomplete, it is necessary to expand those included to as many individuals as possible. Furthermore, such an approach also provides a partial remedy to the issues raised by many current critics of traditional international relations theory that key groups, for example such as female decision-makers, have not been adequately represented in conventional theories.²⁷

The second major advantage of this model is that it allows the researcher to add to it as new information is discovered. As the involvement of new decision-makers are uncovered, it is possible to simply add the new actors and their actions to the decision-making chain. This has obvious advantages when dealing with an issue in which information is declassified over time and is slowly added to the public forum.

The key to understanding the decision-making process is found through the ability of identifying the important sequence of

FIGURE 3-2
DECISION-MAKING CHAIN



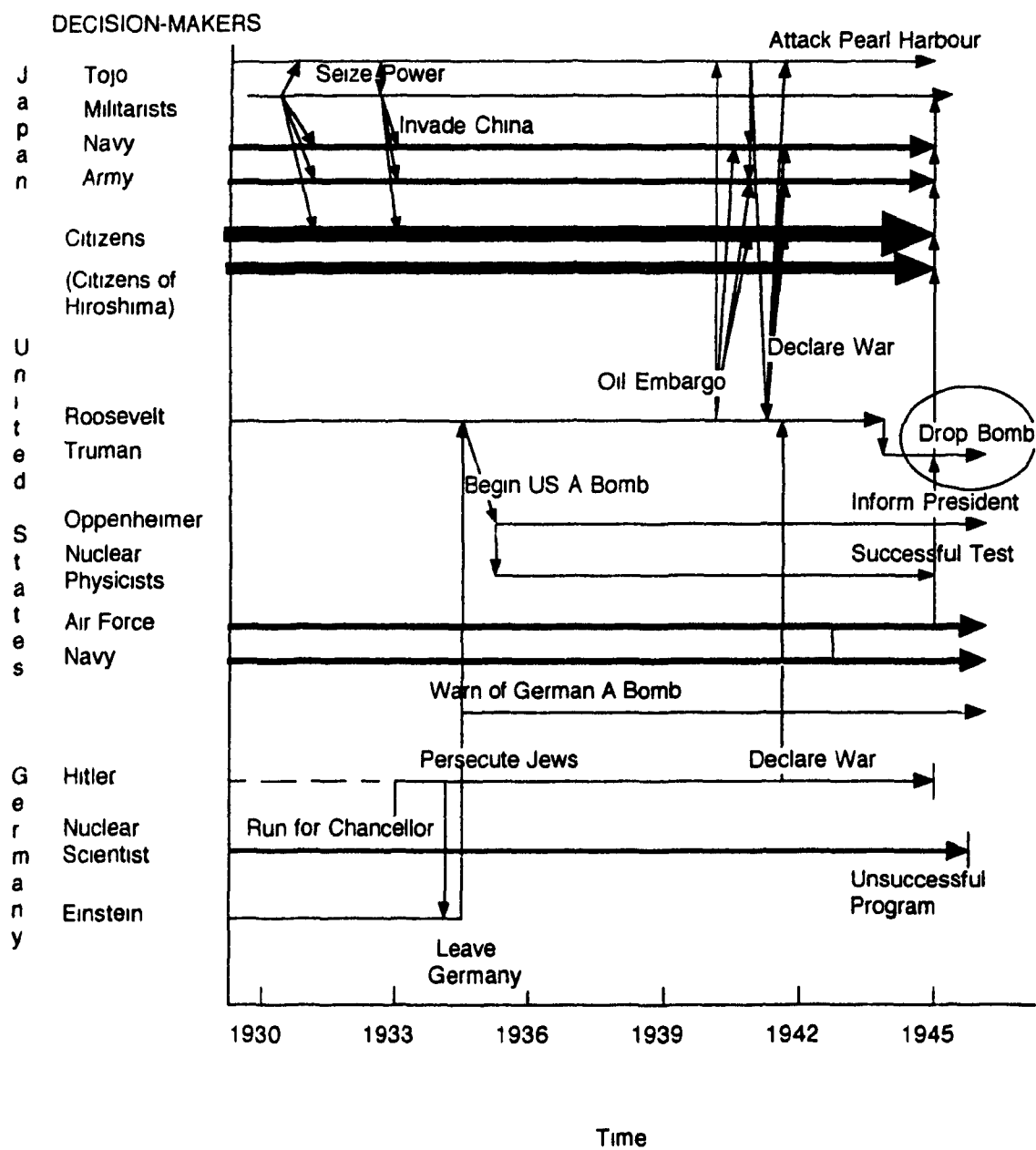
the decision-making chain. By understanding how the sequence works for the creation of a specific policy issue, it will then become possible to extrapolate it to any policy or collection of policies.

One of the more important benefits of such an approach is that it allows the researcher to fine-tune their research question to whatever level is required. This approach can be applied to determine why domestic and/or foreign policies were adopted. For example, Figure 3-3 provides an examination of the decision to drop an atomic bomb on Hiroshima.

Figure 3-3 traces the various decisions that are directly attributed to the dropping of the atomic bomb on Hiroshima. Had any of these decisions been altered, Hiroshima may not have been bombed. Had the Japanese Government not invaded China, the United States would not have imposed an oil embargo on Japan. Had the embargo not been imposed, the Japanese would not have attacked Pearl Harbour. Had Pearl Harbor not been attacked, the United States would not have declared war on Japan, and so on.

It is impossible to prove conclusively that these decisions are causally related. Unlike the writers of the "Star Trek" series, real-life researchers cannot travel back in time to explore the result of the manipulations of pivotal decisions

FIGURE 3-3
DECISION-MAKING CHAIN FOR THE BOMBING OF HIROSHIMA



in history. However, it is possible to examine a decision-making chain in a scientifically rigorous and detailed fashion. It may be possible to determine the patterns and causal relationships that exist in a complex decision-making chain.

In order to be more than a simple replication of events, it is necessary to develop a means of analyzing and comparing the decisions as they occur. The model must identify the main components of the decision-making process. There are four main sections that must be explained in detail. They are: 1) the identification of the decision-maker; 2) the composition of the decision; 3) the decision-making process; and 4) the sequence of the process.

DECISION-MAKERS

The decision-maker is the individual or group of individuals that makes the decisions. The traditional view of foreign policy decision-makers has been to examine only the actions of the foreign policy departments and political elites of the state. While these two groups are still the most significant sets of decision-makers, this model postulates that it is also necessary to go beyond these boundaries and attempt to create a definition and means of identifying decision-maker that allows for the inclusion of all relevant actors.

However, it is necessary to develop a classification system that includes both the individual and the groups that comprise decision-makers. It is often impossible to isolate the actors at the individual level.²⁸ For example, the dynamics of a riot that leads to significant international action can seldom be broken down to the level of the individual. The mass of individuals who participate do so as individuals but their actions can be seen only as a decision-making unit. An example of this can be found during the days and nights that followed the coup attempt in the Soviet Union in 1991. Each individual Soviet citizen had to decide for himself or herself whether or not to take to the streets. Some did and some did not. But the cumulative action of their individual decisions directly contributed to the ultimate failure of the coup. Their individual actions were significant, but it is impossible to identify the decisions of all of those who participated on an individual basis. While acknowledging this limitation, it nevertheless remains preferable to break down any such group to its smallest component whenever possible. Thus, if a means of assessing the individual actions of all involved in the counter coup becomes available, it should be utilized. But such a method does not yet exist.

A second reason for the need to develop a detailed classification system lies in the evidence that the Hermanns have provided through their study of the "ultimate decision-

making unit".²⁹ They have demonstrated that the type of decision-making unit employed will result in a different type of foreign policy decision. They identify three main units: the predominant leader, the single group and the multiple autonomous actor.

However, as argued in Chapter II, there are limitations created by their model. It assumes that an issue moves up the decision-making tree in a linear fashion until it reaches an "ultimate decision-making unit", at which point a final decision is made. It is quite probable, however, that an issue can move up and down, and across the decision-making tree without resolution. The Hermanns' model is also based on a traditional perception of foreign policy. It does not allow for the inclusion of non-governmental actors in the process. As Rosenau and Peterson have demonstrated, such an omission does not contribute to a complete understanding of the foreign policy making process.³⁰ Nevertheless, their conclusion on the influence of the type of the decision-maker is an important consideration in establishing the identity of the decision-makers.

Therefore, a methodologically sound means of identifying different types of groupings is required. Because traditional approaches have failed to deal adequately with this issue, the most logical solution is to break the decision-makers down to

the smallest unit possible, the individual decision-maker, and to then use this unit as the basic building block for more complicated structures.

Rosenau's work provides the best foundation on which to base this classification. As discussed in Chapter II, he is acutely aware of the inadequacies of previous attempts to isolate foreign policy decision-makers. As a remedy, he introduces his model of aggregation in which individuals aggregate or disaggregate into larger and smaller units. While Chapter II contended that Rosenau has yet to fully explain the dynamics of this process, his division of decision-makers is logically sound. As such, this model will build on his means of identifying the various decision-making types, as shown in Figure 3-4.

INDIVIDUAL DECISION-MAKERS

Citizens: Rosenau defined the citizen as the individual who belongs to a macro collective (usually the state) and is subject to "aggregation, mobilization and control".³¹ The citizen is the most basic type of decision-maker, from which all other types of decision-making units are formulated. For example, all officials will also be a citizens, but not all citizens will be officials.³²

FIGURE 3-4
IDENTIFICATION OF DECISION-MAKERS

INDIVIDUAL DECISION-MAKERS

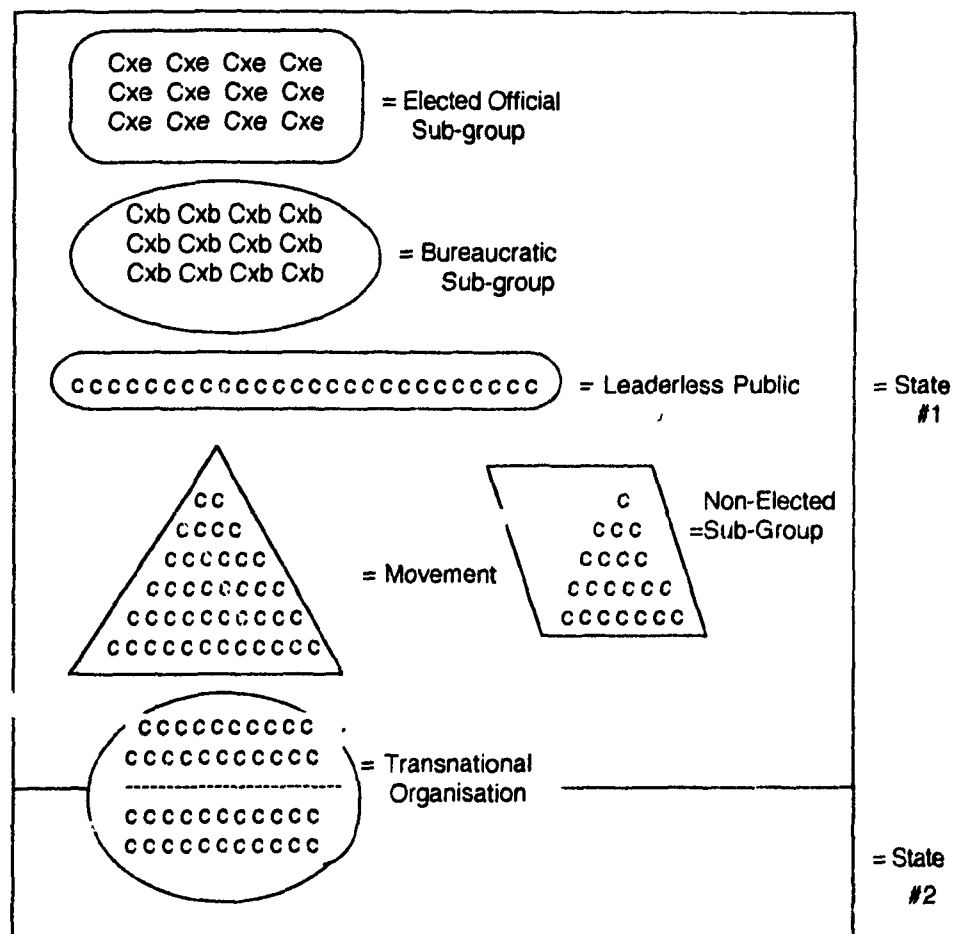
C = Citizen

Cx = Official

Cxe = Elected Official

Cxb = Bureaucratic Official

DECISION-MAKERS AGGREGATION (Groupings)



Officials: These are the citizens that hold official positions within government. The Hermanns define them through their ability to "commit or withhold the resources of the government..".³³ These resources include both financial and manpower assets. Within this grouping it is possible to make a further sub-division between officials who gain their positions through election, and those who acquire their position through bureaucratic selection, the former being elected officials and the latter bureaucrats.

DECISION-MAKING GROUPS

Subgroups: Subgroups are identified by Rosenau through the existence of "enduring memberships and specifiabale authority relationships in which their members and leaders are located in a hierarchy of roles."³⁴ These subgroups may be made up by any combination of citizens and/or officials. For example, in Canada, there are subgroups within a state made up entirely of officials such as the Department of External Affairs. There may be non-official subgroups such as business companies. The defining feature of a subgroup is its enduring membership and sets of authority relationships.

Transnational Organizations: A fourth but related division is transnational organizations. They follow the same patterns as the subgroups in terms of authority and hierarchy of roles. The only difference is that its memberships are drawn from

across national boundaries. Furthermore, transnational organizations are "neither over nor under the authority of states, but instead, span state boundaries."³⁵

States: The state contains all of the sub-groups, officials, and citizens of one territorial unit. The main means of identification of the state is that it is not subordinate to any other collectivity.³⁶

Leaderless Public: Rosenau has defined this type as an entity that results from, "the separate but convergent actions of many individuals who do not share organizational membership".³⁷ Such groupings include phenomena such as riots. No one person is enough to cause a riot, but at a certain level, the similar action of a group of individuals will lead to a riot.

Movements: While similar to the leaderless public, movements will exhibit some form of leadership and a loose form of organization. Unlike subgroups, however, there are no hierarchical forms of authority, and citizens remain only as long as they accept the general actions of the movement.

The key element of these groupings is that they are in a continual state of flux. As explained previously, the first two categories (citizens and officials) are capable of

aggregating or disaggregating into one of the other four.

The manner in which the individual decision-makers are aggregated or disaggregated plays a key role in the manner by which decisions are made. For example, a leaderless public will react differently to the same situation than will a leader or a citizen. What is not known is how this difference manifests itself.

DECISIONS

In addition to the different classifications of decision-makers, their decisions can also be broken down into composite parts. As in the case with the decision-maker, each type of decisions has a different impact on the making of foreign policy.

Institutional Decisions: These are decisions of a long-lasting nature that shape the forum in which current decisions are made. To be considered institutional decisions, they have to have been made over a long period of time and have resulted in the creation of a set of institutions in which existing decisions are now made. These institutions can be altered by current decisions, but this cannot be done easily. An example of an institutional decision was the creation of the Canadian Constitution in 1867. The decision to enact the British North America Act created the political institutions through which

all existing Canadian political decisions for both foreign and domestic policy are now made. It is possible to alter or nullify institutional decisions, but as recent events in Canada concerning the Charlottetown Accord have demonstrated, this is extremely difficult.

Organizational Decisions: These are the decisions by which the decision-makers are selected to deal with a specific issue. That is, who gets to make the policy decision. Such a selection may be undertaken through established operating procedures, bureaucratic bargaining, or by direct conflict between decision-makers.

Policy Decisions: These are the decisions by which policy is created by the selected decision-makers. Policy decisions have three main dimensions:

i) **Duration:** Duration is the length of time over which the impact of a decision may be felt. In other words, how long the decision is to be maintained. It may be a one-time affair, or it may represent action that is to be maintained for a long period of time. For example, a decision to issue a diplomatic protest involves only a short period of time. A decision to go to war involves a much longer time period.

ii) **Costs:** The decision will always involve some form of cost

in terms of manpower, financial expenditures and opportunity costs. A simple act of issuing a statement requires the decision-makers to make the effort to write it up.

iii) Target: The decision will be directed towards a target. It is the behaviour of the target that the decisions-makers are hoping to affect by making a decision. The target may be direct or indirect; intended or unintended. For example, the decision-makers involved with the recently rejected Charlottetown Accord had several direct targets: Quebec, supporters of a Triple E Senate, and aboriginal groups. But the decision-makers also had a larger set of indirect targets. The federal decision-makers' indirect target was the Canadian electorate. The Conservative government had to go to the polls before the end of 1993, and a successful resolution of Canada's constitutional difficulties would have helped their electoral success.

Likewise, a decision will always have an intended target, but often there will also be unintended targets. For example, the intended targets of the Canadian Government's decision to allow NATO fighters to train at Goose Bay were other NATO governments and the Canadian Forces. It wished to show these other governments that it was sharing defence burdens and was also enabling its own airforce to have a location at which to train. An unintended target of the decision was the local

indigenous population who became affected by the decision.

Implementation Decisions: Once the policy decision is made, it is then necessary to implement it. With few exceptions, the decision-makers who make the decision will differ from those who are required to implement it. The act of implementing the decision will require a set of decisions in and of itself. In extreme cases, the decisions required for implementation can completely alter the intent of the original decisions. For example, while President Kennedy may have made the decision to remove the Jupiter missiles from Turkey prior to the Cuban missile crisis, the officials involved in the implementation of the decision made their own decision as to the timing of the withdrawal. As a result, while the main American officials in Turkey waited for an opportune time to implement the decision made by Kennedy, the Cuban missile crisis erupted. Kennedy then found to his surprise and dismay that it was the failure to implement his decision that was a partial cause of the conflict.³⁸

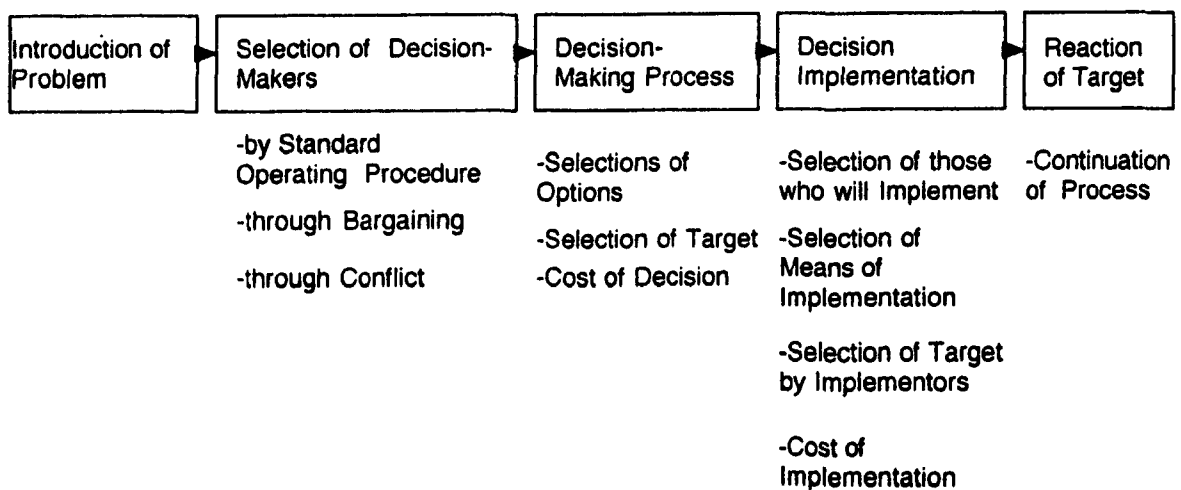
DECISION-MAKING PROCESS

Figure 3-5 breaks down the basic parameters of the process for each decision. The process begins when there is an introduction of a perceived problem that is assessed by some decision-makers as requiring action. The decision-makers may be found from any section of society, and are capable of

making a decision that results in a reaction to the perceived problem.

The next stage of the process involves the selection of the decision-makers who are to respond to the issue. In most instances concerning issues of foreign policy, these decision-makers are found within the government. But this is not always the case. The actions of the members of Amnesty International are but one example of a group of decision-makers who are reacting to the perception of a problem in the international system.

FIGURE 3-5
DECISION-MAKING PROCESS



The decision-makers who recognize the existence of the problem may or may not be able to react to it. They also may or may not want to take action themselves. Because of this uncertainty, it becomes necessary to examine the manner in which this selection is made.

There are three alternatives means of selecting the decision-makers. These are through the establishment of a standard operating procedure, bargaining and conflict.³⁹

The selection may be made via a set of standard operating procedures. For example, when a refugee claimant arrives in Canada, a member of the department of immigration is immediately given the authority to begin making the necessary decisions to resolve the issue (either to grant refugee status or not). The various departments of the government do not have to decide who is to handle the case.

A second means of selection is through bargaining. The various decision-makers may decide, on a cooperative basis, which of them is to be the one to respond to the issue. Usually, this will entail some form of trade-off between the actors involved.

A third means of selection is through conflict. This occurs when various decision-makers actively fight for the right to

be the individual/agency to make the decisions in response to a problem. Many of the problems concerning jurisdiction between the federal government of Canada and the provinces are of this nature. For example, it is difficult to distinguish between the immigration policies put forward by the federal government and the provinces in terms of substance. Yet, there is considerable disagreement between Ottawa and the provinces over who gets to make the decisions.

Following the selection of the decision-makers the next stage in the process is the actual making of the decision. It became evident in the discussion in Chapter II, that there is no agreement as to how this process occurs. It is not at all clear if this process follows the rational, incremental, bureaucratic, mixed-scanning, satisficing or mixed path to choice method. Since there is no specific answer to this question, this model will attempt to sidestep this problem, by focusing on the observable aspects of the process. That is, it will examine the decision made, the target of the decision and the costs of the decision.

The third stage of the process occurs as the decision is implemented. While the making of the decision itself is important, the decision has no bearing on the making of foreign policy until it is invoked. Therefore, an integral part of the overall process is the decision-makers who must

implement the policy decision.

The individuals who make the decision do not implement it, a point that most other models of decision-making omit. The manner in which a decision is implemented will play a highly significant role in its success or failure. Therefore, it is important to pay equal attention to these aspects of the process.

As such, it is necessary to examine the decisions made by the implementors as they attempt to put the policy decision into force. For example, the Canadian Cabinet, led by Prime Minister Mulroney, was the decision-making body that decided to enter into a Free Trade Agreement with the United States. However, the success or failure of the agreement will depend on how well it is implemented by the various bureaucracies, as well as by the Canadian and American companies that must take advantage of the terms of the agreement in order to make it successful. Their individual decisions for the implementation of the Agreement will determine if it is to be a success or failure.

Related to the question of who is to implement the decision is the issue of how it is to be implemented. Although the decision-makers who decided on the initial policy may impose strict guidelines for its implementation, there will

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nevertheless be room for flexibility. This will largely be due to the fact that it will be impossible for the policy decision-makers to oversee its implementation. For example, in warfare, the most brilliant of generals is ultimately dependent on their lowest privates for the successful implementation of their plans. Despite his strategic genius, Nelson could not have won the Battle of Trafalgar if his captains had handled their ships incompetently. The successful handling of their vessels was necessary for victory.

There are also questions regarding the targets and costs of implementing the decision. If the decision-makers implementing the decision differ from those making the decision, it is reasonable to suggest that they may have a different set of targets for their actions. Whose actions are they attempting to influence through their method of implementation: the targets of those making the policy decisions or their own? Sometimes the targets will overlap and sometimes they will not. The question remains as to what happens when they do not.

The last stage of the process is actually the beginning for another set of decision-makers. Following the making of the decision in response to the perceived problem, and the making of the decisions required to implement it, the targets will respond. Often, the targets of the decisions will perceive the decisions made against them as representing the introduction

of a new problem and, thus, the cycle begins anew.

SEQUENCE OF PROCESS

Figure 3-6 demonstrates the manner in which the decision-making process occurs over time. The sequence is of critical importance to this model. There is a set path, over time, that each individual decision follows as it is made and developed. This process is difficult to assess due to the large number of decisions that are at different stages at any one point in time.

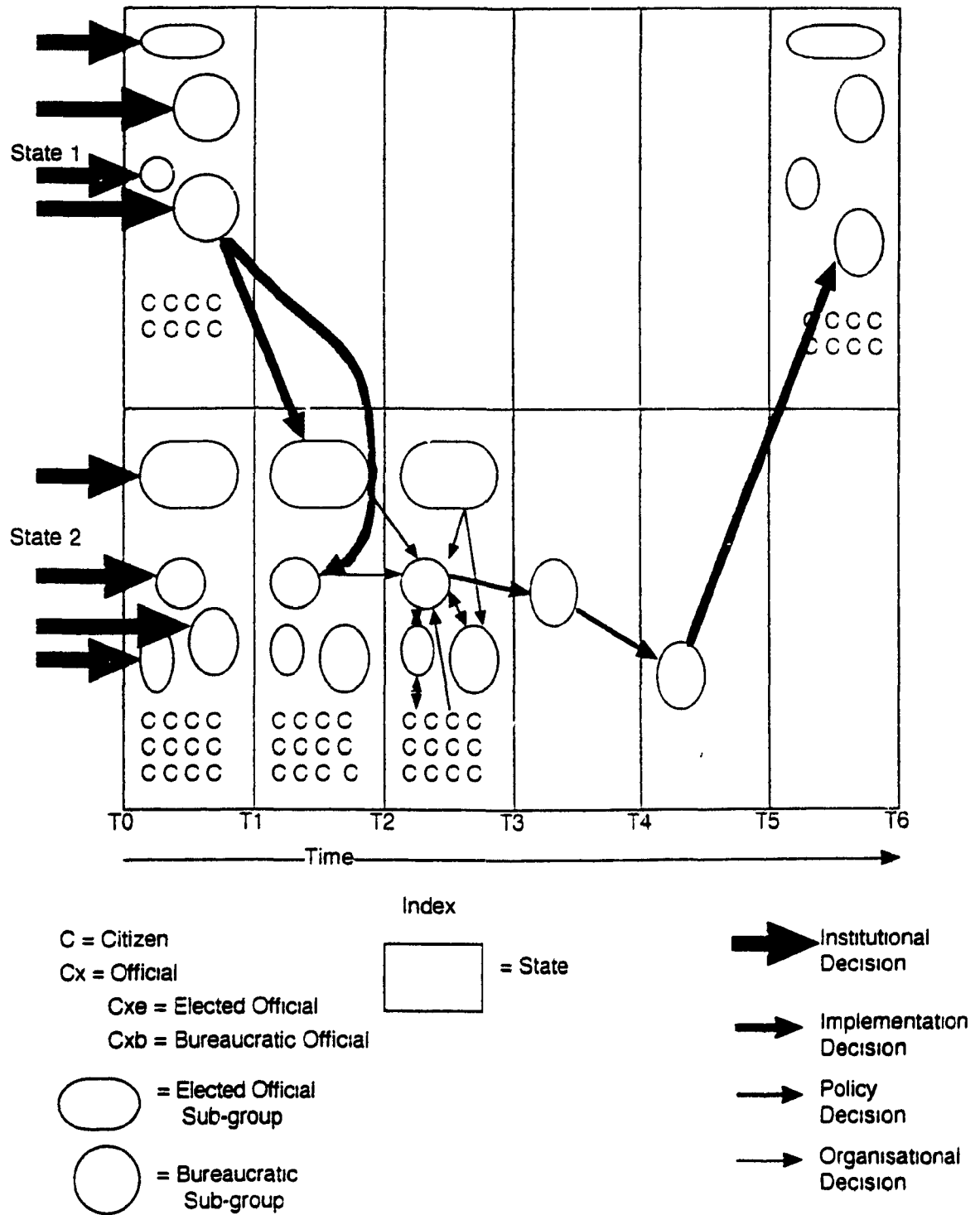
In order to properly understand the process, it is necessary to clearly identify the stages of the process. There are six main stages. What is unknown is whether any of these stages can be by-passed or repeated in the cycle. This will only become clear as the case study is undertaken. The following section provides an explanation of each stage.

T0-t1 represents the cumulative state of all institutional decisions made at that point in time. In the case of Canadian foreign policy, the cumulative state dates from Confederation in 1867. Decisions such as the creation of the Department of External Affairs in 1909 would be included.

T1-t2 represents the time period in which the relevant decision-makers, either officials or a sub-group of officials,

FIGURE 3-6

SEQUENCE OF PROCESS



will perceive the existence of problem that they believe requires some form of action to be taken.

T2-t3 occurs as the various decision-makers organize themselves to respond to the problem. This process may take place without any disagreement among the decision-makers, or may involve an acrimonious period of pre-negotiations to determine which individual or group is allowed to make the policy decision.

T3-t4 is the period of time in which the policy decisions are made in response to the problem. These decisions will be directed towards a target, but as discussed earlier, these targets may be direct and/or indirect, and intended and/or unintended.

T4-t5 represents the time period in which the decision(s) is/are implemented. The decision-makers who have the task of implementing the decision may or may not be the same as those who have made the decision.

T5-t6 is the time in which the target reacts. This represents the renewal of the process as the targets must now begin their decision process.

SECTION IV

METHODOLOGY

To a certain degree, the methodology required to test this model is, by necessity, a hybrid between scientific rigour and pragmatism. While all models aspire to be as objective as possible, the reality of focusing on the decision-maker limits the ability to employ scientifically rigorous means of data gathering. This is due to the degree of secrecy that surrounds top level decisions, such as those made in Cabinet. The difficulty of gaining total access to information from the decision-maker often hides important information. But as Rosenau has pointed out, if researchers wait until they have crafted a model that achieves the highest level of scientific objectivity, they will never be ready to actually test it.⁴⁰ Therefore, it is necessary to be innovative and practical in the data gathering stage.

There are three main parts to this section. The first will explain how the case study is selected. The second section will examine the manner in which data is to be gathered, and the third will explain how this data is to be applied to the model.

SELECTION OF THE CASE STUDY

As stated earlier, one of the main assumptions of this model is the acceptance of the ongoing unidirectional importance of

the continual passage of time. Its main implication for the making of foreign policy is, in reality, the lack of both a true beginning and ending. There is only an ongoing process. There may be significant interruptions in this process, and new directions taken by the decision-maker, or large scale changes in the decision-makers themselves, but there will never be a completely new foreign policy. Instead, there is only the evolution of existing policy. Even if the issue is new, the decision-makers and the tools at their disposal will exist as the result of previously made decisions.

The question then emerges as to how an analyst is able to undertake an examination of foreign policy. It is physically impossible to examine a state's foreign policy in its entirety. Therefore, a means must be established by which it becomes possible to isolate a section of the foreign policy decision-making chain that will provide a representation of how the whole chain operates. The most logical means of doing so is to select a case study in which there is a clear introduction of a new problem facing the decision-makers. This would mean that pre-existing policies were not in place and that there would not be an established unit of decision-makers to deal with the specific issue. In addition, the ideal case study would have a definitive ending to the issue at hand. While there can never be a true ending, decision-makers can end their concern over a specific problem, thereby ending that

specific aspect of the states foreign policy.

The best means for selecting a case study is to identify an event that acts as a catalyst by which decision-makers are required to respond to a new problem. The case study can then be isolated by tracking the decision-makers' responses to the new issue and, in turn, the response of other decision-makers to the initial group's decisions and so on, until the problem is resolved. The period of time between when the problem first appears and when it is resolved provides the means by which the parameters of the case study can be established.

It is now necessary to determine the number of case studies that will be used. There is considerable debate as to the optimal number that should be utilized in any examination.⁴¹ Commonly referred to as the "N" debate (N representing the number or size of cases to be studied), the issue is the optimum number of case studies that should be utilized.⁴²

On the one hand, those who support the employment of a large number of case studies (that is, a large N), base their arguments on the need for statistically significant results. For example, a study that shows three hundred out of four hundred cases displaying a certain type of behaviour is more significant than a study which shows three out of four cases displaying the same characteristics. Generally speaking, the

larger the number of case studies, the more likely they are to approximate the behaviour of the actual population being examined. However, statistical analysis has determined methods of limiting how large a sample population must be to be valid.⁴³

Those who support the employment of a small sample size (small N), or even a single case, have countered that what large N studies achieve in terms of statistical significance, they lose in detailed understanding of the phenomenon. An examination of 1,000 voters may tell the researcher how the overall population will vote, but it will not tell her/him why the population is voting that way. In order to know why, a much smaller number of cases must be studied in detail. Thus, the argument is made that a small N study allows the researcher to conduct a much more comprehensive study of the individual cases.⁴⁴

Munton argues that a chronic problem found in many comparative foreign policy examinations is the researchers' lack of detailed understanding of the states that they are examining.⁴⁵ He suggests that researchers would be making a much more worthwhile contribution by focusing their study on one or two states of which they have a good understanding. But what is not known is whether the detailed knowledge achieved by such a small sample is representative of the entire

population.

The probability that the findings of such case studies would fit the foreign policy of all states would increase as the number of states examined increased. If all states in the international system could be tested with this model, the findings would be statistically significant. However, the problem is that the magnitude of such a study would be so large as to be impossible to accomplish. On the other hand, by devoting the entire set of resources available to the researcher to one case study, it is possible to examine the foreign policy of one state in greater detail. The researcher can be more confident that he or she has better understood the action of the one state, but must remain cautious as to the applicability of the findings to the foreign policy of other states.

In reality, the issue is one of resource allocation. The optimum solution is to study a large number of case studies in as great detail as possible. Theoretically, the best method by which a pollster can know how the entire population is going to vote in an election is to study, in detail, every voter in the country. Obviously this is impossible.

The number of cases to be studied will result in a choice between knowledge in depth, or knowledge in scope. The

selection for this study can be made with relative ease. The argument throughout this thesis has been that there is an inadequate knowledge of how foreign policy is made. A second argument has been made that the most promising means of creating such a model is through a detailed examination of the decision-makers and their decisions. Thus, the study of such a model must be in as great detail as is possible. On the basis of this argument, it is justifiable to employ one case study. Once the model has been developed and tested, it is then logical to apply it to a larger number of case studies. Therefore, this study will restrict itself to one case.

DATA GATHERING

Once the case study has been identified and selected, the next step of the study is to begin data gathering at a general level. In keeping with the requirements of the model, the first set of decisions that must be identified are institutional. This requires the identification of the forums in which the decisions are taking place. To a large degree, this is "setting the stage" for the study. It is important to recognize the previously made decisions that both constrain and propel the current decision-makers.

The next step is to begin the initial identification of the decision-makers and the decisions made regarding the selected case study. As the research progresses this will be an ongoing

process. Not all of the decision-makers will be immediately identifiable, and additional decision-makers will be added as the research progresses. However, it is necessary to begin the search at some point, and the most logical starting point is the media reports on the actions of the decision-makers.

This will require a detailed review of all written sources of information. Newspapers, news magazines and academic journals are the best sources initially. The key data that needs to be recorded is the identification of the decision-makers. Although the main actors will tend to be drawn from government departments, the researcher must be aware of the existence of other non-governmental actors. As there is no readily available means of immediately determining the relevance of the actors, it is necessary to record all of them.

Once the initial listing of relevant decision-makers and decisions is made, the next step is to examine the relevant governmental documentation. In the case of Canadian foreign policy, Hansard and the Parliamentary committee reports are key sources of additional information. Likewise, any reports from governmental departments will also contain more detailed information regarding the decision-makers and decisions.

However, researchers must be aware of several methodological problems that confront them when using documents. As Holsti

has noted, the use of documents may lead to several biases. As he states:

First, the available evidence for any given case may be skewed; for example, formal documents may be over-represented, whereas verbatim reports of debates within policy-making groups are under-represented. Second, the cases for which sufficient evidence is available to permit systematic investigation may not represent an unbiased sample of foreign policy decisions.⁴⁶

In other words, the documentation itself will not present a complete picture of the decision-making process. Instead, a reliance on it will result in the tendency to ignore the more informal but important aspects of the process.

There are other problems inherent in the employment of documents as a source of information. Documents are not meant for researchers, but are "intended to persuade, justify, threaten, cajole, manipulate, evoke sympathy and support, or otherwise influence the intended audience."⁴⁷ The intended audience is seldom the general public. As a result, the document will often be based on assumptions that are not fully understood by an outside reader.

There are additional problems of determining authorship of documents. Even when a document is cited to a particular author, there is no guarantee that this is correct. In many instances, it may be ghostwritten by another official. There is also the problem that many documents are the amalgamation of work undertaken by more than one author. The solution to

these problems is personal interviews.

The detailed examination of the previously identified decision-makers and decisions through interviews, can provide the researcher with information that is not found in media sources and documents. They provide a much more detailed record of the actions of the decision-makers. Much of the preliminary interactions of the decision-makers takes place at an informal level, and these interactions tend not to be recorded in any great detail. Interviews allow the researcher to gain some knowledge of these interactions.

A second objective of the interviews is to identify more decision-makers. Those who are identified in media reports and other public sources tend to be either official spokespersons or high-ranking officials. Seldom reported in public sources is the complete listing of decision-makers involved at all levels. Through interviews, it becomes possible to get a listing of most, if not all, of the active participants. There are no shortcuts to this process, and it is necessary to follow up each new name that is located with a new interview. In many regards, this process is akin to the peeling of an onion. Every time one layer is removed, another one is discovered.

However, the use of interviews entails certain problems. As

Weil has pointed out, during interviews, decision-makers will often revise the reasons for their decisions as more facts become available to them. Thus,

[i]t is at least possible, then, that recollection of the decision process is colored by the additional information so that its use as source data for the analysis will result in an unrealistic portrayal of the problems confronted when the decision was required.⁴⁸

Related to this is the phenomenon described by Jervis in which decision-makers tend to explain their choices in better terms than are warranted, after the decision has been made.⁴⁹ There is a human tendency to not want to admit to making a bad decision. Thus, any examination of a decision taken must recognize that there is a tendency for those who have made the decision to exaggerate its benefits and minimize its costs. Therefore, there is the possibility that decision-makers will "reset" the circumstances in their mind.⁵⁰

Another problem that researchers face using interviews is the prospect that the person who needs to be interviewed simply does not wish to oblige. Often, persistence and perseverance, tempered with politeness, will break down most resistance, but it must be acknowledged that in some instances it will prove to be impossible to reach the specific individual. Although this will affect the overall examination negatively, its impact can be somewhat mitigated if the decision-makers involved with the reluctant respondent can be reached for interviews.

A related problem, but of a much more serious note to the researcher, is the possibility that there is an active conspiracy to keep outsiders from knowing all of the players and the decisions made.⁵¹ This will be particularly true of issues perceived to involve national security. Sometimes it may prove impossible to make any headway into the process, and defeat must be admitted.

APPLICATION OF DATA TO MODEL

Once the information is gathered the next step is its application to the model. This requires careful identification and labelling of decision-makers and their decisions over time. To the degree made possible by the research, the links between the decision-makers and their actions are to be made clear.

Following the plotting of the decision-makers and their decisions, the next step is to analyze the results of the examination. The findings that will be yielded are not clear at this point in time. However, the identification of the relationship between the decision-makers and the policies that they create is important.

CONCLUSION

By necessity, this chapter is incomplete. A framework for analysis has been established, but the nature of the relationship between the main variables is not yet known. The following chapters will examine a case study to test the validity of the model and to determine the nature of the relationship in the foreign policy process.

ENDNOTES

1. For a good discussion of this problem see Ernie Keenes, "Embedded Liberalism and Canada: State Reorganization in International Political Economy" (Ph.D. dissertation, Carleton University, 1991).
2. Roger Hilsman, The Politics of Policy Making in Defense and Foreign Affairs: Conceptual Models and Bureaucratic Politics (New Jersey: Prentice-Hall Inc., 1987), p.48.
3. For a discussion of the growing trade role see Globe and Mail Monday November 9, 1992, p.1; and Tuesday November 10, 1992, p.1.
4. There has been some very recent attempts to examine the working of the stock market in detail. David Farmer is now attempting to use chaos theory to examine the actions of the market. In order to do so, he and his colleagues must account for a detailed accounting of the decisions that move the prices of stocks. For further information on Farmer's efforts see David Berreby, "Chaos Hits Wall Street," Discovery 14 (March 1993).
5. Kenneth Waltz, Theory of International Politics (Reading, Massachusetts: Addison-Wesley, 1979).
6. For a review of Trudeau's actions see: Kim Nossal, The Politics of Canadian Foreign Policy (Scarborough: Prentice-Hall, 1985), pp.96-97. For a good review of Trudeau's impact on Canadian foreign policy up to end of the 1970s, see Harald von Riekhoff, "The Impact of Prime Minister Trudeau on Foreign Policy," International Journal 33 (Spring 1978).
7. For examples of such critiques see: Zeev Maoz, National Choice and International Processes (Cambridge: Cambridge University Press, 1990), pp.549-557; and Richard Ashley, "The Poverty of Neorealism," International Organization 38 (1984).
8. See Chapter II for this critique.
9. See Ashley and his critique of neorealism.
10. Waltz, Theory of International Politics, pp.161-193.
11. Oran Young, International Cooperation: Building Regimes for Natural Resources and the Environment (Ithaca: Cornell University Press, 1989); and Peter Haas, "Do Regimes Matter? Epistemic Communities and Mediterranean Pollution Control," International Organization 43 (Summer 1989).

12. For a good discussion of the main elements of the third debate see Yosef Lapid, "The Third Debate: On the Prospects of International Theory in a Post-positivist Era," International Studies Quarterly 33 (September 1989).

13. V. Spike Peterson, "Transgressing Boundaries: Theories of Knowledge, Gender and International Relations," Journal of International Studies 21 (Summer 1992), p.190.

14. Thus, this logic would suggest that when Kissinger wrote of nuclear weapons, the values that underlay his assessment were transferred into the international system, when American decision-makers began to read his works. See Henry Kissinger, Nuclear Weapons and Foreign Policy (New York: Harper, 1957).

15. Peterson, "Transgressing Boundaries," p.190.

16. Richard Snyder, H.W. Bruck, and Burton Sapin, ed., Foreign Policy Decision-Making: An Approach to the Study of International Politics (New York: The Free Press of Glencoe, 1962).

17. Michael Brecher, Blema Steinberg, and Janice Stein, "A Framework for Research on Foreign Policy Behaviour," Journal of Conflict Resolution 8 (March 1969).

18. There are some who argue that this is not physically true. For example, if the Big Bang theory is correct, then at one point in time the universe will begin contracting. This then will result in time going backwards. Births will be deaths and deaths will be births. However, this is as of yet unproven. For the best examination of this issue in terms that are understandable to the layperson see Stephen Hawking, A Brief History of Time: From the Big Bang to Black Holes (New York: Bantam Books, 1988).

19. See for example Walter J. Freeman, "The Physiology of Perception," Scientific American (February 1991); and Eric R. Kandel and Robert Hawkins, "The Biological Basis of Learning and Individuality," Scientific American (September 1992).

20. James Dougherty and Robert Pfaltzgraff Jr., Contending Theories of International Relations: A Comprehensive Survey 3rd ed. (New York: Harper and Row Publishers, 1990), p.500.

21. One of the best known examples of the lengths that a standing government will go to to maintain secrecy was illustrated when opposition members of Parliament were required to ask Bill Arkin for a list of defence agreements that Canada had made with the US. It appears that the Canadian Government believed that it was not in the national interest for the opposition to know even the titles of the agreement, even though Arkin, a private American citizen, was able to simply ask the American Government and receive the information!

22. For a short but good review of the freedom of information issue in Canada see: John Eichmanis, "Freedom of Information in Canada," in Paul Fox and Graham White ed., Politics: Canada 7th ed. (Toronto: McGraw-Hill Ryerson, 1991).

23. The ability of such an interdependence is best explained through structuration theory. As such, the decision and the decision-maker are two separate entities but cannot exist without each other. See, Anthony Giddons, Central Problems in Social Theory: Action, Structure and Contradiction in Social Analysis (Berkeley and Los Angeles: University of California Press, 1979); David Dessler, "What's at Stake in the Agent-Structure Debate?" International Organization 43 (Summer 1989); and Alexander Wendt, "The Agent-Structure Problem in International Relations Theory," International Organization 41 (Summer 1987).

24. Snyder, Bruck, and Sapin, Foreign Policy Decision-Makers; and Brecher, Steinberg, and Stein, "A Framework for Research on Foreign Policy Behaviour."

25. Brecher et al., "A Framework for Research," p.82.

26. For the sake of the reader who is perhaps in need of mental refreshment, I have included the poem in its entirety.

THE ROAD NOT TAKEN

Two roads diverged in a yellow wood,
And sorry I could not travel both
And be one traveller, long as I stood
And looked down one as far as I could
To where it bent in the undergrowth;

Then took the other, as just as fair,
And having perhaps the better claim,
Because it was grassy and wanted wear;
Though as for that the passing there
Had worn them really about the same,

And both that morning equally lay
In leaves no step had trodden black.
Oh, I kept the first for another day!
Yet knowing how ways leads on to way,
I doubted if I should ever come back.

I shall be telling this with a sigh
Somewhere ages and ages hence:
Two roads diverged in a wood, and I-
I took the one less travelled by,
And that made all the difference.

Robert Frost, Selected Poems (New York: Henry Holt and Company,

1923), p.103.

27. The study of feminism and international relations theory is one of the most dynamic and recent additions to the literature. For just a small sampling see, Anne Runyan and V. Spike Peterson, "The Radical Future of Realism: Feminist Subversions of IR Theory," Alternatives 16 (1991); Christine Sylvester, "Feminist Theory and Gender Studies in International Relations," International Studies Notes 16/17 (1991/1992); and Rebecca Grant and Kathleen Newlands ed., Gender and International Relations (Bloomington: Indiana University Press, 1991).

28. This problem is discussed in detail by James N. Rosenau, Turbulence in World Politics: A Theory of Change and Continuity (Princeton: Princeton University Press, 1990).

29. Margaret G. Hermann and Charles F. Hermann, "Who Makes Foreign Policy Decisions and How: An Empirical Inquiry," International Studies Quarterly 33 (1989).

30. Rosenau, Turbulence; and Peterson, "Transgressing Boundaries."

31. Rosenau, Turbulence, p.118.

32. Rosenau also makes a distinction between a citizen and a private actor, referring to the latter as a citizen who is able to "carry out independent actions in the global arena that may be consequential for the course of events." (p.118). However, this is a somewhat tautological definition, and does not make an important contribution. Therefore, for the purpose of this examination such a distinction will not be employed.

33. Hermann and Hermann, "Who Makes Foreign Policy Decisions," p.363.

34. Rosenau, Turbulence, p.132.

35. *Ibid.*, p.124.

36. *Ibid.*

37. *Ibid.*, p.125.

38. Graham Allison, Essence of Decision-Making: Explaining the Cuban Missile Crisis (Boston: Little Brown, 1971).

39. The differences that separate SOP method from the other two is clear. What is not so clear is the differences between the conflict and bargaining methods. Logically, it is easy to distinguish these

two. One is based on cooperation while the other is based on conflict. However, it remains to be seen how clearly this

difference will manifest itself in actual practice. It is possible that it will be impossible to separate the two.

An additional consideration is the possibility that the SOP method can only be adopted after either the cooperative or conflict approach is first employed. The example used to illustrate the SOP method revolved around the procedures used to process refugee claims. While new claimants do have a set procedure to follow, it is entirely possible (but currently unknown to the public) that there was a period of disagreement between departments. It is conceivable that External Affairs may have wished to be the lead agency. Thus, it is important to include in this model careful consideration of the means by which the choice of the decision-maker is made.

40. Rosenau refers to this as "potential observability". Centring his comments on the need to develop innovative theories of international relations, he states,

In this procedure, each step in the construction of a model is taken only after a determination of whether its components are at least *theoretically susceptible to being observed*, even if some innovation in observational technologies must first be made. (emphasis added)

Turbulence, p.27.

In other words, he is suggesting that a fruitful avenue to research on international relations can be found by loosening its empirical manner of determining data.

41. For a dated but good listing of literature dealing with the issue of the number of case studies to be used see Alexander L. George, "The Causal Nexus between Cognitive Beliefs and Decision-Making Behaviour: The "Operational Code" Belief System" in Lawrence S. Falkowski, ed., Psychological Models in International Politics (Boulder: Westview Press, 1979), p.105.

42. The best discussion of this debate can be found in a series of articles printed together in an edition of International Studies Quarterly. In it, supporters of both the small N and large N method explain the reasons for their positions (as well as those who contend that the whole debate is meaningless). See Bruce Bueno De Mesquita, "Toward an Understanding of International Conflict: A Personal View"; Stephen Krasner, "Toward Understanding in International Relations"; Robert Jervis, "Pluralistic Rigor: A Comment on Bueno de Mesquita"; and Bruce Bueno De Mesquita, "Reply to Stephen Krasner and Robert Jervis," all in International Studies Quarterly 29 (June 1985).

43. For details of the working of statistical analysis and the issues covered in this footnote see William Mendenhall, Introduction to Probability and Statistics 5th ed. (North Scituate, Massachusetts: Duxbury Press, 1978).

From a statistical perspective, there should be over 30 case studies to ensure reasonable confidence that the sample population correctly represents the sample population. This is based on the need for the sample population to be large enough for the Central Limit Theorem to be effective. (Mendenhall p.232). It is possible to employ the Student T test for smaller sample population, though the confidence factor is lower (Mendenhall pp. 278-281).

Without getting into the details of statistics that go beyond the scope of this paper, it is sufficient to state that the deciding factors are the 'desired bound on the error of estimation and an associated confidence level.' (Mendenhall p.245).

However, it is necessary to point out that all such statistical test are based on the assumption of the total population following a normal probability distribution. (Mendenhall p.188). It is possible that this is not the case for the states in the international system. Hence, the statistical means of analysis may not work.

44. Maoz makes the point that,

While findings based on a single case study can hardly constitute firm support or refutation for any given model, they can accumulate into a growing body of codifiable knowledge and provide readily accessible data for comparative projects, as well as shed light on subtle characteristics of decision processes which are not readily apparent in comparative studies of decisions.

Zeev Maoz, "The Decision to Raid Entebbe: Decision Analysis Applied to Crisis Behaviour," Journal of Conflict Resolution 25 (December 1981), p.678.

45. Don Munton, "Comparative Foreign Policy: Fads, Fantasies, Orthodoxies, Perversities," in Rosenau, ed. In Search of Global Patterns, p.262.

46. Ole R. Holsti, "Foreign Policy Decision Makers Viewed Psychologically: 'Cognitive Process' Approaches," Rosenau, ed. In Search of Global Patterns, p.132.

47. *Ibid.*, p.133

48. Herman M. Weil, "Can Bureaucracies be Rational Actors?" International Studies Quarterly 19 (December 1975), p.435.

49. Robert Jervis, Perceptions and Misperceptions in International Politics (Princeton: Princeton University Press, 1976), pp.387-393.

50. Holsti, "Foreign Policy Decision Makers Viewed Psychologically," p.134.

51. There are two very different ways of considering this issue. On the one hand, the success of researchers such as Carl Bernstein and Bob Woodward in uncovering the decisions made surrounding the Watergate scandal suggests that even at the highest levels of government (at least in the U.S.), information through interviews and research can be uncovered. On the other hand, it is not known how many other instances of Presidential misuse of power have been successfully covered up. This is a question that can never be answered with a high degree of certainty.

For an explanation of the methods employed by Bernstein and Woodward see their book All the President's Men (New York: Simon and Schuster, 1974).

PART II

CHAPTER IV

THE VOYAGE OF THE POLAR SEA

INTRODUCTION

Part II of this analysis is the case study and is composed of four chapters. The first one, Chapter IV, will introduce the case study and will identify the relevant decision-makers. It will begin by isolating the reasons why American decision-makers sent the USCG POLAR SEA through the Northwest Passage. It will then examine the immediate reaction of Canadian decision-makers to the voyage, as well as the factors fuelling their reaction. In particular, the question that will be examined is why governmental decision-makers perceived this voyage as a crisis of Canadian foreign policy.

This chapter will then look at how the Canadian Government formulated the main components of its long-term reaction. The core of this reaction consisted of six decisions: 1) the establishment of straight baselines around the Arctic archipelago; 2) the adoption of Canadian Offshore Application Act; 3) commencement of talks with the United States on cooperation in Arctic waters; 4) an increase of surveillance overflights in the Arctic, and planning for naval activity in the North; 5) the withdrawal of the 1970 International Court of Justice (ICJ) reservation; and 6) the construction of a

Polar Class 8 icebreaker. These six decisions represent the main substance of Canada's northern foreign policy for most of the Mulroney government's term of office.

Chapters V and VI will provide a detailed examination of the implementation of the six decisions. Their focus will be on the history of the decision-making chains that led to the manner by which the decisions were implemented; who the relevant decision-makers are; and the outcomes of the decisions.

Chapter VII will move beyond the six main decisions and undertake a more general study of governmental decisions, which also have been influenced by the voyage of the POLAR SEA.

SELECTION OF CASE STUDY

In order to provide useful insights, the selection of the case study must take into consideration several factors. First, it needs to fall within a definitive time period. While the foreign policy-making process is a continuous chain of decisions being made by a large and constantly evolving set of decision-makers, there is a requirement for a manageable set of parameters. These include the foreign policy issue being addressed, the period of time when it is being considered and the number of actors involved.

Upon completing a review of several potential case studies, it was found that the Canadian Government's reaction to the voyage of the POLAR SEA fit these parameters. The American decision to send the vessel began in early 1985. The Canadian Government reacted with a short-term set of actions in August of 1985, followed by the making of six decisions presented to the House of Commons on September 10, 1985. Of these decisions, the implementation or cancellation of each took place over the time period of fall 1985 to spring 1990. Almost all of the decision-makers involved are still alive and available. While the recent nature of the event means that not all documents have been made available to researchers, the relevant decision-makers can still remember most of the sequence of events. The overall scope of the decisions taken represent a significant but not overwhelming set of events that can therefore be traced at a very minute level. In short, the voyage of the POLAR SEA and subsequent Canadian reaction represents a good fit for the model which is to be tested.

It must be recognized that in selecting a case study specifically for its "fitability" to the model, this analysis lays itself open to certain criticisms. By preselecting the case study and using only the one, this examination concedes any possibility to claim that it is the best means of examining the making of foreign policy. However, as explained in Chapter III, the main priority is to determine whether or

not this model provides a better means of understanding these phenomena, and if it does, to determine the relationships that connect decision-makers with their decisions. This can only be done by initially undertaking a detailed examination of a specific period of decision-making. If and when this model proves viable it will then be possible to extend the examination to multiple case studies that do not provide a good "fit".

BACKGROUND

Before beginning the examination of the American decision to send the POLAR SEA through the Northwest Passage, it is necessary to quickly review two important factors that set the stage for the voyage.

THE VOYAGES OF THE MANHATTAN

The voyage of the POLAR SEA was preceded by two similar events in 1969 and 1970 when the American ice-breaking oil tanker, MANHATTAN, accompanied by an American Coast Guard ice-breaker and a Canadian ice-breaker, traversed the Canadian section of the Northwest Passage.¹ As in the case of the POLAR SEA voyage, the American Government refused to acknowledge Canadian sovereignty over the waters and declined to request permission for crossing the Northwest Passage when asked to do so by the Canadian Government.² The voyage forced the Canadian Government to undertake a detailed examination of its

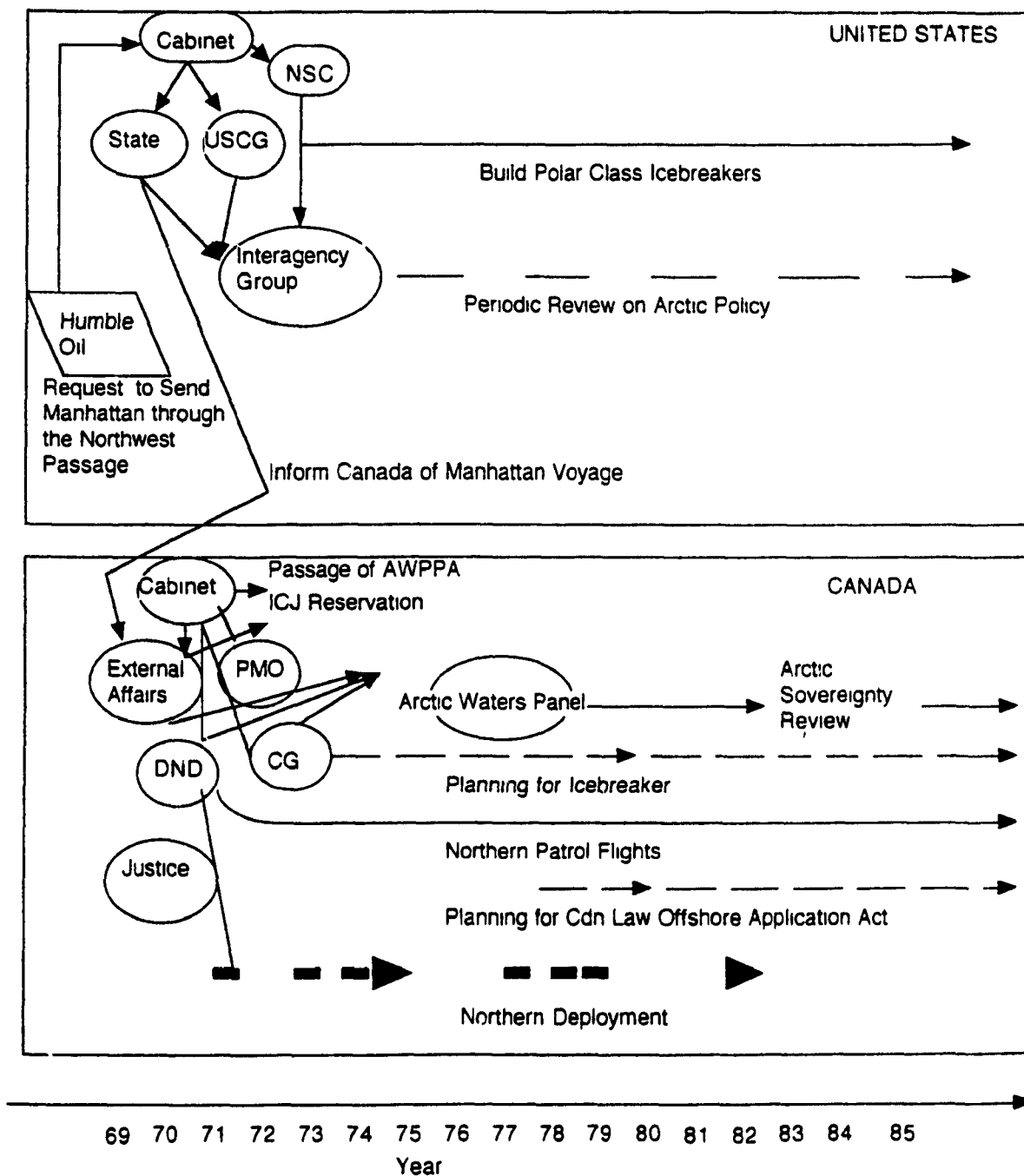
Arctic waters policies. The most notable outcome of the government's action was the creation and adoption of the Arctic Waters Pollution Prevention Bill.³ The net result of the voyages also led Canadian decision-makers to believe that the Canadian public was sensitive to foreign incursions into the Passage. The voyages also demonstrated that the Canadian Government was willing to respond with dramatic, if not necessarily long term, policy responses.

The MANHATTAN voyages were also to play a key role in the development of most policies following the voyage of the POLAR SEA. Figure 4-1 demonstrates how both the United States and Canada began to develop and implement policy actions directly attributed to the MANHATTAN's voyages. All of these issues will be discussed in detail subsequent to this section. Therefore, no further comment is necessary except to point out that these voyages were one of the pivotal events in the Canadian response to the voyage of the POLAR SEA.

ELECTION OF CONSERVATIVE GOVERNMENT

The second important event was the victory of the Progressive Conservative party, under the leadership of Brian Mulroney, in the fall of 1984. One of the major new policy initiatives of the government was to improve relations with the American

FIGURE 4-1
IMPACT OF THE VOYAGES OF THE MANHATTAN



government. The Conservatives believed that the previous Liberal administration had been too adversarial in its dealings with the United States.⁴ The new government focused its attention mainly on improving economic relations between the two states, but also included efforts to increase cooperation in areas of defence and foreign policy.

SECTION I

DEVELOPMENT OF THE PROBLEM

The immediate catalyst for the POLAR SEA dispute in 1985 proved to be the shortage of American icebreakers relative to the Coast Guard's requirements.⁵ The fleet is small, aging and heavily tasked. These include both peacetime and wartime duties. In peacetime, the four major tasks of the icebreakers are: i) to act as a platform for scientific observations, ii) to provide logistical supports, iii) to provide escort in polar regions, and iv) to act as a sensor platform.⁶

In 1985, the fleet totalled five ships, of which only two had been built since 1954.⁷ The POLAR SEA and its sistership, POLAR STAR, commissioned in 1976 and 1978 respectively, are the pride of the fleet.⁸ The GLACIER was commissioned in 1955, and the NORTHWIND and WESTWIND were commissioned in 1945 and 1943 respectively.⁹

The POLAR SEA was based in Seattle, Washington and its duties included the Arctic West Patrol, which comprised both scientific and other operations in the waters north of Alaska.¹⁰ The more elderly vessel, NORTHWIND, was based in Wilmington, North Carolina. It was usually assigned the task of resupplying the U.S. airforce base in Thule, Greenland. However, in the spring of 1985, various engineering problems, caused partly by age and partly by its most recent Antarctic deployment, required the NORTHWIND to remain in shipyard repairs longer than anticipated.¹¹ Although it was possible to send the POLAR SEA through the Panama Canal to undertake the Thule resupply, there would be insufficient time for it to return via the Canal to the western Arctic, and thereby fully complete both the Western and Eastern missions. In addition, it was estimated that savings of \$200,000 to \$500,000 in fuel costs could be made by a Passage voyage.¹² Furthermore, none of the other icebreakers of the American fleet were available. The POLAR STAR and GLACIER were committed for a voyage to Antarctica for operation Deep Freeze and were in the middle of preparations for it. Likewise, the WESTWIND was also committed to other missions on the Great Lakes.¹³

On occasion, Canadian vessels have been used to provide the resupply to Thule. In 1978, the Canadian replenishment vessel, HMCS PROTECTEUR, undertook the resupply of the base in July.¹⁴ However, little interest has been expressed by the Canadian

Government to make such a mission a regular event. An American Coast Guard report indicates that both the Canadian and Danish Governments were approached regarding the possibility of increasing their assistance for the replenishment of Thule, but both governments did not "responded favourably."¹⁵

It is possible to speculate that had the Canadian Government reacted differently and agreed to increase its participation for the resupply of Thule, the entire POLAR SEA incident may have been avoided. The reality was that the American Coast Guard needed to get supplies to the Thule base and have an icebreaker in the western Arctic in a very short period of time. Any undue delays and ice conditions would quickly hamper, if not prevent, either mission from being carried out.

THE AMERICAN DECISION TO SEND THE POLAR SEA THROUGH THE PASSAGE

Thus, it became necessary to create a solution to this problem, and that solution, as formulated by Coast Guard officials, was to send the POLAR SEA through the Northwest Passage. According to a U.S. Coast Guard internal document, the request to send the POLAR SEA through the Northwest Passage was forwarded from the Chief, Ice Operations Division (G-OIO) to the Chief, Office of Operations (G-O) and then to the Commandant of the Coast Guard on or about April 22.¹⁶ At this point, informal discussions were commenced by the U.S.

ice operations personnel with their Canadian counterparts.¹⁷ In turn, these informal discussions then led to direct discussions between United States and Canadian Coast Guard officials.

The formal foundation of the discussions were based on the "Memorandum of Understanding - Between the Transportation of the United States of America and the Ministry of Transport of Canada Concerning Research and Development Cooperation in Transportation."¹⁸ More commonly known as the Volpe-Jamieson Accord, it was originally signed in June 1970 to encourage cooperation in the field of transportation. However, as stated by article II(b), it also calls for both sides to look for other means of closer cooperation:

(b) The aim of the research program will be to intensify cooperation between the transportation experts of the two countries and seek out additional opportunities for them to exchange ideas, skills and techniques, to work together in new environments and to utilize special facilities, to attack problems of mutual interest and develop *joint arrangements related to other transportation projects and programs*; ¹⁹ [emphasis added]

But of greater importance to the events leading to the actual voyage of the POLAR SEA is the next article that calls for the development of an addendum to the Memorandum:

(c) To the extent agreed upon, the two Ministries will exchange transportation experts and pursue joint research projects through task and cost sharing, and exchange information for the purpose of exploring specific areas of cooperation. Specific terms of such cooperation will require the joint approval of both Ministries and will constitute an Addendum to this Memorandum.²⁰

It was under the auspices of such an annex that the Director-General of Coast Guard fleet, Canadian Coast Guard official J.Y. Clarke went to Washington in late April/early May, to "jointly develop an operations order with his counterpart Captain Joseph Wubbold, Chief Ice Operations Division, U.S. Coast Guard, that would cover the transit of the POLAR SEA through the Canadian Northwest Passage."²¹ The operations order involved the use of Canadian Coast Guard helicopters, the use of Canadian weather and ice information services, and an ice advisory from Canadian Coast Guard on board the POLAR SEA. According to Clarke, he and Wubbold "hammered out" the operational order agreement, which was then sent to their superiors in the Coast Guard, Rear Admiral Jack Costello for the United States and Admiral Collinwood for the Canadian Coast Guard. Both agreed to the operations order and signed it.

Unfortunately, it has proven difficult to verify Mr. Clarke's evidence regarding the operational order. At best, confidential interviews with both American and Canadian officials have confirmed that such an agreement is in existence. However, because of the political sensitivities of the agreement, it is now classified and unavailable to researchers. The question that remains unanswered is whether this operations order was only preparation for the voyage, or

whether it represented agreement about the voyage.

During the period in which the two Coast Guard officials were working on the operational order for the voyage, discussions were begun at the American Interagency Arctic Policy Group.²² Consideration was given to the possibility that the Canadian Government could be sensitive to the voyage. The following reasons were cited:

- 1) no US flag vessel, either government or commercial, had sailed in the waters north of the Canadian mainland since 1970;
- 2) Canada and the US do not agree on the legal status of the waters of the Northwest Passage; and
- 3) the Canadian public views the dispute not merely as a lawyers' argument but as an issue of nationalism.²³

The Interagency Group was sensitive to the close relationship between the Canadian and American Coast Guards and, as such, was concerned that inappropriate action could harm that relationship.²⁴

After some discussion amongst the members of the working group, it was agreed that the voyage should proceed. It was believed that since the voyage was of an operational nature, and was not intended as a challenge, some accommodation could be worked out. The committee believed that the Canadian public would appreciate that the POLAR SEA was a government icebreaker and not a commercial supertanker and, therefore, less threatening.²⁵ The planned voyage was approved by the State Department following these discussions, and on May 21,

1985, the Canadian desk sent a cable to the United States Embassy in Ottawa requesting it to notify the Canadian Government about the voyage.

In the demarche, the United States Government emphasized the practical nature of the voyage, pointing out its operational rationale. It also invited Canadian participation in order to undertake mutual research. However, the demarche also acknowledged the different positions that the two countries held regarding the status of the Northwest Passage. The most significant passages were as follows:

The United States believes that it is in the mutual interests of Canada and the United States that this unique opportunity for cooperation not be lost because of a possible disagreement over the relevant judicial regime.

The United States believes that the two countries should agree to disagree on the legal issues and concentrate on practical matters.

The United States desires to raise this matter with the Government of Canada now, so that we can each begin to make arrangements for Canadian participation in the transit.

The United States considers that this discussion with the Government of Canada in the forthcoming invitation to participate in the transit is not inconsistent with its judicial position regarding the Northwest Passage and believes that the Government of Canada would consider its participation in the transit not to be inconsistent with its judicial position.²⁶

Through such wording, the American Government was indicating that it wished to keep the voyage non-prejudicial to the positions of both countries. Nevertheless, it sought to ensure

that Canadian decision-makers understood that the United States was not recognizing Canadian claims of sovereignty.

Two questions arise at this point. Is it possible that the two Coast Guards on their own (that is, without the involvement of External Affairs and the State Department) could have undertaken to negotiate an agreement regarding the voyage; and secondly, and more importantly, what were the motives of the American decision-makers in sending the POLAR SEA through the Northwest Passage?

Regarding the first question, there is evidence of instances where External Affairs was almost caught unprepared by the actions of other Canadian departments when they were dealing with Arctic issues. In one such instance, officials from External Affairs had to persuade officials from the Department of Indian and Northern Affairs that it would be inappropriate to include, in a forthcoming Green Paper on the development of Lancaster Sound, an assertion that Canada did not exercise much jurisdiction over the area. Although External Affairs officials conceded in a letter to the DIAND officials that the Arctic Waters Pollution Prevention Act was the only legislative control over navigation in the Canadian Arctic, they indicated that Canada could adopt further legislation to regulate or control shipping. This being the case, the External Affairs official suggested to the DIAND official

that:

It would, therefore, be inconsistent with this claim [that the Arctic waters are internal] and seriously damaging to Canadian interests if we were to state in a public document that Canada has no control over navigation in the Arctic.²⁷

The External Affairs official then suggested that the Green Paper would "provide an excellent opportunity to once again assert our claim."²⁸ In other words, External Affairs officials were concerned that if the Green Paper acknowledged the lack of activity that actually occurs, it could hurt Canada's international claim over the waters.

Another declassified document disclosed an instance in which an External Affairs official from the United States Transboundary Division believed it necessary to warn the Legal Bureau of the ramifications of talks between Environment Canada officials with their American counterparts. The memo warned that the environment officials could draft a "Memorandum of Understanding", or an "Arrangement", but not an "Agreement" because of international legal ramifications.²⁹ According to the memo, an Agreement can only be entered into by a sovereign state and not by individual departments. The memo also warns that:

we would be grateful if you would advise Environment Canada officials to take great care in ensuring that nothing in the arrangement might have the effect of undermining Canadian claims to sovereignty over the waters of the arctic archipelago and our claims to the continental shelf west to the 141st meridian.³⁰

What is not known is the number of times other departments have entered into "arrangements" with their American counterparts without External Affairs approval, or whether these two examples demonstrate that External Affairs averts any potential problems. These cases suggest that it is possible for non-External Affairs officials to be engaged in the act of international negotiations outside of the knowledge of External Affairs. This being the case, it is plausible that the two coast guard officials had been negotiating an arrangement over the voyage.

OPERATIONAL NATURE OF THE VOYAGE

The existing evidence supports the American decision-makers' claim that POLAR SEA's mission was of an operational nature. Some concern has been expressed that the American Coast Guard was using the POLAR SEA voyage as an instrument for challenging Canadian claims in the Northwest Passage.³¹ However, in addition to the information provided by American Coast Guard documents, it has been possible, through interviews and statements by the press, to confirm that this was not the case.

When John Bannah, acting chief of ice operations for the U.S. Coast Guard, was specifically asked whether the voyage was a challenge to Canadian claims in the north, he replied that it was not. The POLAR SEA has what he called:

...critical operational requirements in the Arctic which are on a tight schedule... By using the Passage, she will save \$500,000 in diesel fuel and get to the Beaufort Sea 30 days faster.³²

Victoria Cordova, a spokesperson for the United States Embassy in Ottawa, echoed his reply when she stated to the media that:

The United States has insisted that the voyage is not meant to test Canada's claim to the Northwest Passage, merely to take the shortest route from Greenland, where the icebreaker is supplying a United States early warning station, to Alaska, before the ice sets in.³³

Interviews with officials from the United States Coast Guard, U.S. Navy and State Department also substantiate this claim.³⁴ While the Coast Guard officials noted that the Coast Guard can be asked to participate in the Freedom of Navigation Programme, this was not the case with this particular voyage for the POLAR SEA.³⁵

Testimony by high-level Canadian military decision-makers also supports this claim. On May 5, 1986, General G.C.E. Theriault, then Chief of the Defence Staff, testified before the Standing Committee on Defence that the Canadian military was unaware of any American application of the Freedom of Navigation Programme against Canada to that date. General Theriault, responding to questioning regarding an exercise alleged to have been held by the American Navy within Canadian baselines in the Arctic, stated that no such exercises had been held.

Mr. Ray Skelly, a NDP Member of Parliament, then asked if the Americans had ever come into Canadian waters to hold an exercise to test Canadian claims to the Northwest Passage. General Theriault response was: "I am not aware of that Mr. Chairman."³⁶ Although being unaware of the existence of such exercises is not the same as categorically stating that they have not occurred, it seems illogical for the Americans to conduct an operation specifically designed to make a point, especially if no one is aware that the point is being made.

It is possible that American officials might conduct a freedom of navigation operation and then deny it, but it is unclear as to what they could gain from this. There is also little that the Americans could gain from a secret challenge in terms of international law following their agreement to the non-prejudicial clause in the diplomatic exchanges preceding the voyage. Little, if any, precedent in international law exists where a state which issues categorical assurances that their actions will not be used as evidence in international law, does so at a later date. Even if this is attempted, it seems unlikely that an international court would view such evidence with favour. And, given the improved relations between the United States and Canada, as well as Mulroney's policy to further improve that relationship, it is unlikely that American decision-makers would deliberately attempt to emphasize territorial jurisdiction that could lead to strong

anti-American backlash.

However, there is a document that hints that American officials were in fact challenging the Canadian position. In 1982, the Interagency Arctic Policy Group completed a study on the future federal levels of effort in the Arctic.³⁷

The Interagency Arctic Policy Group is a somewhat ad hoc group made up of officials from various American federal agencies. It reports to the National Security Council (NSC).³⁸ It was created on April 15, 1970 when the National Security Council issued a directive to an ad-hoc Inter-agency Committee, calling for a review of United States Arctic policy.³⁹ The committee, presenting its report to President Nixon on August 9, 1971, partly called for the creation of a more formal coordination mechanism to deal with the Arctic. As a result, the National Security Decision Memorandum 144 created the Inter-Agency Policy Group (IAPG), that was to be chaired by officials from the Department of State.⁴⁰ IAPG is composed of thirteen agencies, the most important being State, Transportation and Defense. In general, the group has focused on development and ecological issues, with some concern being directed to expanding research in the Arctic. It had become dormant by the late 1970s, but was reactivated in 1979 by the NSC in order to consider the development of "a comprehensive Arctic Policy for the Federal Government."⁴¹

Following the completion of the study, President Reagan issued a National Security Decision Directive (NSDD 90) which affirmed that:

...the United States has unique and critical interests in the Arctic related directly to national defense, resource and energy development, scientific inquiry, and environmental protection. The directive recognizes the Arctic warrants priority attention in light of its growing importance and bases United States Arctic policy on the following major elements.⁴²

There were four elements, the first three of which were: support for "sound and rational developments in the Arctic region", while minimizing environmental damage; "Promotion of scientific research"; and "Promotion of mutually beneficial international cooperation in the Arctic to achieve the above objectives."⁴³ It is the fourth element which suggests that the United States would have been willing to press the Canadian claim. It called for the "[p]rotection of essential security interests in the Arctic region, *including preservation of the principle of freedom of the seas and superjacent airspace.*"⁴⁴ (emphasis added)

It is obvious that this is in direct reference to both the Northwest Passage and Northeast Passage, since it is only the status of these two waterways that are the only areas of concern for the Americans regarding the freedom of the seas. Furthermore, the Americans are particularly concerned about the Northwest Passage because of their security concerns.⁴⁵ This being the case, it stands to reason that the POLAR SEA

voyage of 1985 could be construed as an attempt to implement NSDD 90.

However, four factors militate against such a conclusion. First, the directive itself sets as one of two priorities the need to address the issue of cooperation with other countries bordering the Arctic, in order "to serve best U.S. Arctic interests."⁴⁶ The second priority was to determine the services that the federal government needed to develop in the future to assist in the development of the region. Since these are the two priorities set out by the President, there would seem to be little to gain by deliberately provoking Canada. If they were seeking improved cooperation, sending the POLAR SEA through the Northwest Passage as a challenge would not be the best way to do it.

Second, a declassified External Affairs document indicates that Canada was monitoring American planning following the issuance of NSDD 90. While some of the Canadian document remains classified, part of it states that:

3. From our discussions here, it is clear that the development of Arctic policy is subj[ect] to two conflicting imperatives: the need for increased federal services as a result of increased economic activity in the Arctic and emphasis of this admin[istration] on the primary role of the private sector for energy development, together with its objective of overall reduction in fed[eral] gov[ernment] activities. Contacts working on review have not been willing to provide details on possible conclusions of study, but its terms of ref[erence] would suggest increased federal

involvement.⁴⁷

Therefore, it would appear from this assessment that the External Affairs officials in Ottawa were not overly concerned. However, it must be recognized that some of the telex was censored, so it is possible that such concerns were raised in the document.

A third reason to discount the NSDD 90 as the catalyst for a challenge is found in the report issued by the Interagency Arctic Policy Group in 1984.⁴⁸ The report was the group's response to the questions posed in NSDD 90. The report listed 14 areas in which:

...services would be needed, surveyed current and projected development throughout the Arctic, and suggested that the most significant changes in the U.S. Arctic would concern oil and gas development, national defense activities, improvement in transportation, increasing US participation in Bering Sea fisheries, and minimizing environmental impact and political activism among the Inuit.⁴⁹

If there was a desire to challenge the Canadian position, it was either hidden in the paper or not a very high priority.

The fourth reason to suggest that the NSDD 90 and the resulting memorandum did not call for a challenge arose from an interview in which a key State official, who either participated or would have seen the file of his predecessor and would have been aware of the intent to challenge, had specifically stated that the voyage was not a challenge.⁵⁰

While NSDD 90 provides some indication that the voyage of the POLAR SEA was a challenge, a close examination of the directive discounts this. The conclusion can be reached that the need for the voyage was of an operational nature rather than of a challenging nature, given the explanation of American officials as to why they believed it necessary to sail through the Northwest Passage; their explicit statements that it was not a Freedom of Navigation operation; and the lack of any reason for keeping such an objective secret.

SUMMARY

The most striking finding of this section was the manner in which the entire problem was being handled by middle-level American Government officials. The voyage, which became a major issue of friction between Canada and the United States, was handled by Department of State and Coast Guard officials as a low-key event that did not warrant undue consideration by their superiors. This lack of concern on the part of the American officials can be partly explained by the retirement or reassignment of the officials who had been involved in the process during the MANHATTAN voyages. Furthermore, following the MANHATTAN voyages, no formal agreement had been reached between Canada and the United States to institutionalize a procedure to handle future voyages. The problem arose due to the involvement of new American decision-makers who were not sensitized to possible Canadian reactions to the voyage. The

officials planning for the voyage did not appreciate the full potential of this voyage to turn into a crisis in Canadian/American relations

The close relationship between the two Coast Guards also led American officials who were involved to believe that there would be no problems regarding the voyage. As a result, the Americans decided that it was unnecessary to examine alternative solutions to the problems created by the breakdown of the Northwind.

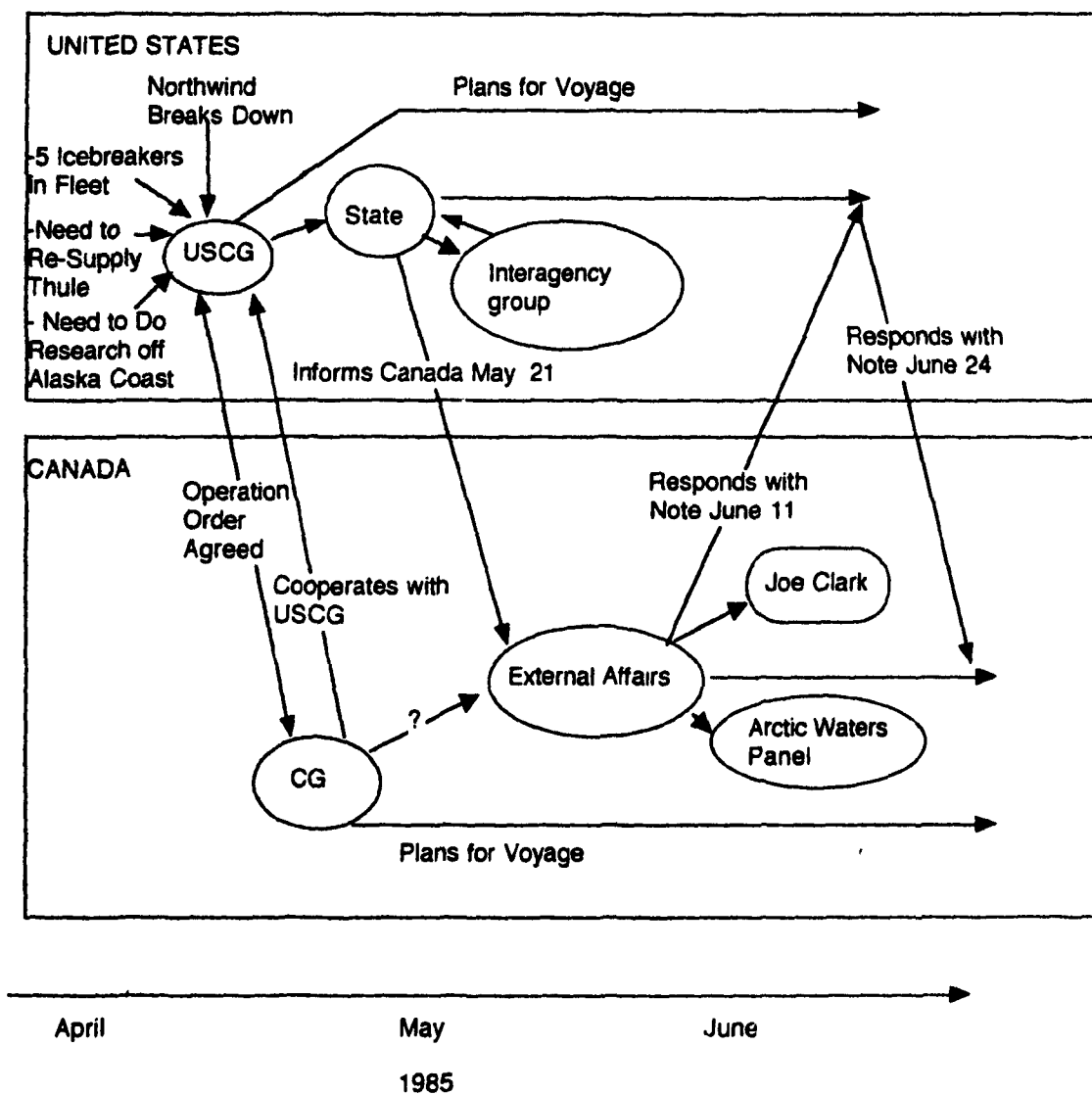
The problems created by the voyage also illustrate the difficulty that American decision-makers face in coordinating their actions within their government. While the Canadian media attacked the voyage as a planned effort on the part of the American Government, this examination demonstrates that this was not the case. Few members of the American Government were even aware of the planned voyage until it was already underway. It was organized almost entirely by officials within the American Coast Guard, and involved State Department officials only after preparations for the voyage had already been arranged with the Canadian Coast Guard.

Figure 4-2 provides a schematic application of the American decision to send the POLAR SEA through the Northwest Passage. The POLAR SEA's voyage initiated a series of event

leading to major policy developments in Canadian northern foreign policy. As such, this examination will focus on the manner by which these policy developments were created. Nevertheless, as Figure 4-2 demonstrates, the American decision to send the POLAR SEA was the result of other previous decisions, specifically, the decision to have an American base in Thule; the decision to conduct research in Alaskan waters; and the decision to build only two new icebreakers since the end of World War II. The NORTHWIND's non-availability set off a series of events requiring American decision-makers to plan on sending the POLAR SEA through the Northwest Passage.

It is possible to better understand the American motivation for sending the POLAR SEA through the Northwest Passage by focusing on the decision-makers. This section shows that the American Coast Guard officials who began the process were simply responding to relatively narrow, operational needs when they first proposed the voyage. Had this analysis utilized a broader definition of the state as, for example, suggested by the realists, it is probable that the true American motivation would have been missed. Thus, it already demonstrated that this decision-making model allows for greater clarity in understanding the factors leading to the creation of foreign policy.

FIGURE 4-2
U.S. DECISION TO SEND POLAR SEA THROUGH THE PASSAGE



It is also important to note the manner by which the relevant decision-makers defined the issue in terms of their own specific (and narrow) interests. Coast Guard officials viewed the problem strictly in the context of meeting immediate operational needs. The State Department officials did not focus on the possible political ramifications of the voyage and, instead, centred their attention on the international legal ramifications. Clearly, definition of the problem is substantially determined by the organizational background of the individual.

SECTION II

IMMEDIATE CANADIAN RESPONSE

INITIAL CANADIAN RESPONSE

There remains some uncertainty as to when Canadian officials first became aware of the United States' intention to sail the POLAR SEA through the Northwest Passage. As mentioned in the previous section, Coast Guard officials from both countries had met prior to the official notification. Some officials from External Affairs and the State Department have acknowledged that the USCG had informally briefed their Canadian counterparts about the forthcoming voyage as early as February. However, this is not documented, nor are any officials willing to go on the record, except for Mr. Clarke.

However, even he could not recall the exact dates when he met with Captain Wubbold.

Existing media reports indicate that the Department of External Affairs first became aware of the voyage in early May through a tip from a reporter. A story by Ken MacQueen in Maclean's magazine states:

...the document (obtained from the Department of External Affairs through the Freedom of information act) showed that an inquiry by an unidentified reporter early in May first tipped the External Affairs department to the planned trip. As a result, on May 13 Ottawa instructed the Canadian Embassy to "make discreet low-level inquiries with the US Coast Guard officials for information on U.S. icebreaker activities for this summer, referring in particular to press inquiries on possible transit of the Northwest Passage".⁵¹

However, through interviews, External Affairs officials have indicated that they received the first notification from the Canadian Coast Guard, which then led them to ask the State officials if this was the case.⁵² No official could recall sufficient information to comment on Mr. MacQueen's allegations, nor could they find any records of it in the files. Nevertheless, while there is some uncertainty as to who first informed External Affairs officials of the proposed voyage, there is evidence that they did know prior to the May 21 diplomatic exchange, but not as early as the Canadian Coast Guard.

There was also a second media report in Maclean's that

External Affairs Minister Joe Clark was informed of the voyage by Secretary of State George Shultz on May 20 1985.

Canadian officials now admit that during a visit by Clark to Washington last May, Shultz not only informed him of the icebreaker's proposed voyage - involving a joint scientific research project - but agreed on the terms. Among them: that the trip would take place without prejudicing either's country legal claim to the waterway.⁵³

However, Clark denied this in a letter to the editors dated April 1986:

Contrary to your report, the United States first notified Canada of plans for the voyage of the Polar Sea through its Embassy in Ottawa on May 21, 1985. The subject was not mentioned or discussed when I met with Mr. Shultz in Washington on May 20, and it is thus quite inaccurate to say that any agreement on the terms of the voyage was reached at that meeting.⁵⁴

An American Coast Guard document states that discussions between State and External Affairs officials were first held at the same time that the May 21 cable was sent.⁵⁵ The document states:

The U.S. Embassy contacted Derek Burney, the Assistant Deputy Minister of External Affairs, who is in charge of U.S. affairs. He expressed what the U.S. Embassy described as some fairly low-key concern over possible public reaction.⁵⁶

This document also reported that the Canadian Government initially asked the United States to request an exemption from the Arctic Waters Pollution Prevention Act (AWPPA) in accordance with section 12 of the Act. This allows the Governor-in-Council to issue an exemption to foreign public

vessels, provided they are in basic agreement with the Act.⁵⁷ American State department officials replied that no request was required because the Northwest Passage is an international strait.

Interviews with Canadian officials from External Affairs indicate that the department first officially discussed the direction that the Canadian reaction should take during the last week of May 1985, at the meeting of the executive committee of External Affairs.⁵⁸ The executive committee is a weekly meeting of all deputy ministers for the purpose of reviewing issues of concern. At this meeting, a decision was made that there was a need to ensure that all relevant government departments were brought into the decision-making process as they planned the Canadian reaction. This decision was given effect through the convening of the Arctic Waters Panel. This panel (or ice-covered waters committee as it was referred to by some of its members) was created in the early 1970s.⁵⁹ Documents show that it reconvened on May 29, 1985 to discuss the "proposed Northwest Passage transit of the US Icebreaker POLAR SEA."⁶⁰ While the summary of the meetings remains classified, this particular document does list the members on the committee. It was headed by the Legal Operations Bureau of External Affairs and its attending members were as follows: Department of Fisheries and Oceans - Canadian Hydrographics Services, Indian and Northern Affairs,

the RCMP, Customs - Special Import Measures, Customs - Chief of Passenger Entry Processing and Traffic Programs, Department of Transport -Coast Guard Northern, Department of Transport, Department of National Defence - Continental Policy, Environment Canada - Intergovernmental Affairs Directorate, and eight members of various divisions of External Affairs: Circumpolar Affairs, transportation division, ETE, TTS, two members from the US General Relations, and two members from the Legal Operations Bureau.⁶¹

While the exact outcome of the meeting is not available, members remember the meeting as being mostly informative, with some discussion being led by the External Affairs officials. Generally, most of the members viewed the issue as being primarily of concern to External Affairs.⁶²

The American plan to transit the POLAR SEA was brought to the attention of the Minister of External Affairs, at least by May 30 and possibly earlier, soon after State provided its official notification.⁶³ The Minister received a second Memorandum dated June 13.⁶⁴ Although most paragraphs of this document have been censored, the Minister is warned that an article written in the Globe and Mail by Professor Franklyn Griffiths of the University of Toronto might raise public awareness of the upcoming voyage. Unfortunately, it is unknown how the Minister reacted to these memos.

Canada's immediate response to the May 21 notice was primarily crafted by members of the Department of External Affairs, specifically the Legal Operations Bureau. The response came on June 11, 1985 in the form of a diplomatic note. It was presented by Allan Gotlieb to Carroll Brown and Mr. Grabenstetter of Canadian Affairs and David Colson, assistant legal advisor, all from the Department of State.⁶⁵

The note made it clear that the official Canadian position was that the Passage was part of Canadian internal waters. However, it also welcomed the United States' offer to proceed with the voyage on a cooperative basis. The note concluded by drawing attention to the fragile nature of the environment of the Passage, and by emphasizing the need to be vigilant to any possible sources of negative effects on the eco-system.⁶⁶ Nowhere did it ask the United States to request any form of permission for the upcoming voyage.

A briefing note, prepared by the JLO/JCD External Affairs for the Minister, specially states that the American position regarding the voyage was acceptable. The briefing note was prepared to enable the Minister to answer possible questions on the situation in the House of Commons. Several "suggested responses" were listed for potential inquiries about the planned voyage. It suggested that if asked about the voyage the Minister should explain that,

We have notified the United States that we have no objection to the voyage but we must be satisfied that the specifications and route plan of the vessel meet our requirements for environmentally safe Arctic passage. To this end we are consulting with the USA on the manner in which the voyage is to be conducted.⁶⁷

Thus, the voyage was deemed to be acceptable in principle with only the details regarding pollution control to be worked out.

In turn, the State Department responded on June 24 with another diplomatic note stating that the United States:

...notes the Canadian statement that the waters of the Arctic archipelago, including the Northwest Passage, are internal waters of Canada and fall within Canadian sovereignty. As the Government of Canada is aware, the United States does not share this view. For this reason, although the United States is pleased to invite Canadian participation in the transit, it has not sought the permission of the Government of Canada, nor has it given Canada notification of the fact of the transit.⁶⁸

The note also welcomed the "positive response" of the Canadian Government to the United States' invitation for Canadian participation on the voyage, and stated that consultations between the US Coast Guard and the Canadian Coast Guard had already begun.

The note ended by once again re-stating:

The United States considers that this transit, and the preparations for it, in no way prejudices the juridical position of either side regarding the Northwest Passage, and it understands that the Government of Canada shares that view.⁶⁹

At this point, American decision-makers in the State Department believed that the issue had been resolved.⁷⁰

Preparations on a cooperative basis continued to proceed for the voyage. Several meetings took place with officials from the Department of External Affairs and the Canadian Coast Guard and their counterparts in the United States.⁷¹

However, around June 27 1985, there were signs that some dissent arose between the various departments. A message from External Affairs in Ottawa to the Canadian Embassy in Washington, instructs the embassy officials to postpone a meeting between a Canadian and American delegation that was to work out the details of the voyage. The reasons for the postponement were as follows:

For your info[rmation] only, we have not reached interdepartmentally agreed approach on course of action to be proposed to Ministers. We were reluctant to engage in discussions with the U.S., even on non-committal basis without having first put issues to Mins (sic). We hope to be able to do so this week but this may not be possible in view of pressure of other issues requiring ministerial attention (eg. Air India). We will inform you as soon as we are in a position to proceed.⁷²

This document suggests several important factors regarding the Canadian reaction and leaves several questions regarding its formation unanswered. First, it is not clear at what level the interdepartmental disagreement was occurring. At no point in the interviews did any officials admit the existence of such disagreements at that point in time. Secondly, it is unclear as to what is meant in the memo by the sentence "without having first put issues to the Min[isters]."⁷³ It would seem that the conditions for the voyage were being discussed. But

what is puzzling is the suggestion that the Ministers had not yet been briefed. No information is available to indicate whether or not the Ministers, except for Clark, had been briefed on the upcoming voyage, or if the message refers to the particular details that still had to be worked out.

Whatever the source of the problem, it was resolved by July 5 1985. A message, sent by the Canadian Embassy to Ottawa, reports that the Canadian delegation, led by Len Legault of the Legal Operation branch of External Affairs, had met with the American delegation.⁷⁴ Further evidence supporting the successful outcome of these meetings is found in the cooperation between the two countries that proceeded on a positive basis.

In another meeting held in Ottawa, the Canadian Coast Guard provided American officials with updated navigational charts of the Northwest Passage and established a system to provide the POLAR SEA with information on current weather conditions. In turn, the USCG made arrangements to include the two Canadian Coast Guard vessels that United States officials had invited to participate in the voyage (an official from the Department of Indian and Northern Affairs was later included in the Canadian contingent).⁷⁵ Furthermore, the Canadian Coast Guard advised the Hydrographic Service of the Department of Fisheries and Oceans to meet with their American

counterparts to provide them with the necessary charts for the voyage.⁷⁶

A letter by an official from the Department of Fisheries and Oceans (DFO) notes that the meeting in which the information was to be provided was "to be solely technical discussions, and that policy issues were to be dealt with at higher levels."⁷⁷ Additionally, the letter also illustrated the close functional relationship between the United States and Canada. In the closing of the note, the DFO official noted that the maps that were supplied to the American Coast Guard are

...charts prepared by the Canadian Hydrographic Service and supplied to the Defense Mapping Agency of the United States of America through a Military Exchange Agreement. Additional copies of the charts, sailing directions and tide and current tables were also forwarded to the Ship's [the POLAR SEA] Master.⁷⁸

To sum up, Canadian officials at that point in time were working closely with the American officials, and both sides believed that they had reached a mutually acceptable understanding as to the nature and scope of the voyage.

However, outside of the two governments, opposition to the voyage was beginning to rise in Canada. Despite this, American officials believed that any possible Canadian public reaction would be contained by the stated understanding that the voyage would not be considered prejudicial to either the American or

Canadian position. As opposition against the voyage continued to increase throughout the early summer, there were indications that the Canadian Government began to believe that it was necessary to establish a "tougher" position regarding the voyage.⁷⁹

Gotlieb met with a large group of American officials including representatives from the USN and USCG on July 30 1985.⁸⁰ While the results of that meeting are unknown to the public, they do not seem to have achieved Canadian objectives to now get the Americans to request permission for the voyage. As a result, on July 31, the day before the voyage, the Canadian Government, through Ambassador Gotlieb, issued a demarche to the United States Government, which stated:⁸¹

The Government of Canada has noted with deep regret that the United States remains unwilling, as it has been for many years, to accept that the waters of the Arctic archipelago, including the Northwest Passage, are internal waters of Canada and fall within Canadian sovereignty. The Government of Canada must accordingly reaffirm its determination to maintain the status of these waters as an integral part of Canadian territory, which has never been and never can be assimilated to the regime of high seas or the regime of international straits.⁸²

The note went on to state that the Canadian Government agreed with the American position that the voyage did not prejudice the legal position of either state. But it then expressly granted the consent of the Canadian Government for the voyage - a consent that was never requested by the United States.

American officials were somewhat taken aback by what they perceived to be a shifting of the Canadian position.⁸³ They believed that the exchange of notes between May and June, as well as the coordination and cooperation of the two Coast Guards, had settled the issue at a practical level. To have another diplomatic note delivered one day before the voyage suggested to them that Canada was back-tracking on what had appeared to be an acceptable mode of operation. American officials were also piqued at the "consent" that the Canadian Government had granted. While recognizing that the Canadian Government was responding to an unexpectedly strong public outcry regarding the voyage, the granting of consent appeared to some to be a retreat on the agreement that the voyage would be non-prejudicial to the positions of both states. Some American officials who had been in close consultations with Canadian officials also were upset by the fact that they received no advance warning that the Canadian position was about to change.⁸⁴

Secretary of State, George Shultz, was reported to have been upset because he believed that Canadian officials should have stated earlier any problems that they had with the voyage so that such concerns could have then been addressed.⁸⁵ According to one American official, consideration was given to cancelling the voyage at the end of July in order to avoid damaging U.S.-Canada relations. But it was dismissed due to

the possible negative impact it could have on American freedom of navigation through other waterways. In addition, there was a perception that the problem was the Canadian Government's fault for having misjudged its own domestic reaction.⁸⁶ Thus, the American decision-makers decided that the voyage would proceed as planned.

At this point, the Department of External Affairs began what could best be described as an exercise in crisis-management. The problem was compounded by the fact that Joe Clark was out of the country visiting several foreign states, including Finland and England, and therefore was not on hand to directly lead the department. The two key figures handling the response at this time, were Len Legault and Barry Mawhinney, both officials with the Legal Bureau of External Affairs.

Documents cleared through the Freedom of Information Act indicate that there was a period of intense communications between the Minister's delegation and the two Ottawa officials in the period between July 28 and July 31 1985. Recorded communications between Ottawa and the Minister's delegation give a small glimpse into the day-to-day reaction of the department in a "crisis situation". It must be remembered that by July 28, both the print and electronic media were devoting considerable attention to the upcoming voyage which is charted in Figure 4-3 and 4-4 in the next section.

On July 28, Mawhinney telexed to London a draft of a press release, fact sheet, and a set of questions and answers. This action was repeated three times that day as the drafts were revised.⁸⁷ While it is impossible to know with certainty whether this was the first draft of the texts, Mawhinney's telex asked for Clark's view on them as soon as possible. This would suggest, but not confirm, that this was the first time that Clark saw them.

The next day, July 29, another telex was sent to notify Clark that a mistake was made the day before, and that the press release was to be by him and the Minister of Transport, John Crosbie, and was also to include Minister of Indian and Northern Development, John Crombie.⁸⁸

While officials in Ottawa were waiting for Clark's approval, they were also providing the Canadian Embassy in Washington with draft copies of the three texts.⁸⁹ Although there is no copy of the telexes sent to Ottawa from both Washington and London, Clark had approved the three texts by July 31, and had sent them to the Prime Minister's Office (PMO) for final approval. Thus, the Washington Embassy received a telex from Ottawa officials notifying them that

...subject to final approval by PMO, we plan to release this PM. We will advise you by phone as soon as final clearance received. Revisions and additions are underlined for convenient reference.⁹⁰

The telex included the updated version of the press release,

information sheet, and questions and answers. This telex is significant for several reasons. First, it demonstrates that the PMO retained the right to oversee the actions of the Minister. Although it is not known who in the PMO gave the final approval, it can only be assumed that the Prime Minister would have the final say. But it remains unknown as to which members of the PMO decided which pieces of information would receive his attention and which would not.

By examining the accompanying changed information texts, it is also possible to make some observations about Clark's role in the immediate reaction to the voyage. The Minister's delegation (which is assumed to mean the Minister himself, but once again this is not confirmed) did not change the information sheet from its draft form of July 28 and made only minor technical changes to the questions and answers sheet. However the press release did receive some substantial revisions. While it retained its basic format, Clark's delegation added a paragraph in which Canada expressed its "regret" over American action.⁹¹ This regret was expressed in the demarche delivered by Gotlieb in Washington on July 31. Feeling pressured to respond to the growing criticism to the perceived inaction of the government, it appears to be Clark who ordered that a "regret" be conveyed to Washington and included in the press release.

Although this illustrates the fact that the Minister has final say over the direction of policy, it also shows how that policy can cause others to view the overall policy as being somewhat disjointed. Clark was reacting to the increased domestic pressure against the voyage by conveying Canada's regrets. But at the same time, American officials who had been coordinating with External Affairs officials since the end of May were thrown off balance by this shift.

Having said all this, the next question is what pressures Clark believed he had to react to. The common perception is that there was a massive wave of public outcry against the voyage. In order to determine if this is true, this analysis will now examine the cases of opposition as recorded in the electronic and print media.

OPPOSITION TO THE VOYAGE

There were five main sources of Canadian opposition to the voyage: academics/experts, indigenous groups, interest groups, members of the opposition parties and the media. Conversely, only one non-governmental individual went on record stating that the voyage posed no problem to Canada. Unfortunately, only one survey, taken in early September 1985, measured public opinion regarding the voyage, making it difficult to comment accurately on public opinion.⁹²

ACADEMICS AND EXPERT REACTION

The first, and most influential, article drawing public attention to the voyage was an op-ed written by Franklyn Griffiths of the University of Toronto.⁹³ His article drew considerable reaction from many government officials on both sides of the border who were involved in preparations for the voyage. In Canada, the article was cited in both a memorandum prepared for the Minister of External Affairs, and in an External Affairs Briefing Note for the House of Commons.⁹⁴ In the United States, several officials who were interviewed specifically cited the article as the beginning of the development of public opposition to the voyage.⁹⁵

The article, written in a balanced manner, provides three reasons why the voyage was significant. First, there was the issue of sovereignty and control. If the United States did not request permission and successfully transited the Passage, Canadian claims of sovereignty would be weakened. If Canadian claims were weakened, then Canada would lose the ability to control what happens in the Passage. If it lost control, it then could not set policies regulating the use of the Passage.

Second, he argued that Canadians have a special attachment to the North.

The immense outpouring of public concern at the time of the Manhattan voyages suggest that notions about the Northwest Passage, and the Arctic are lodged deep in Canadian' conceptions of themselves

as a people. Those who would diminish Canada's Arctic presence by challenging our legal position in the Passage would take away some of our self-regard and distinctiveness."⁹⁶

The link between Canadian self-identity and the north is a theme that re-appears throughout Griffiths' works.⁹⁷ The article's point was that if the Americans were challenging Canada's claim to the Northwest Passage, they were in part challenging the Canadian identity.

The third point was that the Canadian Government's options were limited because of "a growing public perception that sovereignty is already being compromised in Canada's economic and defence relations with the United States."⁹⁸

This was in reference to the Conservative government's stated policy to move towards freer trade with the United States and its consideration of participating with the United States in the Strategic Defense Initiative (SDI).

Throughout July, several other Canadian academics were quoted as warning that if the government took no response to the American voyage, Canada would be in danger of eventually losing its claim to the Northwest Passage. In the words of Donat Pharand: "If we don't do anything now, come 10 or 15 years we'll be in a very poor position to say to the United States or to any other country that those waters are Canada."⁹⁹

This position was shared by Gerald Morris of the University of Toronto Law School. In a story published August 2 1985, he argued that if the Canadian Government did not issue a strong protest against the American voyage, it would work against any future case concerning that area brought to the International Court of Justice.¹⁰⁰

In a conference at the University of Ottawa, held immediately before the voyage, Griffiths, Pharand, Mark Gordon of the Inuit Circumpolar Conference, and Tom Pullen, a retired Coast Guard official who piloted the MANHATTAN through the Northwest Passage, all agreed that if the Canadian Government did not take action to support its claim to the Northwest Passage, it would become increasingly difficult to protect its claim at a later date.¹⁰¹

While most of the panellists attending this voyage viewed the upcoming voyage as a challenge, it should be noted that Pullen, who agreed that the Canadian Government had not previously done enough to consolidate its claims in the north, saw no harm in the voyage of the POLAR SEA. He argued that since the Americans had clearly stated that the voyage was to be non-prejudicial, it would not harm Canadian claims in the north.¹⁰² In an interview, Pullen expressed the view that the U.S. Coast Guard "did everything by the book", and once they had agreed to the terms of a voyage, they would not attempt to

alter it.¹⁰³ Pullen was the only non-governmental individual who went on the record as supporting the POLAR SEA voyage and the conditions under which it would occur.

During the week of the actual voyage, several other academics went on record as being critical of the government's lack of action. Ronald St. J. Macdonald, former Dean of Law at Dalhousie University, was quoted as stating that he felt very "emotionally worked up about this...Canada simply must get its act together or see itself lose a part of its heritage and domain."¹⁰⁴ He went on to state that the problem facing Canadian decision-makers was Canada's lack of means for protecting its interests in the north.

INDIGENOUS REACTION

Indigenous groups and individuals also expressed strong misgivings about the proposed voyage. The Inuit Tapirisat (Eskimo Brotherhood of Canada), the major organizing body for the Inuit, was the first group to publicly warn of the voyage. They first wrote directly to Prime Minister Mulroney in a letter dated June 27. In it they "expressed the hope that the government would state a strong position on sovereignty and the protection of the Arctic environment which the Canadian Inuit could rally behind."¹⁰⁵

However, it was reported that in response they received in

July an undated letter in which it was stated that the POLAR SEA "would not contravene anti-pollution requirements and did not challenge Canada's sovereignty in the Arctic" ¹⁰⁶.

The group issued a news release on July 2, which called for a strong Canadian response to the voyage.¹⁰⁷ In the statement, they pointed out the Inuit have often been used to bolster Canadian claims to sovereignty to the North. They specifically mentioned the 1950s relocation of Inuit from northern Quebec to Grise Fiord. While recognizing that they have suffered, they stated that they still unceasingly supported Canadian claims to sovereignty. However,

...if Canada fails to defend its sovereignty in arctic waters, Inuit will be left with no choice but to conclude that the issue of protecting their livelihood and the Arctic environment is one that must be resolved outside of Canada at the International level.¹⁰⁸

They concluded the news release by stating:

Canada must take a strong stand on the proposed voyage of the Polar Sea in the interest of Canada and the Inuit. Failure to do so can only be viewed as abdication of responsibility and betrayal. If Canada intends to open the Northwest Passage to shipping, it should be done openly, under full public scrutiny and environmental review, and not by default or omission.¹⁰⁹

The news release gained attention in both Canada and the United States. In one of the very few stories carried in the American media, the New York Times reported that the Inuit Tapirisat was raising the strongest opposition to the voyage.¹¹⁰ Likewise, the Globe and Mail also reported on the

issues raised by the group.¹¹¹

Another Inuit organization, Makivik Corp., which represents the Inuit of Quebec's James Bay, took a similar position. Mark Gordon, a spokesperson, stated that:

Until now, we have had the luxury of time to negotiate environmental protection standards in the Arctic. But with the American bullying the Polar Sea into our waters, our abilities to manage our oceans become questionable.¹¹²

Thus, as with the case of the Inuit Tapirisat, this group's most significant fear was that Canada would lose the right to make decisions on environmental issues. In turn, this would mean that there would be no means of protecting their homelands from other states.

There was an overflight of the POLAR SEA by several Canadians protesting its voyage. This group included Roger Gruben, the Inuit chairman of the Nunavut Constitutional Forum.¹¹³ The Forum comprises representatives of the territorial governments and native organizations and seeks to pursue the division of the Northwest Territories and the establishment of native self-government.¹¹⁴

Paul Sammurtuk, project director for the Tungavik Federation which was negotiating Inuit land claims in the Eastern Arctic, also protested the voyage. In a letter to the editor of the Globe and Mail, he suggested that the government was being

unfair to the Inuit. He argued that although Ottawa was quite willing to cite the habitation of the Inuit in the north as a means of supporting Ottawa's claims to the north, it was not willing to settle their northern land claims dispute. Sammurtuk then suggested a joint management system between the Inuit and Ottawa that would meet both the aspirations of the Inuit while bolstering Canada's claims to the Northwest Passage.¹¹⁵

INTEREST GROUP REACTION

During the voyage, the two most vocal interest groups were the Canadian Arctic Resource Committee (CARC) and the Council of Canadians (CC). Both groups were extremely critical of the perceived lack of action on the part of the Canadian Government. Of the two groups, the Council of Canadians was the most active in making their position known. Led by Mel Hurtig, the Council not only issued critiques of the government's inaction, but it also planned and carried out an overflight of the POLAR SEA during its voyage by a private aircraft.¹¹⁶ On the evening of August 7 1985, the Twin Otter aircraft overflew the POLAR SEA twice at low altitudes and dropped two canisters containing a Canadian flag and note of protest.¹¹⁷

CARC's spokesperson, Peter Burnet, while adopting a somewhat lower profile than that of the Council of Canadians, expressed

much of the same arguments. He stated,

Canada must strive to put itself in a position to prepare for international challenges for the waters. Any nation with moxie defends its boundaries and we shouldn't be seen retreating from the arctic.¹¹⁸

While there was some coverage of CARC positions in the general media, most of its comments were contained in its own publication Northern Perspectives.

REACTION OF OPPOSITION PARTIES

The fourth main source of opposition to the voyage came from members of the federal Liberal party and New Democratic Party. Due to the summer break, there was little Parliamentary comment in the House of Commons prior to the voyage. The only statement was made by Jean Chretien, then the Liberal party's external affairs critic. On June 20, 1985, he asked Joe Clark for assurances that the government would ensure that no icebreaker would attempt to take away "our sovereignty away from us".¹¹⁹ Clark responded by attacking Chretien for being anti-American during an sensitive time. (The Beirut bombing that claimed over 200 American marines had just occurred). Chretien then asked if the Americans would ask permission to traverse the Passage. Clark's response was, "we will do better than that, we will have Canadians on board".¹²⁰

While this was the only instance that the issue was raised in Parliament before the summer recess began, the Liberal leader,

John Turner attacked the voyage in an interview as an "affront to Canada."¹²¹ In a statement made at the time of the voyage, Turner cited Mulroney's "failure to intervene personally with Washington" as blatantly encouraging the United States to ignore Canada's position.¹²²

Immediately prior to the voyage, Chretien suggested that Canada should send two icebreakers to precede the POLAR SEA which would assert Canadian claims to the Passage.¹²³ Warning that the United States was using the voyage as a means of building its case for the International Court of Justice, he stated that Canada would regret the government's lack of action in fifty years.

Both opposition parties seized on the announcement of the voyage as a means of attacking the Conservative Government for being too close to the Americans. Jean Chretien suggested that the Americans were taking advantage of the Conservative Government's efforts to improve continental relations as a means to "take away a piece of Canada."¹²⁴ Along a similar theme, Jim Fulton of the NDP argued that if the United States was successful in challenging the Canadian claim to the Northwest Passage, they would soon attack other Canadian claims.¹²⁵

During the voyage, both Turner and Chretien issued strong

condemnations of the voyage and the lack of a firm government response. On August 5 1985, Chretien stated that, "[a]ny gesture which ignores Canadian legislation concerning the Passage puts our sovereignty in doubt."¹²⁶ He proceeded to suggest that the Americans were making a mistake by challenging Canadian claims, hinting that it would be best for the NATO members if the Passage did not become an international waterway.

On August 10, Liberal Leader John Turner stated that Prime Minister Brian Mulroney should make it clear to American President Ronald Reagan that sending the icebreaker without explicit permission from Ottawa "is intolerable. The voyage of the POLAR SEA is an affront to Canada". He went on to say that the Prime Minister should clearly indicate to Washington that "no foreign vessel may travel through Canadian Arctic waters without Canadian permission."¹²⁷

Additional criticisms were also made by two former Liberal cabinet ministers. Jean-Jacques Blais, in a letter to the editors of the Globe and Mail, suggested that the POLAR SEA was built for the purpose of challenging Canadian sovereignty following the voyage of the MANHATTAN. Arguing that his former government had allocated funds for the design and engineering specifications of an icebreaker, he suggested that the present government should now consider building it.¹²⁸ Robert Kaplan

suggested that the government should pass legislation establishing straight baselines in the north, as well as letting the Americans take Canada to court.¹²⁹

While the summer recess did mute the opposition parties' attacks, the themes that they used were clearly established. First, that the American Government was taking advantage of the Conservatives' efforts to improve relations; second, that the voyage was only the first step in a series of American challenges to Canadian interests; and third, the Canadian Government's inactions would hurt the long-term Canadian position in the north.

MEDIA REACTION

The Canadian media was also critical of the proposed voyage, and to a large degree contributed directly to the creation of the crisis-like environment that surrounded the voyage. In this period of time, editorials in all of the main newspapers castigated the government for what was perceived as a lack of willingness to defend Canadian sovereignty.¹³⁰ Most of these editorials made the point that regardless of the legal argument that the voyage would not influence future considerations of the status of the Northwest Passage, there was still a pressing need for the Canadian Government to increase its presence in the north.

The amount of media coverage played an important role in prompting the government's actions. As will be shown, it is also possible to identify most of the media personalities that were involved in the story.

Several American and Canadian officials made a point that July 1985 was a slow period for the news services. The implication was that the media focused on the voyage for lack of other noteworthy material to cover. However, this is somewhat difficult to either confirm or disprove. There is no readily available means of determining when the media is facing a "slow or busy" news period. Outside of interviews, the only public source suggesting that this may have been the case was in a Washington Post story in 1988. The story reported on the signing of the 1988 Arctic Waters Cooperation Agreement which was initiated by the 1985 voyage. Reporter Herbert Denton wrote, "Ottawa reporters now acknowledge that they may have exaggerated their coverage during that slow summer news period."¹³¹ However, it is not clear what his sources were. It is plausible to assume that he has based his story on conversations with his Canadian counterparts covering the signing of the agreement. But there is no evidence to substantiate this, so it must be left to conjecture.

By examining the quantity of news stories and by identifying the reporter and those that were included in the interviews,

it will become clearer as to how the issue was perceived by the government as a crisis of public opposition.

It is usually somewhat difficult to examine the coverage of the electronic news media before 1988 because no services maintained transcripts available for general public use. However, the External Affairs Communications Branch monitors all major media sources and keeps transcripts of both television and radio reports. Therefore, in this instance it is possible to examine these reports in detail.¹³²

In order to understand the impact that the media had, both electronic and print media reports have been graphed over time. Figures 4-3 and 4-4 shows that as the voyage approached, coverage increased rapidly. Between July 29 and August 8 1985, there were over 35 reports on the voyage on national TV and radio. Figure 4-4 shows that the print media also carried heavy coverage from July 30 to August 13. Furthermore, if coverage by local newspapers is included, the total would have increased greatly (albeit being mostly replications of the Canadian Press stories).

There is no question that the media examined the story in detail. In keeping with the decision-making focus of this examination, the questions that arise are who were writing these stories, what were their sources, and what observations

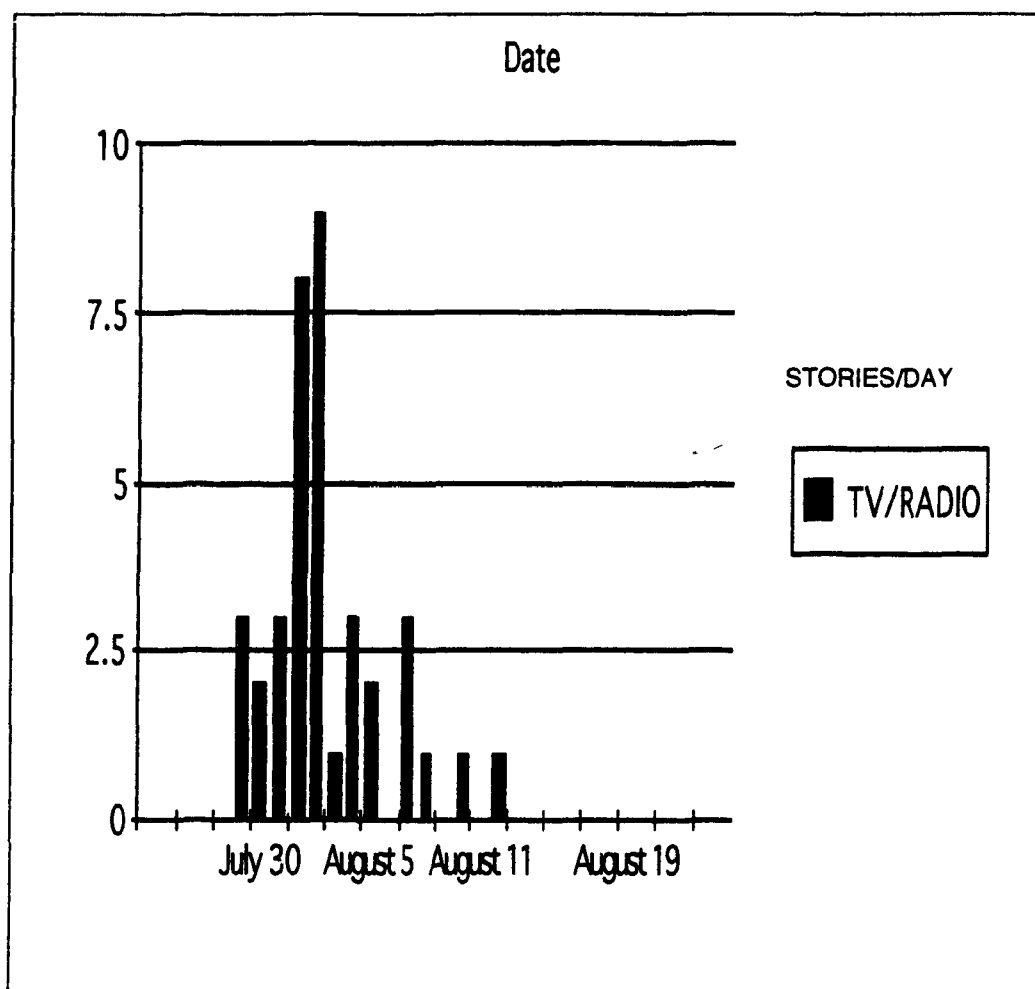
can be made about them?

Figure 4-5 lists the sources of the media reports, the number of times they were cited, and any organizational affiliation they may have had. Several patterns can be found. First, it is apparent that the reporters were relying on a fairly small circle of sources. While there were 48 different individuals cited covering a far range of actors, 8 sources provided reporters with 64% of their identified sources.¹³³ Joe Clark, Barry Mawhinney, Peter Burnet and Len Legault were the four most commonly cited individuals. Thus, the substantial coverage of the voyage was not based on a wide range of information.

Another related point is that the only positive information on the Canadian Government's reaction was made by government officials. With the sole exception of Tom Pullen (who used to be a government official), all other commentators were critical of government action. Thus it is not surprising that government officials believed that this was a crisis of public support.

By examining the identity of the reporters, the observation can be made that the large quantity of stories that were carried were written by a much smaller number of individuals. While the identify of the authors was not available for over

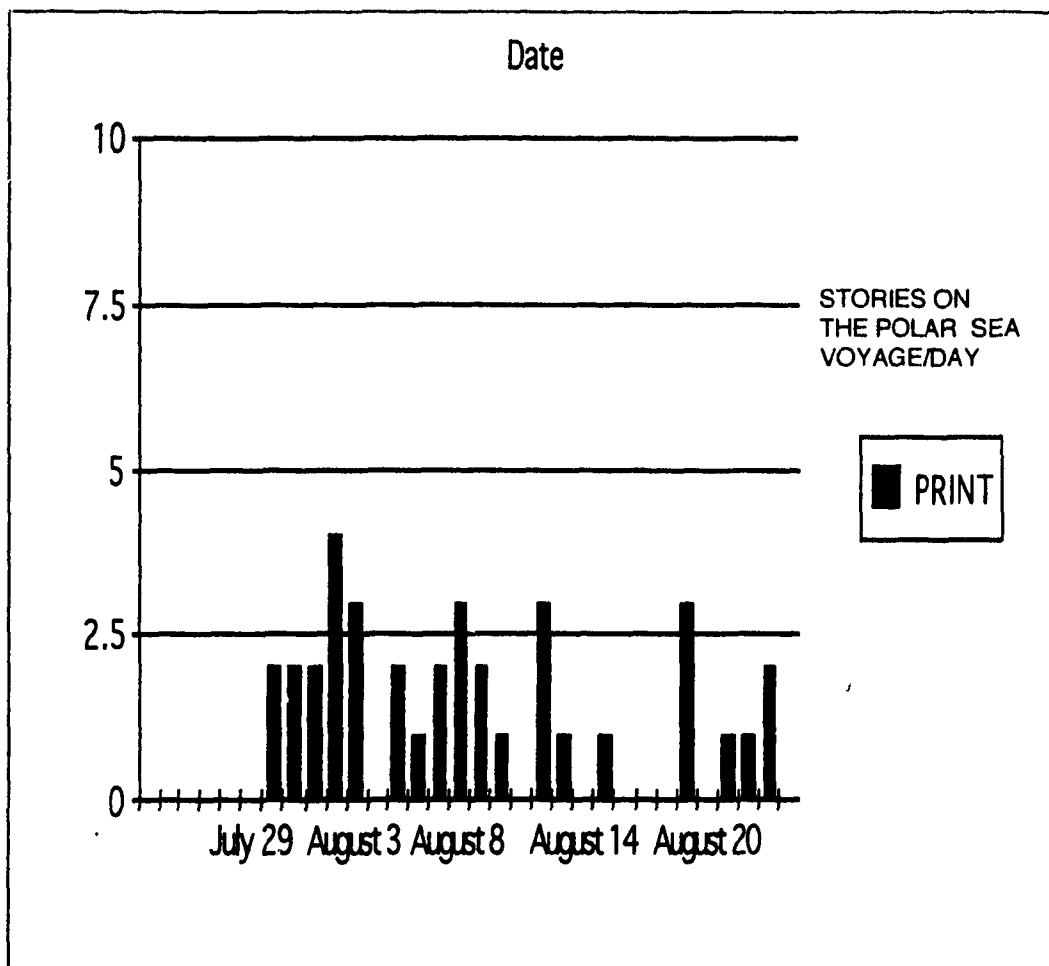
FIGURE 4-3
ELECTRONIC MEDIA REPORTS OF THE POLAR SEA VOYAGE
CANADA



SOURCES

CBC- RADIO, THE NATIONAL, JOURNAL, SUNDAY MORNING, NEWS AT SIX,
WORLD REPORT
CTV - CANADA AM, NATIONAL
GLOBAL - THE NATIONAL EDITION

FIGURE 4-4
PRINT MEDIA COVERAGE OF THE POLAR SEA VOYAGE
CANADA



SOURCES:

GLOBE AND MAIL; MONTREAL GAZETTE;
OTTAWA CITIZEN

half of the stories on the voyage, of those that did contain a byline, two reporters, Chris Young and Matthew Fisher, wrote almost 30% of all stories. While Fisher tended to present balanced reports, Young was very critical of government action.¹³⁴ All editorials, such as the three in the Globe and Mail, were also highly critical of the government.

The above discussion leaves little doubt that the Canadian Government's action (or, more precisely, inaction) was critically received by those who examined it. However, the above analysis does not answer the question as to whether or not there was a "public" outcry. The media provided substantial coverage of the voyage as Figures 4-5 and 4-6 indicate. However, there is almost no information on the reaction of the Canadian public. It is accepted as an article of faith that the "Canadian public" is always sensitive to any action that may concern the "north".¹³⁵ However, it is not clear what evidence this evaluation is based on.

It was possible to find only one source of public reaction to the voyage. In a Gallup poll taken at the beginning of September 1985 and reported in the Ottawa Citizen, it was found that only 54% of those polled were aware of the voyage taking place. Of those who had heard of the voyage, 70% (or 38% of the total sample population) believed that Canada should control the Northwest Passage. Additionally, 24% of

FIGURE 4-5

MEDIA INFORMATION SOURCES: JUNE 13-AUGUST 30, 1985

() = number of time cited

CDN ACADEMICS US ACADEMICS EXPERTS

D. Pharand	(4)	Norton-Moore	(2)	Pullen	(3)
G. Morris	(3)				
F. Griffiths	(2)				
H. Critchley	(1)				
C. Cannizo	(1)				

CDN MILITARY US MILITARY

John Harbon	(2)	E. Carrol	(1)
Bill Davis	(1)		

GOVERNMENT: CANADA

<u>POLITICIANS</u>	<u>PMO</u>	<u>EXTERNAL</u>	<u>COAST GUARD</u>
J. Clark	(12)	B. Fox	(1)
J. Fraser	(2)	B. Mawhinney	(7)
B. Mulroney	(1)	L. Legault	(6)
P. Laford	(1)		
D. Crombie	(1)		
J. Kellehner	(1)		
		J. Clarke	(1)
		C. Stephenson	(1)
		R. Quail	(1)
		D. Johns	(1)

<u>TRANSPORT</u>	<u>NATIONAL DEFENCE</u>	<u>ENERGY MINE AND RESOURCES</u>
R. Lefluer	(1)	J. Shultz
	(1)	G. Hobson
		(1)

<u>ENVIRONMENT</u>	<u>NWT</u>
C. Sanders	(1)
	R. Nerysou
	(1)

UNITED STATES

<u>AMBASSADORS</u>	<u>STATE</u>	<u>COAST GUARD</u>	<u>DEFENCE</u>
P. Robinson	(4)	C. Redman	(2)
T. Niles	(1)	N. Sanditer	(4)
		J. Wubbold	(2)
		J. Bannah	(2)
		Thompson	(1)
		M. Allen	(1)

USSR

E. Pozdnaykov (2)

OPPOSITION MEMBERS OF PARLIAMENT

J. Chretien	(4)
J. Turner	(2)
J. Blais	(1)
R. Kaplan	(1)
J. Fulton	(1)

INTERESTS GROUPS

<u>CANADIAN</u>	<u>NATIVE/INUIT</u>
P. Burnet	(7)
M. Hurting	(2)
	M. Gordon
	(3)
	R. Gruben
	(3)
	R. Innukusk
	(1)

Sources: CTV National News, Canada AM CTV, The National, The Journal, CBC Radio, World at Six CBC, CBC News at 0800, As it Happens CBC, CBC World Report, Gazette, Globe and Mail, Maclean's

FIGURE 4-6

REPORTERS COVERING THE POLAR SEA VOYAGE: JUNE 13-AUGUST 30, 1985

ELECTRONIC MEDIA

CTV	CBC
Allen Prior CTV (2)	Bill Siggins CBC (2)
Bob Evens CTV (1)	Whit Fraser CBC (2)
Robert Hurst CTV (1)	Allan Maitland CBC (1)
Walter Ernst CTV (1)	(?) Stewart CBC (1)
	Judy Morrison CBC (1)

Total # Stories = 39
 Known Reporters = 9/Known Stories = 12
 Unknown = 27

PRINT MEDIA

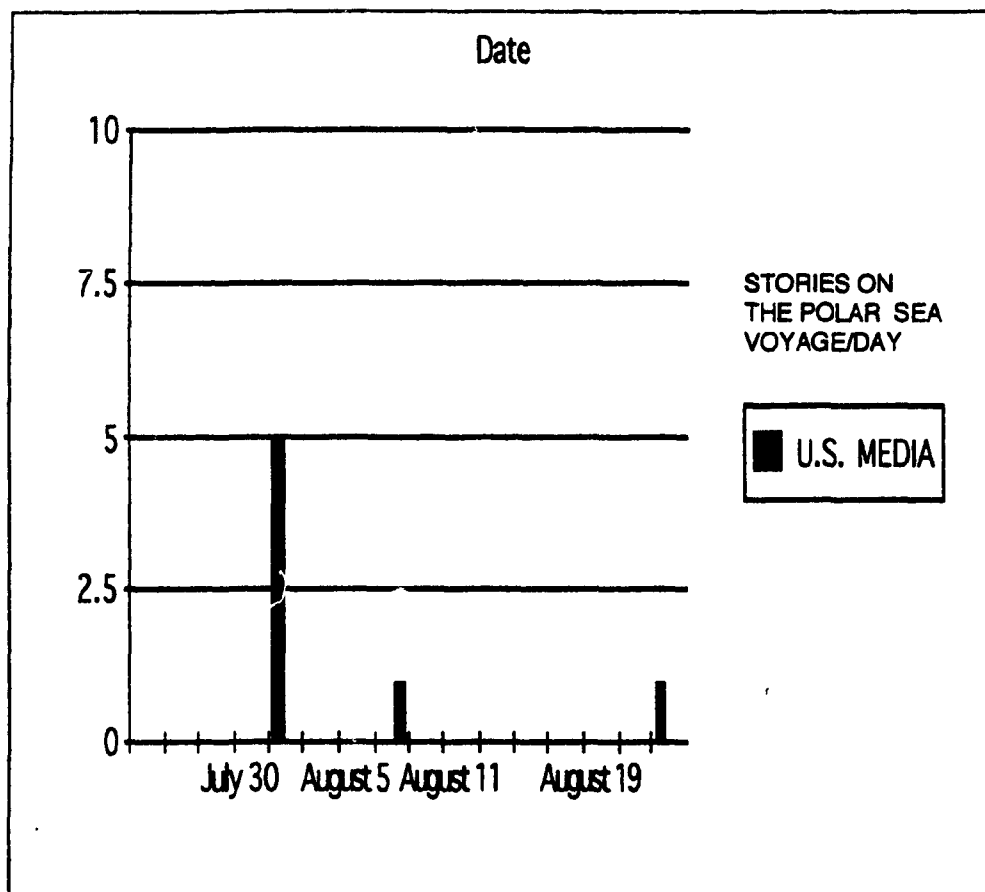
<u>Globe and Mail</u>	<u>Montreal Gazette</u>
Matthew Fisher (7)	Chris Young (3)
Canadian Press Story (7)	Magaret Munro (1)
Editorial (3)	
Barbara Yaffe (2)	<u>Maclean's</u>
Rudy Platiel (1)	Ken MacQueen (2)
Wallace Immen (1)	Andrew Nikiforuk (2)
B. Maratter (1)	Bruce Wallace (1)
Ottawa Bureau (1)	Ian Austin (1)
	Kevin Doyle (1)

Total number of Stories in Period = 34
 Known individual authors = 12
 Stories by identifiable authors = 23
 Canadian Press (no byline) = 7
 Editorial = 3
 GM Ottawa Bureau = 1

those aware of the sailing (13% of the total sample) conversely believed that the Passage should be an "international waterway".¹³⁶ While it is impossible to draw conclusive evidence on the basis of one single poll, the large degree of public ignorance amongst the general population concerning the voyage, and the even smaller number of individuals who believed that the Passage should be Canadian, casts serious doubts over the claims of those who contend that there was a large public outcry. There was an outcry by certain well publicized individuals and groups, but no evidence exists to suggest that the general Canadian population participated.

By examining the American media coverage of the voyage, the observation may be made that the voyage was simply an issue that interested only the Canadian media. Figure 4-7 shows that American coverage was almost non-existent. It was possible to trace seven stories in American newspapers. However, three of them were based on the same Associated Press story.¹³⁷ External Affairs officials closely monitored possible stories carried by the electronic media. Although NBC interviewed an official from External Affairs, it was never aired.¹³⁸ The only story of substance was carried by the New York Times on August 1, 1985.¹³⁹ It provided an even-handed examination of the differences that existed between the Canadian and American positions, the events leading up to the voyage, and a review

FIGURE 4-7
U.S. MEDIA COVERAGE OF THE POLAR SEA VOYAGE



SOURCE:
DEPARTMENT OF EXTERNAL AFFAIRS, INFORMATION SERVICE

of the position taken by Canadian Inuit groups. Regardless of this article, it is clear that the American media was not interested in the voyage.

SUMMARY

From the time in which the voyage became public knowledge, to the actual voyage in the first week of August, there was substantial criticism of the voyage, and the Canadian Government's handling of it. As discussed, this opposition led to the issuing of a much less cooperative diplomatic note immediately prior to the voyage. While this note not only caught the American officials off-guard, it also signalled the intent of the government decision-makers to develop a new set of policies regarding its position on the Northwest Passage.

Figure 4-8 provides a schematic application of the Canadian response to the American decision to send the POLAR SEA through the Northwest Passage. It indicates the factors causing the Canadian Government's shift in position. Specifically, it illustrates the accumulation of the actions of both the individuals and groups who opposed the voyage and thereby demonstrated the dynamics of the aggregations process. The actions of any one specific individual criticizing the government would not have been sufficient to have altered the Canadian Government's actions. However, in combination with all other critics, the government decision-makers believed it

necessary to change their actions. In this manner, the sum of the actions of the critics came to be greater than their individual parts.

Take away one of the critics, and there still would have been enough criticism to make the government act as it did. Yet, if enough of the various critics and critiques in the media were eliminated, the political decision-makers would not have deemed it necessary to intervene, and would have allowed the bureaucratic decision-makers to continue to handle the issue as they had been doing. The question that arises is the point at which there has been a sufficient aggregation of criticism to cause the political decision-makers to act. In this case study, it is known that a combination of five groups, academic, indigenous, interest, opposition members and the media were required to cause the government to change its reaction to the voyage. It is also known through figures 4-5 and 4-6, that if there are at least 39 stories carried in the electronic media and 34 in print media, the government will respond. What is unknown and requires further study is the point at which there is enough of the critical stories to cause a government to alter its policies. Would that government have responded to 5 or 10 or 50 stories in the same way? The answers to such questions will be found in subsequent comparative studies of Canadian foreign policy making.

SECTION III

THE VOYAGE OF THE POLAR SEA

The POLAR SEA departed Thule on August 1 1985 after completing its mission of resupplying the air force base.¹⁴⁰ As previously agreed, it then proceeded to a point outside of Lancaster Sound (and outside of the Passage itself) on August 2, where it rendezvoused with the Canadian Coast Guard icebreaker vessel, SIR JOHN A. MACDONALD. Two Canadian Coast Guard captains, Eugene Barry and David Johns, were then transferred to the POLAR SEA via the SIR JOHN A. MACDONALD's helicopter.¹⁴¹ Media reports did not mention that the SIR JOHN A. MACDONALD sailed with the POLAR SEA to a point off Byam Martin Island to take up other escort and resupply tasks around August 4.¹⁴² Byam Martin Island is located between Melville Island and Bathurst Island (where the north magnetic pole is found).

After rendezvousing with the SIR JOHN A. MACDONALD, the POLAR SEA then sailed to Resolute, Northwest Territories on Cornwallis Island on the morning of August 3. Once there, three more Canadians embarked: Ruddy Cockney, district manager with the Department of Indian and Northern Affairs, and Greg Mcavoy and Larry Soler of Intera Inc.¹⁴³ The two Intera representatives brought a synthetic aperture radar (SAR) for use on the POLAR SEA. Soler left the ship to return to Resolute after giving a briefing on the ice conditions that

could be expected for the remainder of the voyage.

The POLAR SEA then received reconnaissance information from the Canadian weather service and the Atmospheric Environmental Service of Environment Canada.¹⁴⁴ This information, in combination with the SAR, indicated that the Passage would be relatively ice clear to Dundas Peninsula in Viscount Melville Sound. Reaching this point on August 5, the POLAR SEA now encountered the most difficult part of its transit. Multi-year ice, ice floes tens of miles in length, under pressure, and ten to fifteen feet in thickness slowed the POLAR SEA at one point to 5 miles in 24 hours.¹⁴⁵ After three days of slow progress, the POLAR SEA reached the entrance to the Prince of Wales Strait on the morning of August 8. It then reached Amundsen Gulf early on August 9. The Canadians on board were scheduled to disembark on that date at Tuktoyaktuk, Northwest Territories, but ice conditions outside Amundsen Bay prevented the ship from reaching the area until the morning of August 10, at which point all Canadians did leave the vessel.

The voyage was uneventful, except for two different sets of aircraft overflights. On the evening of August 7, the chartered aircraft of the Council of Canadians overflew the POLAR SEA and dropped two canisters on the icebreaker. There were also near-daily overflights by Canadian Forces maritime patrol aircraft.¹⁴⁶ These overflights, intended as a means of asserting Canadian claims in the Passage, also provided the

POLAR SEA with information on ice conditions.

During the voyage, two points of an operational nature were of immediate concern. The first involved the possibility of scientific research being undertaken during the voyage; and the second concerned a report of a hydraulic leak that may have polluted part of the Passage.

The CBC carried a report that the POLAR SEA was conducting anti-submarine warfare as it transited the Northwest Passage.¹⁴⁷ However, this report was vehemently denied by officials from the United States Navy and Coast Guard. Lt. Max Allen, the officer quoted in the story, stated that the interview he gave was completely taken out of context. He went on to say that in the interview, he was first asked about the POLAR SEA. He answered by stating that he knew nothing about the voyage and suggested that the CBC contact the United States Coast Guard. He was then asked about American interests in the Arctic, to which he replied that it was public knowledge that the United States is "interested in under-ice cooperation."¹⁴⁸ The CBC reporter apparently then joined the two points together and reported that the POLAR SEA was conducting anti-submarine research.

However, transcripts of the actual interview show that Bill Siggins of CBC specifically asked if the naval research was to

be undertaken on the POLAR SEA, to which Lt. Allen replied, "That's affirmative."¹⁴⁹ Therefore, it is not entirely clear whether Allen was being misquoted.

American Coast Guard officials attempted to establish that no research of any kind was taking place during the voyage. They specifically stated that the ship would not stop at any point to collect ice or water samples, and would not collect such samples while underway.¹⁵⁰ This is further supported by an External Affairs Memorandum which states that the Canadian observers confirmed that no experimental activity was conducted when they were on board.¹⁵¹ Furthermore, the log report of the POLAR SEA states that, "Actual data collecting was not scheduled for any portion of the transit."¹⁵²

However, there is evidence that research did take place. In the news release in which the Coast Guard denied that "no research of any kind" would be undertaken, it was reported that the POLAR SEA "is collecting meterological data and ice data which is being relayed back to collection points during the voyage and is available to Canada."¹⁵³ This was also confirmed by a United States Coast Guard spokesperson in Washington. Nicholas Sandifer stated that, "detailed ice and weather data collected by the POLAR SEA during its voyage would be shared with 'all mariners'."¹⁵⁴ The distinction being made is not entirely clear. It appears that the

collection of samples is regarded as scientific research, while the collection of meteorological and ice data is not. This means that the POLAR SEA was not specifically undertaking research, but was collecting information.

A second issue that arose during the deployment that was not reported by the press was the development of a hydraulic leak. The POLAR SEA's log reported that its starboard hub developed a hydraulic fluid leak.¹⁵⁵ This leak was discovered following the disembarking of the Canadian passengers at Tuktoyaktuk on August 10. It is later reported that the leak developed on August 10.¹⁵⁶ The question arises as to whether the leak was discovered or developed on August 10. If it was only discovered on the 10th, the possibility exists that the leak may have been occurring as the vessel was in the Northwest Passage. On the other hand, if it developed on the 10th, then the vessel was already out of the Passage, and no pollution in Canadian waters occurred. Efforts were made to repair the leak, but after four days of repairs at Kodiak, Alaska, the leak was only reduced to a rate of 1 quart an hour. The log did not mention what the previous leakage rate was, but it did state that even 1 quart an hour was deemed to be too high to allow the POLAR SEA to enter the "sensitive ecological environment of Prince William Sound."¹⁵⁷

SUMMARY

In conclusion, it is worth noting that by using the POLAR SEA, the United States Coast Guard saved 30 days sailing time and \$202,000 in fuel costs. Furthermore, the Coast Guard considered both the Thule resupply and the missions conducted to the north of Alaska to have been successful.¹⁵⁸

A final word about the manner by which the voyage fits into the Chapter III model needs to be mentioned. The actual voyage was the implementation of the American decision to send the POLAR SEA through the Northwest Passage. The actions and decisions of those responsible for the voyage resulted in an uneventful transit. As such, the voyage itself played no additional role in the resulting actions of the Canadian Government. But imagine the effect on the process if a mistake or accident had occurred on the POLAR SEA during the voyage that resulted in substantial environmental damage to the Arctic waters.

The actions of the captain and crew of vessels such as the EXXON VALDEZ and USS VINCENNES demonstrate that bad decisions can be made at sea. Had the captain or crew of the POLAR SEA also made a bad decision that, for example, resulted in a substantial fuel leak in the Passage, there is no doubt that the Canadian Government would have believed it necessary to have reacted in an even more vigorous manner. One can well

imagine the reaction of the Council of Canadians or any of the other groups opposed to the voyage if such a disaster had occurred. The point is to illustrate the impact that the implementors of a decision can have on the overall process. In the case of the POLAR SEA, the crew's efficiency was such that their actions caused no additional problems. However, as shown by the leak it did encounter, the potential for problems was always there.

SECTION IV

THE CANADIAN GOVERNMENT'S REACTION

Even as the voyage was taking place, there was a noticeable shift in the position taken among high-level Canadian decision-makers. Members of Cabinet became much more involved in the process, and further efforts were taken to develop policies in response to the voyage. It is also possible to detect a shift in the Canadian position from one of cooperation, to one of a more assertive tone. The purpose of this section is to establish that Cabinet decided that a more "forceful" response was required due to the increased opposition to the voyage. The next step will be to examine who was given the task of preparing this reaction, and how it was undertaken.

The note of July 31 1985 to the United States Government

demonstrated that even before the voyage took place, there was a growing sense by some in the Canadian Government that it had not reacted firmly enough to the voyage. To a large degree, the re-evaluation of its actions was the result of repeated media attacks on perceived Canadian inaction. According to sources, these concerns were amplified by a fear that the perceived inaction, taken into consideration with other government policies aimed at improving Canadian-American relations, was an indication that the government was "subservient" to the U.S.¹⁵⁹

There are strong indications that some Cabinet members believed that bureaucratic officials, and particularly External Affairs officials, had miscalculated the public reaction to the voyage.¹⁶⁰ On August 3, the first reports emerged of Cabinet's reconsideration of the voyage. Returning from his overseas trip, Joe Clark stated that Cabinet was considering referring the question of Canada's Arctic sovereignty to the International Court in the Netherlands.¹⁶¹ His comment is important in that it is the first mention by a high-ranking official of direct Cabinet involvement.

The serving Minister of Fisheries and Oceans, John Fraser, made it clear on August 5 that Cabinet did not approve of the manner in which the issue was handled. Fraser is quoted as stating that Cabinet was "stung" by the voyage. He then added,

"I think it's clear that the sentiment across the country is that Canada must increase significantly its efforts in the Arctic."¹⁶² He went on to point out that Canada had no icebreaker to match the POLAR SEA. Therefore, the steps that Canada might take to strengthen its position on Arctic sovereignty would include the acquisition of both aircraft and marine vessels, and especially an icebreaker vessel. He concluded by stating that the government would "build the icebreakers and aircraft necessary to patrol the Arctic territory and maintain its sovereignty."¹⁶³

The fact that Cabinet members believed that they were not adequately informed is also found in interviews with officials. Members of Joe Clark's Staff have stated that the news of the voyage reached his desk "late."¹⁶⁴ However, there may be a significant difference between the Minister receiving information late, and paying attention to the information late. Documents have shown that the Minister first received information on the voyage almost immediately after the State Department had issued its first note. What is not known is how Clark reacted to this information, or if his staff had indicated to him the significance of the voyage.

POLICY REVIEW

On August 3, Clark stated that the government was considering its reaction to the voyage as part of a previously planned

Cabinet review of all matters concerning Canada's sovereignty in the North.¹⁶⁵ This was confirmed by Prime Minister Mulroney on August 18 when he stated that a government review on Arctic sovereignty was not the result of the voyage of the POLAR SEA, but had been ongoing.¹⁶⁶

However, this is contradicted by statements of External Affairs officials. Barry Mawhinney, the Director-General of External Affairs Legal Bureau was reported in several media sources as stating, "an intensive review" of Canada's claimed Arctic sovereignty would be launched.¹⁶⁷ When questioned on the contradiction, Mawhinney explained that he was dealing with a large number of interview requests at the time. As such, he suggested that he may have been somewhat incorrect by saying "that the Minister had the more correct view of the situation."¹⁶⁸

Even more confounding is the fact that while the Prime Minister was stating that the review had been ongoing, his chief spokesperson, Bill Fox, suggested that the voyage of the POLAR SEA had initiated the review. He told reporters that the review was being undertaken mainly by External Affairs officials, but with the participation of other "experts in international law."¹⁶⁹ Fox stated that a debate existed amongst some officials over whether or not to take the issue to the International Court of Justice.¹⁷⁰

The explanation for this seeming contradiction was that there were two interrelated reviews. The Arctic Waters Panel had commenced a review on "Canadian policy with respect to maintaining and consolidating Canadian Arctic Sovereignty" from at least the Spring of 1984, and possibly earlier.¹⁷¹ However, once the voyage was perceived as creating a crisis, a second review headed by the PCO and External Affairs was launched. The officials selected as members for the second review were to act as a crisis-management team and provide an immediate set of reactions for the government.

Both reviews shared many of the same officials, and it is not surprising that both reviews suggested many of the same policy decisions. However, the PCO/External review led directly to Clark's September 10, 1985 policy statement in the House of Commons.

In order to understand how the government decided on the policies announced on September 10, 1985, it is necessary to examine the functioning of the Arctic Waters Panel back to at least 1979, and then to come back to the 1985 PCO/External Committee.

THE ARCTIC WATERS PANEL

The interdepartmental coordination within the Canadian bureaucracy tends to be relatively informal and ad hoc. The

Arctic Waters Panel, which acts as the main interdepartmental forum for Arctic issues, is no different. It tends to meet only when one or more of its members deem it necessary. It is clear that External Affairs officials tend to dominate it, both in members and in terms of setting the agenda.

It is possible to trace the existence of the Arctic Waters Panel to 1979. No records were found of earlier activity, but it is probable that its existence dates back to the period of time in which oil and gas extraction projects were being planned in the early 1970s.

Minutes of a meeting held on June 27, 1979 discuss the commencement of a review of Canadian policy in the Arctic. These minutes included a summation of the reasons why the chair of the meeting, Mr. Lorne Clark, Director of Legal Operations of External Affairs, believed there was a need for such a review.

Mr. Clark, in his opening remarks stated that the election of a new government in May 1979, the resumption of the eighth session of the UN conference on the Law of the Sea (UNCLOS) in July, the vastly increased levels of activities in the Arctic waters, as well as the current re-examination of the whole situation in the Arctic waters by External Affairs, has made advisable a review and reassessment of the question of the status of the waters in the Arctic archipelago by all relevant departments and agencies.¹⁷²

The decision was made that each department would develop three background papers for its new minister: one on the background

of the department's interests in the North; the second one dealing with the main issues facing the department; and the third paper would provide a list of options that could be implemented. There was agreement that each department would show these papers to its minister "only after thorough interdepartmental discussion."¹⁷³

However, it must be noted that this interdepartmental review was held only after External Affairs had prepared its own review. This is a pattern that was subsequently repeated. The results of its internal review are partly contained in a background paper that presents the Canadian position on Arctic Lands and Waters; the Arctic Waters Pollution Prevention Act and Fisheries Jurisdiction; the Arctic Continental Shelf; and Arctic Maritime Boundaries.¹⁷⁴ This paper formed the basis of Canada's public position on the Arctic.

While it is not clear what happened as a result of the interdepartmental review, it is known that by December 1982, a secret document on the Arctic was sent to Cabinet.¹⁷⁵ However, since it remains classified its contents are unknown.

There is no further indication of the Review until February 1984 when minutes of another meeting of the Arctic Waters Panel show that, once again, the various department members were being asked to provide an update of what their

departments were doing in the Arctic.¹⁷⁶ While records of all responses do not exist, the responses that are available indicate that within a month, most departments had sent a list of their activity in the North to Phillippe Firsch who was now director of Legal Operations.¹⁷⁷

At the same time as the Interdepartmental meeting, External Affairs also began its own review. In March 1984, External Affairs officials in the Policy Planning Staff notified all concerned divisions within External Affairs that an Advisory Group was being created to undertake another comprehensive review of "Canadian policy with respect to maintaining and consolidating Canadian Arctic Sovereignty."¹⁷⁸

The review was to be led by the Policy Planning Staff and was to focus on four elements:

- 1) An examination of recent Arctic related activities and policy decisions of other government departments to determine the isolated or cumulative effect of such decisions on Canadian Arctic sovereignty claims;
- 2) an examination of other key polar countries' activities;
- 3) reconsideration of the proposal to draw straight baselines around the Arctic islands; and
- 4) recommendations.¹⁷⁹

The review's first meeting was held on March 21, 1984 for

organizational and information-gathering purposes. The representatives attending the meeting were asked to provide their written views, as well as any documentation, on the four issues by March 31, 1984.¹⁸⁰ Another meeting was held on May 30, but as in the case of the preceding meetings, most of the issues discussed are still classified.¹⁸¹ The disclosure was made that the Advisory Group discussed issues bearing on Arctic sovereignty, in terms of both Archipelagic internal waters, and of overall regional occupation and control.

The paper trail ceases at this point. Until the Arctic Waters Panel was reconvened on May 29, 1985 to formulate a response to the announced voyage of the POLAR SEA, there is no further mention of it, of the External Affairs Advisory Group, or of the review, in the declassified documents. Furthermore, when questioned, External Affairs officials were unable to remember what, if anything, came of the review. There are indications that it may have been given a renewed mandate to continue its review on the Arctic following the election of the Conservative Government in the fall of 1984. In an interview given to the Canadian press corps on August 2, 1985, Joe Clark stated that as a result of concerns raised when Cabinet was dealing with the North Warning System, he had asked "several months ago" that the Department of External Affairs

put forward a list of some sovereignty related questions we should be looking into. That has moved forward as a result of the Cabinet decision and there will be some review under way that is

covering a wide range of questions some of which may not be affordable, but we, at least want to be in a better position to act than we were when we inherited the Government.¹⁸²

A story carried in Maclean's stated that the findings of this review were presented to Cabinet on October 10, 1985 in a 29 page memorandum entitled Canadian Sovereignty.¹⁸³ The memorandum was alleged to contain 21 options including: the construction of the Polar 8 icebreaker and the construction of four nuclear submarines. However, there is some question as to the validity of the story. When questioned in the House of Commons about its existence Clark responded,

There was reference in it [the Maclean's story] to a document which was described as not only a Cabinet document but one that had caused discussions in Cabinet. I have to say that from time to time Maclean's magazine is discussed in Cabinet; the alleged document has never been.¹⁸⁴

However, it is not clear whether Clark is denying that the document exists or if it just has not appeared before Cabinet. On the condition of confidentiality, one External Affairs official has stated that the Maclean's article was correct.¹⁸⁵ The fact that the government did soon after consider the purchase of nuclear submarines would also seem to support the findings of the Maclean's story.

The Arctic Waters Panel's main role was to develop the basis of the proposals that would be considered by the PCO/External Committee. It must be stressed that this was not the reason why the committee was established, and in fact its low key and

ad hoc nature had previously prevented it from being a significant factor in the policy process before the voyage. In essence, it set the stage for the PCO/External Committee that crafted the policy to be announced by Joe Clark on September 10, 1985.

THE PCO/EXTERNAL COMMITTEE

In August 1985, the Privy Council Office (PCO) was allocated the task of coordinating an immediate reaction to the voyage. Although the PCO functioned as the coordinating body for assembling the policy initiative, officials from External Affairs were still the key participants. The External Affairs officials had the expertise, while the PCO officials had the political authority.

The PCO's role in the formation of Canadian foreign policy has not yet been properly examined. While it has been the source of study in the context of Canadian public policy, there is no corresponding understanding of the process as it applies to the making of foreign policy.¹⁸⁶ Interviews with officials can provide a partial picture of its actions, but given the reluctance of most PCO officials to discuss their role in the foreign policy process, this can only be partially successful.¹⁸⁷ Nevertheless, interviews with officials who work closely with members of the PCO have provided some insights as to its working.

A high-ranking official in External Affairs has described the PCO as a powerful coordinating body in the foreign policy-making process.¹⁸⁸ The PCO is brought in to enforce coordination of policy under certain circumstances: 1) when a department is perceived by the Prime Minister, Clerk of the Privy Council and/or members of Cabinet to have failed; 2) when an issue being handled by a department has been perceived as becoming "political"; 3) when there is a need to bring in a body to coordinate and referee among various departments; and 4) when a minister believes that there is a need to control a department that may not be following his or her wishes.

The PCO's main function during the POLAR SEA voyage was to prepare a set of policies that the government could release immediately in order to demonstrate that it was "doing something". According to a senior External Affairs official, the PCO was to act as the coordinating body to react to the controversy caused by the voyage.¹⁸⁹ For this purpose, PCO officials contacted various government departments and asked them to prepare a list of current projects that could be publicly presented as a means of sovereignty protection. One official stated that his department viewed this as an invitation to have their "northern wish list" granted. David Crombie, then Minister of Indian Affairs and Northern Development, acknowledged that his department attempted to

achieve as many of their projects as possible.¹⁹⁰

Although it is impossible to determine the exact date when the PCO became involved, it is known that Larry Gordon of the Communications section of the PCO, was receiving information concerning the voyage for External Affairs by July 29, 1985.¹⁹¹ At least two meetings were held on August 1 and August 13 where officials from the various departments were brought together by the PCO with the explicit task of reviewing possible policy initiatives to bolster Canadian claims for sovereignty in the north.¹⁹² Declassified correspondence indicates that the Department of National Defence, Energy, Mines and Resources, State, Science and Technology and Indian and Northern Affairs were included in the review.¹⁹³ It is not known whether other departments, whose correspondence was not declassified, were involved. These letters demonstrate that the task of coordinating the Canadian reaction was shared by Bob Fowler and Harry Swain of PCO and Barry Mawhinney and Len Legault for External Affairs.

Each department was asked to provide a list of "activities that could bear on Canadian Sovereignty in the Arctic."¹⁹⁴ The departments were asked to classify their actions into three broad categories:

- 1) Measures directly relevant to Canada's Arctic Waters claim;
- 2) Measures of a practical character that indirectly enhance

Canada's claim to its Arctic waters; and

3) Measures of symbolic value.¹⁹⁵

THE OUTCOME OF THE REVIEW

While the evidence is clear as to how the possible options were gathered by the PCO/External Affairs Committee, the process by which the decisions for the policy were made, is somewhat uncertain. The Priorities and Planning Committee met in Vancouver from August 21 to 23.¹⁹⁶ The minutes of the meeting remain classified, but some of the issues being considered can be ascertained by statements made by External Affairs Minister Joe Clark at the meeting. Prior to the meeting, Clark had told reporters that while the option of taking the issue of Canadian claims of sovereignty over the Arctic waters to the ICJ was being considered, no decision had yet been made.¹⁹⁷ But at the end of the meeting, he responded to reporters' questions about this possibility by stating that, "[f]rom a legal perspective, we are better to respond to a challenge to our jurisdiction rather than cast doubt on our claims by taking the case there ourselves".¹⁹⁸ This statement indicates that Cabinet had decided not to take the case to the ICJ, but would go if challenged.

Prime Minister Mulroney also made his strongest comment to date on the voyage following this meeting by stating that the Northwest Passage belonged to Canada "lock, stock and barrel",

and that any suggestion to the contrary would be regarded by Canada as an "unfriendly act."¹⁹⁹ But he gave little indication as to what his government planned to do except to criticize the previous government for leaving few instruments by which to assert Canadian sovereignty.

While most of the departments were attempting to demonstrate the importance of their programmes, interviews suggest that External Affairs officials, particularly Legault, were responsible for the selection of the policy options released on September 10. It has proven impossible to discover which options were not selected. Evidence from interviews and media reports suggest there was considerable debate over only two of the options that were eventually adopted.

Initial media reports suggested that there was considerable division among officials over the role to be played by the International Court of Justice. Bill Fox, then Brian Mulroney's chief spokesperson, told reporters on August 11, that External Affairs officials assigned to the issue were "sharply divided."²⁰⁰ He suggested that the experts were split on whether or not Canada should take the case to the Court or wait until the United States brought it to the Court. As previously mentioned, statements by Clark indicated that this debate was resolved by August 21. However, interviews indicate that the debate was not as heated as suggested.

Several External Affairs officials have stated that the decision to allow the Court to hear the issue was not difficult. Legault is reported to have explained that international law had "caught up" with Canadian unilateral action. This meant that Canada's claims would probably win. Thus, the decision was made to lift the Canadian reservation on the Court's right to hear the case.²⁰¹

The one option that certainly received considerable debate was the decision to build the Polar 8 class icebreaker. Interviews have suggested that the contentious component of the decision revolved around the cost and utility of the icebreaker. It is not known which official participated in opposing the inclusion of this option, but it is known that key External Affairs officials, such as Legault, were in favour of it. Several officials have suggested that it was partly his support that led to its inclusion.²⁰²

Ultimately, Joe Clark, on the recommendations of his officials, decided on the options to be selected. While it would be useful to know how Clark made this selection, he has refused to be interviewed, claiming that he cannot remember his actions during this period. Still, one External Affairs official has stated that Legault wrote the actual speech in which the long-term responses were stated.²⁰³

THE SEPTEMBER 10 POLICY STATEMENT

Clark publicly announced the selected policies on September 10, 1985 which included the following:

- 1) the immediate adoption of an order-in-council establishing straight baselines around the Arctic archipelago, to be effective January 1, 1986;
- 2) immediate adoption of a Canadian Offshore Application Act;
- 3) immediate talks with the United States on cooperation in Arctic waters, on the basis of full respect for Canadian sovereignty;
- 4) an immediate increase of surveillance overflights of our Arctic waters by aircraft of the Canadian forces, and immediate planning for Canadian naval activity in the Eastern Arctic in 1986;
- 5) the immediate withdrawal of the 1970 reservation to Canada's acceptance of the compulsory jurisdiction of the International Court of Justice; and
- 6) construction of a Polar Class 8 icebreaker and urgent consideration of other means of exercising more effective control over our Arctic waters.²⁰⁴

Having identified the key actors and having examined the process by which the policy decisions were made, the next stage in this examination will be to provide a study of the factors that led to the six policies, followed by an examination of the manner by which they were implemented.

CONCLUSION

The initial Canadian response was limited to a small group of Canadian officials, mainly within the Department of External Affairs, and specifically the Legal Bureau and, to a lesser degree, Canadian Coast Guard officials. They were mainly concerned with issues of international law and navigation. These officials defined the problems posed by the voyage in terms of their own training. The international lawyers in External saw the problem largely as one of international law, while the Coast Guard officials saw the problem as simply getting an icebreaker through a difficult area.

A second observation about the process at this stage illustrates why many foreign-policy analysts accept the traditional view of the limited number of decision-makers involved. Until the increased media attention compelled Joe Clark's direct involvement, the group of individuals handling the issue was small and quite exclusive. The policy was shaped almost entirely by the reactions of Department of External Affairs officials, who examined the issue, advised Secretary of State Joe Clark, and wrote the diplomatic notes. In effect, they "made" the foreign policy for that stage.

To a large degree, the exclusive nature of the foreign-policy making process is caused by the secrecy that still surrounds much of what External Affairs does. As most researchers will

attest, External Affairs officials do not surrender information willingly. While they explain this in terms of national security, and critics suggest that it is really a means of eliminating sources of critical review, the net result is that if outside actors are unaware of the process, they are unable to participate, even if their interests are directly involved.

However, non-governmental actors dramatically affected the process once they were aware of the upcoming voyage. While little evidence suggests that the Canadian public was massively opposed to the voyage, academics, indigenous groups, various interest groups and the media were highly critical of the government's position established by External Affairs officials. Their opposition was crucial to increasing Cabinet's involvement, particularly Secretary of State Joe Clark's involvement, in the policy aftermath of the voyage. Once media reports transformed the voyage into a crisis, the number of bureaucratic and political actors greatly increased.

The Canadian Government's immediate reaction to the opposition to the voyage is one of the most instructive elements for explaining how foreign policy is made. The Canadian Government was not responding to the voyage itself, but instead, to the actions taken by the various groups and individuals opposed to it. Had there been no or limited opposition, it is unlikely

that the government would have believed it necessary to respond as it did. Thus, the September 10, 1985 policy statement was a response to the opposition to the voyage, not to the voyage itself. Thus, the perception of the voyage was by far more important to the foreign policy process than was the actual trip.

This section also demonstrates that it is possible to isolate the specific actors opposed to the voyage. The media reported substantial public opposition to the voyage. However, a detailed examination of the opposition to the voyage indicates a relatively small group of critics who received substantial media attention. The only poll taken concerning the voyage indicated that most Canadians were not aware of the voyage, let alone opposed to it. This suggests that care must be taken when generalizing about public opinion and its impact on the foreign policy process. In this case study, widespread media coverage of the voyage may have interested members of the Canadian public. However, there is no evidence of the inverse; that is, that widespread public dissatisfaction led to the substantial media coverage.

The decision of the government to prepare a substantial policy reaction also demonstrates the importance played by agencies assigned a "gatekeeper" role for policy selection. As soon as the PCO was put in charge of coordinating a government

response instead of External Affairs officials, the options widened considerably. The process included all government departments involved in the north, instead of only the Department of External Affairs and the Coast Guard. The PCO had the ability to look beyond the confines of a single department's mandate because of its status as a central agency. External Affairs officials always had to be careful not to intrude on other departments' "turf".

Despite the fact that PCO officials had the political mandate to intrude on other departments' jurisdictions, they were not experts on the issue of northern sovereignty. Although they were responsible for coordinating the policy response and, more importantly, had the political power to ensure compliance, they had to rely on the expertise of the External Affairs officials who were originally involved in the process.

This case study offers important insight into the manner by which the process often appears "disjointed, ad hoc and remedial."²⁰⁵ Almost all of the policies included in the September 10, 1985 policy statement were originally developed by middle level bureaucrats for reasons that had little to do with the POLAR SEA's voyage. In almost every instance, the policies had been in development for a considerable length of time, but had not yet received the necessary attention of Cabinet to be given final approval. The opposition to the

voyage influenced Cabinet members and officials from the central agencies to cast about for policies that would demonstrate the government's resolve. As a result, the actions of the middle-level bureaucrats intersected with the decisions of Cabinet. The actions of both actors were required to formulate Canadian foreign policy in this instance. Cabinet members had the political power to put policy initiatives into effect, but did not have the time to prepare them. The middle-level bureaucrats had the time and expertise to develop the policies but did not have the political power to enact them. Thus, the two must come together. But most significantly, the events that bring the two together tend to be unexpected. Thus, the specific requirement of Cabinet will not be the same as the officials'. So the resulting policy will be the result of a forced "fit". This explains why government action often appears inappropriate for the problem it is attempting to address.

This case study also illustrates another manner by which elected senior decision-makers interact with bureaucratic officials in the formation of foreign policy. The External Affairs Minister must rely on the advice and actions of their advisors in the Department because it is impossible for the Secretary of State to have a comprehensive knowledge of all aspects of foreign policy. While they may have specific policy initiatives they wish to implement, the career training that

they follow in order to be appointed Secretary of State allows little time to develop expertise in foreign policy. (While it is possible, as was the case with Lester Pearson, it is not usual.)

Prior to his election as leader of the opposition and subsequent short-term victory as Prime Minister, Joe Clark had almost no background in the area of foreign policy. Thus, he had to rely on the advice of his experts. Clark's tenure as Secretary of State meant that he did have time to develop "on the job training". However, the POLAR SEA's voyage occurred while he was new to the position. This case study showed that although Clark had been informed of the upcoming voyage, he had decided not to involve himself personally. Clark determined that it was necessary for him to involve himself only when the issue became the subject of repeated attacks at the end of July.

His involvement mainly focused on accelerating the foreign policy process. The discussion will later demonstrate that five of the six policy initiatives announced on September 10 were policies that were already being developed for other reasons. Therefore, his role was to accelerate these policies and give them a new direction.

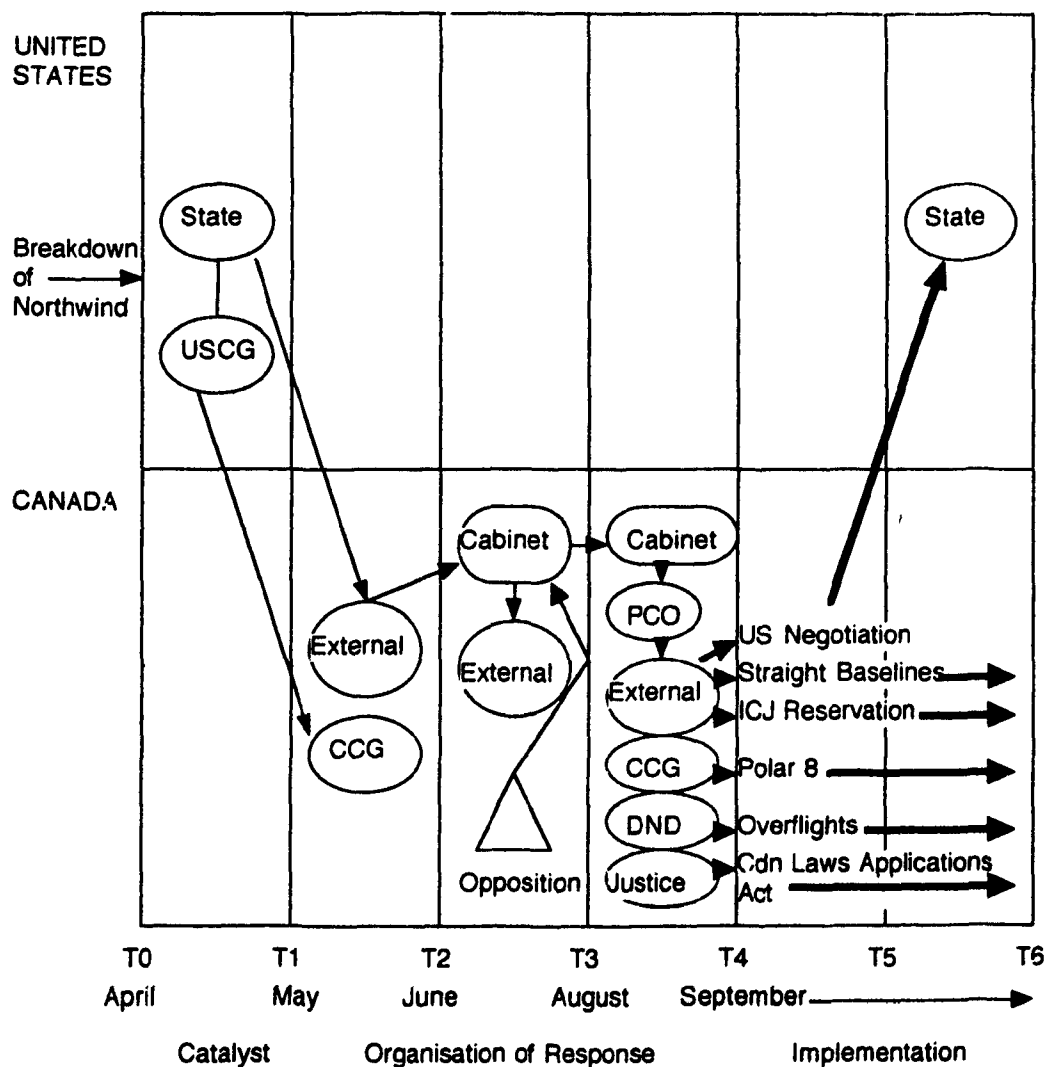
In summary, the foreign policy process in this case was the

interaction of a series of decisions developed over time by middle level bureaucrats and the political requirements of the elected decision-makers. This interaction resulted in the selection of a number of policy initiatives that were politically accepted for development.

It is clear that the model outlined in chapter III provides a useful, organizational means of examining the manner by which foreign policy is created. Figure 4.9 provides a visual application of the findings of this chapter into the model outlined in chapter III. It shows both how the process is ongoing and its sequential nature as previously discussed in chapter III.

Figure 4.9 also demonstrates the importance of key events in the entire decision-making chain. The breakdown of the NORTHWIND, and the opposition within Canada to the voyage, played determining roles leading up to the September 10 policy announcement. In the absence of either event, it is highly unlikely that Joe Clark would have made his speech in the House of Commons. However, the exact content of the six decisions depended on the institutional structure of the Canadian Government. If the Defence Department had been given the task of coordinating the policy response with the PCO instead of External Affairs, the September 10 speech would probably have been quite different.

FIGURE 4-9
THE DECISION-MAKING PROCESS AND THE VOYAGE OF THE
POLAR SEA



An additional factor that will be examined in detail in the next two chapters is the importance of pre-existing decisions. In 5 of the 6 decisions, substantial development of the policy had taken place well in advance of the American decision to send the POLAR SEA through the Northwest Passage.

What needs to be examined is the manner by which these six policy initiatives were developed. In order to do so, the next two chapters will provide a detailed examination of the six policy initiatives, paying special attention to the role of the actors involved in the process and the manner by which the process proceeded.

ENDNOTES

1. The MANHATTAN was given a strengthened ice bow as well as a belt of protective steel around its waterline.

2. John Kirton and Don Munton, "The Manhattan Voyages and Their Aftermath," in Politics of the Northwest Passage edited by Franklyn Griffiths (Kingston: McGill-Queen's University Press, 1987), p.93.

This is an excellent examination of the decision-making process following the voyages of the MANHATTAN. However, it must be noted that while this is probably the definitive work on how the Canadian government reacted to the voyage of the MANHATTAN, the fact that most of its sources are confidential creates problems for researchers using their study. As they state in their third footnote, the paper is "based largely on confidential interviews and colloquia on Canadian-U.S. relations, involving both authors, extending over the past decade.." (281). While completely understandable, their omission of sources in order to protect the confidentiality of their sources hinders the ability of other researchers to verify and build on their findings.

Several other articles that examined the MANHATTAN voyage are: W. Joseph Dehner, "Creeping Jurisdiction in the Arctic: Has the Soviet Union Joined Canada?" Harvard International Law Journal 13 (1972); Raymond W. Konan, "The Manhattan's Arctic Conquest and Canada's Response in Legal Diplomacy," Cornell International Law Journal 3 (Spring 1970); and E.J. Dosman, "The Northern Sovereignty Crisis 1968-70," in his The Arctic in Question (Toronto: Oxford University Press, 1976).

3. Arctic Waters Pollution Prevention Act, R.S.C. 1970, c. 47, Royal Assent given June 26, 1970. [Hereinafter referred to as AWPPA.]

4. Stephen Clarkson, Canada and the Reagan Challenge: Crisis and Adjustment, 1981-85 (Toronto: John Lorimer and Company, 1985), pp.360-368.

5. For the document granting the Coast Guard this responsibility see, "Revised Memorandum of Agreement between the Department of the Navy and the Department of the Treasury on the Operation of Icebreakers," July 22, 1965.

6. United States Department of Transportation, U.S. Coast Guard, United States Polar Icebreakers Requirements Study, Interagency Report July 1984, pp.3-1 to 3-79.

7. *Ibid.*, pp.2-4 to 2-8.

8. According to some interviewed officials, the fact that the USCG had to rely on Canadian assistance to get the MANHATTAN through the Northwest Passage was one of the main reasons that Congress decided to allow the building of the two Polar class vessels.

9. Jane's Fighting Ships 1985-1986, p.772.

10. United States, USCG, "Chronology of Decision making and Clearances for the 1985 Transit of the Northwest Passage by the US Coast Guard Icebreaker Polar Sea," October 11, 1985.

11. *Ibid.*

12. *Ibid.*

13. Richard M. Hayes, Ice Operations Division, U.S. Coast Guard Headquarters, "Polar Sea Transit of the Northwest Passage," Office of Operations Division Chiefs' Brief, October 30, 1985; and Jane's Fighting Ships 1985-1986, p.772.

14. Canada, Department of National Defence, Defence 1978 (Ottawa: Supply and Services, 1979), p.38.

15. USCG, United States Polar Icebreaker Requirements Study, p.5-52.

16. *Ibid.*

17. Interviews with Canadian Coast Guard official, Ottawa, March 12, 1990; and American USCG official, Washington, April 23, 1990.

18. Canada, Ministry of Transport, "Canada-United States Agreement signed for Co-operation in Transportation Research," News, no.35-70, June 18, 1970.

19. Memorandum of Understanding Between the Department of Transportation of the United States of America and the Ministry of Transport of Canada Concerning Research and Development Cooperation in Transportation, June 18, 1970, p.2.

20. *Ibid.*

21. Interview with J.Y. Clarke, Canadian Coast Guard (ret.), Ottawa, April 29, 1993.

22. Interview with David Colson and Tucker Scully, U.S. Department of State, Washington, April 17, 1990.

23. USCG, "Chronology of Decision Making and Clearances for the 1985 Transit."

24. Interview with Colson and Scully.

25. USCG, "Chronology of Decision-Making and Clearances for the 1985 Transit," p.2.
26. United States, Department of State, 85 State Telegram 151842 (172114Z May 85); 85 Ottawa telegram 03785 (211810Z May 85).
27. Canada, Department of External Affairs, "Letter," from R.J. Rochon, Acting Director, Legal Operations Division, to Mr. Dirschl, Acting Secretary, Steering Committee for the Lancaster Sound Study, Department of Indian and Northern Affairs, October 14, 1981.
28. *Ibid.*
29. Canada, Department of External Affairs, "Memorandum," from: URE to: JLO, re: URE memorandum 0126 of February 15, 1984; Canada/U.S. co-operation on ice services, February 24, 1984, JLO-0292.
30. *Ibid.*
31. See Bruce Wallace, "An American Challenge in the Arctic," Maclean's July 22, 1985.
32. *Ibid.*
33. Christopher Wren, "U.S. Ships's Arctic Voyage Draws Heat in Canada," The New York Times August 1, 1985.
34. Interview with USCG official, Washington, April 23, 1990; Interview with USN officials, Washington, April 26, 1990; and Interview with State officials, Colson and Scully, Washington, April 17, 1990.
35. If the United States was attempting to challenge the Canadian claim it would be through the Freedom of Navigation Programme. In the words of a State Department Publication, this Programme "is a peaceful exercise of the rights and freedoms recognized by international law and is not intended to be provocative. The program impartially rejects excessive maritime claims of allied, friendly, neutral, and unfriendly states alike. Its objective is to preserve and enhance navigational freedoms on behalf of all states." Harriet Culley, ed., "US Freedom of Navigation Program," Gist Bureau of Public Affairs, Department of State, December 1988.
36. Canada, Department of National Defence, Standing Committee on National Defence (SCND), Minutes of Evidence and Proceedings, May 5, 1986, p.5:33.
37. USCG, United States Polar Icebreaker Requirements Study, p.1-5.

38. The NSC had only recently prepared a Strategic Review on Canadian-American relations. In preparing for the 1985 Shamrock Conference in Quebec City, President Reagan requested the Directorate of Soviet, European and Canadian affairs to prepare a review of American relations with Canada. The summit proceeded well, and it was decided that relations with Canada were going well enough that a successful interagency strategy had been developed for the bilateral relationship. Interview with American Ty Cobb, Washington, April 27, 1990. Dr. Cobb while no longer with the NSC had served on it during the period of the voyage.

39. United States, Department of State, Bureau of Public Affairs, "Feature: The Arctic and US Foreign Policy, 1970-90," Dispatch Volume 2, #14, April 8, 1991, p.242.

40. *Ibid.*, p.243.

41. *Ibid.*, p.244.

42. United States, Department of State, "Press Release 161 of May 9, 1983," Department of State Bulletin, (July 1983), p.89.

43. *Ibid.*

44. *Ibid.*

45. They need to be able to ensure that their submarines are able to intercept possible Soviet incursions through the Arctic, and to do so they do not need to get into the Northeast Passage, but they do need to get into the Northwest Passage. For the official explanation of these concerns see: "Maritime Strategy," Proceedings 116 pt.1 (January 1986).

46. "Press Release 161 of May 9, 1983."

47. Canada, Department of External Affairs, Telex from Washington to External Ottawa JLO, UNGR2712, June 1, 1984.

48. United States Interagency Arctic Policy Group, "Memorandum: US Government Services that will be Needed in the Arctic by the End of the Decade," December 1984, in United States, Department of State, Bureau of Public Affairs, Dispatch, Vol.2, #14 (April 8, 1991), p.243.

49. *Ibid.*

50. Interview with Colson and Scully, Department of State, Washington, April 17, 1990.

51. Ken MacQueen, "Defending Arctic Claims," Maclean's December 2, 1985, p.24.

52. Interview with Len Legault, Department of External Affairs, Washington, April 24, 1990.

53. Marci McDonald with Ian Austen and Ken MacQueen, "Straight Talk at the Summit," Maclean's March 24, 1986, p.13.

54. Canada, Department of External Affairs, "Letter," from Joe Clark, Minister of External Affairs to the editor of Maclean's, April 1986. It should be noted that the letter was not published.

55. USCG, "Chronology of Decision-Making and Clearances for the 1985 Transit," p.2.

56. *Ibid.*

57. AWPPA, pp.9-11.

58. Interview with Len Legault, External Affairs, Washington, April 24, 1990.

59. The development and focus of this committee will be examined in greater detail later in this chapter.

60. Canada, External Affairs, "Arctic Waters Panel: May 29 Meeting to discuss proposed Northwest Passage transit of US icebreaker Polar Sea," JLO-0823, June 4, 1985.

61. Included as members of this panel but not attending the May 29 meeting were:

three other members from External Affairs: Legal Operations Division; Energy and Environment Division; and Science Technology and Communications Division, Environment Canada - National Parks Branch, Department of Indian and Northern Affairs - Renewable Resources and Northern Environment Branch, Canada Oil and Gas Lands Administration, two members from the Department of Energy Mines and Resources: International Energy Branch; and Natural Gas Branch, Department of Justice - Constitutional and International Law, two members from the Department of Transport: Deputy Director; and Marine Policy and Coordination, and Revenue Canada - Customs International Traffic.

Despite the best efforts to identify the abbreviations of ETE and TTS, their exact meaning remained unknown. They are no longer used and officials contacted were unable to remember what they meant.

62. Confidential interview with Canadian officials.

63. Canada, Department of External Affairs, "Memo," subject: Proposed Voyage in August of a USA Coast Icebreaker westward through to the N.W. Passage. Attachment: Memorandum to the SSEA to brief him on recent developments related to the proposed voyage, June 13, 1985.

While most of this memo was censured, it still made reference to an earlier memo of May 30 which briefed the Minister on the proposed voyage.

64. Canada, Department of External Affairs, "Memorandum for the Secretary of State for External Affairs - Proposed Voyage of a USA Coast Guard Icebreaker Westward Through the Northwest Passage," Legal Operations Division 995-3589, June 13, 1985.

65. Canada, Department of External Affairs, "Message," Arctic Voyage of USA icebreaker, From: Washington UNGR, to: External Affairs, Ottawa, JLO, June 12, 1985.

66. Canada, Department of External Affairs, Canadian Embassy, Washington, DC, Note No. 331, dated June 11, 1985.

67. Canada, Department of External Affairs, "Subject - The USA Embassy informed the Department on May 21 that the USA icebreaker Polar Sea will transit the Northwest Passage from east to west this summer. An article in the Globe and Mail highlights the sovereignty implications of the voyage," House of Commons- Briefing Note, by Legal Operations Division, June 13, 1985.

68. United States, Department of State, American Embassy at Ottawa Note No. 222 of June 24, 1985.

69. *Ibid.*

70. Interviews with Colson and Scully, Department of State, Washington, April 17, 1990.

71. Interview with Len Legault, External Affairs, Washington, April 17, 1990.

72. Canada, Department of External Affairs, Legal Affairs, "Message - Polar Sea: Visit to Washington," from External Affairs Ottawa, to Canadian Embassy, Washington, June 27, 1985

73. *Ibid.*

74. Canada, Department of External Affairs, Canadian Embassy Washington, "Message - Meeting with USA re Voyage of the Polar Sea," from Canadian Embassy, Washington, to External Affairs, Legal Operation, July 5, 1985.

75. USCG, "Chronology of Decision Making and Clearances for the 1985 Transit."

76. Canada, Department of Fisheries and Oceans, "Letter - POLAR SEA," from K.B. Yuen, Acting Director-General, to Carol Stephenson, Director Coast Guard Northern, July 26, 1985.

77. *Ibid.*

78. *Ibid.*

79. Some officials in both the Canadian and American Governments both expressed the opinion that the Canadian Government "panicked".

80. Canada, Department of External Affairs, Canadian Embassy, Washington, "Message - Northwest Passage Transit by Polar Sea," from Washington UNGR to External Affairs Ottawa JCX UGB, July 30, 1985.

81. Canada, Department of External Affairs, Legal Affairs, "Memorandum for: the Secretary of State for External Affairs: Subject - Voyage of the U.S. Coast Guard Icebreaker Polar Sea," July 30, 1985.

82. Canada, Department of External Affairs, Canadian Embassy, Washington, DC, Note No. 433, dated July 31, 1985. While it is known that this note was written by officials within External Affairs, the conditions under which they were instructed to write it is not known. Compared to the previous notes, it takes a less accommodating approach.

83. Confidential interviews with U.S. officials.

84. Interview with USCG official, Washington, April 23, 1990.

85. Interview with ex-NSC official, Washington, April 27, 1990.

86. *Ibid.*

87. Canada, Department of External Affairs, "Telex - USA Icebreaker Polar Sea," from Barry Mawhinney, to Minister Delegations, London, July 28, 1985; Canada, Department of External Affairs, Legal Affairs, "Message 0277 - USA Icebreaker Polar Sea," from Barry Mawhinney to Minister Delegation, London, July 28, 1985; Canada, Department of External Affairs, Legal Affairs, "Message 0278 - USA Icebreaker Polar Sea," from Barry Mawhinney to Minister Delegation, London, July 28, 1985; and Canada, Department of External Affairs, Legal Affairs, "Message 0279 - USA Icebreaker Polar Sea," From Barry Mawhinney to Minister Delegation, London, July 28, 1985.

88. Canada, Department of External Affairs, Legal Affairs, "Message 0280 - USA Icebreaker Polar Sea," from Barry Mawhinney to Minister Delegation, London, July 29, 1985.

"Reference our telegrams JCD0276 and 0277 of July 28, 1985, drafter B.M. Mawhinney JCB.88."

89. Canada, Department of External Affairs, Legal Affairs, "Message 0283 - Transit of Northwest Passage by USCG Polar Sea," from Barry Mawhinney to Washington DELBY, July 29, 1985; Canada, Department of

External Affairs, Legal Affairs, "Message 0284 - Transit of Northwest Passage by USCG Polar Sea," from Barry Mawhinney to Washington DELBY, July 29, 1985; and Canada, Department of External Affairs, Legal Affairs, "Message 0285 - Transit of Northwest Passage by USCG Polar Sea," from Barry Mawhinney to Washington DELBY, July 29, 1985.

90. Canada, Department of External Affairs, Legal Affairs, "Message 0289 - Transit of Northwest Passage by USCG Polar Sea," from Barry Mawhinney to Washington DELBY, July 31, 1985.

"ref: Boomaardt/Mawhinney telecon 31 July 85."

91. *Ibid.* While the telex was sent from Ottawa to Washington and not directly from the Minister Delegation, the information sent to Washington specifically noted the changes made by the Minister.

92. Jim Robb, "Only Bare Majority of Canadians Aware of Polar Sea Voyage: Poll," Ottawa Citizen October 29, 1985.

93. Franklyn Griffiths, "Arctic Authority at Stake," Globe and Mail June 13 1985.

94. Canada, Department of External Affairs, "Memorandum for the Secretary of State for External Affairs," June 13, 1985; and Canada, Department of External Affairs, "Subject - The USA Embassy Informed," House of Commons - Briefing Note, June 13, 1985.

95. Interview with Irwin Pernick, Washington, April 27, 1990.

96. Griffiths, "Arctic Authority at Stake."

97. See his "Canadian Sovereignty and Arctic International Relations," in The Arctic in Question edited by E.J.Dosman (Toronto: Oxford University Press, 1976); A Northern Foreign Policy (Toronto: CIIA, 1979); and "Where Visions and Illusion Meet," and "Beyond the Arctic Sublime," in his Politics of the Northwest Passage.

98. Griffiths, "Arctic Authority."

99. "U.S. Arctic Voyage Stirs Debate: Canadian Sovereignty Undermined, Critics say," Montreal Gazette July 17, 1985.

100. CP Wire Service August 2, 1985.

101. "Use the Arctic or Lose It, Panel on US Voyage Told," Globe and Mail July 30, 1985.

102. "U.S. Arctic Voyage Stirs Debate."

103. Interview with Captain Tom Pullen, Ottawa, March 13, 1990.

104. Barbara Yaffe, "Canada to Launch Sovereignty Review," Globe and Mail August 2, 1985.
105. Christopher Young, "PM Has Been Cool on Polar Trip," Ottawa Citizen August 9, 1985.
106. *Ibid.*
107. Inuit Tapirisat of Canada, "Inuit Call on Federal Government to Take Stand on Canadian Arctic Sovereignty," News Release July 2, 1985.
108. *Ibid.*, p.2.
109. *Ibid.*, p.3.
110. Wren, "U.S. Ship's Arctic Voyage Draws Heat."
111. Rudy Platiel, "Inuit Fear Voyage of U.S. Icebreaker Harms Sovereignty," Globe and Mail July 10, 1985.
112. Bruce Wallace, "An American Challenge in the Arctic," Maclean's July 22, 1985.
113. As an aside, it should be noted that Gruben is now the very successful chairperson of the Inuvvialuit Regional Corporation that oversees the \$170 million land-claim settlement established by the 1984 Western Arctic (Inuvvialuit) Claims Settlement Act. John Greenwood, "This Land is My Land," The Financial Post Magazine March 1993, pp.16-22.
114. Matthew Fisher, "Polar Sea Gets the Message as Plane Drops Flags on Deck," Globe and Mail August 9, 1993.
115. Paul Sammurtuk, Project Director, Tungavik Federation of Nunavut, "Inuit Rights Help Affirm Sovereignty in the Arctic, Letter to the Editor," Globe and Mail August 24, 1985.
116. "Arctic 'Incursion' Protest Planned," Globe and Mail August 6, 1985; and Ken MacQueen with Andrew Nikiforuk, "The New Race For the North," Maclean's August 19, 1985.
117. United States Coast Guard, "Log Report of Polar Sea," August 1985, p.1-4.
118. Bruce Wallace, "An American Challenge in the Arctic," Maclean's July 22, 1985. For the reader's information, Burnet was subsequently hired by the Department of External Affairs and assigned to the Circumpolar Affairs, Europe Branch.
119. Canada, House of Commons, Debates, June 20, 1985, p.6043.

120. *Ibid.*

121. Ken MacQueen with Andrew Nikiforuk, "The New Race For the North," Maclean's August 19, 1985.

122. *Ibid.*

123. Barbara Yaffe, "Canadians on Ship to Have No Authority," Globe and Mail August 1, 1985.

124. Wallace, "An American Challenge in the Arctic."

125. *Ibid.*

126. "Sovereignty at Risk, Chretien Says," Globe and Mail August 5, 1985.

127. Matthew Fisher, "Ship Protest Could Bring Legal Action," Globe and Mail August 10, 1985.

128. Jean-Jacques Blais, "Icy Challenge to Canadian Power, Letter to the Editor," Globe and Mail August 7, 1985.

129. "P.M.'s Stand on Arctic Toughest Yet," Globe and Mail August 23, 1985.

130. See for examples "For the Defence of Sovereignty," Globe and Mail August 2, 1985; and Kevin Doyle, "Our Precious North," Maclean's August 19, 1985. While these are the editorials in the most widely read Canadian media sources, other editorials attacking the government can be found in most other Canadian newspapers.

131. Herbert H. Denton, "U.S. to Consult Canada on Use of Northwest Passage," The Washington Post January 12, 1988.

132. However, since there is no way to verify if these include all of the news reports that were aired on the electronic media, it cannot be claimed that the following evaluation is based on the complete set of media reports.

It is also necessary to point out that the print media surveyed also does not include all Canadian newspapers and magazines. Unfortunately, despite the space accorded by microfilm collections, few libraries include a collection of all Canadian newspapers. While a very large collection is kept at the National Archives, limited travel funds required research trips to Ottawa be focused on interviews and document research. However, when going through some other newspapers such as the Toronto Star, and Ottawa Citizen, it was found that most of their stories were either from the Canadian Press or the Globe and Mail. Therefore, by examining the Globe and Mail, the Montreal Gazette and Maclean's, it is possible to cover most of the separate stories carried in the print media.

133. There were 74 sources in total identified and of these there were 48 separate individuals.

134. Another reporter, Ken MacQueen, then writing for Maclean's, would soon take a major interest in the government's actions and produce a series of detailed and critical examinations of the situation.

135. This is a theme that receives substantial attention from Franklyn Griffiths. See his "Beyond the Arctic Sublime."

136. Gallup interviewers first asked this question: "Have you seen or heard anything about the recent trip through the Northwest Passage of the US icebreaker, the Polar Sea?"

Among adults 54 per cent are aware of the voyage, 46 percent are not. The awareness level is higher among men than women and tends to increase with age and education.

A second question asked: "If you were to make a decision, do you grant Canada sovereignty - that is control - over the Northwest Passage, or would you classify this as an international passage, open to anyone?"

	Total	Aware of Polar Sea	
		Yes	No
Give Canada Sovereignty	49%	70%	25%
International Passage	28%	24%	31%
Can't Say	23%	6%	44%

This poll is based on 1,044 at-home interviews with adults 18 years and over conducted Sept. 5-7. Gallup says that a sample of this size is accurate within a four percentage point margin, 19 in 20 times.

Jim Robb, "Only Bare Majority of Canadians Aware of Polar Sea Voyage: Poll," Ottawa Citizen October 29, 1985.

137. "Canada, U.S. Disagree on Passage," Portland Press Herald Portland, Maine, August 1, 1985; "Icebreaker's Trip Cracks Northwest Passage Issue," The Enterprise Brockland Maine, August 1, 1985; and "U.S. Voyage Protested By Canada," (newspaper name was illegible) August 1, 1985.

These stories were compiled by the Communications Branch of External Affairs. As such, this list includes only those American newspapers that the Canadian Embassy and Consulates in the U.S. monitored. However, documents indicate that the Legal Bureau of External Affairs had made the monitoring of American reaction a priority.

Canada, Department of External Affairs, "Message," from External

Affairs Ottawa FDR: to Washington, Boston, Buffalo, Chicago, Cleveland, Dallas, Detroit, Los Angeles, Minneapolis, New York, Philadelphia, San Francisco, Seattle, August 8 1985, From D. Comeau FPR.

The message included this request:

"We would appreciate it if you could monitor all local papers in your territory regarding coverage of the icebreaker Polar Sea travelling through the Northwest Passage. If possible fax same to us. Otherwise please bag. Your early attention to the above is requested."

While the document is dated August 8, the fact that most of the articles that FPR received were dated August 1 indicates that an earlier request had been sent out.

138. Canada. Department of External Affairs, "Message," from External Affairs JCD to Washington, August 8, 1985 by Mawhinney, JCD; and Canada, Department of External Affairs, "Message," from Washington: to External Ottawa, JCD, August 13, 1985, re: your tel JCD0296 August 8, 1985 "Voyage of the Polar Sea".

139. Wren, "U.S. Ship's Arctic Voyage Draws Heat in Canada."

140. The following accounts of the voyage are drawn from the following sources: USCG, "Log Report of the Polar Sea, Transit of the Northwest Passage," 1985; and Richard M. Hayes, Ice operations Division, U.S. Coast Guard Headquarters, "Polar Sea Transit of the Northwest Passage," Office of the Operations, Division Chiefs' Brief October 30, 1985.

141. Barbara Yaffe, "Canadians On Ship to Have No Authority," Globe and Mail August 1, 1985.

142. Hayes, "Polar Sea Transit," p.5.

143. It is worth noting that Intera Technologies is from Calgary. As part of their project they flew a Cessna Conquest over the projected path of the Polar Sea to examine the ice the Polar Sea would be encountering west of Resolute Bay. The information however, was handed first to the Canadian Coast Guard, and only then to US Coast Guard officials on board. Matthew Fisher, "No Plan to Protest Against Voyage," Globe and Mail August 3, 1985.

144. Hayes, "Polar Sea Transit," p.2.

145. *Ibid.*, pp.2-3.

146. *Ibid.*, p.5.

147. CBC, "The World at Six", August 1, 1985; CTV "National News", August 1, 1985; CTV "Canada AM" August 2, 1985; and United States, Department of State, United States Embassy, Ottawa, "Voyage of the Icebreaker Polar Sea," News Release, August 2, 1985.

148. *Ibid.*

149. CBC, "World at Six," August 1, 1985.

150. *Ibid.*

151. Canada, Department of External Affairs, "Memorandum: On Voyage of the Polar Sea," from JCD to DMF through JCX, August 12, 1985.

152. USCG, "Log Report of the Polar Sea."

153. United States, State Department, United States Embassy, Ottawa, "Voyage of the Icebreaker Polar Sea," News Release, August 2, 1985.

154. Ken MacQueen and Ian Austen, "An Arctic Challenge," Maclean's August 12, 1985.

155. USCG, "Log Report of the Polar Sea," p.1-5.

156. *Ibid.*, p.1-7.

157. *Ibid.*, p.1-7.

158. USCG, "Chronology of Decision Making and Clearances for the 1985 Transit," p.3.

159. Confidential interviews with Canadian officials.

160. A common critique that was offered by most officials interviewed outside of the legal division of External Affairs, was that the official Canadian position was too 'legalistic'. In hearing such comments, one cannot help but think of the Kellogg's Rice Krispies commercial in people express surprise to discover that Rice Krispies are made from rice, and the announcer says, "what the heck did you think they were made of?" Likewise, one cannot help but wonder, why were people surprised when the legal division of External Affairs made a legal response?

161. Matthew Fisher, "No Plan to Protest Against Voyage," Globe and Mail August 3, 1985.

162. "Sovereignty at Risk, Chretien Says," Globe and Mail August 5, 1985.

163. *Ibid.*

164. Interview with Joe Clark's staff member, Halifax, May 28, 1990. Documents have shown that he was sent a memorandum on the voyage at least by June 13 1985; Canada, Department of External Affairs, "Memorandum for the Secretary of State for External Affairs," June 13, 1985.

165. Matthew Fisher, "No Plan to Protest Against Voyage," Globe and Mail August 3, 1985.

166. MacQueen with Nikiforuk, "The New Race for the North," p.16.

167. Barbara Yaffe, "Canada to Launch Sovereignty Review," Globe and Mail August 2, 1985; and Ken MacQueen and Ian Austen, "An Arctic Challenge," Maclean's August 12, 1985.

168. Interview with Barry Mawhinney, Department of External Affairs, Legal Bureau, Ottawa, April 30, 1993.

169. "Ottawa Experts Split over Claim to Arctic Seas," Toronto Star August 12, 1985.

170. In order to allow the Court to rule on the issue, Canada was going to have to first eliminate its reservation on the Courts jurisdiction for hearing the case. This had to take place before the United States or Canada could bring the case to the court. Ultimately, this was one of the options adopted in the September 10 speech.

171. Canada, Department of External Affairs, Policy Planning Staff, "Message: Arctic Sovereignty Review," from Mary Walsh, Policy Development Secretariat, to: JLO, ETE, ETS, ETT, RSR, RBR, CGE, SIS, URR, URE, March 14, 1984.

172. Canada, Department of External Affairs, Legal Division, "Minutes of Meeting of Panel on Arctic Waters, September 13, 1979." The departments represented on the Panel were: External Affairs, Justice, Energy Mines and Resources, Indian and Northern Affairs, Transport, National Defence, Fisheries and Oceans, Science and Technology, Industry, Trade and Commerce, and Revenue.

173. This would indicate the fear of new Secretary of State Flora MacDonald about how the agendas of the bureaucrats were substantiated in this instance. See Flora MacDonald, "Who is On Top?" and Mitchell Sharp, "A Reply from a Former Minister and Mandarin," in Politics Canada 7th edition, edited by Paul Fox and Graham White (Toronto: McGraw-Hill Ryerson, 1991).

174. Canada, Department of External Affairs, Canadian Sovereignty in the Arctic (undated).

175. Canada, Department of External Affairs, "Letter," from Bruce Gillies, Legal Operations Division, to Superintendent Barker, National Defence College, Kingston, Ontario, December 17, 1982. In the letter Gillies makes reference to both External's background paper on the Arctic and the Cabinet document.

176. Canada, Department of External Affairs, "Letter," from Philippe Kirsch, Director Legal Operations Division, to Members Arctic Waters Panel Members, February 21, 1984.

Those attending the meeting were:

T.C Bacon : External Affairs (EA) JCD (chair)
 P. McRae : EA JLO
 J. Reiskind : EA JOL
 B. Barnett : EA URR
 Mary Walsh : EA CPD

B.G Brule : Environment IAD

J.R.F. Hodgson : Transport CMTA
 D. Bedier : Transport Govt Relation
 C. Stephenson : Coast Guard Northern
 D. Silverstone : Coast Guard Legislation Development

B. Delgatt : Customs and Excise
 B. McKellar : Customs and Excise
 T. Damiani : Customs and Excise

J.J.M. Coutu : RCMP

J. O'Shea : Fisheries and Oceans (FANDO) hydrographics
 A. Walton : FANDO OSS

P. Pouliot : EMR Natural Gas Branch
 G. Tardi : EMR International Energy Relations

D. Sherwin : COGLA/EMR/DIAND

R.G. Campbell : DND

A. Bluteau : Justice
 T. Parschin-Rybkin : Justice (EMR Legal Service)
 A. Popp : Justice (Transport Legal Services)

177. Canada, Department of National Revenue, Customs and Excise, "Letter," from H.A. Damiani, Senior Program, Passenger Programs, Department of National Revenue, Customs and Excise to Mr. Jason Reiskind, Department of External Affairs, Legal Operations Division JLO, March 5, 1984, file #7822-1.

Canada, Department of Fisheries and Oceans, "Letter," from S.B. MacPhee, Director General, Director General, Canadian Hydrographic

Service to Philippe Kirsch, Director Legal Operations Division, External Affairs, March 9, 1984.

178. Canada, Department of External Affairs, Policy Planning Staff, "Message," To: LO, ETE, ETS, ETT, RSR, RBR, CGE, SIS, URR, URE; From: Mary Walsh, Policy Development Secretariat, March 14, 1985.

179. *Ibid.*

180. Canada, Department of External Affairs, Policy Planning Staff, "Message: Arctic Sovereignty Review," from Mary Walsh Policy Development Secretariat, to: JLO, ETE, ETT, RSR, RBR, CGE, SIS, URR, URE; March 23, 1984.

181. Canada, Department of External Affairs, "Message," To USS, DMF from CPD-0533, June 1, 1984 Subject: Advisory Group Meeting, May 30: Arctic Review.

182. Secretary of State for External Affairs Joe Clark, Press Scrum Uplands, August 2, 1985.

183. Mary Janigan, "A Secret Plan for Free Trade and Sovereignty," Maclean's November 11, 1985, p.15.

184. Canada, House of Commons, Debates, November 5, 1985, p.8367.

185. Confidential interview with External Affairs official.

186. A somewhat dated but still useful examination can be found in Colin Campbell and George J. Szabrowski, The Superbureaucrats: Structure and Behaviour in Central Agencies (Toronto: Macmillan, 1979); and Robert J. Jackson and Doreen Jackson, Politics in Canada: Culture, Institutions, Behaviour and Public Policy 2nd ed. (Scarborough, Ontario: Prentice-Hall Inc., 1990), pp.309-312.

187. Of all the various agencies that were approached for interviews, efforts to meet with either serving PCO officials or ex-PCO officials were singularly the most unsuccessful. Despite repeated attempts I was unable to arrange a single interview.

188. Interviews with Chief of Staff of Secretary of State for External Affairs, Ottawa, April 27, 1993.

189. Interview with External Affairs official, Washington, 1990.

190. Interview with David Crombie, Toronto, June 18, 1990.

191. Canada, Department of External Affairs, Legal Affairs, "Letter," from Barry Mawhinney, Legal Affairs Bureau, to Mr. Larry Gordon, Communications Privy Council Office, July 29, 1985.

192. In a letter from the Assistant Deputy Minister, Earth Science, Department of Energy, Mines and Resources to Len Legault of External Affairs the date of the first meeting is explicitly stated as follows:

Further to the interdepartmental meeting held on August 1, Dr. Perron has asked me to respond to the request by you and Harry Swain for a list of activities in EMR that could bear on Canadian sovereignty in the Arctic.

Canada, Department of Energy, Mines, and Resources, "Memorandum - Geoscience Activities Relating to Canadian Sovereignty in the Arctic," to Len Legault, the Office of the Legal Advisor External Affairs, from Assistant Deputy Minister, Earth Science, Department of Energy, Mines and Resources, August 6, 1985.

In another letter from the Director General Northern Policy and Coordination, Department of Indian and Northern Affairs to Len Legault of External Affairs, August 7, 1985, it was written that,

As agreed, I am enclosing relevant basic information pertaining to activities performed by DIAND and the Government of the Northwest Territories.

Given that the group which met at Privy Council last week will reconvene August 13 [emphasis added], I would hope that the issue of possible expanded or new program activities will be addressed at that time.

Canada, Department of Indian and Northern Affairs, "Letter," from John Hucker, Director General Northern Policy and Coordination, Department of Indian and Northern Affairs to Len Legault of External Affairs, Legal Operations, August 7, 1985,

So aside from stating when and where the meeting is taking place, this correspondence also shows how departments were attempting to use the voyage of the POLAR SEA to further their interest.

193. Canada, Department of National Defence, "Letter," from J.F. Anderson, Assistant Deputy Minister (Policy), to Len Legault, Department of External Affairs, Legal Operations. August 6, 1985; Canada, EMR, "Memorandum - Geoscience Activities," August 6, 1985; Canada, Ministry of State, Science, and Technology, "Letter," from Director of Space Policy and Plans, Ministry of State, Science and Technology, to Harry Swain, Privy Council, August 16, 1985; Canada, DIAND, "Letter," from Hucker, to Legault, August 7, 1985; and Canada, Department of Indian and Northern Affairs, "Letter," from J. Hucker, Director General, Northern Policy, Indian and Northern Affairs, to Barry Mawhinney, Director General, Legal Affairs Bureau, Department of External Affairs, August 28, 1985.

194. Canada, EMR, "Memorandum - Geoscience Activities," August 6, 1985.

195. Canada, EMR, "Letter," from Perron, to McRae, August 28, 1985.

196. "Ottawa Experts Split Over Claim to Arctic Seas," Toronto Star August 12, 1985.

197. Secretary of State Joe Clark, Press Scrum Uplands, August 2, 1985.

198. "Sovereignty Issue Won't Go To World Court, Clark Says," Globe and Mail August 22, 1985.

199. "PM's Stand On Arctic Toughest Yet," Globe and Mail August 23, 1985; and "There's No Doubt Arctic is Ours, Mulroney Says," Ottawa Citizen August 23, 1985.

200. "Ottawa Experts Split Over Claims to Arctic Seas," Toronto Star August 12, 1985.

201. Interviews with Paul Chapin, External Affairs, Washington, April 24, 1990; and Len Legault, External Affairs, Washington, April 24, 1990.

202. Interviews with Paul Chapin; and interview with a member of Joe Clark's staff, Halifax, June 28, 1990.

203. Interview with External Affairs official.

204. Canada, Department of External Affairs, "Policy on Canadian Sovereignty," Statements and Speeches, no. 85/7, Statement by the Right Honourable Joe Clark, Secretary of State for External Affairs, in House of Commons, Ottawa, September 10, 1985.

205. David Braybrooke and Charles Lindblom, A Strategy of Decision: Policy Evaluation as a Social Process (New York: The Free Press, 1963).

CHAPTER V
THE SEPTEMBER 10 POLICY STATEMENT
PART I: "OLD WINES INTO NEW BOTTLES"

INTRODUCTION

This chapter will examine four of the six decisions announced on September 10, 1985: the declaration of straight baselines; the adoption of the Canadian Law Offshore Application Act; the increase in northern patrol flights and increased naval activity in Arctic waters; and the lifting of the Canadian reservation before the International Court of Justice. Each decision will be examined as it was developed, focusing on who developed it, as well as why it was developed. This will be followed by a study of how each decision was selected for inclusion in the September 10 speech and why this occurred. Thirdly, the chapter will focus on the manner in which the decision was implemented, followed by a summation based on the impact of each decision.

The four decisions examined in this chapter were developed for reasons quite unconnected to the voyage of the POLAR SEA. However, for reasons that will be discussed, Canadian decision-makers made the decision to include each of them in the September 10 policy announcement. Furthermore, these four decisions also required little new action to be undertaken by the government. Thus, to a large degree these four decisions,

therefore were "old wine in new bottles".

SECTION I

ESTABLISHMENT OF STRAIGHT BASELINES IN THE CANADIAN ARCTIC

The establishment of straight baselines in the Canadian Arctic changed the procedure by which Canadian offshore boundaries would be drawn, from a system using the low-tide mark to one drawing straight baselines. As two experts on maritime boundary delimitations explained:

Traditionally, measurement from the low-tide mark was used to determine the outer limits of the territorial sea, but increasingly, a number of states claimed that the baseline need not be the low-water line, but might be a system of straight lines drawn from fixed points along the foreshore.¹

The most important result is that waters within the straight baselines are deemed to be internal waters. This would give Canada the right to pass and enforce legislation over this area as in any other area where it exercises total sovereignty. However, the manner by which straight baselines may be drawn is the subject of debate within the international community. Several states, including the United States, do not accept Canadian straight baselines in the Arctic and, therefore, do not accept the enclosed waters as Canadian internal waters.

THE HISTORICAL DEVELOPMENT OF CANADIAN ARCTIC STRAIGHT BASELINES

The first decision taken in Canada towards the use of straight baselines occurred in 1964, when the Canadian Parliament passed the Territorial Sea and Fishing Zone Act.² The intent of the Act was to allow the Canadian Government to claim a fishing zone and territorial sea, and it followed directly from the negotiations at UNCLOS I (1958) and UNCLOS II (1960). However, it was not until 1967 that the first set of regulations were created thereby allowing for the actual implementation of the fishing regulations within the zone. Furthermore, and most significant for this study, these regulations only established baselines on the east and west coasts of Canada.³ Section 5(3) of the Act states that existing baselines are to remain when straight baselines are not specifically indicated (i.e. the Arctic).⁴ Thus, in the words of one observer,

The baselines used for measuring the territorial sea in the Arctic on July 23, 1964 were therefore the traditional baselines following the low water mark around the coast and including the closing lines across bays.⁵

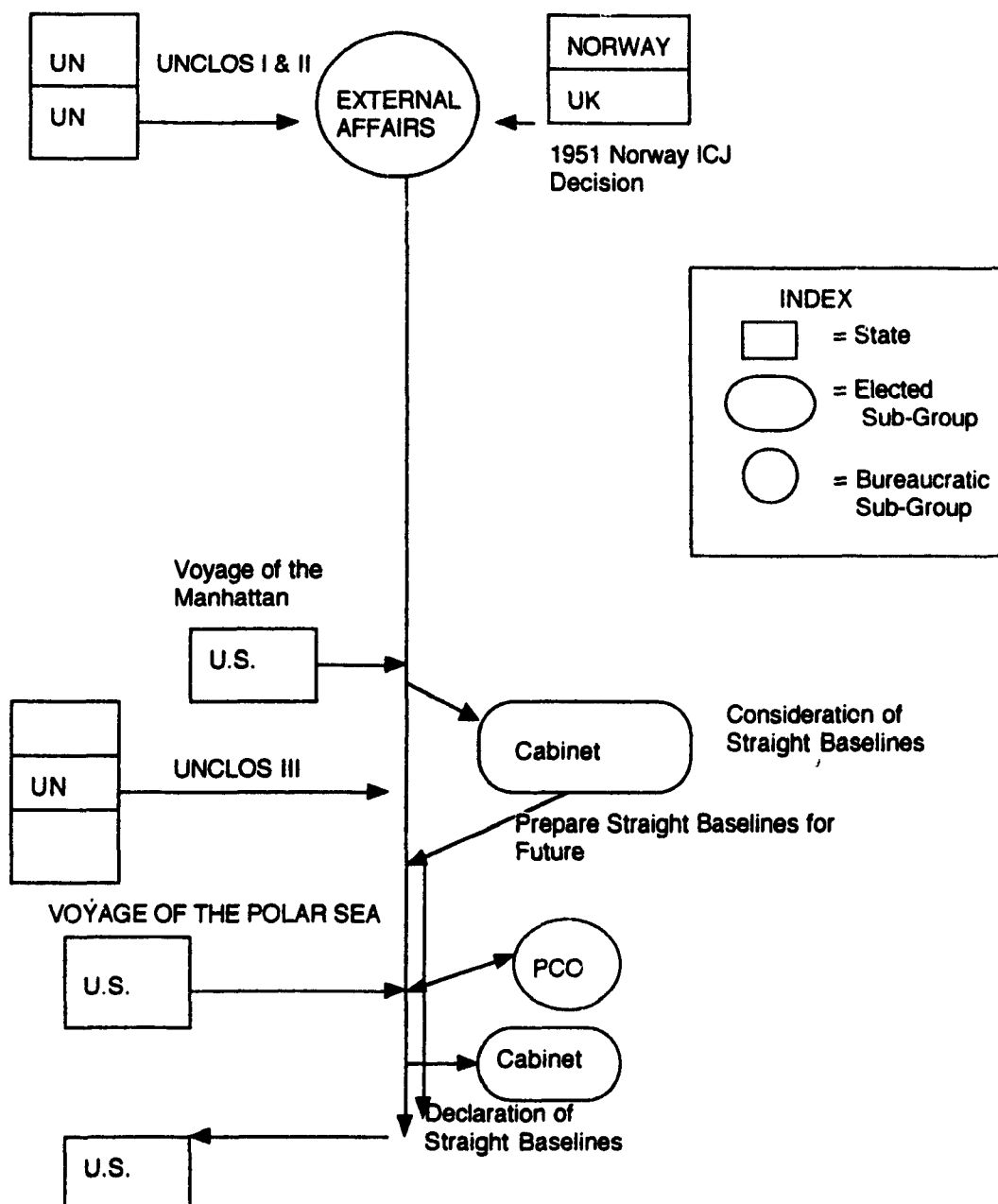
The history of the Canadian decision to draw straight baselines in its Arctic can be traced to the voyages of the USS MANHATTAN, as shown in Figure 5-1. Officials at External Affairs report that prior to 1969, a small group of officials had been examining the possibility of drawing straight baselines around the Arctic waters "for quite some time."⁶

After the MANHATTAN sailed, Canadian decision-makers deliberated over the possibility of using them as a means of strengthening the Canadian claim in the north.

Similar to the situation that followed the announcement that the POLAR SEA was to sail through the Northwest Passage, a period of intense discussions within the Canadian Government occurred following the announcement that the MANHATTAN was to transit the Passage in 1969. By October 1969, Cabinet was considering three broad policy alternatives, one of which was the enclosure of the entire Arctic archipelago with the drawing of straight baselines.⁷ The other two options were to extend the territorial sea from three nautical miles to twelve; and to convene an international conference to seek agreement on a more "innovative concept of international law that could give Canada some form of control over it."⁸ Then Prime Minister Pierre Trudeau and Secretary of State for External Affairs, Mitchell Sharp, commenced discussions both within Cabinet and with other states to discuss the possibility of enacting straight baseline legislation for Canada's Arctic.⁹

A group of senior government bureaucratic officials was given responsibility to amalgamate these options into a policy proposal.¹⁰ After considering the three options, the group decided to focus on measures other than the declaration of

FIGURE 5-1
STRAIGHT BASELINES



straight baselines. But as a backup, John Cooper of External Affairs was told to continue drawing up the coordinates of the baselines.¹¹

The decision to not declare straight baselines was supported by Cabinet.¹² External Affairs officials advised that, despite the International Court of Justice's ruling on the Anglo-Norwegian Fisheries case (1951), which upheld Norway's right to draw straight baselines around its boundaries, international law had not yet conclusively accepted the drawing of straight baselines. Therefore, if Canada were to use straight baselines in the Arctic, it might not withstand a challenge in an international court. Such a ruling would then be detrimental to Canadian claims in the Arctic.

More significantly, the American Government had clearly indicated to the Canadian Government that it would not accept the drawing of straight baselines around the Arctic archipelago.¹³ The cumulative result was that Cabinet decided that a claim based on the establishment of straight baselines may not be upheld by international law, and would negatively impact on Canadian-American relations. However, although no action was to be taken, officials were instructed to keep the baselines up to date for possible future use.¹⁴

The next time that Canadian decision-makers considered

implementing straight baselines was at the third United Nations Conference on the Law of the Sea. The Canadian delegation undertook to incorporate into the body of the Convention a specific clause that would have given Canada international approval to draw straight base-lines around its Arctic waters.

The delegation members also undertook efforts to expand the definition of an archipelagic state in order to allow Canada to apply Part IV of the Convention.¹⁵ This could have allowed Canada to have claimed the Arctic as an archipelago with the resulting rights and responsibilities. However, American concerns for navigational rights for its navy resulted in the establishment of a very strict formula by which states could apply straight baselines to delineate their coast lines.¹⁶ Canada did not comply with the formula, but External Affairs officials continued to work on the specifics of a new set of baselines in the event that Canada decided to use them at some future date.

Declassified documents have disclosed that as part of its overall review on Arctic sovereignty in 1980, the Arctic Waters Panel examined the possibility of declaring straight baselines. In a letter to Ivan Head, Len Legault explained the current status of straight baselines:

You will recall, however, that straight baselines have not yet been drawn around the Arctic

Archipelago. This matter, as well as the overall Canadian policy with regard to sovereignty in the arctic, is currently being reviewed within this department in preparation for an overall re-examination on an interdepartmental basis prior to making specific recommendations to Ministers.¹⁷

However, while there is no record of what became of the review's results, no steps were taken to declare straight baselines until the POLAR SEA's voyage.

In the period preceding the POLAR SEA voyage, several academics suggested that Canada should extend its straight baselines to the Arctic.¹⁸ In particular, Donat Pharand strongly expressed the view that Canada should establish straight baselines. It is difficult to determine the impact of such writers on the government decision-makers. However, in this particular case, Pharand had close connections with Legault. In his influential work on the Northwest Passage, written in 1984, Pharand cites Legault's assistance on the book's cover, a somewhat uncommon practise, but one that suggests a close intellectual relationship between the two men.¹⁹ This suggests that Pharand's views would therefore find a receptive audience within External Affairs.

THE DECISION TO INCLUDE THE DECLARATION OF STRAIGHT BASELINES IN THE SEPTEMBER 10 STATEMENT

At a meeting coordinated by the PCO and following the voyage of the POLAR SEA, External Affairs officials, specifically Len Legault, suggested that straight baselines would now be more

favourably accepted by international law and recommended that the government adopt the practice.²⁰

Sources close to the policy process report that there was little opposition to the inclusion of this policy action. Much of the work on determining the positions of the straight baselines had already been accomplished, and all that remained was the decision to declare their existence. This policy was, therefore, easy to accept as the government sought policies that were ready for immediate implementation.

The baselines were declared to be established through Standing Order 85-872 on September 10, 1985 and came into effect January 1, 1986.²¹ The Standing Order states,

Whereas Canada has long maintained and exercised sovereignty over the waters of the Canadian Arctic archipelago.

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Secretary of State for External Affairs, pursuant to subsection 5(1) [R.S.C. 1970, c. 45 (1st Supp.), s. 3] of the Territorial Sea and Fishing Zones Act, is pleased hereby to make the annexed Order respecting geographical coordinates of points from which baselines may be determined, effective January 1, 1986.²²

The rest of the order then provides three tables which give the coordinates of the points from which these straight baselines are to be drawn.

There is little doubt that since the Norwegian Fisheries Case

(1951), there has been growing acceptance of straight baselines in the international system.²³ The codification of the practise in the 1982 LOS Convention, through Article 7, demonstrates that baselines were officially accepted as an international practice by 1982, and no doubt were accepted unofficially at an earlier date.²⁴ But the question which emerges is had the voyage not occurred, when would the Canadian Government have declared the use of straight baselines? Therefore, the fact that international law was more accepting of the establishment of straight baselines was not as important as the fact that the leading political decision-makers wished to appear as "actively" protecting Canadian claims in the Arctic.

RESPONSE TO THE DECLARATION

The Americans viewed the Canadian establishment of the straight baselines as an exacerbation of the problem.²⁵ Interviews with State Department officials indicate that Secretary of State George Shultz sent a letter to Joe Clark in which he stated a willingness to engage in negotiations, but also expressed concern over the declaration of straight baselines.²⁶

In general, American officials have indicated that their opposition to the Canadian action was based on two considerations. First, they were concerned about the precedent

that Canada was setting in the international community; and secondly, they disagreed with the technical manner by which the baselines were set.

The American officials have based their definition of acceptable straight baselines on their interpretation of Article 7 of the Law of the Sea Convention.²⁷ They argue that the manner in which the Canadian Government had drawn its straight baselines does not conform to these procedures. Their official position states that,

Under international law, straight baselines may be drawn only in areas that are fringed with islands or deeply indented. The United States has not regarded the Arctic islands as meeting these criteria.²⁸

The American Government accepts that straight baselines may be drawn, but only under specific conditions.²⁹ In addition to Canada's baselines, the United States does not accept the straight baselines of the following states: Albania, Columbia, Cuba, Italy, Senegal, Spain, the USSR, Ecuador, Madagascar, Iceland, Haiti and Vietnam.³⁰

Additionally, the official American position is to refuse to recognize any claims based on historic title.³¹ The United States contends that the lack of international agreement regarding criteria for recognizing a historical claim has led it to not recognize such claims.³²

The American Government's immediate reaction to the Canadian declaration of straight baselines was one of uncertainty. Officials from the State and Defense Departments (specifically the navy) began considering their reaction almost immediately.³³ Since Canada is a close ally and a good friend, American officials were reluctant to press the issue. Some consideration was given to employing the Freedom of Navigation Program against Canada but it was dismissed for at least two reasons.³⁴ First, the United States Government did not want to needlessly aggravate American-Canadian relations. Most American officials were sensitive to Mulroney's efforts to improve relations with the United States. The second reason was the concern that if the United States pursued the issue too aggressively, it could unintentionally encourage Soviet activities in the Northwest Passage.

American officials were concerned about the international ramifications of the Canadian straight baselines. In interviews, they made it clear that they did not particularly mind the Canadian actions. However, they were concerned that the international community would perceive the United States as being "soft" on the issue, thereby encouraging other states to unilaterally extend their maritime boundaries. Therefore, American officials decided that the best response would be to issue an official, but low key, protest. As such, it issued a demarche in protest to the Canadian declaration but gave it

little publicity.

Thus, American officials found themselves in the situation of wanting to protect their right of navigation through other waterways, but not wanting to establish overtly the Northwest Passage as an international strait.³⁵ The Americans feared that if the Passage was officially recognized as an international strait, Soviet activity in the area could increase. Compounding the American action was the desire to protect the close relationship with Canada and, in particular, the close relationship developing between the two governments then in place.³⁶

The American position was publicly known because American officials did not hesitate to discuss publicly their position on the Canadian declaration. On the other hand, the European officials, who also opposed the Canadian declaration, were much more secretive. Repeated efforts to document the positions of European states have not been very successful.³⁷ The limited information that has been found indicates that the EEC issued a demarche against the declaration.³⁸ The demarche, issued during Britain's Presidency of the Council, was said to contain a series of questions about Canada's declaration, but reserved judgement.

An official from the one embassy who was willing to discuss

the EEC's opposition explained that the Europeans were of the view that Canada was exceeding accepted state practice in terms of international law.³⁹ They believed that Article 234 of the LOS Convention provided Canada with all the means required to protect its Arctic waters from environmental harm. Thus, the declaration to enclose the Arctic archipelago through straight baselines was deemed excessive.

The Canadian response to these diplomatic protests was muted. There is no known official response to either the American or European demarche. Additionally, the Department of External Affairs has taken steps to ensure that the actual number of protests is kept secret.⁴⁰ The DEA prepares House of Commons Briefing Notes as part of its duty to keep the Secretary of State of External Affairs properly briefed. These notes anticipate questions that the Minister may be asked in the House. Over time, these formerly "confidential" notes will usually be declassified under the Access to Information Act. However, they will be individually censored and certain sections will remain classified.

Two briefing notes dated September, 25, 1986 and March 2, 1986 are of particular relevance to the issue of straight baselines.⁴¹ Both notes were written to prepare the Minister for potential questions on the status of the negotiations between Canada and United States concerning the Arctic

waterways. They ask the question: "Have any states protested the Arctic straight baselines?" However, the answers that were provided to the Minister were censored. Thus, the decision was made to keep the number of states protesting classified. Why this is the case remains unclear.

THE IMPACT OF THE DECISION

The declaration of straight baselines was intended to strengthen Canadian claims over the Northwest Passage. However, by delaying the use of the baselines until after the signing of the 1982 Law of the Sea Convention, Canadian decision-makers have paradoxically weakened Canadian claims to the North.

A detailed reading of the LOS Convention suggests that the declaration of straight baselines did not achieve the Canadian objective of enclosing the Arctic archipelago as internal waters. Article 8(2) states:

2. Where the establishment of a straight baseline in accordance with the method set forth in article 7 has the effect of enclosing as internal waters areas which had not previously been considered as such, a right of innocent passage as provided in this Convention shall exist in those waters.⁴²

Since Canada officially declared the straight baselines in 1985, after signing the Convention in 1982, it could be argued that this article applies. If so, Canada must allow vessels innocent passage through the Northwest Passage. Thus, the main objective of enclosing the Arctic archipelago as internal

waters, that is, preventing foreign vessels from traversing the waters, was not achieved.⁴³

A possible defence is that since Canada only signed, but did not ratify, the Convention, Article 8 does not apply. However, Canadian officials have repeatedly stated that, with the exception of Part XI (the seabed mining regime), they accept the Convention as customary international law.⁴⁴ So it would be difficult for Canadian officials to discount Article 8 of the Convention.

The Canadian Government's sole official response to this issue is contained in a letter, written before the 1985 declaration, from an External Affairs official to a citizen interested in this problem. The letter indicates that Canadian officials were aware of the declaration of straight baselines and the impact of Article 8. The official wrote,

Article 8(2) of the UN Convention on the Law of the Sea provides that, where the establishment of straight baselines "has the effect of enclosing as internal waters areas which had not previously been considered as such, a right of innocent passage as provided in this Convention shall exist in these waters." The Canadian position is that these waters have *historically* [emphasis added] been internal waters and that the drawing of baselines would not change the status of these waters. Thus article 8(2) of the LOS Convention does not apply to these waters, and the right of innocent passage does not apply to passage through the Arctic Archipelago.⁴⁵

To reiterate, the Canadian position is that the Canadian waters have historically been enclosed and that no

international strait has existed.⁴⁶ Therefore, the act of declaring the straight baselines only serves to ratify formally what had already been in existence.

A problem with this position is that international law, and the Convention in particular, are vague on the issue of historic claim.⁴⁷ Only three articles in the Convention mention claims based on historic title: Article 10(6) - Bays; Article 15 - Delimitation of the territorial sea between States with opposite or adjacent coasts; and Article 298 (1)(a)(i) - Optional exceptions to applicability of section 2 (i.e. dispute settlement). None of these articles define historical title, nor do they list the rights and obligations inherent in such a title. Thus, failing to have clear agreement on historical title, it is possible to suggest that other states could object to the Canadian actions. Not surprisingly, American reaction has been critical.⁴⁸

The question that emerges is that if these waters have historically been Canadian internal waters, why were straight baselines declared in 1985? Although Canadian officials have argued that it only made the Canadian position official, the argument could be made that the act of drawing them meant that they in fact had not previously existed. Therefore, it is possible to suggest that the pressure created by the POLAR SEA voyage, that led to the Arctic straight baselines, may be

detrimental to Canadian claims in the long run.

A second impact of the straight baselines lies in its potential overlap with agreements and government department actions that are not based on the straight baselines, in particular, the agreements that use the 141 meridian as their defining boundary.

There are agreements within Canada based on the sector theory which claim a "cone" of territory that ends at the north pole and runs along the 141st and 60th meridians of longitude until they reach the Canada-U.S. land border in the west, and the Canada-Greenland border in the east.

However, noted international law expert Donat Pharand has made clear that,

the sector theory has not developed as a principle of customary law, neither general nor regional, and cannot serve as a root for the acquisition of sovereignty, particularly not to areas of the sea. In the Arctic, the practise has been followed only by Canada and the Soviet Union, and it is not clear if their intention was to rely on the theory as a legal basis for their claim or simply as a means of describing its geographic extent.⁴⁹

He examined the possible means by which Canada could utilize the sector theory, but found that none could be employed.

Since Canada has declared straight baselines to delineate its territorial sea and 200 mile fishing zone in the Arctic, it

appears to be abandoning any recourse to the sector theory. However, a problem arises because some agreements and government policies within Canada are based on the geographic coordinates of a sector claims extending beyond the limits allowed by a 200-mile fishing or Exclusive Economic Zone.

The Western Arctic (Inuvialuit) Claims Settlement Agreement of 1984 involves an area in the Western Arctic that is partly defined by the 141st longitudinal meridian that extends northward to the 80th latitudinal meridian.⁵⁰ There are five main components to the agreement, three of which are: land claim settlement, financial compensation and economic measures, which do not involve the ocean area of the settlement.⁵¹ However, the two remaining sections, wildlife harvesting and wildlife and environmental management, involve marine life. The Inuvialuit are granted "the preferential right to harvest for subsistence use all other wildlife including marine mammals and fish, except for migratory non-game birds and migratory insectivorous birds."⁵²

The question that arises is how Canada can grant to a group the right to fish beyond the area established by its 200-mile fishing zone. Even continental shelf rights would not give Canada the right to do so, because Articles 77(4) and 78(1) of the Law of the Sea Convention only gives a state the right over

living organisms belonging to sedentary species, that is to say, organisms which, at the harvestable stage, either are immobile on or under the sea-bed or are unable to move except in constant physical contact with the sea-bed or the sub-soil.⁵³

The Convention goes on to state that "the rights of the coastal State over the continental shelf do not affect the legal status of the superjacent waters or of the air space above those waters."⁵⁴ No species in the water column may be claimed by a state. Therefore, questions arise over the rights that have been granted to the Inuvialuit in the northwestern tip of their settlement area.

It was impossible to locate an official who had considered the potential conflict between the straight baselines and the agreement. But it is easy to imagine the difficulty facing any federal government that unilaterally tries to reduce the settlement area with its aboriginal people in order to fit within the straight baselines.

THE ESTABLISHMENT OF STRAIGHT BASELINES AND THE DECISION-MAKING MODEL

The question arises as to what the model outlined in Chapter III can tell the reader about the decision to establish straight baselines. The model's main function in this instance was to provide a method by which to identify the relevant decision-makers and the processes through which they interacted.

The decision-making model allows for several observations regarding the following: the identification of the decision-makers; the target of the decision-makers; the cost of the decision; the genesis of the decision; and the eventual fate of the decision.

Decision-Makers: It was determined that few decision-makers were involved in the establishment of straight baselines in the Arctic. The decision-makers were drawn almost entirely from the Legal Bureau of the Department of External Affairs. Likewise, the implementation of the decision was a relatively simple affair that required only the determination of the coordinates of the straight baseline. This task was also undertaken by an official within the Department of External Affairs.

The number of non-governmental actors in the process was very small. There was a small, but influential, group of international legal experts who strongly supported the establishment of straight baselines, and who had pushed for such action for quite some time.

The interaction of the decision-makers supports the position taken by the regime theorists. Few individuals understand straight baselines, and even fewer appreciate their legal, political and international ramifications. As such, the small

group of international legal experts in the Department of External Affairs who do understand these issues can not be easily challenged. Thus, if a senior member of the Bureau states that straight baselines will promote the Canadian position, no one will be able to contradict this position. Both Haas and Young explored this form of power in their examination on regime formation.

In turn, this power is increased by the ignorance of the political decision-makers. It is doubtful that the political decision-makers have the time or the training to be fully briefed on all ramifications of the establishment of straight baselines. Instead, they were willing to trust the advice of the Legal Bureau. Given the demands on their time, it would be likely for them to do so. Cabinet ministers do not have enough time to develop such expertise. But since they are forced to rely on experts, the knowledge that these experts have will have an important impact on the policy developed. If the small number of officials in External Affairs had not been fully aware of the implications of straight baselines, it is doubtful that they would have been included as a policy option.

Thus, the decision to include the establishment of straight baselines may be viewed as an interaction of the political decision-makers' need to have "a policy" with the long-term

knowledge accumulation of a small number of bureaucratic officials in what can best be understood as an epistemic regime of international legal experts.

Target: The Canadian decision-makers' direct target was the United States Government and any other foreign government that may have been considering the use of the Northwest Passage without Canadian permission. Equally important, but more indirect, targets were the critics of the government actions.

Canadian decision-makers wanted to ensure that American decision-makers would not be perceived as challenging Canadian claims to the Northwest Passage again. Thus, it was hoped that the declaration of the straight baselines would strengthen Canada's position in an international legal forum if challenged by the United States. However, given the fact that Canada could have adopted straight baselines much sooner than it did, and only did so following the critical media reaction to the POLAR SEA voyage, it is clear that the Canadian decision-makers were also targeting these critics.

Costs: The cost of the decision to declare straight baselines was minimal in the short term. All that was initially required was the manpower hours for an official to draw up the lines. Furthermore, the act of implementing the lines was equally cheap. As such, such low costs must have been appealing for

the decision-makers creating the policy.

Genesis: While the decision to actually implement straight baselines proceeded quite quickly, its development extended over a long period. As discussed earlier, the first time that Canadian decision-makers considered the possibility of establishing straight baselines in the Arctic was immediately following the voyage of the MANHATTAN. However, the decision was not made until 15 years later in 1985.

Fate: Once the decision was made, the government was required only to provide the proper notification of its action, which was done.

SUMMARY

The development of straight baselines illustrates several important processes. First, it indicates why experts within a particular department are needed for policy development. It also demonstrates the impact that outside experts can have on the process. Third, it provides important evidence that foreign policy development is dependent on outside stimulants for the transformation of a policy option to foreign policy.

As indicated in the analysis, the actual work involved in the development of the straight baselines was, to a large degree, the work of one official. Interviews show that this official

had developed extensive expertise in the technical requirements in the field. Therefore, he had already established the mechanics of the policy by the time the decision to implement the straight baselines was made. This meant that once the policy was approved by Cabinet, it could be quickly implemented and used to show the government's willingness to act decisively.

It is also important to note that given the specialized knowledge required to understand the international implications of straight baselines, it became possible for a few highly trained non-governmental experts to play an important role in the process. In the case of straight baselines, Donat Pharand was regarded by many within government as a preeminent expert on the subject. His work on straight baselines was repeatedly cited as an important factor in the government's acceptance of straight baselines as one of the six policy initiatives.

It was also significant that Pharand developed a good working relationship with a key External Affairs official. Thus, his suggestions were more likely to be accepted than were the suggestions of other international legal experts such as Gerald Morris, who also spoke widely on the voyage. While Morris is an international law specialist, he apparently has not developed a close relationship with members of the

Department. Obviously it is necessary that an outside expert should have something useful to say. But equally important is the requirement that the expert have someone to say it to.

The establishment of straight baselines raises the third point of a need of a stimulus for adopting the policy. Canadian officials had believed that such a policy would have been favourably accepted by the international community at least since the signing of the Convention in 1982. This discussion has also argued that Canadian claims were weakened by waiting to declare straight baselines until after the signing of the Convention, and that it would have made more sense to have declared them before that. However, it took a perceived political crisis to spur the government to actually take the step of declaring the straight baselines.

SECTION II

ADOPTION OF A CANADIAN LAWS OFFSHORE APPLICATION ACT

The decision-making chain which resulted in the decision to include the Canadian Law Offshore Application Act as one of the six policy options is difficult to follow. Figure 5-2 provides a brief summation of the most important factors in its development. Part of the difficulty lies in the fact that this Act has a long history dating back to the late 1970s. This was partly due to developments at the Law of the Sea

Negotiations and partly due to the increasing awareness of the potential for resource development in the north. Though difficult to confirm, some evidence suggests that this option was included because Department of Justice officials used the August 1985 PCO/External meetings as an opportunity to gain further support for their bill.

The focus of the Canadian Law Offshore Application Act is to extend Canadian legal jurisdiction beyond the 12 mile territorial waters. The intent of the law is to "provide a legal framework for extending Canadian laws and court jurisdiction to continental shelf areas beyond the 12-mile territorial sea."⁵⁵ In addition,

The main purpose of this bill is to ensure that the general body of Canadian law is applicable to oil rigs and other installations on the Canadian continental shelf beyond the 12-mile territorial sea. The legislation is required because, while the continental shelf is an area over which Canada has exclusive resource jurisdiction, it does not form part of Canadian territory as such.⁵⁶

Essentially, the Act gives Canada the legal jurisdiction to apply its laws to any activity that occurs in its offshore areas.

THE HISTORICAL DEVELOPMENT OF THE CANADIAN LAWS OFFSHORE APPLICATION ACT

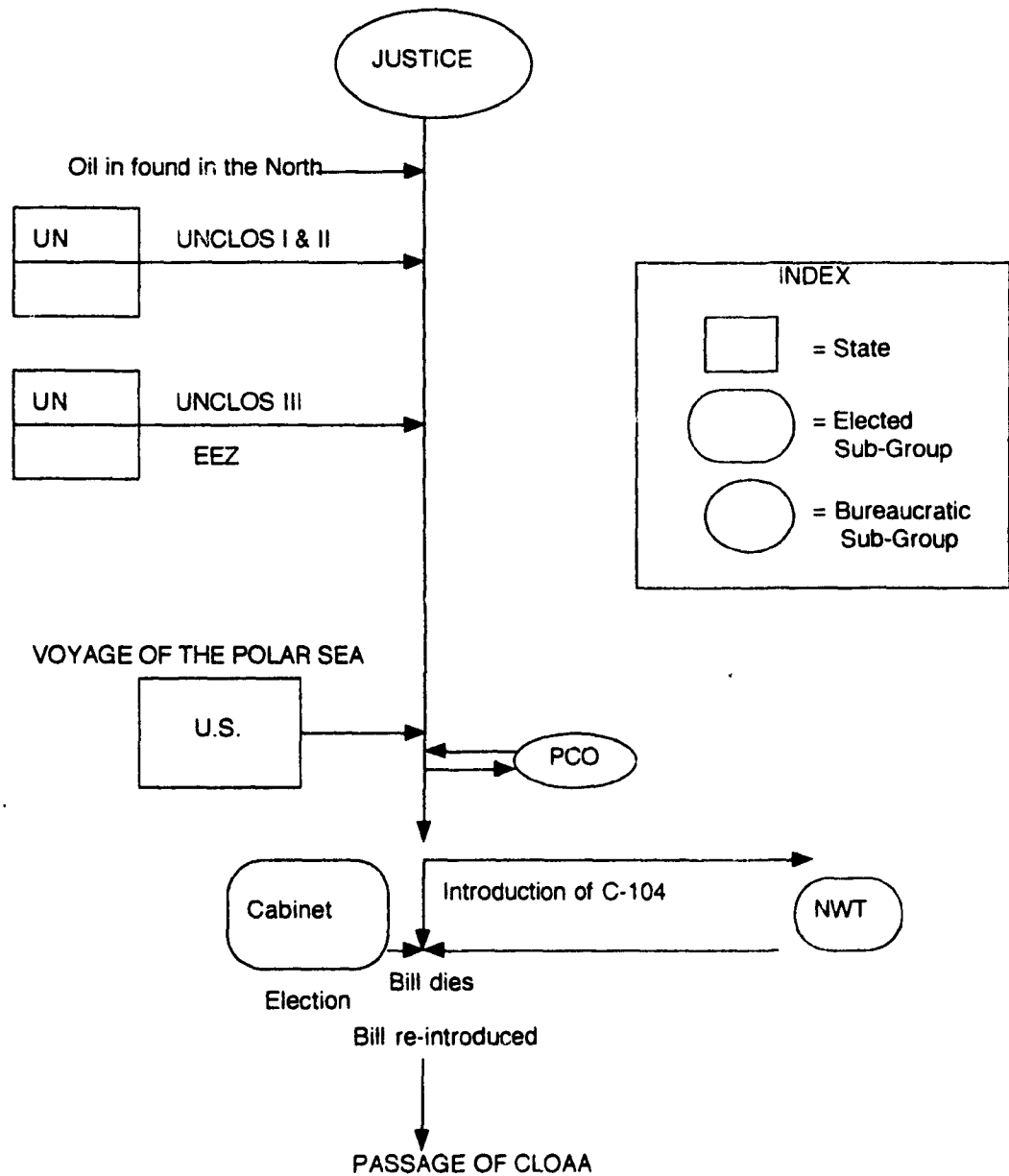
Although the approximate date of the decision to begin consideration of this bill is uncertain, it is possible to trace it to the end of the 1970s and early 1980s.⁵⁷ The

Department of Justice was responsible for this legislation because of its mandate for legal affairs. Its main catalyst was the development of offshore resource extraction (oil and gas) combined with the then ongoing Law of the Sea negotiations. Technology was being developed to allow for offshore oil drilling platforms in the Arctic beyond the 12 mile territorial sea. At the same time, the negotiations for the LOS Convention were leading to the Economic Exclusive Zone (EEZ) and a clearer codification of the rights of coastal states over the resources of their continental shelf.⁵⁸ States could now claim some level of jurisdiction over offshore resources past their territorial sea.

But with these rights came the inherent responsibility to develop uniform measures of Canadian law. At that time, it was uncertain as to whether the Canadian legal system adequately covered offshore activity beyond the 12 mile limit. An RCMP review in 1984 determined that RCMP files contained little information on the enforcement of Canada's laws beyond its land boundaries in the north.⁵⁹ Following a request from External Affairs for a review of their activities in the North, the Chief Superintendent found only four cases involved alleged criminal activity in offshore areas.

This review highlights the ad hoc nature of the RCMP's actions in offshore regions. There was little consistency in their

FIGURE 5-2
CANADIAN LAWS OFFSHORE APPLICATION ACT



actions because of the lack of government policy. An act such as the Canadian Law Offshore Application Act was designed to provide police enforcement agencies with such a policy. However, the existence of only four cases demonstrates why, up to 1985, there had been little urgency placed on the need for such a law. A review of the cases is instructive for understanding the problems created by this legal vacuum. While three cases demonstrate the lack of any legal framework for Canadian laws in the offshore areas (Case #1 involved the alleged poaching of a polar bear; case #2 involved an alleged murder on sea ice; and case #4 involved the crash of an American chartered C-130 Hercules), case #3 clearly indicates that the Act is needed.

Case #3 involved the alleged murder in July 1970 of an American citizen by another American on a floating weather island T-3. It is noteworthy that Canadian officials did not know if they had jurisdiction, or what action they should take, in the case. The RCMP believes (but is uncertain due to incomplete files) that the case was handled by American authorities.⁶⁰

Therefore, because of such incidents, Justice officials recognized a need to develop a system of jurisdiction in the north. Unfortunately, efforts to trace the drafting process of the bill were unsuccessful, and it proved impossible to gain

access to the necessary files, so little more can be said on its development.

THE DECISION TO INCLUDE THE CANADIAN LAWS OFFSHORE APPLICATION ACT IN THE SEPTEMBER 10 STATEMENT

As previously mentioned, the specifics of how the Act came to be included in Clark's six policies initiatives are uncertain. It is possible to speculate, but it is impossible to go beyond such speculation.⁶¹ In interviews, officials have indicated that the Act was conceived as a means of sovereignty protection only after the voyage of the POLAR SEA had occurred. And in this way, the bill's inclusion on Joe Clark's policy list was only to increase the number of initiatives being announced. In this manner, the government would appear to be taking action on a wider scope than it actually was.

RESPONSE TO THE CANADIAN LAWS OFFSHORE APPLICATION ACT

The September 10, 1985 decision to introduce the bill was only a small part of the total story of the bill's final passage. In order to determine the bill's main purpose and to provide a full understanding of the decision-making process, it is necessary to examine the path the bill took as it made its way through Parliament.

Following the 1985 voyage, the bill was introduced twice into Parliament, each time with a different emphasis on its

importance to the protection of Canadian sovereignty. This is made clear by comparing the Department of Justice's News Release when the two editions of the bill were introduced. When the first edition of the bill (C-104) was introduced on April 11, 1986, the News Release stated,

In introducing the Canadian Laws Offshore Application Act, Mr. Crosbie said the bill was designed to reinforce Canadian sovereignty by creating a more comprehensive legal regimes for Canadian offshore areas.⁶²

When the second edition of the bill (C-39) was introduced, the News Release, issued October 2, 1989, made no mention of its sovereignty ramifications.⁶³

The bill, first introduced on April 11, 1986,⁶⁴ did not advance beyond the 1st reading and, therefore, did not make it to committee.⁶⁵ It died on the orders paper when the government called an election in 1988. Its death was partly due to the government's preoccupation with the free trade issue.⁶⁶ But the decision not to pass the bill was also based on the fact that the government of the Territories believed that the law would alter its boundaries.⁶⁷

Bill C-104 included an amendment to the Northwest Territories Act.⁶⁸ The main change was the re-definition of the Northwest Territories.⁶⁹ The bill's drafters main intent was to incorporate the internal waters of the straight baselines into the definition of the Territories, but this was not the

perspective taken by both the government of the NWT and certain native groups. Mr. Rob Nicholson MP, reporting on the fate of Bill C-104 during the committee hearings for Bill C-39, stated that Bill C-104 had met with "considerable objections from the Government of the Northwest Territories and a number of native groups."⁷⁰ Since the bill's intent was not to r define the NWT, that section was eliminated.⁷¹

However, Derek Burney's testimony to the House of Commons Standing Committee on Defence indicated that the re-definition of the Northwest Territories was regarded as Bill C-104's most important contribution to protecting Arctic sovereignty. When asked about the law, he stated that,

Its special significance for the Arctic is that by definition, the waters of the Arctic archipelago will form part of the Northwest Territories. In effect, this is the statutory expression of Canada's historic position that the islands of the Arctic archipelago form a natural unity of sea and land created by ice cover for most of the year.⁷²

Therefore, the deletion of the re-definition section altered the impact of the bill in terms of Canadian claims to sovereignty in the Arctic.

David Crombie, then Minister of the Department of Indian and Northern Affairs, noted that Justice officials had for some time been adopting a hard line towards defining the limits of the Northwest Territories. In an interview, Crombie stated that the Justice officials' position was that "nothing should

be given away unless it is specifically noted in treaties."⁷³ Another official at the Department of Indian and Northern Affairs stated that his department was caught in between the Department of Justice and the government of the NWT regarding the boundaries of the territory. The official suggested that following the voyage of the POLAR SEA, External Affairs entered the dispute by siding with DIAND which led Justice officials to agree to withdraw the changes to the definition of the NWT.⁷⁴ However, when questioned, Justice officials were unable to recall any such interdepartmental dispute and maintain that it was never their intent to change the definition of the NWT.⁷⁵

Regardless of the reasons, the Justice Department decided to re-write the bill by removing the offending section. Bill C-39, the second version of the bill, was introduced on October 2, 1989 and did not mention sovereignty enforcement. The bill received final passage in the Senate in December 1990 and is now law.⁷⁶

Further evidence of the POLAR SEA voyage's impact on this bill is found in statements made by Christine Verdon, General Council, Constitutional and International Law Section of the Department of Justice, who shared responsibility for overseeing the bill's passage. When the bill was re-introduced in 1989, she was quoted as saying that there was no particular

incident that prompted the introduction of what was then Bill C-39.⁷⁷ This would indicate that the voyage was a convenient means of introducing the bill, but was not crucial to it.

On October 11, 1985, the Minister of Justice, John Crosbie, clearly indicated that the government introduced the first bill as a measure to enforce Canadian sovereignty in the North. Stating that,

This is particularly important because of our determination to establish clearly the fact that Canada has sovereignty in the Arctic and northern regions of this country.⁷⁸

However, Parliament had little interest in this Act. Only two references to the two versions of the bill can be found in the House of Common Debates. Both times, MP David Nickerson inquired as to when the government planned to introduce the bill.⁷⁹

Committee hearings for the second version of the bill demonstrate that by 1989, all members of Parliament had forgotten about its sovereignty aspects. During questioning of Mr. Terence A. Wade, Director, Legislation and Law Reform of the Canadian Bar Association, Mr. Jack Anawak (Liberal - Nunatsiag) commented on the voyages of both the POLAR SEA and MANHATTAN and asked about the enforcement capabilities that the bill gave Canada. Specifically he asked,

If the Americans or some other nations were to decide that they would like to go through the Northwest Passage without going through the

formality of asking for permission, what enforcement ability do we have?⁸⁰

Mr. Wade responded,

It is my impression that this bill does not deal directly with that question. It is my understanding that this bill does not deal with the question of territoriality as such.⁸¹

While it is understandable that Wade may have been unaware of Clark's speech of September 10, it is instructive to note that neither Anawak nor any other member of the committee corrected him or offered any comments.

Not until the bill was before the Senate committee did anyone bring up the point that it was partially intended to provide a means of protecting and promoting Canadian sovereignty in the north. Presenting his brief before the Committee, Ross Hornby, Counsel for the Constitutional and International Law section of the Department of Justice, began by stating that,

the bill has certain sovereignty implications inasmuch as it will make clear that the internal waters and the territorial sea are a part of Canada. It will ensure that Canada's international claims are not undercut in domestic litigation by providing for their conclusive proof through certificates issued by the Secretary of State for External Affairs.⁸²

Hornby also pointed out that clause 4 of the bill specifically states that the internal waters of Canada "form part of Canada and therefore federal laws apply in them already."⁸³

This Act had important ramifications in terms of establishing state practice for reinforcing the Canadian declaration of

straight baselines. Yet the committee members did not offer any comment or ask any questions when Hornby pointed this out. The impression is that the MPs either did not care about, or understand, the bill's sovereignty implications.

Once again, it is important to note the long history in the making of this decision. The POLAR SEA voyage's major impact on the Bill was to temporarily speed up its development. However, the role of this bill as a means of sovereignty protection faded very quickly with time, suggesting that the true focus of the bill lay elsewhere.

ADOPTION OF CANADIAN LAWS OFFSHORE APPLICATION ACT AND THE DECISION-MAKING MODEL

The decision-making model allows for several observations regarding the following: the identification of the decision-makers; the target of the decision-makers; the cost of the decision; the genesis of the decision; and the eventual fate of the decision.

Decision-Makers: It proved difficult to identify the individual decision-makers involved in the preparation of the Canadian Law Offshore Application Act. As such, it was possible to identify only the relevant departments and some key individuals.

The main preparation of the Act was undertaken by officials within the Justice Department. However, the precise identity of most of these individuals remains unknown, as does the specific motivation of their actions.

Target: The direct targets of the Act were national or foreign individuals operating in offshore areas within Canadian jurisdiction who had broken Canadian laws. The need for the law was created when offshore resources began to be developed in the early 1970s. However, the law had not been passed when the POLAR SEA transited the Passage. As such, the interests of the Justice officials who were developing the bill intersected with the interests of the political decision-makers who needed to be seen as taking assertive action following the voyage of the POLAR SEA. So, as was the case for the establishment of Arctic straight baselines, the actual passage of the bill was, in part, the result of the interaction two very different requirements of decision-makers.

However, as the government moved to passed the bill into law following the voyage, the reaction of an unintended target slowed its passage. The Government of the Northwest Territories became concerned that the bill would redefine its boundaries and opposed its passage. Since this was not the intent of the bill, Justice officials were required to redraft the Bill omitting the section of concern to the NWT officials.

This, in combination with the fact that the government had issues of higher priorities such as the free trade issue, resulted in the bill's failure to be passed. While the bill was re-introduced following the re-election of the Conservative Government, and was passed, it is instructive to note the detrimental effect that the unintended consequences of the bill had on its passage.

Costs: The costs of both the development and passage of the bill were minimal. As in the case of the two other decisions discussed previously, all that was required were the salaries of the officials required to develop the bill. A longer term cost that is impossible to calculate is the increased cost of law enforcement in the offshore areas. As a result of the bill, law enforcement agencies in the north had their areas of jurisdiction greatly increased. Such an expansion will require greater expenses. However, contrasted against this is the cost to Canadian resources and territory if these areas are unregulated.

Genesis: The genesis for this decision can be traced back to the 1970s, and was developed over a long gestation period.

Fate: The Bill was passed in 1990

SUMMARY

The inclusion of this policy as one of the six initiatives demonstrates the manner by which officials will attempt to take advantage of current events to further their particular policies. At the same time, its inclusion also indicates the dangers of a policy that is designed for a specific need but is justified on other grounds.

The rationale for the development of the Canadian Law Offshore Application Act was to meet the needs created by the development of the EEZ and the prospects of exploiting the resources within it. This law was required as soon as Canada began to develop its offshore regions. Yet, similar to the declaration of straight baselines, a perceived crisis influenced the political decision-makers to act on the policy.

However, the government may have slowed the passage of the bill in order to appear as if it were implementing a comprehensive and wide-ranging set of policy initiatives. In order to "fit" the bill into a form of sovereignty enforcement, a new definition of the Northwest Territories was included to indicate clearly the internal nature of the waters contained within the Canadian Arctic archipelago. However, this move indirectly caused concern among decision-makers within the Northwest Territories. They were suspicious of Justice officials' motives which was sufficient to kill the

first version of the Bill.

When the second edition of the Bill was introduced, sufficient time had passed so that the government no longer felt obligated to justify the Bill as a means of sovereignty enforcement and instead explained it in terms of the functions for which it had originally been intended.

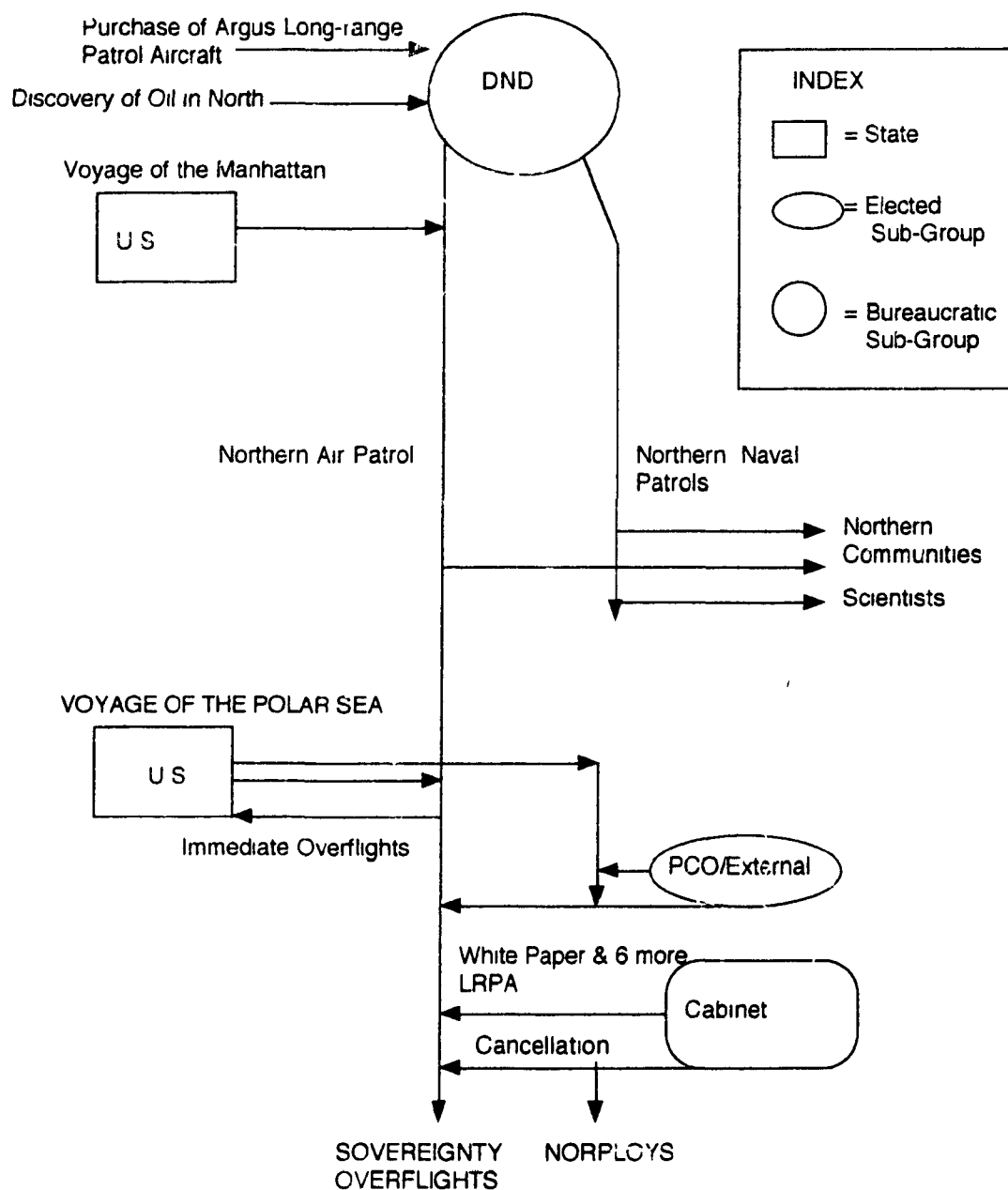
SECTION III

INCREASED SURVEILLANCE OVERFLIGHTS BY CANADIAN FORCES AIRCRAFT AND IMMEDIATE PLANNING FOR NAVAL ACTIVITY IN THE EASTERN

ARCTIC

Clark's September 10 policy announcement included one initiative that fell entirely within the jurisdiction of the Department of National Defence. The announcement that there would be increased northern patrol flights and immediate planning for naval activity were to be implemented by the Canadian armed forces. However, this particular announcement was not much more than a "re-packaging" of existing policies. Both the Northern Patrol flights (NORPATS) and the Northern Deployment of Naval vessels (NORPLOY) have their origins in the early 1970s as shown in Figure 5-3. The main impact of the POLAR SEA voyage was to raise the profile of both programs and in the case of the NORPLOYS to reinstate the program.

FIGURE 5-3
SOVEREIGNTY, OVERFLIGHTS AND NORPLOYS



INCREASED SURVEILLANCE OVERFLIGHTS BY CANADIAN FORCES AIRCRAFT
THE HISTORICAL DEVELOPMENT OF NORTHERN PATROL OVERFLIGHTS
(NORPATS)

Similar to the case for the Canadian Laws Offshore Application Act, the genesis for the first, long-range northern aircraft patrols can be traced to the early 1970s and to the discovery of oil in the north. The discovery of the mineral resources in the north led Canadian decision-makers to believe that a northern presence was required to protect Canadian interests. Overflights were viewed as a relatively easy way of doing this. At the same time, the MANHATTAN voyages of 1969 and 1971 served to underline the reality of challenges to Canadian claims. This was explained in a DND Backgrounder:

Military flying in the north began with the charting and mapping of northern Canada including the high Arctic. More recently, the discovery of Arctic oil in the late 1960's and the subsequent trial use of the Northwest Passage by international shipping triggered national sovereignty concerns. By the early 1970s long-range northern patrols (NORPATs), were flown in support of the first of four major defence activities listed in the 1971 White Paper on Defence..."The surveillance of our territory and coastlines, i.e. the protection of our sovereignty." These surveillance and reconnaissance missions were flown by the Argus aircraft in order to ensure a military presence in regard to shipping and isolated communities while conducting northern navigation training.⁸⁴

The purposes of these missions are explained in correspondence provided by Marcel Masse, then Minister of National Defence.

Specifically, these objectives [of the flights] are to uphold Canadian sovereignty by exercising surveillance, demonstrating presence, helping civilian agencies cope with non-military contingencies, and advising the Government on

responses to new challenges.⁸⁵

These flights are cited by the Department of National Defence as a major source of sovereignty protection in the north.⁸⁶ However, some analysts have suggested that these flights fulfilled a more symbolic, rather than a functional, role. Harriet Critchley has written that these flights provided only a "modest" level of defence activity in the north (as part of an overall modest effort). Examining the northern patrol flights she writes,

These flights, using CP-140 Aurora aircraft from bases at Comox, BC, or Greenwood, NS, generally cover the whole of Canada's north over the year's series but will monitor the same specific locations for only a fraction of the flights. The Auroras are equipped for their main task -anti-submarine surveillance off Canada's Atlantic and Pacific's coasts - and land and take off from only two airstrips (Yellowknife, Frobisher Bay) in NWT. Their Arctic patrols consist essentially of **visual observation** in support of "pollution control, fisheries surveillance, wildlife protection and ice reconnaissance." The limitations on visual observation imposed by adverse weather conditions are increased in high Arctic areas by the three-to-four-month period of 24-hour-a-day darkness from November to February.⁸⁷

Under such conditions, there are limits as to what these patrols can achieve. Nevertheless, given the fact that these patrols began in the early 1970s and still continue, it can be assumed that military decision-makers place attach some importance to them.

OVERFLIGHTS AND THE VOYAGE OF THE POLAR SEA

One of the first steps taken by the Canadian Government in response to the POLAR SEA voyage was to order the overflight of the American icebreaker by both CP-140 Aurora and CP-121 Tracker aircraft. Declassified telexes from these aircraft provide insight into the magnitude of Canada's immediate response once public opposition to the voyage had begun to mount.

Yet, in interviews, senior officials in the Department of National Defence indicate that they were not included in the initial phases of the planning process. Obviously someone within DND had to be consulted when the order was given to maintain close aerial surveillance of the POLAR SEA. But the identity of the particular official is unknown. Commodore R.G. Campbell was present at the June 4, 1985 meeting of the Arctic Waters Panel at which the American May 21 notification was first discussed on an interdepartmental basis. The degree to which his participation was included in the immediate planning stage is unknown.⁸⁸ However, several senior DND officials who were interviewed commented that they were not consulted until almost immediately prior to the voyage.⁸⁹

While the timing of the decision to overfly the POLAR SEA is unknown, there was extensive coverage of the voyage by the overflights, once the decision was made. Declassified

transmissions from the aircraft show that at least five aircraft were involved, three Trackers and two Auroras.⁹⁰

These aircraft were assigned several tasks which included: 1) charting the movement of both the POLAR SEA and JOHN A. MACDONALD when it accompanied the POLAR SEA;⁹¹ 2) to obtain both photographs and video tapes of the POLAR SEA; 3) to fly media personnel over the POLAR SEA;⁹² 4) to provide ice reconnaissance;⁹³ and 5) to maintain a presence over the vessel. The three trackers flew four patrols for a total of 16.6 hours of flight time, while the two Auroras flew eight patrols for a total of 61.2 hours of flight time.⁹⁴ Thus, for the 12 days that the POLAR SEA was in waters claimed by Canada, it was overflowed by Canadian aircraft for approximately 25 per cent of that time.

The decision-making process for the deployment of the aircraft is unknown. The only available information is that department officials believed that they were brought into the process quite late.⁹⁵

The substantial effort made by the armed forces indicates the high priority that Canadian decision-makers placed on the mission. It is interesting to speculate on what the cost of a Canadian re-supply of the Thule base, which was requested by the United States prior to the voyage but refused by Canada,

would have been, as compared to the actual cost of the overflights.⁹⁶

THE DECISION TO INCLUDE THE NORTHERN PATROL FLIGHTS IN THE
SEPTEMBER 10 STATEMENT

It is difficult to assess the decision-making process that occurred within the Department of National Defence.⁹⁷ Still, some insights have been gained from interviews. One high-ranking official within the Department explained that Erik Nielsen, then Minister of Defence, did not play an active role in Cabinet's Priorities and Planning Meeting held between August 21-23 in Vancouver.⁹⁸ However, the official recalls that following the meeting, Nielsen released a memo declaring that he was in favour of the Department taking steps to assert Canadian sovereignty in the north.⁹⁹

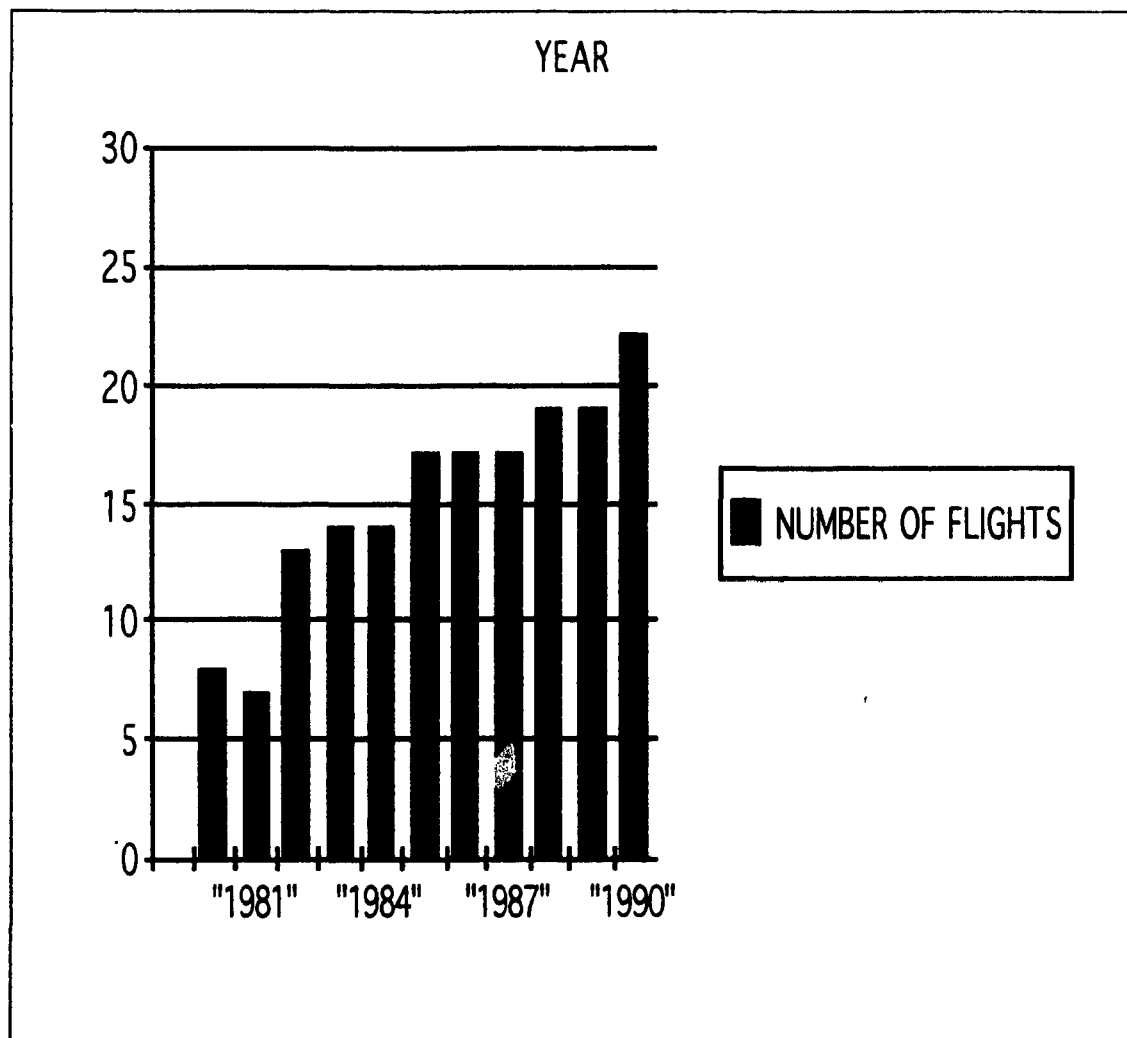
The Department of National Defence, as well as other departments, was canvassed by the External/PCO committee as to the actions that they should take in the north. John Anderson, then Assistant Deputy Minister (Policy) responded by writing to Len Legault of External Affairs on August 6: "As requested at the meeting last week, I attach for your use a summary of the principal DND activities in the North. Please let me know if further information is needed. I look forward to our review of your paper next week."¹⁰⁰ The letter included a brief summary of twelve DND activities in the North. The eighth

activity was: "A minimum of 16 surveillance patrols conducted by Aurora long-range aircraft." It is therefore plausible to surmise that it was from these communications that the PCO/External Committee decided to include the overflights in Clark's September 10 speech. In order to make their inclusion appear as a "new" policy, it was promised that they would be increased. However, as discussed in the next section, this increase involved a certain amount of "smoke and mirrors".

IMPACT OF THE DECISION

Clark's inclusion of the increased Arctic surveillance flights in the north was, to a large degree, somewhat of a non-decision, simply because the number of flights had already been steadily increasing since 1980. Responding to a request for information on the number of flights between 1980 and 1990, the Minister of National Defence stated that the eight flights in 1980 had increased to 22 in 1990. Significantly, there were fourteen flights in 1984, seventeen in 1985, but no further increases until 1988 when nineteen flights occurred.¹⁰¹ Upon examining Figure 5-4 which charts the number of flights over the ten-year period, it appears that Clark's announcement coincided with a slow down of an ongoing increase in these flights.

FIGURE 5-4
NORTHERN OPERATION READINESS PATROLS 1980-1990



SOURCE:

Letter from the
Minister of Defence,
September 9, 1992

Even if Clark's announcement had immediately led to an increase in the number of flights, the question that arises is how this increase would be achieved. On April 15, 1986, Derek Blackburn (NDP-Ont) put the following question to Harvie Andre at a DND Committee Meeting: "Since the POLAR SEA, how many more flights have been made? Given that the fleet has not gotten bigger, how is this increase made?"¹⁰²

Andre answered that the plan was to increase the number of flights from 16 to 20 flights. Following consultation with the Canadian Chief of the Defence Staff, Gerald C.E. Theriault he then explained how this was to be achieved.

There will be no measurable reduction in our overflights. What this means is that, while we are getting better on our maintenance, there will be more hours of flight time per aircraft.¹⁰³

In other words, members of the force were being asked to produce more with the same amount of equipment.

There was an attempt to increase the number of aircraft available to undertake the overflights. The 1987 Defence White Paper specifically listed "at least six additional long-range patrol aircraft" as a means of maintaining proper surveillance over the north.¹⁰⁴ This suggests a serious effort to provide the expenditure necessary to implement the decision to increase overflights. Yet, by the Spring budget of April 27, 1989, the purchase of the additional aircraft was cancelled, and all twenty-nine CP-121 Tracker aircraft were to be retired

by 1992.¹⁰⁵ How this decision was made, or who was responsible for it, is unknown. Rumours that the Department of Finance led the cutbacks (the additional aircraft were only one of many defence programs cut) could not be confirmed despite efforts to contact officials within the department.¹⁰⁶

RESPONSE TO THE INCREASED OVERFLIGHTS

U.S. officials who were interviewed viewed with amusement the use of surveillance overflights as a means of sovereignty protection because of the existence of the Personnel Exchange Program (PEP).¹⁰⁷ This program involved the exchange of military personnel between Canada and the U.S. for the purpose of familiarizing each country's armed forces personnel with the operating procedures of the other. Reports state that several American pilots were among the flight crews of the Auroras which overflew the POLAR SEA.¹⁰⁸ Thus, American-built aircraft, some of which were piloted by Americans, conducted sovereignty surveillance flights directed against the United States.

American Coast Guard officials stated that the ice reconnaissance provided by the overflights was helpful, but they maintain that they could have undertaken the voyage without such "assistance".¹⁰⁹

SUMMARY

The employment of Canadian forces aircraft to overfly the POLAR SEA was the combined result of desperation and practicability. Except for the Trackers and Aurora aircraft, Canadian decision-makers had no other means of maintaining a physical presence over the POLAR SEA during its voyage. The few icebreakers that could have gone through the entire Passage were committed to other tasks (the MACDONALD could only go part of the way); there were no ice-capable ships in the navy; and no other aircraft that had the range to reach the Passage were available. Furthermore, only the Aurora and Tracker pilots had the expertise for long flights in the Arctic. Thus, the overflights were the only option available to the government for maintaining a physical presence during the entire voyage.

Since the overflights had been occurring since the voyage of the MANHATTAN, their inclusion in the policy announcement of September 10 amounted to nothing more than a policy "filler". Furthermore, the increase in overflights did not occur until two years after the September 10, 1985 announcement, and only followed a trend that had already been occurring since the flights first began. When the government announced the purchase of six new long-range patrol aircraft in the 1987 Defence White Paper, there was reason to believe that the September 10, 1985 policy announcement was to be more than

merely a filler. However, such a prospect was eliminated, with the cancellation of the six aircraft and was only partially offset by the acquisition of the three Arcturus Aircraft.

CANADIAN NAVAL ACTIVITY IN THE EASTERN ARCTIC

The decision to send naval vessels into the Eastern Arctic was not so much a new decision, as a resumption of activity. Canadian naval forces last entered Arctic waters in 1982.¹¹⁰

THE HISTORICAL DEPLOYMENT OF THE NORTHERN NAVAL DEPLOYMENT

Exercises in the north are difficult for the navy mainly because of the ice in the area. There are only two types of vessels that can operate safely and freely in Arctic waters: icebreakers and nuclear powered submarines. All other vessels are confined to operations in southern Arctic waters for a short time in August when ice conditions permit, otherwise they risk hull damage caused by the ice.¹¹¹ The Canadian navy possesses no nuclear submarines, and its one icebreaker was transferred to the Coast Guard in 1958.¹¹² Thus, any naval deployment would be possible for only a short period of time and would be of limited utility.

Canadian naval northern deployment (NORPLOY) can be traced to 1971.¹¹³ Figure 5-5 shows that the deployments generally occurred annually from 1971 to 1979. These exercises were carried out by one of the replenishment vessels and sometimes

NORPLOY
FIGURE 5-5

Year	Ships	Locations	Comments
1971*	PRESERVER MARGAREE ASSINIBOINE	Northern Labrador Northern Quebec	-community visits -Canadian Rangers -fish/surveillance -research
1973*	PROTECTEUR	Eastern Arctic -Labrador -top of Baffin Bay	-research -liaison with Inuit
1974*	PRESERVER ASSINIBOINE SAGUENAY	Arctic	
1975*	PROTECTEUR	Eastern Arctic Hudson Bay	-community visits -research -diving
1976*	(no trip because of Olympics)		
1977*	PRESERVER ASSINIBONE OTTAWA	Eastern Arctic	-community visits -research -diving
1978*	PROTECTEUR	Thule	-resupply
1979* other	PRESERVER	Arctic Waters	-support of DND & department
1982*	SAGUENAY	Labrador	-community visits
	CORMORANT	Labrador	-diving practise
1986*	CORMORANT QUEST	Davis Strait, Baffin Bay, Lancaster Sound, Barrow Strait	-sovereignty -research -diving
1988**	CORMORANT	low arctic	
1989**	CORMORANT QUEST	Eastern Arctic	-sovereignty -research -diving

Sources: * Department of National Defence 1971-1990
 ** Canada's Navy Annual

included other fleet units. The purposes of the voyages included port visits to isolated communities, civilian and defence research, and sovereignty enforcement.

The deployments became irregular after 1979 and no longer included the larger naval vessels. The light auxiliary tender, CORMORANT, was commissioned in 1978.¹¹⁴ The CORMORANT and the Canadian Forces Auxiliary Vessel, QUEST, were deployed when the northern deployments resumed in 1982.

Two deployments prior to the 1986 deployment warrant special note. In 1976, the PROTECTEUR was assigned the task of finding and shadowing the Polish sailing vessel, GEDANIA, which was in the Canadian Arctic without having sought permission.¹¹⁵

Two years later, the NORPLOY centred on the resupply of the American base in Thule, Greenland.¹¹⁶ This means that with advanced planning, a Canadian supply ship could have been sent as an alternative to the deployment of the POLAR SEA to Thule and thereby avoid the entire problem.

THE DECISION TO INCLUDE NORPLOYS IN THE SEPTEMBER 10 STATEMENT

Clark's announcement was followed by some confusion within the Department of External Affairs regarding the announced deployment. In an interview, a DND official stated that DND first heard of the planned voyage when Clark made his

statement.¹¹⁷ This point was also expressed in a media report on the proposed exercises in March 1986.¹¹⁸

In correspondence between J.F. Anderson, then Assistant Deputy Minister (Policy) and Len Legault of the Legal Bureau, External Affairs, Anderson had listed "Occasional deployment of warships to northern waters", as one of the 13 activities by which DND establishes and maintains a "presence in the North".¹¹⁹ But there is no evidence of whether or not DND actively participated in the selection of this policy option, or even knew that it had been selected.

Furthermore, it was reported that the National Defence Budget Estimates contained no allowances for the announced Arctic voyages in 1986.¹²⁰ Commodore John Harwood, Maritime Command Halifax, also stated in January 1986, that while the navy could go north if ordered, no such order had yet been given. However, his comments were quickly contradicted by DND officials in Ottawa who stated that he was not in a position to know.¹²¹ In a phone interview, Harwood confirmed that budget estimates for the trip had not been included. It was only following his newspaper interview that Harwood received a call from the Chief of the Defence Staff, General Theriault, informing him that he was to plan for such a voyage.¹²²

Eventually, the voyage did take place. A sixty-day trip,

sailing through the Davis Strait and Baffin Bay to Resolute started in September and ended on October 10 1986.¹²³ The trip involved displaying the Canadian presence and flag; fishery patrol; training for diving in ice; visits to isolated communities; and research.¹²⁴ While part of the research conducted was of military value concerning acoustics in ice conditions, the bulk of the research was undertaken by civilians and involved maritime research projects from the Technical University of Nova Scotia (TUNS), Memorial University, Acadia University and Dalhousie University.¹²⁵

Deployments of both the COMORANT and QUEST in 1988 and 1989 suggest that they are considered a normal component of fleet exercises.¹²⁶ However, the fact that such exercises had also taken place in 1982 suggests that the decision to include them in the September 10 announcement, was at best the resumption of an old policy.

INCREASED OVERFLIGHTS AND NAVAL ACTIVITIES IN THE ARCTIC AND THE DECISION-MAKING MODEL

The decision-making model allows for several observations concerning the following: the identification of the decision-makers; the target of the decision-makers; the cost of the decision; the genesis of the decision; and the eventual fate of the decision.

Decision-Makers: The decision-makers involved in the development of this decision can be isolated to the Department of National Defence and the Department of External Affairs. While it proved impossible to determine for certain, some evidence exists that External Affairs officials and Joe Clark made the decision to increase these activities, even though members of the Department of National Defence would be required to implement the decision, as well as bare the costs of these increased activities.

Some evidence exists to suggest that Defence officials were not key participants in the decision process to increase these activities. If true, this demonstrates a hierarchy of power within the bureaucracy. An important, unanswered question concerns the manner by which External Affairs officials were able to achieve this dominance. Was it the result of previous bargaining between the various officials; was it the result of a standard operating procedure, and if so how was it established; or was it the result of some other form of interaction between the officials? Unfortunately, the answer remains unknown. Some defence officials hinted that External Affairs officials "volunteered" the services of DND to Cabinet, without DND's knowledge. When Cabinet agreed that increased air surveillance and naval activity in the north was a good idea, National Defence officials with their typical "can do" attitude did not attempt to counter the decision.

This could not be confirmed with External Affairs officials.

Target: Once again, Canadian decision-makers had at least two direct targets: American officials and the critics of the governments. The government wanted to physically demonstrate their resolve. However, as previously discussed, limited choices were available, one of which were overflights.

Indirect targets of the decision were the scientists who undertook their research on board the Canadian vessels sailing into the north. Likewise, the northern communities that were visited by these voyages also benefited as unintended targets of the decision.

Costs: The costs of the immediate overflights of the POLAR SEA occurred mainly in the budget of the defence officials overseeing the deployment of the Auroras and Trackers. The almost continual surveillance would involve costs in maintenance and fuel bills of the aircraft. Likewise, any increase in the number of flights to be undertaken would mean increased fuel and maintenance costs or costs in the form of reduced use of the aircraft for other missions.

Despite the government's promise to increase the number of Northern Patrols, no additional flights occurred until several years after the voyage. The government had stated that they

were serious about this decision and the 1987 defence White Paper announced plans to purchase more aircraft as a means of increasing the number of overflights. However, this promise was later broken and the Trackers were retired without replacement. The net sum of these actions meant that the government did not bear any costs for the decision to increase the overflights.

The costs incurred for the naval activity included all of the usual expenses associated with the operations of the two vessels used. Manpower costs were not increased because personnel would have to be paid regardless of where the ships were sent. It is possible that fuel costs increased, but in all likelihood, the decision to send the vessels north meant a reduction or cancellation of another mission. Therefore, the yearly fuel expenditures for these vessels remained constant.

Genesis: The first sovereignty overflights and naval activity began in the early 1970s. Once again, the main factors leading to the development of these policies were the perceived challenges to the Canadian Arctic presented by the voyages of the MANHATTAN and the discovery of substantial mineral deposits in the north.

Fate: The overflights are ongoing. While they were not immediately increased following the voyage, they have now been

increased to 20 flights a year. However, as previously mentioned, all decisions to increase the ability of the Armed Forces to undertake these missions were rescinded when the government decided that the Trackers were to be retired and the six additional Auroras were not to be purchased. The naval activity in the Eastern Arctic has also continued on an irregular basis.

SUMMARY

The decision to undertake naval activity in the Eastern Arctic can be viewed as part of the government's effort to undertake a variety of action. At best, this decision can be viewed as a means of partially reviving a practise that had been declining since 1979.

These voyages have been taking place on an irregular basis since 1971. But they have been on the decline since 1979. Following the September 10, 1985 announcement, they have been held on average every two years.

SECTION IV

WITHDRAWAL OF THE 1970 RESERVATION TO CANADA'S ACCEPTANCE OF THE COMPULSORY JURISDICTION OF THE ICJ

In 1970, the Canadian Cabinet decided that it would not allow the newly enacted Arctic Waters Pollution Prevention Act to be challenged in the International Court of Justice.¹²⁷ The creation of a 100-mile wide pollution protection zone was an innovation in terms of international law. Therefore, officials within External Affairs were concerned that the lack of international precedents would result in an unfavourable ruling if the 100-mile zone was challenged in the ICJ.¹²⁸ However, the decision to lift this reservation, and accept the possibility of a challenge in the World Court, was made after the voyage of the POLAR SEA as shown in Figure 5-6.

It is important to note that the reservation in 1970 was specific in scope. A common misperception is that the reservation was against all challenges to Canadian sovereignty claims to its northern region. Instead, it only covered challenges against Canada's rights to manage the living resources of the sea and to take action to protect against pollution in the "marine areas adjacent to the coast of Canada."¹²⁹ The reservation states that Canada will not accept the compulsory jurisdiction of the court on:

disputes arising out of or concerning jurisdiction or rights claimed or exercised by Canada in respect of the conservation, management or exploitation of the living resources of the sea, or in respect of

the preservation or control of pollution or contamination of the marine environment in marine areas adjacent to the coast of Canada.¹³⁰

Once the decision was made in 1985, the removal of the reservation only required a notification, which consisted of a two page document, to be sent to the Secretary General of the United Nations.¹³¹

THE HISTORICAL DEVELOPMENT OF THE RESERVATION

The decision to lift the reservation was a direct result of the MANHATTAN's voyage. The Canadian Government enacted the Arctic Waters Pollution Prevention Act (AWPPA) in response to the voyage.¹³² As previously mentioned, this Act was drafted with the intent to give Canada the right to create regulations governing the types and actions of vessels passing thorough the Canadian Arctic. In 1970, this act had no precedent in international law. Nothing in customary law or in G.L. LOS I or UNCLOS II gave a country the right to legislate pollution protection in areas beyond its territorial sea.

This meant that if Canada sought to pass the AWPPA, it would have no support in international law. As a result, any challenge to the Act in the ICJ would, in all probability, be upheld against Canada. Thus, if the Canadian Government was to pass such legislation, it needed to protect itself against a court challenge. Since the ICJ can only hear cases in which

both parties have agreed to the Court's jurisdiction, an official reservation had the effect of stating that Canada would not be party to such a case. This meant the ICJ could not hear the case.¹³³

The process by which Canadian officials examined the costs and benefits of the AWPPA has been documented elsewhere.¹³⁴ The final decision to pass the bill into law was vigorously debated and decided by the full Cabinet. The "conceptual and analytical foundation" for much of the AWPPA was the result of Ivan Head's efforts in the PMO.¹³⁵ But Cabinet was divided on the issue of whether or not Canada should sacrifice its adherence to international law in order to pass the AWPPA. Several influential ministers, such as Mitchell Sharp and Paul Martin, believed that Canada would be damaging the international legal system with a reservation. Others, such as Donald Macdonald, argued that Canada's interests in the North outweighed any general concern for the international legal system. It is reported that the final decision was made only when Prime Minister Trudeau (who was reported to have remained neutral on the issue) asked all ministers to state their positions. At this point, it became clear that only Sharp and Martin opposed the reservation.¹³⁶

HISTORICAL DEVELOPMENTS IN INTERNATIONAL LAW

Before examining the decision-making process for removing the reservation, it is necessary to note the significance of UNCLOS III. As previously stated, there was little in the form of international law to support the AWPPA. However, between 1970 and 1985, two main events occurred at UNCLOS III that completely changed this situation. The first, the successful negotiation of Article 234, the ice-covered areas article, was the result of direct efforts undertaken by Canadian officials.¹³⁷ The second event was the creation of the Exclusive Economic Zone.¹³⁸ Both events served to provide international support for the AWPPA.

The manner by which Canadian officials negotiated for the inclusion of an article giving states the right to take special measures to protect vulnerable areas has been the subject of detailed examination and need not be repeated here.¹³⁹ It is sufficient to say that the negotiation conducted by Canadian officials was generally accepted as a model for success. The Canadian position was established in early 1974 by the Interdepartmental Committee on the Law of the Sea.¹⁴⁰ The actual negotiations began in July 1974, and were successfully completed by April 1976. The article states:

Coastal States have the right to adopt and enforce non-discriminatory laws and regulations for the prevention, reduction and control of marine pollution from vessels in ice-covered areas within the limits of the exclusive economic zones, where particularly severe climatic conditions and the

presence of ice covering such areas for most of the year create obstructions or exceptional hazards to navigation, and pollution of the marine environment could cause major harm to or irreversible disturbance of the ecological balance. Such laws and regulations shall have due regard to navigation and the protection and preservation of the marine environment based on the best available scientific evidence.¹⁴¹

With this clause, Canada achieved international acceptance for the AWPPA. The EEZ extends up to 200 miles off the baselines of a state. The AWPPA establishes "only" a 100 mile zone of control. Thus, with the acceptance of this article, it is difficult to imagine how any other state could challenge Canada's AWPPA in the ICJ and expect to win.

THE DECISION TO INCLUDE THE LIFTING OF THE RESERVATION TO THE ICJ IN THE SEPTEMBER 10 STATEMENT

The Canadian Government's decision to lift the reservation to the ICJ was made during a meeting coordinated by the PCO in late summer, 1985. At that time, External Affairs officials determined that international law had developed to the point that it would support the Canadian Arctic Waters Pollution Prevention Act. Specifically, the creation of the EEZ through the Convention on the Law of the Sea indicated that international law now accepted functional jurisdiction over areas that were not sovereign territory.

When questioned about the source of the decision to lift the reservation, senior External Affairs officials suggested that

the decision stemmed directly from Joe Clark. However, these officials were somewhat reluctant to state where Clark came up with the idea, and who briefed him on it.¹⁴² Other interviews have indicated that the possibility of lifting the reservation was introduced as a policy option by Len Legault.¹⁴³ Legault was involved in the process in 1970 when the reservation was first made.¹⁴⁴

Sources have suggested that External Affairs officials met little or no opposition when they made the assessment that Canada could now expect to win a challenge to the AWPPA in the ICJ.¹⁴⁵ It is doubtful, given Legault's expertise on the reservation, that once he had decided that it could be lifted, that anyone else in the government could have successfully challenged his position. Furthermore, there were no immediate costs involved in making it. Costs would arise if the United States or the EEC decided to challenge the Canadian claim, but this was unlikely. Given the confidence of the External Affairs officials, the Canadian Government did not oppose the inclusion of this measure.

While the decision to lift the reservation was made without much debate, media reports indicate that there was considerable discussion within government as to whether or not Canada should take the case to the ICJ or, conversely, if it should simply wait until another state brings it to the Hague.

According to Bill Fox, Prime Minister Mulroney's chief spokesperson, there were sharp divisions among "governmental, legal and external affairs experts" on this issue.¹⁴⁶ Fox went on to say that this division should be settled before the Vancouver meeting of the inner Cabinet that was to take place from August 21 to 23.

At this time, Secretary of State for External Affairs Joe Clark was also quoted as suggesting that Canada could take the case to the World Court.¹⁴⁷ When questioned by Allen Prior on the CTV National News as to whether Canada intended to take the case to the World Court, Clark answered that, "[t]hat is an option. And that is among the options that are being considered by the review."¹⁴⁸ However, Clark clearly indicated that he viewed the option as somewhat risky. When interviewed on August 12 about the prospects of taking the issue to the ICJ, Clark responded as follows:

And we're looking at other questions, including a reference to the International Court of Justice. There's a risk in that; you go to the Court [and] you may lose. You lose and that's it, then we are in some difficulties with regards to our claims. Our lawyers tell me they think they've got a pretty good case. I'm the minister that has to agree that it goes, ...I'm not satisfied yet.¹⁴⁹

However, following the Planning and Priorities Meeting in Vancouver, Clark ruled against taking the case to the Court stating that "from a legal perspective we are better to respond to a challenge to our jurisdiction rather than...cast doubt on our claims by taking the case there ourselves."¹⁵⁰

Therefore, the decision to not initiate ICJ proceedings was based on the logic that the Canadian case would be stronger if another country brought the action before the Court. The following day, Brian Mulroney, in one of his few public statements on the voyage, warned other states from taking such action. In response to a question as to whether other countries would still challenge Canadian claims, he explained,

There has been no suggestion to the contrary, but should there be a suggestion to the contrary by anyone, that would be an unfriendly act and so construed by the Government of Canada.¹⁵¹

Although it is not known if this was a planned strategy, the implications are clear. First, the decision was made that Canada would lift its ICJ reservation. This was followed by Canada's decision not to take the case to the World Court. In turn, this was followed by the Prime Minister's announcement that any such action would be viewed as "an unfriendly act". That is, notice had been served that any state taking the case to the Court would do so only at a cost to its relationship with Canada.

There is one last factor that was probably considered by the Canadian officials. American officials were unlikely to view the ICJ as a viable dispute resolution forum in 1985. A point seldom noted in connection with Canada's lifting of its reservation is that at the time that the POLAR SEA was traversing the Northwest Passage, the United States was distancing itself from the ICJ because of its conflict with

Nicaragua. The Nicaraguan Government accused the United States as being responsible for the mining of its harbours, and wanted to take the case to the ICJ. The United States Government denied that it was undertaking such actions, but also stated that the World Court did not have jurisdiction to hear the case.

Therefore, it was unlikely that the American Government would then embrace the ICJ as a means of resolving its dispute with Canada. There were few references to this particular factor. The media carried only one story made by an unnamed American official immediately following Clark's speech. The story cites the American official as noting that,

[T]he U.S. is embroiled in a running dispute with the World Court over its jurisdictional powers - notably involving Nicaragua's claim of U.S. military intervention - and say it's "unrealistic" to expect the Reagan administration to take the Arctic issue to that forum.¹⁵²

If American officials were publicly voicing their concerns, it is unlikely that Canadian officials would be unaware of them. It must be recognized that such a concern would be of a sensitive nature due to the timing of events. The dispute between the United States and Nicaragua is now over, and it is likely that the American position vis-a-vis the World Court will change accordingly. However, the longer the United States delays in making a challenge, the lower its chances of being successful. The court would no doubt wish to know why, if the United States disputed the Canadian claims, it did not mount

a challenge sooner.

THE IMPACT OF THE DECISION

American officials were not concerned about the withdrawal of the Canadian reservation. Several U.S. officials shared the view that the Canadian Government was bluffing. They were of the opinion that the Government of Canada would not want to go to the World Court. American officials had also expressed the view that they did not want to go to the court in the event that they could win! Their concern was that if they were to take the issue to the World Court and receive a ruling in their favour, they would damage their relations with Canada, and could possibly encourage Soviet vessels to use the Northwest Passage.¹⁵³ On the other hand, if they were to lose the case, a precedent harmful to their interests in other areas of the ocean could be set. Either way, they would emerge as losers.

However, this assessment was based on conjecture by United States officials. Canadian officials insist that Canada was (and is) prepared to take its chances with the court if the United States pushed the issue.¹⁵⁴ The fact that neither side has decided to bring the case to the ICJ strongly suggests that neither believes such action would be in their interests.¹⁵⁵

WITHDRAWAL OF THE ICJ RESERVATION AND THE DECISION-MAKING MODEL

The decision-making model allows for several observations about the following: the identification of the decision-makers; the target of the decision-makers; the cost of the decision; the genesis of the decision; and the eventual fate of the decision.

Decision-Makers: The decision-makers were, for the most part, the same as those involved in the establishment of straight baselines. These included members from the Legal Bureau of External Affairs, and Joe Clark. Once again, the officials with the specialized knowledge of international law utilized their expertise as a means of developing this decision.

The act of implementing this decision was a simple process. The Canadian Ambassador to the United Nations wrote a letter to the Secretary General in which he stated that Canada was withdrawing its reservation.

Target: The intended targets of this decision were the United States, and critics of the Canadian Government. The purpose of the withdrawal of the reservation was to demonstrate that the government was sufficiently confident in its position that it was willing to proceed to the ICJ if challenged about its jurisdiction over the Northwest Passage.

Costs: The immediate costs of this decision were almost non-existent. Once again, they included only the salaries of the officials involved in making the decision. Once the decision was made, the cost of implementing it was only the expense of sending a letter to the Secretary General of the UN.

A currently unknown, but potentially very expensive, cost could later be incurred if the United States or any other state decides to challenge the Canadian position. The immediate costs of meeting such a challenge are always high. In addition, if Canada loses such a challenge, it will then lose the right to control navigation in the Passage beyond the powers provided through article 234 of the Convention.

Genesis: The reservation was made in 1970. Therefore, it had been in existence for 15 years when the POLAR SEA made its voyage. However, once the decision was taken in 1970 to make the reservation, little further attention was given to it. It would, therefore, be incorrect to suggest that this decision took 15 years to develop. The changes in international law that allowed the Canadian decision-makers to conclude in 1985 that they no longer needed the reservation were important.

Fate: The reservation has been lifted and, to date, no state has been willing to challenge the Canadian position in the ICJ.

SUMMARY

The decision to drop the ICJ reservation could have been taken by Canada any time after the development of the EEZ and the acceptance of Article 234 at the third Law of the Sea Negotiations. It is clear that the Canadian delegation had successfully drafted the necessary clauses to safeguard Canadian actions in the North. Therefore, it is telling that Canadian officials did not do so until required to act for political reasons. There was no reason why Canada had to wait until 1985 to take this action. The AWPPA was secure once the Canadian negotiators at UNCLOS III gained acceptance for Article 234. Thus, Canadian foreign policy decision-makers waited until events required them to act.

The decision to drop the ICJ reservation also illustrates the power of an individual decision-maker's expertise. It is clear from both media reports and interviews that the determining factor for the decision to remove the reservation was based on the respect that Canadian decision-makers had for Len Legault's assessment. The evidence suggests that once he had made up his mind that it was time to drop the reservation, no one could, or would, challenge him on this point.

ENDNOTES

1. D.C. Kapoor and Adam Kerr, A Guide to Maritime Boundary Delimitation (Toronto: Carswell, 1986), p.33.
 2. Territorial Sea and Fishing Zone Act, R.S.C. 1964., c. 22.
 3. J. Bruce McKinnon, "Arctic Baselines: A Litre Usque Ad Litus," Canadian Bar Review 66 (December 1987), p.795.
 4. *Ibid.*
 5. *Ibid.*
 6. Confidential interview with official from External Affairs.
 7. John Kirton and Don Munton, "The Manhattan Voyages and Their Aftermath," in Politics of the Northwest Passage, edited by Franklyn Griffiths (Kingston and Montreal: McGill-Queen's University Press, 1987), p.82.
 8. *Ibid.*
 9. *Ibid.*, p.73.
 10. They were: Ivan Head, special assistant to Trudeau, Allan Gotlieb, Len Legault and Edward Lee of External Affairs; Robertson, Uffen, and Dewhirst of PCO; Thorson of Justice; McDonald and Hunt of Indian and Northern Affairs; Needler and Omere of Forestry and Fisheries; Isbister of Energy, Mines and Resources; and MacGillway of Transport. Kirton and Munton, Note 18, p.282.
- It is important to note of course that both Gotlieb and Legault were already major participants in the foreign policy process at this point in time.
11. Interview with John Cooper, Department of External Affairs, Ottawa, December 12, 1990.
 12. Kirton and Munton, "The Manhattan Voyage," p.73.
 13. *Ibid.*
 14. Interview with John Cooper, External Affairs, Ottawa, December 12, 1990.
 15. United Nations, Official Text of the United Nations Convention on the Law of the Sea with Annexes and Index (New York: UN Publications, 1983), Articles 46-54. [Hereafter LOS Convention]

16. See LOS Convention, Article 47 of Part IV.
17. Canada Department of External Affairs, "Letter," from Len Legault, Legal Advisor and Director General, Bureau of Legal Affairs, to Mr. Ivan Head, President, IDRC, January 19, 1980.
18. One of the most influential was Donat Pharand. See for example his submission to the MacDonald Commission entitled, "Sovereignty and the Canadian North," The Report of the Royal Commission on the Economic Commission on the Economic Union and Development Prospects for Canada 141, 149, (1985). It is noteworthy that in discussion with almost all members of External Affairs legal division, at one point or another, they would cite Pharand's work. The problem of course for a decision-making framework lies in the measurement of his influence. There is little doubt that his focus on straight baselines influences External Affairs officials.
19. Donat Pharand, with Leonard Legault, Northwest Passage: Arctic Straits (Dordrecht: Martinus Nijhoff, 1984).
20. Interview with External Affairs official, Washington, April 24, 1990.
21. Territorial Sea Geographical Coordinates (Area 7) Order, SOR/85-872, September 10, 1985. In Canada Gazette, Part II, Vol. 119, No.20.
22. *Ibid.*
23. *Fisheries Case (United Kingdom v. Norway)* I.C.J. Reports 1951 (Judgment of December 18).
24. LOS Convention, Article 7. It must be noted that Article 3 and 4 of the 1958 Territorial Sea Convention also allowed for the usage of straight baselines under certain circumstances.
25. Interview with David Colson and Tucker Scully, Department of State, Washington, April 17, 1990.
26. *Ibid.*
27. LOS Convention, Article 7, p.4.
28. United States, Department of State, Bureau of Intelligence and Research, Geographic Notes Number 2, 1986, p.8.
29. United States, Department of the Navy, Annotated Supplement to the Commander's Handbook on the Law of Naval Operations. NWP 9 (REV.A)/FMFM 1-10, Washington, D.C., 1989, p.1-7.
30. *Ibid.*, p.1-7, footnote 11.

31. United States, Department of Defence, Assistant Secretary of Defence for International Affairs, Maritime Claims Reference Manual Volume 1, 1987, p.1-3.

32. It should be noted that the U.S. position focuses on the issue of historic bays in particular. However, they make it clear that the aspect they oppose the most is the manner in which coastal states treat their "historic" claims as internal waters and accordingly acknowledge no right of innocent passage for other nations' vessels therein. Ibid.

It therefore seems logical to assume that any claim made on historic title that had the effect of creating an area of internal waters would be viewed in the same manner as claims to historic bays.

33. Interviews with Captain Robert Hofford, USN, Deputy Director Politico-Military Policy and Current Plans Division, Washington, April 26, 1990.

34. The Freedom of Navigation Program was started in 1979 and combines diplomatic action and operational assertion of the US navigation and overflight rights by means of exercises to discourage state claims it believes are inconsistent with international law, and to demonstrate U.S. resolve to protect navigational freedoms. The Departments of State and Defence are jointly responsible for the program. United States, Department of State, Bureau of Public Affairs, "U.S. Freedom of Navigation Program," Gist, December 1988.

35. There was specific concern over the possible precedent that straight baselines in the Northwest Passage could set for the Philippines, Indonesia and Malaysia.

36. Interviews with U.S. State Department officials, Washington, 1990.

37. In most instances, contact with various European embassies have resulted in the standard response that they are not aware of the position of their country on the issue of Canadian Arctic straight baselines, and as such will have to contact their home office for information. This then inevitably lead to a long wait during which the contact person is reassigned to another location, no response is forthcoming and the process continues with the same lack of success.

38. Interview with External Affairs official, Ottawa, March 14, 1990.

39. Phone interview with Danish Embassy official, Ottawa, March 9, 1993.

40. One individual who was with the Department of Indian and Northern Affairs and worked closely with then Minister David Crombie has commented in an interview that 10-15 states have objected to Canadian northern strait baselines. Unfortunately, it has been impossible to confirm or dispute this number. Somewhat ironically, he named Norway as one of the states that has protested. Norway, it may be recalled, was the first state to successfully employ straight baselines as a means of determining its coasts.

41. Canada, Department of External Affairs, "Subject - Arctic Sovereignty. Have any states protested the Arctic straight baselines." House of Commons - Briefing Note, by Legal Operations Division, September 25, 1986; and Canada, Department of External Affairs, "Subject - What is the position of other states regarding the Arctic Straight Baselines," House of Commons - Briefing Note, by Legal Operations Division, March 2, 1987.

42. LOS Convention, Article 8(2), p.4.

It should be noted that Article 5(2) of the 1958 Territorial Sea Convention was worded almost exactly the same, stating that,

2. Where the establishment of a straight baseline in accordance with Article 4 has the effect of enclosing as internal waters areas which previously had been considered as part of the territorial sea or of the high seas, a right of innocent passage, as provided in Articles 14 to 23, shall exist in those waters.

The similarity between the two articles strongly suggests that Article 8(2) was based on Article 5(2).

43. For a good review of such a critical position see Nicholas Howson, "Breaking the Ice: The Canadian-American Dispute over the Arctic's Northwest Passage," Columbia Journal of Transnational Law 26 (1988), pp.360-362.

44. Robert Rochon, "Canada's Maritime Interest and the Law of the Sea," Oceans Policy in the 1990s, edited by Peter Mushkat, Fred Crickard and Rob Huebert (Halifax: Ocean Institute of Canada, 1990).

45. Canada, External Affairs, Legal Operations Division, "Letter," from R.W. Burchill, Director Legal Operations Division, to private Canadian citizen, March 14, 1983.

46. In keeping with the thesis of this work, but extending beyond its boundaries, it is possible to make a connection between the early writings of Ivan Head and the adoption by the government of the historic title position. In his published MA thesis (1963) he argued that Canada's claim was based on the fact that the ice-covered waters have been historically occupied by the Inuit. Ivan Head, "Canadian Claims to Territorial Sovereignty in the Arctic Regions," McGill Legal Journal 9 (1963). Nicholas Howson has then

made a very convincing argument that it is possible to trace Head's thesis in Trudeau's defence of Canadian claims in the North and then to Clark's statement of the Inuit occupying the ice-covered waters since "time immemorial". See his "Breaking the Ice," pp.363-365.

47. The best examination in the literature of the use of concept of historic waters in international law is provided in Donat Pharand, Canada's Arctic Waters in International Law (Cambridge: Cambridge University Press, 1988) Part 2, pp.89-130.

In this section, he provides a review of the criteria that are needed for a state to make a claim of historic waters. They are: "1) exclusive authority and control over the maritime area claimed, including the expulsion of foreign ships if necessary; 2) long usage or the passage of a long period of time, the length of the period depending on the circumstances; and 3) acquiescence by foreign States, particularly those clearly affected by the claim." (p. 105) For a quicker review of his assessment see his article, "Arctic Sovereignty: Does Canada Own the Northwest Passage?" Proceedings 114 pt.2 (July 1988).

The UN has prepared some studies on historic waters in international law. But they tend to exist as studies only and not as accepted elements of international law. See footnote 8 of J. Bruce MacKinnon, "Arctic Baselines: A Litore Usque ad Litus," Canadian Bar Review 66 (December 1897). See in particular, International law Commission (Secretariat), "Judicial Regime of Historic Waters, Including Historic Bays," 1962 Yearbook of the International Law Commission Vol.II.

48. But a little on the hypocritical side. It must be kept in mind that even while the US refuses to acknowledge the claims of any other states, it has claimed historic title to Delaware Bay and Chesapeake Bay. However, as Pharand writes "both of which are only about ten miles wide and which may now be considered as closed under the 24-mile rule of the 1958 Territorial Sea Convention irrespective of any historic title." Pharand, Canada's Arctic Waters, p.107.

49. Pharand, Canada's Arctic Waters, p.79.

50. Canada, Department of Indian and Northern Affairs Canada, The Western Arctic Claim: The Inuvialuit Final Agreement, 1984, p.39.

51. Department of Indian and Northern Affairs Canada, Western Arctic (Inuvialuit) Claim Implementation: Annual Report 1987-1988, December 1988, pp.5-6.

52. *Ibid.*, p.5.

53. LOS Convention, Article 77(4), p.28.

54. *Ibid.*, article 78(1), p.28.

55. Canada, Minister of Justice and Attorney General of Canada, "Canadian Laws to Apply to the Offshore," Justice Communique, October 2, 1989, p.1.

56. Canada, Department of Justice, "Background Information Canadian Laws Offshore Application Act," Information, October 1989.

57. Interview with Department of Justice official, Ottawa, April 15, 1990.

58. LOS Convention, Part V, Articles 55-75; and Part VI, Article 76-85.

59. Canada, RCMP, "Letter," from J.J.M. Coutu, Chief Superintendent, Assistant Director, Criminal Investigation, Royal Canadian Mounted Police, to Philippe Kirsch, Director, Legal Operations Division, Department of External Affairs, May 25, 1984.

60. *Ibid.* As reported in the letter,
The matter was to be brought before the Advisory Committee on Northern Development to determine what actions should then be taken. Mention was made of the possibility that Canada could decide to waive jurisdiction but the final decision of the Committee is not reported on our files.

No

charges were laid by the RCMP, the matter obviously being handled by the United States authority.

61. One of the main problems is that officials from External Affairs either do not remember, or are not willing to discuss how the act came to be included, and officials at the Department of Justice suggest (but would not confirm) that the individuals involved with the act in 1985 were no longer with the department. But once again this could not be confirmed.

62. Canada, Department of Justice, "Bill Introduced to Extend Canadian Laws to the Offshore," News Release, April 11, 1986.

63. Canada, Department of Justice, "Canadian Laws to Apply to the Offshore," Justice Communique, October 2, 1989.

64. Canada, Minister of Justice and Attorney General of Canada, "Bill Introduced to Extend Canadian Laws to the Offshore," News Release, April 11, 1986.

65. *Ibid.*, p.1:11.

66. A Justice official in an interview stated that the bill had died because of the government's full agenda. This was also reported by Ross Hornby, another Justice Department official responsible for the bill. In an interview, he stated that both the government's focus on the free trade issue and opposition from the NWT government prompted Ottawa to allow the first bill to die. Interview Ottawa, March 15, 1990.

67. Confidential interview with Canadian official.

68. Canadian Laws Offshore Application, Bill C-104, House of Commons 1st Session, 33d Parliament, 1st Reading, April 11, 1986.

69. *Ibid.*, pp.12-13.

70. Canada, House of Commons, Legislative Committee on Bill C-39, Minutes of Proceedings and Evidence of the Legislative Committee on Bill C-39, Issue #1 May 15, May 29, 1990, p.1:40.

71. *Ibid.*

72. House of Commons, Standing Committee on National Defence, Minutes of Proceeding and Evidence, January 27, 28, 1987, p.9.

73. Interview with David Crombie, Toronto, June 18, 1990.

74. Interview with John Merritt, Ottawa, May 1989.

75. Interviews with Justice Department officials, Ottawa, 1990.

76. Even though the Liberals were in the process of trying to prevent the passage of the Goods and Service Tax (GST), the death of retired Senator Henry Hicks resulted in a short truce in which non-GST business was attended to at this time.

77. Randy Jones, "Canadian Law May be Extended to 200-mile Limit," Halifax Chronicle Herald October 3, 1989.

78. Canada, House of Commons, Debates, Oct. 11, 1985, p.7599.

79. Canada, SCND, Minutes of Proceeding and Evidence, January 28, 1987, p.3:48; and House of Commons, Debates, October 6, 1987, p.9726.

80. Canada, House of Commons, Minutes of Proceedings and Evidence of the Legislative Committee on Bill C-39: An Act to Apply Federal Laws and Provincial Laws to Offshore Areas and to Amend Certain Acts in Consequence thereof, Issue #1 Tuesday May 15, 1990, Tuesday May 29, 1990, p.1:19-1:20.

81. *Ibid.*

82. Canada, Senate of Canada, Standing Committee on Legal and Constitutional Affairs, Complete Proceedings on: Bill C-39: An Act to Apply federal laws and provincial laws to offshore areas and to amend certain Acts in consequence thereof, Issue #16, Tuesday September 25, 1990, p.16:5.

83. *Ibid.*, p.16:8.

84. Canada, Department of National Defence, "CP 140 Aurora Northern Patrols," Background, April 1989.

85. Canada, Department of National Defence, "Letter," to Rob Huebert from Marcel Masse, Minister of National Defence, Department of National Defence, September 9, 1992.

86. See any of the Annual Reports (Defence) published by the Department of Defence since the flights began to occur.

87. Harriet Critchley, "Defence and Policing in Arctic Canada," Politics of the Northwest Passage, edited by Franklyn Griffiths (Kingston and Montreal: McGill-Queen's University Press, 1987), p.201.

88. Canada, Department of External Affairs, "Arctic Waters Panel Meeting to discussed proposed Northwest Passage Transit of US icebreaker Polar Sea," document JLO-0823, June 4, 1985.

89. Interview with John Anderson, Assistant Deputy Minister-Policy DND (ret.) Ottawa, March 13, 1990.

90. The three trackers were #8458 flown by Captain Cooper and Lt. Haggens; #8460 flown by Captain Horton and Lt. Cecic and #8459 flown by Captain Valade, Lt. Bush and Captain Cooper. While the two Auroras were not identified, one was based at Comox, BC and the other at Greenwood, NS. Canada, Department of National Defence, 880 Squadron, Resolute Bay, "Telex - Mission Report Arctic Surveillance." 2230, August 4, 1985; Canada, Department of National Defence, Maritime Operational Centre Halifax, "Telex - Mission Report Arctic Surveillance," 2254, August 5, 1985; Canada, Department of National Defence, Maritime Operational Centre Halifax, "Telex - POLAR SEA Situation Report #4," 0220, August 6, 1985.

91. Canada, Department of National Defence, 880 Squadron, Resolute Bay, "Telex - Mission Report Arctic Surveillance," 2230, August 4, 1985.

92. *Ibid.*

93. Canada, Department of National Defence, Maritime Operational Centre Halifax, "Telex - Mission Report," 1743, August 5, 1985.

94. Canada, Department of National Defence, National Defence Headquarters, "Telex - Monitoring USCG POLAR SEA," 1201, August 12, 1985.

95. Confidential interview with Department of Defence official.

96. United States, U.S. Department of Transportation, U.S. Coast Guard, United States Polar Icebreaker Requirements Study, Interagency Report, July 1984, p.5-52.

97. To a large degree, the difficulties with DND were expected given their traditional concern for secrecy.

98. Interview with John Anderson, ADM POL DND (ret.), Ottawa, March 13, 1990.

99. There is an obvious tie-in with the Department's development of the 1987 White Paper, with its overt efforts to assert Canadian sovereignty. However, the drafting of the White Paper and the policies that developed from it and in particular the nuclear-powered submarine programme are studies unto themselves and as such will not be addressed within the limits of this study.

100. Canada, DND, "Letter," from John Anderson, ADM (Policy) DND to Len Legault, Legal Advisor, Department of External Affairs, August 6, 1985.

101. There is some confusion as to the number of flights made in 1986. Bob Fowler, then Assistant Deputy Minister (policy) DND, reported to the Standing Committee on External Affairs and National Defence that there had been 20 flights in 1986. House of Commons. Standing Committee on External Affairs and National Defence. Proceedings, January 28, 1987, p.14. However, in a letter sent to the author, the Minister of National Defence wrote on September 9, 1992 that there had been only 17 flights. See note 86.

102. Canada, SCND Proceedings, April 15, 1986, pp.1:22-23.

103. *Ibid.*

104. Canada, Department of National Defence, Challenge and Commitment: A Defence Policy for Canada, June 1987, p.57.

105. Paul Koring, "Tory Defence Promises Wiped Out," Globe and Mail April 28, 1989; Paul Koring, "Defence of Arctic Left to Allies by Budget Cuts," Globe and Mail April 28, 1989; and Canadian Institute for International Peace and Security, The Guide to Canadian Policies on Arms Control, Disarmament, Defence and Conflict Resolution (Ottawa: CIIPS, 1989), p.123.

106. As an interesting aside, it was found that each department had its own techniques for avoiding questions. DND officials would state that the information was classified for security reasons (unless you asked the right individual); Coast Guard would say that since the information requested involved another state it was necessary to make the request to External Affairs; PCO officials would deny being involved in the issue and then say that they couldn't remember anyway; Finance officials would simply deny ever having anyone in their department who actually dealt with the policies; and External Affairs officials would redirect you to certain departments who would take a long time to respond to the request only to ultimately inform you that you had to make the request to another department, where the wait would begin anew. Ultimately what worked best was to either target retired members of the government or to get the information from the Canadian official's American counterparts!

107. Interview with American State Department officials, Washington, April 26, 1990.

108. No one approached within the Department of National Defence was willing to answer.

109. Interview with USCG official, Washington, April 23, 1990.

110. Fred Crickard, "The Role of Maritime Strategy In Ocean Development and Management," in Canadian Ocean Law and Policy edited by David VanderZwaag (Toronto: Butterworth, 1992), p.533.

111. The problems of naval operations in the Arctic with anything other than an icebreaker or nuclear-powered submarine were made clear in the testimony of Rear Admiral N.D. Brodeur, Deputy Chief of the Defence Staff in his testimony before the Senate Subcommittee on National Defence in 1982. See Canada, Senate, Standing Senate Committee on Foreign Affairs, Proceedings of the Subcommittee on National Defence, March 9, 1982, pp.23:29-30.

112. This was the 7,100 tonne LABRADOR. It was transferred in February of 1958 when the decision was made that the navy would not be responsible for icebreaking duties. Kim Nossal, "Polar Icebreakers: The Politics of Inertia," in The Politics of the NWP, edited by Griffiths, pp.220-221.

113. Canada, Department of National Defence, Defence 1971 (Ottawa: Information Canada, 1972), p.40.

114. Canada, DND, Defence 1978 (Ottawa: Supply and Services, 1979), p.38.

115. Thomas Lynch, "NORPLOY '86." Canada's Navy Annual 1987/88, p.45. Curiously, DND's Defence 1976 states that because of the Olympics, NORPLOY was not held in 1976. It is not clear if the

PROTECTEUR then was in northern waters specially to shadow/locate the Polish vessel, or if it was part of a NORPLOY that the navy does not wish to acknowledge, or if Lynch is incorrect.

116. Canada, DND, Defence 1978, p.38.

117. Interview with DND official, Ottawa, March 12, 1990.

118. Robert Gordon, "Promised Arctic Exercises Run Aground - Budget," Halifax Chronicle Herald March 4, 1986.

119. Canada, DND, "Letter," from John Anderson ADM (Policy) DND, to Len Legault, Legal Advisor, External Affairs, August 6, 1985.

120. Gordon, "Promised Arctic Exercises Run Aground."

121. *Ibid.*

122. Phone Interview with Commodore John Harwood (ret.) May 31, 1993.

123. "Navy Prepares for Arctic Operation", Halifax Chronicle Herald August 6, 1986.

124. Crickard, "Role of Maritime Strategy."

125. "Navy Prepares for Arctic Operations."

126. Crickard, "Role of Maritime Strategy"; and Lt. Commander Malcolm Palmer, "NORPLOY 89," Canada's Navy Annual Issue 5 (1990/91).

127. In order for the International Court of Justice to hear a case, both parties to the dispute must agree to bring the issue to the court. The Canadian reservation was limited to environmental issues. In other words, had the US wanted to go to court over any other aspect of the Arctic dispute, Canada would have agreed to do so.

128. Interviews with External Affairs officials, Ottawa, August 1989.

129. "Documentation Concerning Canadian Legislation on Arctic Pollution and Territorial Sea and Fishing Zones", in International Legal Materials 9 (1970), p.599.

130. *Ibid.*

131. "Canada: Acceptance of I.C.J. Compulsory Jurisdiction with Regards to Disputes Arising Out of Jurisdictional Claims", in International Legal Materials 24 part 2 (1985), pp.1729-30.

132. For an examination of the act made by several of the officials involved in its drafting see the following: Allan Gotlieb and Dalfen, "National Jurisdiction and International Jurisdiction and International Responsibility: New Canadian Approaches to International Law," American Journal of International Law 67 (1973); and Len Legault, "The Freedom of the Seas: A License to Pollute?" University of Toronto Law Journal 211 (1971).

133. For a good explanation of the reservation see: Ronald St. J. MacDonald, "The New Canadian Declaration of Acceptance of the Compulsory Jurisdiction of the International Court of Justice," Canadian Yearbook of International Law 8 (1970).

134. Kirton and Munton, "The Manhattan Voyages," pp.88-90.

135. *Ibid.*, p.88.

136. *Ibid.*, p.90.

137. LOS Convention, Article 234, p.84.

138. *Ibid.*, Articles 55-75, pp.18-27.

139. Don McRae and D.J. Goundrey, "Environmental Jurisdiction in Arctic Waters: The Extent of Article 234," University of British Columbia Law Review 16 (1982); B.G. Buzan, "Negotiating by Consensus: Developments in Technique at the United Nations Conference on the Law of the Sea," American Journal of International Law 75 (1981); and Don M. McRae, "The Negotiations of Article 234," in Griffiths ed. Politics of the Northwest Passage. Of these, the last is the best examination of how the Canadian position was formulated and then negotiated.

140. McRae, "The Negotiations of Article 234," p.107. For the most extensive examination of the working of the Interdepartmental Committee see: Elizabeth Riddell-Dixon, Canada and the International Seabed: Domestic Interests and External Constraints (Kingston, Montreal: McGill-Queen's University Press, 1989).

141. LOS Convention, Article 234, p.84.

142. Interview with Barry Mawhinney, External Affairs, Ottawa, April 30, 1993.

143. Interview with Len Legault, External Affairs, Washington, April 24, 1990.

144. Kirton and Munton, "The Manhattan Voyages," p.83.

145. Interviews with External Affairs officials.

146. Joe O'Donnell, "Ottawa Experts Split Over Claim to Arctic Seas," Toronto Star August 12, 1985.
147. Bertrand Marotte, "Icebreaker Leaves Canadian Waters," Globe and Mail August 12, 1985.
148. CTV National News, August 2, 1985.
149. CTV, Canada AM, August 12, 1985.
150. "Sovereignty Issue Won't Go to World Court, Clark Says," Globe and Mail August 22, 1985.
151. "PM's Stand on Arctic Toughest Yet," Globe and Mail August 23, 1985.
152. "U.S. Proposes Further Talks on Arctic Claims," Ottawa Citizen September 12, 1985.
153. Interviews with American State Department officials, Washington, April 1990; and USCG officials, Washington, April 1990.
154. Interview with External Affairs official, Washington, April 24, 1990.
155. Another factor that may have a bearing on the Canadian position was the fact that at that time, the US was publicly distancing itself from the ICJ. It must be remembered that in 1985 the U.S. was involved with the Nicaraguan efforts to take the U.S. to the ICJ over the issue of the mining of its harbours. Because of this case, the U.S. served notice on October 7, 1985 that it would no longer accept the ICJ Compulsory Jurisdiction. As such, it is difficult to see the U.S. at that point in time, rushing in to utilize the Court against Canada. See "Department of State Letter and Statement Concerning Termination of Acceptance of I.C.J. Compulsory Jurisdiction, Oct. 7, 1985" in International Legal Materials 24 (1985), p.1742. For a good review of some of the broader implications of this withdrawal see: Highet, "Litigations and Implications of the U.S. Withdrawal from the Nicaragua Case," American Journal of International Law 79 (1985).

CHAPTER VI

THE SEPTEMBER 10 POLICY STATEMENT

PART II: THE POLAR 8 AND THE ARCTIC COOPERATION AGREEMENT

INTRODUCTION

This chapter will continue the examination of the last two of the six policy initiatives. Of the six policies that were announced, the decisions to build a Polar 8 class icebreaker and to conduct negotiations with the United States, represented the most significant components of the policy positions. This is not to suggest that the other four policy initiatives were insignificant. Rather, the decision-making chains involved in the last two initiatives required the greatest efforts in terms of both manpower and financial expenditure.

Neither decision led to the outcomes that the Canadian decision-makers had hoped for. Nevertheless, the development of these decisions illustrates the important dynamics of the foreign policy-making process.

SECTION I

CONSTRUCTION OF A POLAR 8 CLASS ICEBREAKER

Of the six policies decided upon, the proposed construction of the Polar Class icebreaker was the policy most heavily debated by the Canadian Government.¹ All interviewed sources

acknowledged that the inclusion of a decision with an expected price tag of over \$500 million was agreed upon only after extensive debate.²

THE HISTORICAL DEVELOPMENT OF THE DECISION TO BUILD A POLAR 8 CLASS ICEBREAKER

As in the cases of the four preceding policy initiatives, its genesis can be traced back to the early 1970s and possibly even earlier as shown by Figure 6-1. Similar to the case of the ICJ decision and straight baselines, the two driving forces in the early stages of the icebreaker decision were the voyage of the MANHATTAN and the possibility of resource development in the north.³ The decision to build a large icebreaker had been considered by the Canadian Government as early as 1958, but received renewed focus following the voyage of the MANHATTAN through the Northwest Passage.⁴ Official pronouncements are found in the 1971 proceedings of the House of Commons Standing Committee on Indian Affairs and Northern Development, which examined Arctic icebreaker service.⁵ However, no action was taken until the mid-1970s when Cabinet approved funding for the design phase of a Polar class 7 icebreaker.⁶ But as one analyst has shown, Cabinet spent the next ten years vacillating in its decisions.⁷ The overall result is that no firm decision had been made by 1985.

Following the MANHATTAN's voyages, the Standing Committee held a series of hearings in 1971 on the issue of Canadian icebreaker service in the Arctic. Special attention was given to the question of whether or not Canada should build a Polar-type icebreaker that could operate in all areas of the Arctic for twelve months of the year.⁸ The Committee concluded that,

On the basis of the evidence presented, your committee is of the opinion that the Government must prepare for construction of at least one Polar icebreaker, superior to any ship now afloat in the world. Your Committee anticipates that such a vessel will be necessary to protect the Arctic against intolerable ecologic damage, to assist in the economic development of the North and possibly to maintain Canadian sovereignty in the North.⁹

The Committee determined that while it was not imperative to begin immediate construction, a decision to proceed needed to be made soon. However, the report warned that the need for the icebreaker could increase drastically if substantial deposits of oil were found in and around the Arctic islands. The government would then be compelled to begin immediate construction. Therefore, the Committee's main concern was that Canada possess the capability to oversee any large-scale resource development in the Arctic archipelago. A specific concern was having the ability to enforce pollution regulations in all regions of the archipelago.¹⁰

Somewhat presciently, the Committee also warned of the implications of current American icebreaker construction. After hearing from American Coast Guard officials about the

progress of their new construction programme of two polar icebreakers, the Committee noted,

...the government of the United States of America plans construction of an icebreaker of about 50,000 horsepower. This is less than the capacity needed for year round operation in the Arctic, but such a ship could penetrate Canadian waters in winter conditions which would leave our own fleet immobilized in southern ports.

5. It is the Committee's view that the capability of foreign ships to operate in our Arctic at a time when we were incapable of such operations would not necessarily constitute a threat to Canadian sovereignty. However, it could. Canada could not safely abandon, for any long period, a physical presence on our longest coastline.¹¹

The POLAR SEA is one of the two Polar Class icebreakers that is referred to. It is doubtful that the Committee realized how prophetic it had been.

Several of the individuals present at the Committee hearings were to remain connected with the icebreaker project into the 1980s. Officials from three companies made presentations: German and Milne, Naval architects, Montreal; Alexbow Limited, Ottawa; and OY Wartsila AB, Helsinki Shipyards, Finland.¹² Of the three, officials from both German and Milne, and Wartsila maintained their involvement in the icebreaker project until shortly after Joe Clark's announcement.

In addition, the Committee heard testimony regarding the Canadian Arctic from Alan Beesley, who was then legal advisor, Director General, Bureau of Legal and Consular Affairs.¹³

Beesley was later to be named head of the Canadian delegation to the Third Law of the Sea Conference. This examination has mentioned the link between the negotiations of article 234 and the lifting of the reservation against the ICJ on the issue of the AWPPA, in which Beesley played a pivotal role.

In mid-1974, Cabinet approved funding for the design contract of the Polar 7 class icebreaker with the Canadian firm, German and Milne. But:

Cabinet indicated that final authority to construct the new ship would not be considered until there was a firm indication that commercial Arctic development required year-round marine transportation- indicating the emphasis on commercial as opposed to the sovereignty issue.¹⁴

However, the government made available only \$500,000 for the contract, suggesting limited support.¹⁵

The 1974 election campaign foreshadowed the manner in which future governments would handle construction plans for the Polar 8. The media reported that the Liberals made a campaign promise that if elected, they would build a vessel that would combine the qualities of both a polar icebreaker and an ice-capable cargo vessel.¹⁶ The timing of the announcement was indicative of future actions.¹⁷ The announcement was made during an election period and the Department of Transport demonstrated little enthusiasm for it.¹⁸

Following the Liberal Government's re-election, all

suggestions of the dual purpose vessel disappeared. This serves to question the Liberal Government's motives and intentions when they first suggested it in the campaign. In 1975, the government returned to the original idea of Polar class icebreakers. Cabinet gave approval for German and Milne Ltd. of Montreal to "conduct a feasibility study of a larger, class 10 icebreaker."¹⁹ But in 1976, Cabinet was persuaded that the icebreaker should be a hybrid system of gas turbines powered by nuclear reactors.²⁰ Therefore, in March 1978, "[a] \$6 million design project for the hybrid was announced."²¹

In January 1979, the Treasury Board approved funding for the program.²² This allowed the Department of Supply and Services to request, on July 27 1979, potential contractors with expertise in nuclear maritime propulsion systems to submit proposals.²³ Following this request, several companies expressed interest by fall 1980. However, all except a French company pulled out of the negotiations for various reasons.

This process slowed following exchanges between the Treasury Board and Transport Canada. It was "deemed advisable by Transport Canada to submit to the Cabinet Committee on Economic Development", a re-evaluation of options for Arctic icebreaking.²⁴ In other words, the Treasury Board had concerns about the possible costs of the project and wanted Cabinet to re-consider it.

Following the Treasury Board's request, Transport officials made a presentation to Cabinet in October 1980, in which 4 options were presented:

Alternative 1: Continue design of nuclear hybrid class X icebreaker to meet long term icebreaking needs by accepting the Alsthom-Canatom proposal [the French proposal], and proceed with the construction of a conventionally powered Arctic class VIII icebreaker.²⁵

Alternative 2: Abandon current nuclear design program; finalize the design and proceed to construct the medium endurance class VIII icebreaker to meet the needs commencing in the near term.²⁶

Alternative 3: Abandon current nuclear design program and proceed with a shared program with industry to design and construct a medium endurance, conventionally powered icebreaker(s) to meet icebreaking needs commencing in the near term.²⁷

Alternative 4. Abandon existing Polar icebreaker program and do not build a Polar class icebreaker.²⁸

The report warns of long term problems regarding three options in terms of protecting Canadian northern sovereignty and the ability to enforce regulations in the Arctic if alternative 3 or 4 was selected. Although the bulk of the document was written in relatively neutral language, options 1 and 2 emerged as the preferred choices.

In April 1981, Cabinet decided to abandon the Polar 10 due to potential problems that could be created by the nuclear power source, as well as the cost.²⁹ Approval was then given to the firm of German and Milne to proceed with only the design phase

for a Polar 8.³⁰ The hull design was essentially an expansion of their previous design for Polar 7. But by December 1982, no decision had been made as to the propulsion system. The choice was between a diesel-gas turbine, variable-speed electric system with fixed pitch propeller, or an all-diesel, constant-speed mechanical system with a controllable pitch propeller.³¹

Ian Leslie, the head of the icebreaker project, reported in December 1982, that he expected Cabinet to make a decision by spring, 1983.³² In 1983, a "funded bid" phase for the Polar 8 was approved in which \$1.3 million was allocated to three shipyards in order for them to prepare bids for the project.³³ The bids were to be paid for by the government because Cabinet had not yet approved a construction phase and stated that such a decision was still uncertain. Under such circumstances, few companies were willing to engage in the expensive process of preparing their bids. Thus, the government will cover their costs. In a letter to a constituent, Jean-Jacques Blais, then Defence Minister, explained that the government was planning to build the Polar 8. As such, the government allocated the planning task to an interdepartmental Polar 8 icebreaking committee. However, Blais explained that due to the recent reduction in oil explorations in the north, and the subsequent decrease of commercial and transport activity there, it would not be financially responsible for the government to approve the actual building of the icebreaker at that time.³⁴

By July of 1984, the decision had been made that the vessel would be powered by an electrically driven fixed-pitch three propeller propulsion system.³⁵ William McCloy, who had become the project manager of the Polar 8 programme, stated that he expected the three yards (Burrard Yarrows Corp. of Vancouver; Davie Shipbuilding Ltd. of Lauzon Quebec; and Saint John Shipbuilding and Dry Dock Co. Ltd. of Saint John) interested in building the icebreaker to soon submit their official bids.³⁶ Carol Stephenson, northern director of the Canadian Coast Guard, stated that members of the project were instructed to hold off sending the proposal to begin construction until "there is a significant demand for the ship as an escort for the year round transport of hydrocarbons in the Arctic by freighter."³⁷

As McCloy expected, the three bids were submitted in March, 1985.³⁸ Media reports suggested that over 1 1/2 tonnes of materials were submitted.³⁹ In interviews, Coast Guard officials indicated that they were quite confident at that point that the process was proceeding as planned, and would soon gain approval for the construction phase.⁴⁰ However, all predictions were irrelevant when the POLAR SEA entered the Northwest Passage in August, 1985.

THE DECISION TO INCLUDE THE CONSTRUCTION OF THE POLAR 8 CLASS
ICEBREAKER IN THE SEPTEMBER 10 STATEMENT

Sources indicated that officials within the Department of Transport viewed the meetings concerning the government's policy following the voyage of the POLAR SEA in August 1985, as an expedient time to seek permission to reach the construction stage of the Polar Class 8 icebreaker.⁴¹ At that point, Cabinet had only given permission for the Coast Guard to collect and evaluate bids for the building of the Polar 8 and had not yet agreed to the construction phase.

As discussed earlier, officials with Joe Clark's office recall that the initiative to build the Polar 8 provoked the greatest debate among all six policy initiatives promised by Clark in his September 10 speech.⁴² The main concern about this initiative centred on the costs that would be involved in building the icebreaker. Other officials within External Affairs have agreed with this assessment, one stating that the main question facing the External Affairs Policy Planning Staff was whether or not to include the icebreaker.⁴³ Len Legault has also stated that the main issue of concern was the estimated cost of the icebreaker.⁴⁴ Yet, as one senior official reported, the decision to include the icebreaker resulted in part to Legault's support of the project.⁴⁵

The main opposition to the icebreaker initially came from

officials in the Department of National Defence. Their main concerns were that the costs of the vessel would very quickly exceed the estimates of \$350-\$500 million.⁴⁶ DND officials feared that such a large expenditure could result in cutbacks to the resources allocated to the naval modernization program which was being planned at the time.⁴⁷ Defence officials were also concerned that the project would result in a vessel that was unable to respond to the threat of submarine intruders in the north.⁴⁸

Robert Fowler, Assistant Deputy Minister (Policy) DND, expressed this concern while testifying before the House of Common Standing Committee on National Defence. When Alex Kindy, an independent MP from Alberta, asked him which would be better to protect Canadian sovereignty, submarines or an icebreaker, Fowler responded,

I think you are asking for an answer that is getting pretty close to personal opinion as opposed to fact. I would stress that all our remarks relate to the value to Canada of nuclear submarines for under-the-ice operations, but also, indeed, for naval operations in all other areas of Canadian interest, the advantages of those vessels are enormous in terms of protecting the security of Canadians. *An icebreaker does not protect the security of Canadians.*⁴⁹ (emphasis added)

Perhaps indicative of the friction between Defence and External on this issue, Derek Burney, then Associate Under-Secretary of State for External Affairs, immediately felt compelled to follow this statement by pointing out that,

Mr. Chairman, if I could add, I think I am obliged

to say that the government has announced its intention to build an icebreaker. The government has not yet announced its intentions with respect to a new fleet of submarines.⁵⁰

Without trying to read too much into this exchange, it seems safe to suggest that there was some disagreement over the proper use of an icebreaker within the context of a fiscally restrained government.

Media reports also suggested that both the Minister of National Defence, Erik Nielsen, and Associate Minister of National Defence, Harvie Andre, were opposed to the icebreaker. Reports stated they had concerns that if the project was approved, the funds to build it could come out of their budget.⁵¹

Criticism was levied by Liberal opposition members in the House of Commons following the announcement of the decision. Several stated that the government could find a better use for \$500 million.⁵²

While DND's support for this project is suspect, then Minister of Oceans and Fisheries, John Fraser, supported the icebreaker. In a CTV National News story on August 3, 1985, Fraser stated that Canada would build a large icebreaker.⁵³

The idea of an icebreaker also received support from Jean-

Jacques Blais who had been the Liberal Defence Minister in the preceding Liberal Government. In a letter to the editor of the Globe and Mail on August 7, 1985, he stated that his government had approved funding for the design and engineering specifications of the icebreaker. Blais went on to suggest that the current government should now consider approving the decision to build it.⁵⁴

Throughout the period of the POLAR SEA's voyage, Tom Pullen continually pressed the government to build the icebreaker. Recognized as one of Canada's foremost experts on navigation in the north, Pullen, who had been the Canadian Coast Guard's ice pilot on the MANHATTAN, had always been a strong supporter of the Polar 8 project (and for that matter the Polar 10 and Polar 7 projects).⁵⁵ In an interview on July 17, 1985, prior to the voyage, Pullen stated his support for the building of a Canadian Polar class icebreaker which he then repeated at the University of Ottawa conference held on July 29.⁵⁶

No official would state the deciding factors that led to the inclusion of the Polar 8 in Clark's September 10 policy announcement. While the Coast Guard, which was the main department involved in preparing and evaluating the proposals to build it (with some shared responsibilities with DND), would have primary responsibility for it, the Minister of External Affairs announced that it was to be built.

Most officials suggested that there was no significance to this. They suggested that since the issue was sparked by an international event, it was the Minister of External Affairs' responsibility to make the statement in the House of Commons. However, regardless of who announced the decision, events would demonstrate that this was not the end of the decision-making process. However, a senior Coast Guard official involved in the icebreaker project stated that the Coast Guard had not been informed prior to the announcement that the Polar 8 would be included in Clark's September 10 speech.⁵⁷

IMPACT OF THE DECISION

AMERICAN REACTION:

Although Americans officials were sceptical, they were nevertheless positive about the announcement of the building of the icebreaker.⁵⁸ Most had expressed their doubts that it would ever be built. However, if it were built, it would have been viewed as a useful unit to assist in United States-Canada cooperative ventures in both the Arctic and Antarctica. While Canadian officials did not suggest that the Polar 8 would be used in Antarctica, several American officials expressed the hope that it could be used there to assist the United States in its scientific research program.

The United States Coast Guard officials had looked forward to the building of the Polar 8 because of the close cooperation

between them and the Canadian service. They expressed the view that an expansion of either the American or Canadian icebreaker fleet was beneficial to both.⁵⁹

CANADIAN SHIPBUILDER REACTION:

The decision-making process for the decision to build the Polar 8 unleashed a series of events that support the need to examine the actions of all actors in the decision-making process.⁶⁰

Following the September 10 announcement that the Polar 8 was to be built, three design companies immediately attempted to involve themselves in the process. In October, the three companies -- Dome-Canmar; Arctic Transportation Limited, Cleaver Walkingshaw (Calgary); and Wartsila Arctic Inc. (a Canadian firm with offices in Vancouver but a subsidiary of Wartsila International of Helsinki) -- submitted design proposals of a conceptual nature (not completed designs), stating that they could meet Coast Guard needs with an icebreaker cheaper than the one designed by German and Milne.⁶¹ The design process cost \$7 million which, in comparison to the costs of actually building the vessel, was quite small. This contract had important technology transfer implications, as well as important financial rewards for the company that won it.⁶²

A question left to be answered is why all three firms submitted their bids at the same time. No one would/could explain if this was a coincidence; if the three cooperated together; if someone within government had contacted the three companies at the same time; or if once one had submitted, the other two companies immediately submitted their bids. All that is known is that all three bids came October soon after the September 10 announcement.

All three new designs promised to build the icebreaker at a substantially lower cost, ranging from savings of between 25 per cent to 40 per cent of the estimated \$500 million.⁶³ An independent commission made up of both government officials and individuals from the private sector was established in November to assess the bids. Headed by Angus Bruneau, one time vice-president of Memorial University, it was given the mandate to provide a preliminary evaluation of the new bids.⁶⁴ During its period of assessment, all other work on the Polar 8 project was temporarily halted.

The committee took a little over six weeks to conduct its study.⁶⁵ It determined that the two Calgary-based designs could each be built for about \$230 million in 33 months. The Wartsila design could also be built in approximately the same time, but would cost about \$350 million.⁶⁶ More significantly, this commission found that the designs of all

three companies would provide a substantially faster built and cheaper icebreaker (\$150-270 million) than the German and Milne design.

However, the committee's findings were not without criticism. John Stubbs, vice-president of Wartsila Arctic Inc. of Vancouver, suggested that the committee had erred in its assessment of the cost differences between the three design proposals. In addition, Stubbs accused some members of the committee of having a conflict of interest.⁶⁷ In particular, he questioned the impartiality of Vancouver engineer and naval architect Peter Hatfield, who had connections to Canmar, one of the other companies submitting a design. Stubbs also made reference to the fact that another member of the Commission, Ian Glen, President of Arctec Canada Ltd. of Ottawa, had previously written that he was opposed to foreign ship-building companies setting up subsidiaries in Canada.⁶⁸

Despite the higher costs of the Wartsila design, the Coast Guard quietly preferred it to the other two new proposals. In January 1987, Ran Quail suggested that the Calgary design would create a good ship, but hinted that the Wartsila design was better for the multi-missions that the Polar 8 was intended to undertake, specifically the moving in and out of ice tracks.⁶⁹ William McCloy, programme manager, also expressed a preference to the Wartsila design, stating that

their design best meet the requirements of the Coast Guard.⁷⁰

However, the Wartsila bid faced serious problems from another source. The media reported that there was concern that the design contract would go to a "foreign designer". Not surprisingly, the strongest protests came from Calgary-based MPs, Calgary Mayor Ralph Klein and the Calgary Economic Authority.⁷¹ There were also widespread reports in the western media that the government's preference for the Wartsila design was related to the fact that Wartsila's Canadian subsidiary had formed a business partnership with the Montreal design firm of Lavalin Inc.⁷² The implication was that the federal government was again favouring Quebec-based companies over those in the West.

The decision-making process for the building of the icebreaker, which had never been quick to begin with, began to slow down even more. It is doubtful that this was caused by a lack of study on the issue. The Bruneau Commission had presented its findings by the beginning of 1986. In addition, the Coast Guard had undertaken an exhaustive examination of the project. By 1986, the eight members of the Polar Icebreaker Project had laboured more than 15 years on the icebreaker project.⁷³ The same report indicated that between 1978 and 1986, the exercise had already cost the government \$4,780,131.⁷⁴

Yet despite all of this study, the government had still not decided on a design and builder. In March 1986, responding to a question in the House of Commons, Transport Minister Don Mazankowski announced that he and the Associate Minister of Defence, Harvie Andre, were mandated to bring the recommendation of an interdepartmental icebreaker committee before Cabinet within the next month.⁷⁵ In April, following another question in the House of Commons about their progress, Andre reported that,

It is a government challenge, but you have identified two of the three departments. Certainly Transport and Defence were mandated to provide Cabinet with recommendations respecting the class 8 ice-breaker, and a group of officials have been working to this. They have come forward with some preliminary recommendations. I expect within a few days to be looking at, in essence, a second set of recommendations - that is, as a Cabinet Committee - and hopefully in the not-too-distant future we will be able to announce our plans.⁷⁶

Nothing further is mentioned until October, when various British Columbian MPs lobbied for the project to be built in Vancouver yards.

On January 3, 1987, Deputy Prime Minister Don Mazankowski, who was in Vancouver to attend a launching of the icebreaker, Henry Larsen, announced that the selection of the builder of the Polar 8 was imminent.⁷⁷ The President of Versatile Inc. of Vancouver was reported as stating that sources had informed him that his company had been selected. Only the existing financial difficulties of its parent company, Versatile

Corporation, had delayed the announcement.⁷⁸

A government briefing note dated January 19, 1987 confirms that Versatile was the favoured bid: "VPSI were low bidders on the Coast Guard's original Arctic Class 8 design and are the logical candidate for the shipyard construction work."⁷⁹

However, the note goes on to state that,

Wartsila Arctic Inc., of Vancouver, B.C. is a subsidiary of a Finnish Company. As designer, they will be expected to provide the requisite technical personnel in Canada during the Contract Definition phase. The necessary vessel testing and special design studies shall be carried out in Canada using national expertise and testing facilities. the total cost of the project is estimated to be approximately 565.6 million (current dollars) of which 1-2 percent would be for redesign.⁸⁰

While the Versatile shipyard was to build the icebreaker, Wartsila was favoured to be the designer. However, Versatile did get the contract, while Wartsila did not.

SELECTION OF VERSATILE AS BUILDER:

The decision to award the contract to build the Polar 8 to Versatile's Vancouver yards was announced by Joe Clark in the House of Commons on March 1, 1987.⁸¹ Federal Transport Minister, John Crosbie, and International Trade Minister, Pat Carney, made the announcement in Vancouver at the same time.⁸² According to Carol Stephenson, Northern Director Coast Guard, the low bid from VPSI was "a happy confluence of dollars and aims". The west coast yard "was kind of due for the next major contract."⁸³

While the announcement that Versatile had been awarded the contract was expected, the fact that the designer was not Wartsila was a surprise. Instead, the government stipulated that VPSI would choose a designer and "all other contractual relationships and details remain to be negotiated with the designer and builder."⁸⁴

However, the agreement required VPSI to post performance bonds for both labour and materials.⁸⁵ Because of its debt problems, the company had to provide these bonds as a form of insurance in the event it encountered major economic difficulties during the building of the icebreaker. There are indications (which cannot be confirmed) that the federal government also "suggested or strongly recommended" that a Canadian consortium be formed for the design phase of the contract.⁸⁶ Versatile did exactly that by forming an "all Canadian" consortium to redesign the vessel. As stated earlier, the design process cost only \$7-8 million but had important technology transfer implications.⁸⁷

At this point, it becomes difficult to track the decision-making process due to the fluid nature of the Canadian ship design business. Throughout this stage of the project, the companies and individuals involved formed and reformed alliances several times. This began in May 1987, when Versatile Pacific formed a partnership with a consortium,

called the Polar Icebreaker Canadian Design Group. It was headed by Sandwell Wooster Inc., and included Cleaver and Walkingshaw Ltd. of Vancouver, Peter S. Hatfield Ltd. of Vancouver, and Marine Drilling Ltd. of Calgary.⁸⁸ This group was selected over another consortium, Western Shipyard Limited that was headed by Fenco Lavalin Corp. and included Wartsila Arctic Inc.. David Alsop, president of Versatile, explained that the Canadian group was selected over the Western Shipyard group because they allowed Versatile to remain in charge of the design process.

They will allow us to control the project and use it as a vehicle for rebuilding our financial position. The Western Shipyard offer was really a buyout. They would have controlled the project and that was not acceptable to us.⁸⁹

Their final design was said to be similar to the Wartsila design, but because the bids are confidential, this cannot be confirmed.

In August 1987, Cabinet once again gave approval to the Versatile-led consortium to proceed with the design phase of the project.⁹⁰ The federal government stated that it had accepted Versatile's restructuring plan and had signed a letter of intent for the \$8 million design contract.⁹¹ The government also announced that it was providing Versatile with an assistance package of \$37 million. Of this, an \$18 million grant was to assist the company's modernization of its Victoria and Vancouver yards; \$13 million came in the form of

the forgiveness of a loan (for a loan provided in March 1987 to assist the company when it experienced cash flow problems as it completed the icebreaker Henry Larsen); and the remaining \$6 million was a loan to help the company during the design phase.

There is little doubt that geographic considerations played a pivotal, and possibly determining, role in this decision. This was caused by the Conservative Government's need to appear to be "fair" to all regions. In October 1986, the federal government awarded the CF-18 engineering contract to Canadair Ltd. of Montreal, despite a cheaper and technically superior bid by Bristol Aerospace.⁹² Media sources in the west and English Canada had criticized the government for that decision. Many critics presented it as proof that the government was too pro-Quebec, and that the province was receiving preferential treatment. Thus, it would have been politically difficult for the government to award the contract to Davie of Lauzon, Quebec. At the same time, Saint John's shipbuilding already had a federal shipbuilding contract to build the new Canadian frigates (which it was required to share with Davie Shipbuilding in Quebec).

There was also considerable lobbying effort undertaken by west coast politicians from all political parties. Premier Bill Vander Zalm argued that the federal government would only

prove its support of the Western Canadian economy by giving the project to Versatile.⁹³ At the same time, both Nelson Riis, a New Democratic Party MP and Allan MacKinnon, a Conservative backbencher MP, repeatedly stated in the House of Commons that it was British Columbia's "turn" to receive a major federal shipbuilding contract.⁹⁴

THE DECISION TO BUILD THE POLAR 8 CLASS ICEBREAKER ON HOLD

Problems continued to plague the project once the decision had been made. Versatile continued to experience financial problems, and the designers determined that they had been overly optimistic in their initial estimates. The ship was going to cost more than the \$350 million they had originally stated.

In May 1988, the Fifth Estate reported that the design team had encountered difficulties with the propulsion unit of the vessel.⁹⁵ In late summer, sources close to the design unit of the project informed the media that if a diesel electric propulsion system was to remain, the ship would cost an additional \$70 to 80 million.⁹⁶ In other words, the design consortium now estimated that it was to cost \$430 million. Michael Turner, the deputy commissioner of the Coast Guard, confirmed that the contractors were having difficulties staying within the agreed budget. However, Alan Pyatt, President of Sandwell Swan Wooster, the leading partner of the

design consortium, would only say that while his team was completing its design, it still did not have a final price.⁹⁷

The design team completed its work by fall 1988. Both David Alsop and Coast Guard officials stated that the design cost was over the \$350 million ceiling, but they would not say by how much. However, an industry source stated that the estimated cost had skyrocketed to \$527 million.⁹⁸ Recognizing that Cabinet was unlikely to accept such a large increase, Coast Guard officials had agreed to pay Versatile and the design consortium an extra \$1.5 million to prepare a new estimate based on a different, and hopefully cheaper, propulsion system.⁹⁹ A general mechanical drive was proposed rather than the usual diesel-electrical system that allows for quick shifts necessary to ram through thick ice. However, upon completing the new estimate, it was determined that the total cost of the vessel would still be substantially over budget. In addition to all of these problems, it was announced on December 10, 1988, that Versatile's shipyard was for sale.¹⁰⁰

All of these problems proved to be too much for the project. Initially, there was no specific decision to put the project on hold. But the minuscule funding given to the project in the April 1989 budget had the effect of doing exactly that. On April 27, the budget provided the project with only \$1.6 million. Furthermore, \$1.5 million was already earmarked for

the redesign of the propulsion system.¹⁰¹ Following the release of these figures, Carol Stephenson stated, "[w]e have to find a way to keep the project office alive."¹⁰²

This unofficial postponement of the project led to an exchange in the House of Commons on May 8, 1989, between NDP leader, Audrey McLaughlin and Transport Minister, Benoit Bouchard. The Transport Minister reported that there were two problems with the Polar 8 project. He explained,

...there are two issues about which she knows very well. The first is the sale of the shipyard which is being processed at the present time. The other is the problem of the design. A proposal has to be made to the Government, which will be made. It is within what we call the first phase where we look at the shipyard. After that, we will go into the construction phase.¹⁰³

McLaughlin then asked Joe Clark to confirm if, "what is really happening with the Polar 8 decision is that this government is prepared to put our sovereignty in the hands of foreign interests?"¹⁰⁴ Clark stated that this was "absolutely false".¹⁰⁵

One month later in June, Shieldings Inc. of Toronto (a Toronto merchant banking company) bought VPSI. Peter Quinn, then newly appointed head of Versatile Pacific, stated that the company wished to leave the ship-building industry. The company also announced that it wished to close down its North Vancouver shipyard once it had completed the POLAR SEA.¹⁰⁶

CANCELLATION OF DECISION TO BUILD THE POLAR 8 CLASS ICEBREAKER

In 1990, the Environmental Impact Study of the POLAR SEA was released. It had been undertaken by a team consisting of personnel from the Bureau of Management Consulting, the Canadian Coast Guard, LGL Limited, Lutra Associates Ltd., Melville Shipping Ltd., and Norland Science and Engineering Ltd.¹⁰⁷ It found that the impact of the Polar 8 on the environment would be minimal if its voyages were scheduled carefully.

The report's release suggested that the project was proceeding as planned. But on February 19, 1990, the Polar 8 project was cancelled. In his budget speech, federal Minister Michael Wilson cited the increase in costs for the icebreaker program as one of the main reasons for the cancellation of the project.¹⁰⁸ It is reported that the price of the icebreaker had climbed to \$680 million.¹⁰⁹ Wilson also claimed that changes in the international environment highlighted by the U.S.-Canada Arctic Cooperation Agreement (which is to be discussed in the next section), allowed for the cancellation of the Polar project.¹¹⁰

On March 13, Joe Clark gave a similar response in the House when John Brewin asked him if the government would reconsider its decision on the Polar 8. Clark stated that,

...the decision to act as we did in the budget with respect to the Polar 8 ice-breaker was one which

was reached after great difficulty by the Government of Canada. We looked at a number of factors. One of those factors, of course, was that there had been a very substantial escalation in the cost estimates of the Polar 8. I see the hon. member shaking his head as if he dismisses those realities. That was a factor of which we had to take account.

Second, there are a range of other devices available to us in our north that can help us assert and assure Canadian sovereignty.

Finally, as the honourable member will know that in the period since the decision was announced to go forward with the Polar 8 there has been a very important agreement between Canada and the United States by which the United States is required and has indicated that it accepts, the requirement to seek the prior consent of Canada before any of its vessels traverse the Northwest Passage.¹¹¹

Thus, the government's view was that fiscal restraint and the Arctic Cooperation Agreement made the Polar 8 impossible and unnecessary by 1990.

THE CONSTRUCTION OF THE POLAR 8 CLASS ICEBREAKER AND THE DECISION-MAKING MODEL

The decision-making model allows for several observations about the following: the identification of the decision-makers; the target of the decision-makers; the cost of the decision; the genesis of the decision; and the eventual fate of the decision.

Decision-Makers: This particular decision involved the clearest delineation between the decision-makers and the decision-implementors. The officials directly responsible for

the development of the project were from the Coast Guard. However, officials from External Affairs appeared to be the most influential in its inclusion in the September 10 policy statement. The identity of the officials who opposed the inclusion of this decision in the statement is unclear. Although it cannot be confirmed, some sources indicate that it was primarily officials from the Department of National Defence and Finance who opposed the building of the icebreaker. If this information was known, it could provide important insights into how bureaucratic bodies compete with each other. Unfortunately, all that is known is that there was opposition from some officials.

Of the six decisions, this was the only one that required non-governmental participants in order to be implemented. The expertise and skills required to design and construct a vessel as advanced as the Polar 8 class icebreaker exceeded the capabilities of the government. The process of selecting the specific designer and builder proved to be so difficult for the government that, to a large degree, it proved to be largely responsible for the ultimate failure of constructing the icebreaker.

This decision also attracted the largest numbers of individuals who wanted to influence the government selection for designer and builder. For example, western provincial

level decision-makers attempted to exert as much pressure as possible on the government to ensure that a western designer and builder was selected. Likewise, officials from the various companies also competed directly for the contracts.

Target: The direct targets of the decision were the United States, critics of the government and those who would utilize the services of the icebreaker, once it was completed. What is interesting is the shift in priorities that occurred between these targets. Until 1985, the main purpose for building the icebreaker was to support northern transportation in the Arctic. However, once the POLAR SEA voyage occurred, the government's main objective was to provide a means of protecting the Canadian claim and to demonstrate its willingness to expend substantial resources on such actions.

The indirect targets of the decision would have been the northern coastal inhabitants, the ship design company and the shipbuilders. It is interesting to note how the regional development aspect of the building of the vessel came to dominate much of the debate on its proposed construction. These shifts indicate how easily the target of the decision can change.

Cost: This was by far the most expensive decision of the six presented in the September 10 policy statement. While the

actual price of building the icebreaker was never completely established, the various estimated cost figures range between \$230-630 million. In addition to the cost of construction, there would then be the additional, yearly costs involved in the operation of the vessel.

Genesis: Once again, the initial consideration for this decision can be traced back to the early 1970s following the voyage of the MANHATTAN. As shown in this section, considerable effort went into the development of this project from its beginning and cancellation in 1990.

Fate: The project was placed on hold in 1989 and cancelled in 1990.

SUMMARY

Upon examining the decision to build the Polar Class 8 icebreaker, several familiar themes emerge. First, the decision was really a decision to implement a project whose genesis began at least 10 years earlier. The government had been attempting to decide which type of icebreaker to build since the mid-1970s, and the voyage of the POLAR SEA served as an impetus to its (seemingly) final adoption. Secondly, although the Department of Transport was the lead agency in the building of the icebreaker, it was the support of the Department of External Affairs which made the acceptance of

this decision possible.

There are three significant differences that separate this policy initiative from the other five. First, a substantial financial commitment was required on the part of the government in order to be implemented; second, it could not be successfully implemented by governmental actors alone; and third, it involved the largest numbers of actors.

This was the only initiative that came with a high price tag for **new** spending. Some of the other initiatives had continuing costs. The northern overflights and northern naval activity are not cheap activities, but they were already established in DND's budgets. The four other policy initiatives had costs only in terms of the work hours required to develop them. The icebreaker was priced at anywhere between \$230 million to \$680 million, and this was only the cost of building the vessel. Once built, it would have to be manned and supplied requiring an additional yearly expenditure. Therefore, it is not surprising that other decision-makers, particularly those in DND, were worried about its impact on their budgets.

Unlike the other initiatives, the government could not implement this one by itself. Once the decision to build the vessel was taken, a builder capable of designing and constructing the vessel had to be found. Such expertise was

beyond the scope of the government. Therefore, if the project was to be successfully completed, the government had to delegate it to an organization that was capable of doing so. Such delegation would make it difficult to ensure the project's successful completion because of factors beyond the control of government actors. In this case, the government undertook major efforts to ensure that the yard (Versatile Pacific) it had selected to build the vessel, would be able to do so. These efforts included substantial grants and loans. Despite this assistance, Versatile Pacific was unable to successfully overcome its financial difficulties, which was one of the main reasons the project was eventually cancelled.

This project also involved the largest number of actors. From the moment that the icebreaker decision was announced, non-government actors began to undertake efforts to influence the process. This began with the three, unsolicited re-designs of the original icebreaker plans, and continued with the efforts of local politicians to influence the location of the building and design of the project.

There were two main results of these efforts. First, they substantially delayed the project. Each time a new group attempted to involve itself, Cabinet responded by delaying the process. Over time, these delays were extensive enough that the sense of urgency that had surrounded the September 10

announcement to build the vessel had dissipated. As time progressed, the project's objective also shifted from one that was presented as a means of protecting the Canadian Arctic to one of regional development. When the government made deficit reduction a priority, new and expensive regional development programmes were the first to be eliminated.

SECTION II

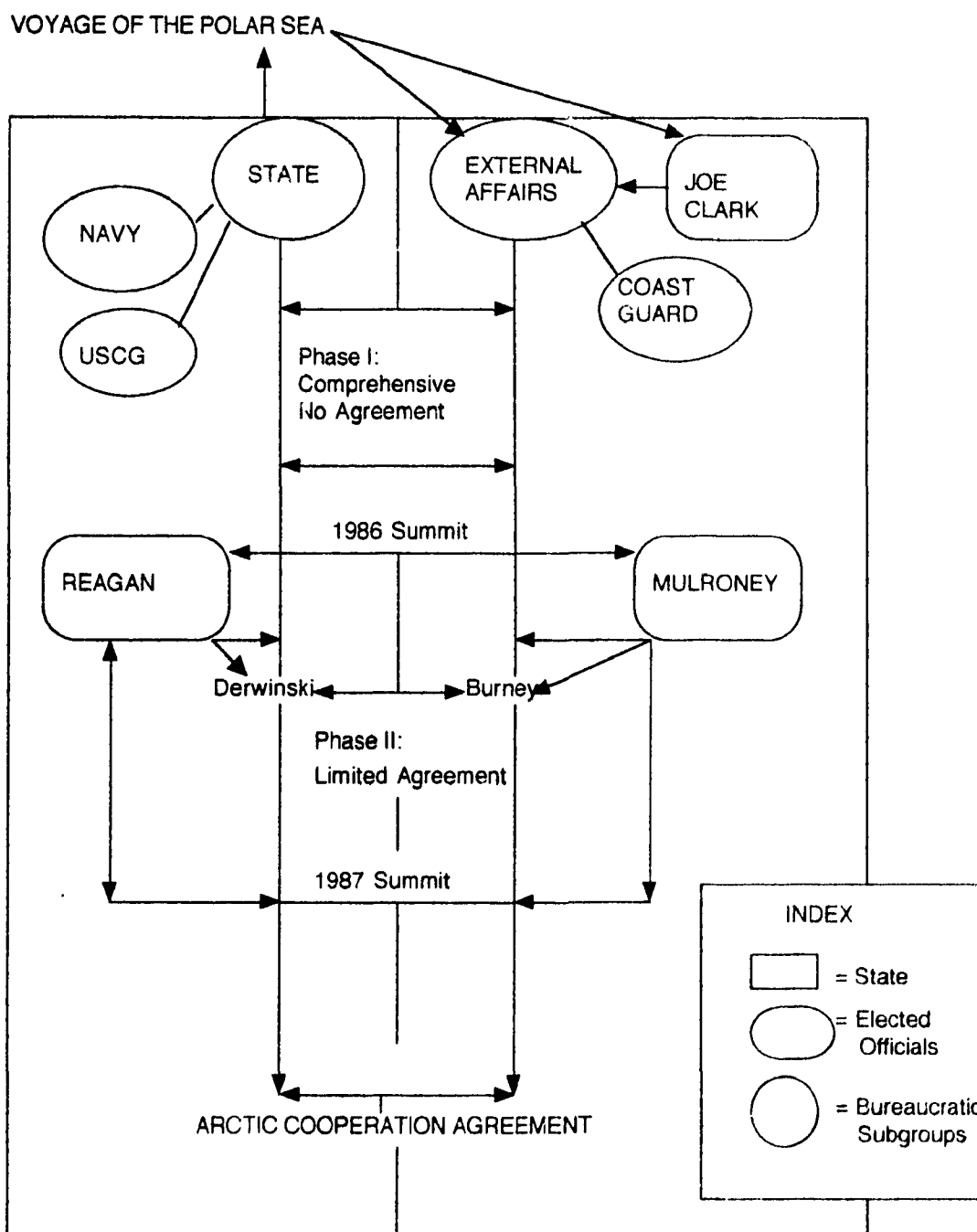
NEGOTIATIONS WITH THE UNITED STATES ON COOPERATION IN ARCTIC WATERS

The initiation of negotiations with the American Government was the only decision among the six policy initiatives that was made specifically as a result of the 1985 voyage. Prior to the voyage, no discussions had taken place between the two governments regarding navigational cooperation in the north, as seen in Figure 6-2.¹¹²

THE INITIAL CANADIAN POSITION

In interviews, External Affairs officials have stated that Joe Clark initiated the idea of entering into direct negotiations with the Americans.¹¹³ Officials from the Legal Bureau of External Affairs were then given the lead role on the Canadian negotiating team on the basis of their expertise in negotiations with the United States, as well as their knowledge of the issues of Arctic sovereignty.¹¹⁴ Len Legault

FIGURE 6-2
NEGOTIATIONS WITH THE UNITED STATES



was given a key position on the team. The delegation also included Barry Mawhinney, Francois Mathys and Howard Strauss. The negotiating team included officials from the Department of Transport and representatives from the Canadian Coast Guard, including Carol Stephenson, Director of Northern Fleet.

There is evidence that Canadian officials believed that an agreement could be reached with the Americans. As discussed earlier, Maclean's published what it claimed was a leaked Cabinet document. The document allegedly focused on policy options that the government could take to further protect Canadian sovereignty. The document was never acknowledged as authentic, and it included an evaluation that the United States would be willing to enter into an agreement. The alleged Cabinet memorandum dated October 10, 1985 was quoted as stating,

The government has declared its policy on the question of sovereignty over the waters of the arctic archipelago. It now remains to give further effect to this policy by proceeding with the design and construction of an arctic (Polar 8) icebreaker which can fulfil the sovereignty mission....assigned to it, instituting other measures for the exercise of effective control over arctic waters and, if possible, negotiating a co-operative arrangement with the United States that recognizes Canadian sovereignty. It should be noted that there have been signs that the United States may be prepared to enter into such an arrangement with Canada. ¹¹⁵ (emphasis added)

If authentic, the document suggests that Canadian officials were hopeful about reaching an agreement.

Interviews with Canadian officials have indicated that even if this was not a true Cabinet document, it still expressed what was in fact overall Canadian objectives. The primary goal was to reach an agreement with the Americans in which they recognized Canadian claims to the Arctic Waters. Failing that, they wanted to gain some "control" of the transit of American Government and commercial vessels.¹¹⁶ In exchange, Canada would then provide assurances for the passage of American vessels in order to meet their security and commercial concerns.

THE INITIAL AMERICAN POSITION

The American officials largely involved in the negotiations were the same as those involved in preparations for the August voyage. As previously explained, the American position was established through the operations of two bodies, the Interagency Arctic Group, which in turn reported to the National Security Council.¹¹⁷ While shifts in the negotiations format render it uncertain, several key individuals can be identified as major actors for the Americans. They include Dick Smith, David Colson of State, Commander Jonathan Waldon for Coast Guard, and Rear-Admiral William Schachte of the Navy.¹¹⁸

Following Clark's speech to the House, the Interagency Group was split on how to react. The members of the Group from the

Department of State were in favour of reaching some form of a compromise with Canada. The specific points on which they were willing to agree is unknown. But in general, most American officials interviewed tended to portray the Department of State's position as accommodating for the sake of general Canada-United States relations.

However, officials from the United States Department of Defence, specifically those from the navy, were concerned about the precedent that may be established through any agreement recognizing Canadian claims. In an interview with the Judge Advocate-General of the United States Navy (USN), it was made clear that while the American navy valued the close relationship with Canada, it could not ignore the fact that an agreement over the Northwest Passage would establish a dangerous international precedent.¹¹⁹ It was also aware of and sensitive to the fact that the Indonesian Ambassador was following the negotiations very closely.

Naval officials also considered the ability of their submarines to transit through the Northwest Passage. Since the voyage of the SEADRAGON in 1960, American submarines have been transiting the Northwest Passage on a regular basis.¹²⁰ The exact number of voyages is classified, but a widely cited 1984 article by Norman Polmar estimated the number of publicly known voyages to be about 40.¹²¹ While never publicly stating

that they use the Northwest Passage on a regular basis, the USN would obviously want to protect its ability to continue these voyages.

The Coast Guard shared the Navy's opposition to agreeing to the Canadian claim. But at the same time, it also wished to maintain its close relations with Canada and, in particular, with its counterparts in the Canadian Coast Guard. It did not wish to do so at the cost of its freedom of mobility. There can be little doubt that its position was partly motivated by the declining size of its fleet, though this was not mentioned by any American Coast Guard official. It was aware that its total icebreaker fleet size would soon be down to two icebreakers. It no doubt wished to maintain the greatest flexibility possible for these two vessels. Therefore, any agreement with Canada could then place an even greater strain on its fleet. In addition, some officials were of the view that it was a Canadian problem and that the United States had been more than accommodating up to that point in time.

PHASES OF NEGOTIATIONS

There were two distinct phases to the discussions between American and Canadian officials once negotiations were agreed to.¹²² Immediately following the Canadian decision to initiate these discussions, American and Canadian officials jockeyed for position. Most of these efforts could be

characterized as relatively low-level and informal. They consisted mainly of telephone calls between officials in the State Department and External Affairs. There were then several inter-state meetings in which the American delegation was led by a State Department official, while External Affairs led the Canadian delegation. The second phase emerged when the leaders of the two states determined that negotiations were proceeding too slowly and therefore decided that political pressure had to be injected into the process. In order to do so, special envoys were appointed to report directly to the political leadership of the two states.

PHASE ONE: INTERDEPARTMENT NEGOTIATIONS

There was some initial confusion as to the terms of the negotiations. In his speech to the House of Commons, Clark stated,

We are prepared to explore with the United States all means of co-operation that might promote the respective interests of both countries, as Arctic friends, neighbours, and allies, in the Arctic waters of Canada and Alaska. The United States has been made aware that Canada wishes to open talks on this matter in the near future. *Any co-operation with the United States, or with other Arctic nations, shall only be on the basis of full respect for Canada's sovereignty. That too has been made clear.*¹²³ (emphasis added)

The day after the speech, a story in the Ottawa Citizen quoted an American official as stating that while the United States intended to accept Clark's offer to discuss the issue, they "do not accept pre-conditions to such discussions."¹²⁴ The

pre-condition for the discussions was the need to have "full respect for Canada's sovereignty".

A briefing note on this news report prepared for Joe Clark stated that Clark had written to American Secretary of State George Shultz informing him of the Canadian actions. The note then stated that Clark had talked directly to Shultz during the evening of September 11 and had discussed the following:

I [Clark] was able to correct a misperception by the United States that we had set pre-conditions to our offer for discussions with the U.S.. I also told Secretary Shultz I expected that the discussions would result in full respect for Canadian sovereignty.¹²⁵

This explanation obviously was acceptable to Shultz because he then agreed to the offer to negotiate. In a letter sent to Clark, Shultz expressed his support for the talks but stated his concern about the Canadian position.¹²⁶

The first set of discussions was held on September 20, 1985. It was characterized as a "preliminary fact-finding exchange of views."¹²⁷ External Affairs Minister Joe Clark and Secretary of State George Shultz also met on October 28 in Calgary. While the focus of their discussions was the proposed free trade talks, they did discuss other bilateral issues, including the negotiations on the Arctic. In a speech given on October 28, Shultz reiterated his country's commitment to the Arctic talks.¹²⁸ But in the question period that followed, a reporter asked him whether or not the United States would

recognize Canadian sovereignty or whether the issue would be taken to the World Court. Shultz responded as follows:

Of course, we recognize Canada's sovereignty. At the same time, there are problems about straits and passages that are important to us. And we are engaged in a process of discussion, and I think it's our nickel. We will make a response to some observations the Canadians have made to us. So, we hope that we will work this through properly.¹²⁹

Notably, out of 22 questions put to the two foreign ministers, only two dealt in any way with the POLAR SEA (one reporter also asked Clark if charges were being brought against the pilot who overflowed the POLAR SEA). Compared to the media questioning in August 1985, it is impossible not to note the difference in interest. Clearly, general members of the Canadian media had already lost interest in the Northwest Passage.

The initial negotiating positions of the two states were based on the Law of the Sea Convention. Canadian External Affairs officials claimed that under Article 234, Canada had the right to establish control over the Passage.¹³⁰ They cited the Ice-Covered Areas article which bestow on special rights to a coastal state that has an ice-covered EEZ.¹³¹ Canadian officials argued that this gave them the right to control navigation over the Passage in order to protect the marine environment.

American officials responded by citing Article 236, the

Sovereignty Immunity clause.¹³² The relevant sentence in this article states:

The provisions of this Convention regarding the protection and preservation of the marine environment do not apply to any warship, naval auxiliary, other vessels or aircraft owned or operated by a State and used, for the time being, only on government non-commercial service.¹³³

State Department officials argued that since the POLAR SEA was a state-owned vessel, it was exempted from any laws that Canada may have passed to control navigation in order to protect the marine environment. In short, a government vessel did not need to meet any standards and, therefore, did not need to seek permission.

Having failed to make their case on the basis of the Law of the Sea Convention, Canadian officials focused their efforts on reaching a negotiated agreement with the Americans. Canadian officials first attempted to reach a comprehensive agreement in which the American Government would recognize Canadian sovereignty over the Passage, but in which the Canadian Government would allow American transit of the Northwest Passage. Various drafts of different agreements were circulated which tended to make the agreement more complicated as time progressed.¹³⁴ However, it became apparent that the American officials would not alter their position of not recognizing the Canadian claims over the Passage.¹³⁵

A media report claimed that American officials were reluctant

to endorse the agreement above because of the possibility that such an agreement could be overturned in the future by a less cooperative Canadian Government.¹³⁶ This would leave the Americans in the position of having compromised their position on navigation through International Straits but losing their payoff. As such, the talks did not progress well. One year after discussions began, an External Affairs document provided the following evaluation:

Several rounds of talks have been held at the level of officials and the subject has been addressed at both the Prime Minister and Ministerial levels. Some progress has been made on practical arrangements, but the legal status of the waters remains a stumbling block. Further discussions will be held.¹³⁷

At the same time, there are indications that Canadian officials were becoming sensitized to American security concerns. In another External Affairs briefing note on the specifics of the talks, it is stated that: "Suffice to say, we are seeking a practical arrangement with respect to icebreakers, which safe-guards both Canadian sovereignty concerns and the shared security interests of the two countries."¹³⁸

Canadian negotiators would be faced with the question of how to develop an agreement that would allow the United States to recognize Canadian claims without hindering American overseas maritime interests. At the same time, the issue of preventing the Soviet Union from having free access to the Northwest

Passage would have to be addressed.

Within the first year, it soon became apparent that although good relations with Canada were important to the USN, navy officials were unwilling to sacrifice their international interests. One high ranking official in the USN stated that ice does not make a difference in terms of transit passage, and made a specific reference to the fact that a nuclear powered submarine is able to transit with or without ice cover.¹³⁹ Thus, the USN officials did not want an agreement that could have repercussions in other areas of the globe. Coast Guard officials also refused to accept any agreement that would interfere with their freedom of mobility.¹⁴⁰ As such, they closely supported naval officials in refusing to reach a comprehensive agreement with their Canadian counterparts.

Some American officials were of the view that since they had contacted the Canadian Government early regarding the voyage, the problem required a Canadian, not an American, solution. Thus, important actors within the bureaucratic arm of the American Government had little incentive to resolve the issue. Due to the complexity of the issue, officials from both the navy and Coast Guard reached the conclusion that the status quo was best, and hoped that the discussions would simply lose energy and be abandoned.¹⁴¹

Thus, after approximately one year, the discussions had become deadlocked. At that point, the personal intervention of President Reagan and Prime Minister Mulroney revitalized the process.

PHASE TWO: SUMMIT DIPLOMACY

While most American officials expressed a desire to come to some mode of accommodation with Canada, the single factor that had the greatest positive impact on the negotiation were the three Summit meetings of 1985, 1986, and 1987, between Prime Minister Mulroney and President Reagan.

1985 SUMMIT: QUEBEC CITY

The Shamrock Summit in Quebec City in 1985 had taken place before the voyage of the POLAR SEA. But this summit was important because it established a good working and personal relationship between the two leaders. It was also instrumental in the preparation of the policy review undertaken by NSC that was discussed in the preceding chapter.

1986 SUMMIT: WASHINGTON

At this summit held in Washington in 1986, one of the major issues of discussion between Mulroney and Reagan was the need to resolve the problems created by the voyage.¹⁴² According to several United States officials, the Canadian Government

was concerned that the POLAR SEA problem would hinder other United States-Canada issues, the free trade talks in particular. Reagan appeared to be sensitive to the Canadian position on the voyage. There are indications that at one point in their discussions, Mulroney showed Reagan a globe that included the normal ice cover in order to make his point that the Northwest Passage was indeed "unique".¹⁴³ Mulroney then successfully persuaded Reagan to elevate the level of negotiations by appointing special negotiators in an attempt to facilitate a solution. It appears likely that both leaders viewed the bureaucracies, specifically the American agencies, as a hinderance to the successful conclusion of the discussions.

By mid-1986, both leaders had decided to appoint special representatives to head the negotiations.¹⁴⁴ The rationale for the shift was to streamline the number of actors involved in the process and thereby reduce the opposition to an agreement. Edward Derwinski was selected for the American side and Derek Burney for the Canadian side.

Derwinski had served as the Under-Secretary for Science and Technology in the Department of State, although he was not selected on this basis. Derwinski had prior experience as a "problem solver" for Secretary of State George Shultz. Periodically, when Shultz faced problems in international

negotiations, he would use Derwinski as his personnel appointee to coordinate the American position and resolve the issue. Derwinski was, in part, responsible for the successful conclusion of the United States-Canada Salmon Treaty on the west coast. He had also been involved in the Gulf of Maine dispute and had limited involvement in negotiations on the problem of acid rain. Thus, he had developed extensive links with Canadian officials through his experience as a problem solver. In particular, Derwinski had previously negotiated with Derek Burney in the early 1980s, who was appointed by Mulroney to represent Canada. Thus, the two had already developed a positive working relationship, a factor that was very much a consideration in their appointments

Burney's background was similar. In the early 1980s, had been involved in several series of negotiations with the United States. He then became Associate Undersecretary of State for External affairs from 1985 to 1987. In 1987, he was appointed to the position of Chief of Staff to the Prime Minister. From 1989 to 1992, Burney served as the Canadian Ambassador to the United States. Furthermore, he had served as the personnel representative of the Prime Minister to the G-7 Economic summits (Houston, London, Munich) from 1990 to 1992.¹⁴⁵ As such, he obviously had the confidence of both Joe Clark and Brian Mulroney.

The format of the actual negotiations was altered. Derwinski and Burney began to meet with a minimum of staff in an informal manner. According to Derwinski, they met between from three to four times for direct negotiations.¹⁴⁶ Often, the meetings would include only the two negotiators and one or two staff assistants. The American delegation usually included David Colson of the State Department and Irwin Pernick, special assistant to Derwinski.¹⁴⁷ The Canadian delegation continued to include Gotlieb, Legault, Mawhinney and Mathys all from the Legal bureau. The delegation was quite flexible on the Canadian side, and the titles of the various members tended to shift over time as they took other postings. For example, Legault was moved to the Washington embassy, where he was appointed Deputy Head of Mission. At the same time, he continued to be involved in the negotiations. While the flexibility was beneficial to the negotiations, it made it difficult to account exactly for each official's participation in this stage of the talks.

From all accounts, the nature of the negotiations on the American side began to change. Derwinski's overall objective shifted from protecting the American position to seeking accommodation with Canada. Derwinski stated that he was not concerned about the precedent that may be set in terms of international law, but rather, was only concerned with solving the problem.¹⁴⁸

This shift in the approach was strenuously objected to by both the United States Coast Guard and Department of Defense, among others. However, the objections of these departments were overcome by the shifting focus of the tentative agreement from one that covered all vessels to one that only included ice-breakers, and the personal intervention of President Reagan following the 1987 Summit.

At some point after the first year of negotiations, the focus of the talks shifted from a detailed comprehensive agreement, to a simpler and more practical draft. Rather than attempting to create a comprehensive regime for all Arctic shipping, an agreement was reached to focus on what was perceived to be the root of the problem, icebreakers. Once naval vessels were excluded from the discussion, and a non-prejudicial clause was inserted into the agreement, the navy withdrew most of its opposition. This had the impact of isolating the Coast Guard. Sensing that it had lost its bureaucratic allies, it reluctantly became more willing to support the agreement.¹⁴⁹

The point at which the efforts shifted from a comprehensive agreement covering all types of vessels, to one that dealt only with icebreakers remains unclear. An External Affairs briefing note for the minister written on September 22, 1986, addressed the issue of whether or not the negotiations were dealing with all categories of ships, or if some (i.e.

submarines) were to be excluded. The minister was advised to give an indirect answer:

It would be inappropriate to comment on the details of the discussions to date. Suffice to say we are seeking a practical arrangement with respect to icebreakers which safe-guards both Canadian sovereignty concerns and the shared security interests of both countries.¹⁵⁰

The fact that External Affairs felt compelled to prepare such a statement, and knowing that such a shift did occur, would suggest that the shift was occurring at this point in time. But this cannot be confirmed.

An additional possible indicator of the state of the talks may be gleaned from a statement made by Clark in the House of Commons in March, prior to the April 1987 Summit Meeting. Following questioning from John Turner on whether or not the government was "negotiating away Arctic sovereignty", Clark's reply was a veiled threat to go to the ICJ if the talks broke down, and he stated:

I want to make the point that if there is a failure in those discussions, or if we are not satisfied that Canadian sovereignty will be respected, we are prepared to defend our claims to our north before the International Court of Justice, as the former Liberal Government was afraid to do.¹⁵¹

Besides baiting the Liberal leader, Clark's comments are significant as the only reference Clark or any senior official made to a policy alternative to an unsuccessful completion of the talks. Coming just before the Summit, it is likely that these comments were warnings directed towards the Americans.

If this was the case, this would suggest that the talks were not succeeding. Likewise, another External Affairs Briefing Note states that the negotiations had "reached a critical point in the discussions."¹⁵² The note did state that it was still possible for an agreement to be ready for the summit but that "this was far from certain."¹⁵³

1987 SUMMIT: OTTAWA

The April 1987 Summit injected new life into the discussions. Throughout the entire length of the talks, Reagan remained committed to finding a solution. Prior to the 1987 summit meeting, the issue of the Arctic arose several times in meetings with the NSC. Most of Reagan's top advisors are reported to have argued against reaching an agreement with Canada. Following the Summit, Reagan insisted that a solution be found.¹⁵⁴

Interviews have suggested that at the 1987 summit meeting, various government officials were concerned that Reagan would agree to a Canadian proposal put forward by Mulroney. Their fears were that such an agreement would hurt American global interests. To a large degree, these concerns were realized. During the Summit on April 5, Prime Minister Mulroney hinted to reporters that some form of agreement had been reached between the two leaders. When asked by a reporter if Reagan would

agree with the Canadian position on the Arctic, Mulroney responded by stating, "You'll find out."¹⁵⁵

It was at Reagan's personal insistence that a paragraph on the need to resolve the sovereignty question was inserted at the last minute into his April 6 address to the House of Commons.¹⁵⁶ In his speech, Reagan ended with his own additional comments on the issues of acid rain and Arctic sovereignty stating,

Let me add a word, if I can, about our discussions today on two issues of critical interest to our two countries. The Prime Minister and I agreed to consider the Prime Minister's proposals for a bilateral accord on acid rain, building on the tradition of agreements to control pollution of our shared international waters. *The Prime Minister and I also had a full discussion of the Arctic waters issue, and he and I agreed to inject new impetus to the discussions already underway. We are determined to find a solution based on mutual respect for sovereignty and our common security and other interests.*¹⁵⁷ (emphasis added)

Interviews with both American and Canadian officials indicate that not only did Reagan agree to inject new impetus into the negotiations, he also agreed to seek Canadian "consent" before sending any further icebreakers into the Northwest Passage.¹⁵⁸ Reagan did this much to the chagrin of most of his closest advisors and primarily because of his close relationship with Mulroney.

Canadian officials have confirmed that the term "consent" was seized upon and formed the basis for their negotiations at

that point.¹⁵⁹ American officials were not as pleased as their Canadian counterparts. There are reports both in the media and from interviews that American officials from the Defense Department and the National Security Council undertook efforts to "claw back" the agreement.¹⁶⁰ Opposition was reported from such key administration individuals as Casper Weinberger and Edwin Meese. However, in a summer meeting of the NSC, Colin Powell, who was then serving on the Council, made it clear that since Reagan had given his consent, there was to be no further discussion of the issue and that the agreement of consent was not to be withdrawn.¹⁶¹

A month after the summit in April 1987, Reagan met with members of the international press immediately prior to the Venice Economic Summit in June where he publicly restated his acceptance of the Canadian position. At this press conference, he was asked about the Canadian claim of sovereignty over the Passage. Reagan began his answer by stating that the United States had to avoid setting a dangerous precedent for other "chokepoints". However, he suggested that the Canadian situation was "different" due to the ice coverage. Pursuing this response, a reporter asked: "You seem to be saying that Canada had some legitimate claim to sovereignty for that...", to which Reagan stated,

Yes, I think that is a different situation there. And I am hopeful that we can, and the good neighbours that we are, that we can find an answer to that and that will, at the same time, will not

set a dangerous precedent with regard to other international waters.¹⁶²

Reagan stated that he accepted the Canadian argument that the ice cover over the waters made the area "unique". Following a restatement of American concerns over chokepoints in international straits he stated,

On the other hand, from the Canadian viewpoint, I have to say that is *unique* [emphasis added], that area. When you look at the Canadian islands and the extent to which they dominate those waters, and know that a great many of those islands are connected by a solid ice cover upon which there are people who live above those waters on that ice, that this is a little different than the other situations in the world. And we sincerely and honestly are trying to find a way that can recognize Canada's claim and yet, at the same time, cannot set that dangerous precedent that I have mentioned.¹⁶³

The significance of his statement to the House of Commons and in the interview was not lost on Canadian officials. An External Affairs briefing note observed that,

The President gave full credence to our longstanding position on the uniqueness of the archipelago and expressed confidence that we can find a solution that does not set an undesirable precedent in other maritime areas.

This is the first time President Reagan, or any other U.S. President leant such clear public support to the Canadian view regarding the clear link between our sovereignty position and the physical geography in the area.¹⁶⁴

American officials confirmed that although Reagan was speaking without notes, the position he stated was one that he had consistently held in discussions with the NSC.¹⁶⁵ Although Reagan's statement upset several officials, it provided

Derwinski with the political backing he needed to for conclude an agreement over the objections of other officials.

Following the Summit, the final stages of the drafting of the agreement went smoothly. On the Canadian side, Burney, Gotlieb, Legault and Paul Chapin were primarily responsible for the final draft.¹⁶⁶ A media report states that the final draft of the agreement was ready for Cabinet approval on October 19, 1987.¹⁶⁷ Most officials agree that this date of completion seems correct (though most hasten to add that they cannot recall for certain).

INVOLVEMENT OF NON-NEGOTIATING ACTORS

The participants in the negotiations of the Arctic Cooperation Agreement were drawn almost entirely from a small circle of bureaucratic officials and an even smaller circle of elected representatives. The media coverage of the process was limited, opposition politicians did not spend much effort on the issue, and few interest groups attempted to participate in the process. However, the only time that the government felt it necessary to provide a public update of the state of the negotiations or to consult with other actors occurred when they were attacked by the opposition parties or were the subject of media attention.

The involvement of non-negotiating actors, which included

opposition members in Parliament and the media, can be isolated into two main time periods. The first period of activity occurred during March and April of 1987; the last occurred between October 1987 and January 1988. These periods of activity corresponded to the 1987 summit and the anticipated public release of the agreement.

The catalyst for the first period of non-governmental interest in the negotiations was Peter Newman's editorial in Maclean's. Newman stated that sources had informed him that the signing of an Arctic Agreement would be the centrepiece of the April 1987 Summit.¹⁶⁸ He linked the agreement with efforts to make the free trade negotiations more acceptable to Canadians: "Concessions by the Americans in recognizing our northern claims is part of the strategy by both leaders to make free trade a more acceptable Canadian option."¹⁶⁹ He concluded by reporting that the United States will be granted full use of the Passage in return for recognizing Canadian claims.

John Turner and Don Johnston of the Liberals and Pauline Jewett of the NDP used this article to accuse the Conservatives of caving in negotiations with the Americans.¹⁷⁰ Clark responded by stating that the story was wrong. Furthermore, if the government was not satisfied that the Arctic agreement did not fully respect Canadian northern sovereignty, it would refuse to sign it and would take the

case to the ICJ.¹⁷¹ Clark also sent a rebuttal to Maclean's, in which he wrote,

There is no link, as Newman asserts, between the discussions with the United States respecting our sovereignty over the waters of the Northwest Passage and the trade negotiations. There is no truth to the assertion that Canada will give unlimited access to all U.S. vessels to use the Northwest Passage.¹⁷²

Turner then asked if Clark intended to submit the Agreement to the House before it was signed.¹⁷³ Clark sidestepped the issue by saying that his officials had already presented evidence about the Agreement in the House Committee on National Defence. While technically true, the actual information provided by Derek Burney at the hearings was very limited and really did not consist of much more than stating that: "This matter, Mr. Chairman, has been discussed at the highest levels between our two governments...Canadian and U.S. officials are continuing to explore the possibility of cooperation in the Arctic."¹⁷⁴ In his answer, Clark also stated that he would also consult members of the House as well as leaders of the Yukon and the Northwest Territories.

The next day, Jim Fulton (NDP) asked Clark why leaders of the North had not been consulted.¹⁷⁵ Clark responded,

I indicated that if we reach a point where we believe we have a positive result to the process I announced a year ago September with respect to a discussion with the United States, of course we will consult with the elected Heads of Government in both Yukon and the Northwest Territories.¹⁷⁶

However, two days later, Derek Burney had prepared a memorandum for Clark which recommended to the Secretary of State for External Affairs to,

...take the opportunity of the presence in Ottawa this week of the leaders of the Yukon and Northwest Territories' Governments to provide them with a progress report on the discussions on Arctic cooperation with the United States. It is recommended that you telephone Messrs. Penikett and Sibbeston today or tomorrow. Talking points for this purpose are attached.¹⁷⁷

The fact that this effort to brief northern governmental leaders so soon after questions had been raised in the House suggest that government did not deem it necessary to inform the northern leaders until it became a political problem; and that the briefing was not part of the original intent of the government. It is possible that the two leaders were in town specifically to be briefed, and that the opposition parties somehow learned of this and attempted to embarrass the government with its questions. But if the northern leaders were in Ottawa to be briefed, it is puzzling that a phone call would be used for the briefing. In addition, the introduction of the memo stated that Burney was "recommending" Clark contact the northern leaders. If the two leaders were there for a pre-arranged meeting, it would be unlikely that Clark had not yet agreed to see them.¹⁷⁸ It seems much more likely that, since they were in town, and since the government had been criticized in the House, it would be an opportune time to arrange such a meeting.

The memo included a list of points that Clark was to use to brief the two leaders. In general, it restated previously released information which dealt with broad generalities of the discussions. The last three points are of interest:

-I wish to assure you that the bottom line for any understanding with the United States is protection of Canadian sovereignty and the interests of northern inhabitants, and preservation of the Arctic environment:

-Officials will advise Whitehorse and Yellowknife as soon as there is something more to report;

-Our fundamental objective is to avoid repetition of the "Polar Sea" episode i.e. ensure our agreement is obtained before future transits by icebreakers, etc. and is in accordance with Canadian laws and regulations.¹⁷⁹ (emphasis added)

Paradoxically, the first two points illustrate the actual lack of involvement of the northern governments in the process. This appears to be the first effort to inform these governments of the negotiations. In addition, it was impossible to find a northern representative, even an observer, who had participated in the talks at any point. If one accepts the government's argument that there is no difference between the ice cover and the islands, then any icebreaker transit is in fact proceeding through the Yukon and North West Territories. It is difficult to imagine any other foreign policy negotiations directly involving the interests of any of the other provinces which do not have representation.

Several months later, Bill Blakie (NDP) specifically asked why the Inuit and other groups had not been consulted during the

talks. Prime Minister Mulroney responded that the exercise of sovereignty was the federal government's responsibility thereby implying that they did not need to consult such groups.¹⁸⁰

There was at least one report in which an individual Inuit expressed concern about the Inuit's lack of involvement in the process.¹⁸¹ However, the various Inuit organizations' views of their exclusion was not recorded. It is not known if the various Inuit groups had no view, or if they had a position that received no coverage.¹⁸² Francois Mathys, an External Affairs official involved in the negotiations, stated that:

I admit it, I understand their point of view. But it's not my work to have an Inuit voice at the table with us. However, the agreement we have reached is far better than the status quo and far better for the Inuit interests than before. We have not agreed to anything that will disrupt Inuit life.¹⁸³

However, no study has examined the impact of icebreaker traffic in the north prior to the publication of the 1990 environmental impact assessment of the planned Polar 8 icebreaker.¹⁸⁴ Therefore, it is difficult to know what information Mr. Mathys was basing his comments on.

Renewed questioning in the House of Commons followed the 1987 Summit, but only for one day. On April 7, Jean Chretien and Don Johnston renewed their attacks on the government. They accused the government of not asserting itself in the face of

American action.¹⁸⁵ Johnston followed up his criticisms by asking whether American submarines were to be granted access through the Northwest Passage under the rubric of a security agreement. Clark responded that such a claim was false.¹⁸⁶ Quoting an exchange of letters between Canadian and American leaders, Pauline Jewett (NDP) ended the questioning by asking if,

...the Prime Minister offered the U.S. a deal that would not recognize our sovereignty in the Arctic in exchange for a U.S. agreement to seek permission for voyages in the Northwest Passage.¹⁸⁷

Clark answered by again referring to the testimony of his officials in committee, offered to consult with the leaders of the opposition, and avoided providing any real answer to her question by concluding that,

I think that they [members of the opposition] would share my satisfaction that here, on the floor of the House of Commons yesterday, the President of the United States expressed his interest in seeking an arrangement that would involve a mutual respect for sovereignty. That is a very substantial step forward.¹⁸⁸

There was almost no media coverage on the negotiations at this point. Only two stories report what was stated in the House of Commons.¹⁸⁹ The comparison of the media coverage of the negotiations to that of the voyage of the POLAR SEA is striking.

However, in December, a media leak of the forthcoming agreement spurred another series of questioning in the House

of Commons. As was the case in the spring, these questions did not elicit any meaningful answers from the government. The Ottawa Citizen received and published a leaked copy of the Arctic Cooperation Agreement.¹⁹⁰ The article makes two specific points. First, the agreement made no mention of American recognition of Canadian sovereignty despite Secretary of State Joe Clark's initial promise of September 10, 1985. During that announcement, Clark had stated that any agreement for "cooperation with the United States or with other Arctic nations shall only be on the basis of full respect for Canada's sovereignty".¹⁹¹ Yet, as the article correctly stated, there was no such specific American recognition of Canadian sovereignty.

The article also hinted that the Agreement was connected to the proposed nuclear submarine programme that was being pursued by Canada. The article quoted Congressman Charles Bennett, chairperson of the House of Representative's Seapower subcommittee, and reported his warning that Canada needed to keep the Northwest Passage open to the United States in order to receive the transfer of American-developed, British nuclear submarine technology. The article also quoted Captain Bob Hofford, the USN expert on Canada, as stating that an additional condition to allow for the technology transfer may be the development of an underwater version of NORAD.¹⁹² Such an agreement would presumably mean that both American and

Canadian submarines would share North American waters (including the Northwest Passage) in much the same way that both airforces share North American airspace.

Such comments coming immediately prior to the official release of the agreement were bound to create a reaction in the Commons. When the article was released on December 7, John Turner asked the government to explain the lack of American recognition of Canadian sovereignty in light of Clark's earlier pledge. Speaking for Clark, Pat Carney, the acting Secretary of State for External Affairs, made the first public announcement of the agreement by the United States to seek consent for the passage of their icebreakers.¹⁹³ Turner did not pursue this point and instead asked if the price of free trade was the surrendering of the Arctic to the Americans. At this point, Ed Broadbent entered the discussions by again asking whether there was a link between free trade and the Arctic, as well as asking for further information on any submarine agreement in the north. Carney simply replied that there was no linkage. She also explained that the agreement dealt only with icebreakers. Harvie Andre, who was by then Minister of Consumer and Corporate Affairs, also answered that any other agreement regarding submarines in the north existed through other arrangements and would not be explained in the House because of "security concerns".¹⁹⁴

External Affairs had prepared for a more difficult series of questioning in the House. Their Briefing Notes for the House of Commons had suggested that if asked, the Minister should point out that while the agreement was more limited than initially hoped for, it still represented a significant step forward. The notes also stated that the agreement did not have to be approved by Parliament, and that:

...the agreement is a formal agreement that is legally binding in international law. When the agreement has been concluded, I [the Minister] will make a statement in the House and table it.¹⁹⁵

Clark defended the agreement later in the day. In a television interview he acknowledged that:

..we would have preferred naturally, to have the American accept the legal concept of (Canadian) sovereignty. What we are trying to do here, is assert a step that will close another hole in the claims of Canada to control of our north.¹⁹⁶

The fact that the Americans refused to "budge" on the issue of sovereignty was not mentioned, except by an External Affairs official who had been involved in the negotiations and who spoke on the condition of confidentiality. The official indicated that had Ottawa insisted on American recognition of Canadian sovereignty, there would have been no agreement. At the very least, the official reasoned, this agreement resolved the POLAR SEA problem.¹⁹⁷

THE ARCTIC COOPERATION AGREEMENT

The agreement was completed towards the end of 1987 and was formally signed by Clark and Shultz on January 11, 1988. It is a short, simple agreement. In the first two clauses, both governments agree to cooperate in the Arctic, and agree to "not adversely affect the unique environment of the region and the well-being of its inhabitants." The third and fourth clauses are the most significant. The third states that the United States will notify Canada whenever it sends an icebreaker through the Northwest Passage.¹⁹⁸ The fourth clause states that nothing in the agreement will affect the respective position of either state. Specifically the third clause states,

3. In recognition of the close and friendly relations between their two countries, the uniqueness of ice-covered maritime areas, the opportunity to increase their knowledge of the marine environment of the Arctic through research conducted during icebreaker voyages, and their shared interest in safe, effective icebreaker navigation off their Arctic coasts:

-The Government of the United States and the Government of Canada undertake to facilitate navigation by their icebreakers in their respective Arctic waters and to develop cooperative procedures for this purpose;

-The Government of Canada and the Government of the United States agree to take advantage of their icebreaker navigation to develop and share research information, in accordance with generally accepted principles of international law, in order to advance their understanding of the marine environment of the area;

-The Government of the United States pledges that all navigation by U.S. icebreakers within waters claimed by Canada to be internal will be undertaken

with the consent of the Government of Canada.¹⁹⁹

The agreement is generally regarded by officials of both governments as a practical, albeit limited, agreement. The Canadian Government was criticized for failing to achieve outright American recognition of Canadian sovereignty over the Passage.²⁰⁰ However, it did succeed in resolving the specific problem of the transit of American icebreakers.

Statements made by President Reagan and Prime Minister Mulroney emphasised the practical and limited nature of the agreement. Mulroney acknowledged that the agreement did not settle the issue of Canadian claims in the North, but that it nevertheless improved the situation.

This is an important step forward for Canada in the North. While we and the United States have not changed our legal positions we have come to the practical agreement that is fully consistent with the requirements of Canadian sovereignty in the Arctic. It is an improvement over the situation which prevailed previously. What we have now significantly advances Canadian interests.²⁰¹

Reagan echoed this position by stating,

This is a pragmatic solution based on our special bilateral relationship, our common interest in cooperating on Arctic matters, and the nature of the area. It is without prejudice to our respective legal positions and it sets no precedent for other areas.²⁰²

In a joint press conference, External Affairs Minister Joe Clark and Secretary of State George Shultz also commented on the practical scope of the agreement. Explaining the significance of the agreement Clark stated,

This agreement is a particular practical step that leaves the differing views of Canada and the United States on the question of sovereignty intact. The United States has its view. We have a different view. We have not accepted their view.²⁰³

More significant, however, was his response to a reporter's question as to what had happened to Canadian claims of sovereignty, to which he replied, "...we have come to a pragmatic agreement by which the United States will undertake to seek Canadian *permission* before any voyage of an ice-breaker through those waters (emphasis added).²⁰⁴ Shultz then replied, "I agree with what Mr. Clark just said."²⁰⁵ The point to be noted is that they used the word "permission" and not "consent". As will be discussed shortly, the term "consent" carries a different meaning in the Law of the Sea than does the word "permission". The exchange between the two foreign ministers uses these words interchangeably. The only negative point was Shultz's categorical statement that the United States would not recognize Canadian sovereignty even if Canada allowed U.S. submarines unlimited access to the Passage.²⁰⁶

Compared with the level of criticism that the government faced following the POLAR SEA voyage, the reaction to the announcement of the agreement was muted. In the House of Commons, only John Turner rose to comment on the agreement. He asked Clark to explain why he had misled the House when he assured the House that no agreement would be signed unless

Canadian sovereignty was recognized.²⁰⁷ Clark replied that although Canada may not have received as much as it wanted, the agreement was still a step forward.

Outside of the House of Commons, Lloyd Axworthy (Liberal) attacked the government for not having the Americans explicitly recognize Canadian sovereignty.²⁰⁸ He argued that Canada's claim would be weakened in the future because the Agreement would enable the United States to establish a presence. John Merritt of CARC was also critical of the Agreement. He suggested that Canada had given away too much, and had lost some leverage with the Americans in future efforts to gain recognition of our claims.²⁰⁹ However, Professor Gerald Morris of the University of Toronto, a strong critic of the government during the POLAR SEA voyage, supported the Agreement: "Why would the United States agree to ask permission for icebreakers to use these waters unless they conceded there was substantial validity to the Canadian case?"²¹⁰

These were the extent of the comments that the government faced when the Agreement was signed. The lack of attention that the Agreement received suggests that the earlier critics of the government either approved of the Agreement or that they were no longer interested in Northern affairs.

However, a group of experts looking at the role of Canada's north in the international system included an evaluation of the Agreement in their study in March. The working group of the Ottawa branch of the Canadian Institute of International Relations (CIIR) released a study on Canada's northern foreign policy almost immediately after the signing of the Agreement. The authors raised several concerns about the effect of the Agreement on Canadian claims to the north. They argued that an agreement would have international legal ramifications even if both parties agree not to cite the agreement as evidence in a future dispute.

Practise inconsistent with sovereignty, if accepted by a country, cannot fail to damage a claim to sovereignty no matter what words may be written about "not affecting" that country's position.²¹¹

Therefore, the Arctic Waters Cooperation Agreement affects the Canadian position. The authors suggested several problematic aspects of the agreement: the usage of the term "navigation" rather than "voyage" or "transit"; the requirement to ask for "consent" and not "prior consent"; and the fact that the agreement only deals with icebreakers.²¹² Most significantly, they argued that the true effect of the agreement would not become apparent until it begins to be implemented.

The agreement will advance them [Canadian interests] only if procedures and practice are carefully designed to ensure that they do not, as a result, worsen Canadian interests by weakening our case in international law.²¹³

The Canadian position would be weakened if the technique to

grant consent was nothing more than a rubber stamp. On the other hand, if the request is made early enough, and it is seriously evaluated, then the Agreement would strengthen Canadian claims, since this would indicate that the United States no longer had complete freedom of navigation and was therefore seeking **prior** consent.²¹⁴ Therefore, the relevancy of the Agreement will be determined through its implementation.

IMPACT OF THE AGREEMENT

IMPLEMENTATION OF THE AGREEMENT

Since the signing of the Agreement in 1988, it has been activated three times -- in 1988, 1989 and 1990. In 1988 and 1989 the procedures established by the agreement were strictly followed. In 1990, the Americans once again followed the terms of the Agreement, but Canadian decision makers deviated slightly from the established routine.

In the summer of 1988, the Canadian Coast Guard requested assistance from the United States Coast Guard when two of its icebreakers ran into thick ice in the western Arctic. The American vessel, Polar Star, was damaged while rendering assistance.²¹⁵ It was required to transit the Northwest Passage in order to undertake repairs. The United States Government sought, and received, Canada's consent to do so.²¹⁶ Officials in Clark's office viewed this as a successful test

of the agreement. Paul Fraser, a senior aide to Clark, stated that some observers, "were concerned when the agreement was signed as to whether it would work. We're very pleased - here at this first test, we see that it is in fact working."²¹⁷ This voyage apparently demonstrated the Agreement's success.²¹⁸

The Polar Star also made the second voyage in 1989, but received little publicity. The agreement was a success in removing American icebreaker transits of the Northwest Passage as an irritant in relations between the United States and Canada.

A third voyage for scientific research was made in 1990, but it differed somewhat from the previous two voyages in the manner by which the Agreement was invoked. Consent had normally been requested through a diplomatic note. Officials in the Legal Bureau of External Affairs would then notify the Minister and receive their agreement (or conceivably, disagreement, though it has not yet occurred). Once consent was given, Cabinet would then grant the vessel an exemption to the Arctic Waters Pollution Prevention Act pursuant to Article 12(2).²¹⁹ However, in 1990, for reasons that remain unclear, Cabinet first exempted the vessel on August 28, with consent then being granted in September.²²⁰ It seems likely, however, that this shift in order is of no real significance, and

probably was a result of compliance between Canadian and American officials. Still, as the CIIA group has argued, such a de facto confirmation could undermine the significance of the American need to request consent.

THE ARCTIC COOPERATION AGREEMENT AND ARCTIC WATERS POLLUTION PREVENTION ACT (AWPPA)

A secondary, albeit unofficial, result of the Agreement has been the American acceptance of the AWPPA. Immediately following the creation of the AWPPA, the State Department issued a note entitled, "U.S. Opposes Unilateral Extension by Canada of High Sea Jurisdiction".²²¹ In this note, the United States explicitly stated its opposition to the Act. The primary basis of this opposition was the argument that international law did not allow Canada to unilaterally create such a zone. As discussed previously, developments in international law have "caught up" with the Canadian Act, and such zones are now allowed up to 200 miles in areas such as the Arctic. Specifically, Article 234 of the LOS Convention has validated the Canadian legislation. However, the United States has never explicitly stated its acceptance of the AWPPA.

Prior to the signing of the agreement, the only statement made by an American official on this subject was attributed to Julia Moore of the Bureau of European and Canadian Affairs of

the State Department in the fall of 1985. The report stated,

Mr[s] Moore said the Law of the Sea Conference already had recognized Canada's claim to all the resources within 200 miles of its Arctic islands and had decided that any coastal nation in ice-covered areas could regulate the passage of commercial Vessels to ensure that they met environmental regulations. "It was a substantial concession that Canada fought for and got", she said.²²²

Thus, evidence does exist that American officials may have begun to accept the AWPPA for their commercial vessels prior to the signing of the Arctic Cooperation Agreement.

At the signing of the Arctic Cooperation Agreement, unnamed American officials were cited in news reports as stating that the United States then accepted the AWPPA for its commercial vessels. Specifically,

State department officials said that Washington had agreed to drop its long standing objections to Canada's 1970 Arctic Waters Pollution Prevention Act, a law that requires commercial vessels such as oil tankers to comply with Canadian laws in the Arctic.²²³

However, interviews with both American and Canadian officials did not locate the source of these officials. Nor was it possible to ascertain from External Affairs officials as to whether they were aware of a formal American acceptance of the AWPPA. There is no question that American commercial vessels now adhere to the AWPPA, but what is not known is whether or not the American Government has officially dropped its objection.

In a speech made at Carleton University in October 1988, Joe Clark stated that the Americans then accepted the AWPPA. In reviewing the government's action in protecting Arctic sovereignty he stated,

A further important state in asserting control over our Arctic waters has come through U.S. recognition that their commercial vessels are subject to the provisions of the **Arctic Waters Pollution Prevention Act** of 1970. That means that a U.S. commercial tanker like the Manhattan, which sailed through the Northwest Passage in 1970, is now subject to Canadian control.²²⁴

Clark did not state when, or how, the Americans had notified Canada of its acceptance, just that they had.

The closest written official statement of American acceptance is found in the note that the State Department issued the first time the Arctic Cooperation agreement was implemented. Aside from its main function of requesting Canadian consent, the note also stated,

"Polar Star" will operate in a manner consistent with the pollution control standards and other standards of the Arctic Waters Pollution Prevention Act and other relevant Canadian laws and regulations.²²⁵

In effect, this note stated that their American Government vessel will follow the AWPPA. It stands to reason that if the Americans accept it for their government vessels, they also accept it for their commercial vessels. This means that all American surface vessels, government or commercial, have agreed to follow Canadian legislation in the north. The arrangements for submarine transits remain unmentioned and

highly classified.²²⁶

THE ARCTIC COOPERATION AGREEMENT AND THE CONCEPT OF CONSENT

A point that has not received much attention, but was raised in interviews with both Coast Guard and Naval officials, is the exact meaning of the term "consent".²²⁷ The definition could have long-term ramifications that have not yet been fully appreciated.²²⁸

Canadian officials are clearly of the view that the term refers to the transit of icebreakers through the Northwest Passage. They believe that through the agreement, the United States is asking for Canadian consent to navigate through the Passage and, in doing so, are supporting Canadian claims, the fourth clause notwithstanding. Yet both American Naval and Coast Guard officials have suggested that the agreement could be interpreted differently. They point out that Article 3, which states that the United States will ask for consent, begins by pledging that both states support "the opportunity to increase their knowledge of the marine environment of the Arctic through research conducted during icebreaker voyages."

By itself, this clause does not seem problematic. But a close examination of Part XIII of the Law of the Sea Convention on Marine Scientific Research indicates that the word "consent"

and its inclusion in an article calling for closer marine research may have been an astute move on the part of the Americans negotiators. Articles 245 and 246 of the Convention state the rights of both coastal and the other states in the conduct of scientific research. In the territorial sea, marine research "shall be conducted only with the express consent [emphasis added] of and under the conditions set forth by the coastal state."²²⁹ Marine research undertaken in a coastal state's EEZ and/or continental shelf also require consent as stated by article 246(2): "Marine scientific research in the exclusive economic zone and on the continental shelf shall be conducted with the consent [emphasis added] of the coastal state."²³⁰ Subsection 3 of the article specifies that consent is expected to be given except for the reasons set out in subsection 5.

The conclusion may be drawn that the United States only agreed to the Arctic Cooperation Agreement in order to follow the Convention for the conduct of scientific marine research, and that the agreement only **appears** to deal with navigational rights. Thus, American negotiators have a defence should Canadian officials ever attempt to use the agreement as proof of American acceptance of their claim. Article 4 of the Agreement would seemingly preclude any part of the Agreement from being used to bolster either side's case. But in the event that either party ever attempts to do so, the Americans

would be able to claim that the agreement simply follows international law regarding international marine scientific research.

Furthermore, an examination of the first request to implement the agreement demonstrates the importance the Americans placed on linking the agreement to marine research. When the Polar Star was damaged off Point Barrow, and was required to transit the Passage, American officials made the request that:

As provided by the terms of the Agreement [i.e. Arctic Cooperation Agreement], the Government of the United States hereby requests the consent of the Government of Canada for the United States Coast Guard Cutter "Polar Sea," a polar class icebreaker, to navigate within waters covered by the Agreement, to conduct marine scientific research during such navigation.²³¹ (emphasis added)

It appears that the Americans have been very careful to ensure that any use of the term "consent" is always used in conjunction with scientific research. The transit by the Polar Star was required only when the vessel sustained damage. The initial plan had not been for the Polar Star to transit the Northwest Passage. Yet, American officials still arranged for it to conduct research.

The United States, or any other state, is unlikely to invoke the connection between consent and research for the purpose of transiting the Passage, unless Canada attempted to use the agreement as proof for its sole claim to the waters. Given

Article 4, such a move is unlikely, but if it occurred, American officials have protected themselves well.

Given the fact that Reagan's use of the term, "consent", seemed to be based on his own wish to reach an agreement with Mulroney, it is unlikely that American officials had planned to make such a connection. But once Reagan had stated his position, American officials met the President's instructions, and minimized damage to the American position.

NEGOTIATIONS WITH THE UNITED STATES ON ARCTIC COOPERATION AND THE DECISION-MAKING MODEL

The decision-making model allows for several observations about the following: the identification of the decision-makers; the target of the decision-makers; the cost of the decision; the genesis of the decision; and the eventual fate of the decision.

Decision-Makers: This was the only decision that originated with a political decision-maker, specifically Joe Clark. Furthermore, it was the only decision in which Prime Minister Mulroney played a direct role. Once the decision had been made to engage in discussions with the Americans, it was primarily officials from the Legal Bureau of External Affairs who were given the task of implementing the decision through negotiations.

The direct interaction between the various types of decision-makers during the negotiations, highlighted by the Summit meetings, provide several important insights. First, and perhaps most importantly, it demonstrates how political decision-makers are able to exert power over the bureaucratic decision-maker. There was no question that the American bureaucratic decision-makers had more expertise than the political decision-maker, yet when Reagan specifically ordered that an agreement was to be reached, it was accomplished despite the resistance of the various bureaucratic officials.

It also became apparent that the control of information is an important source of control for both the bureaucratic and political decision-makers. Throughout the entire set of negotiations, the key decision-makers jealously protected any information about their progress. This was done primarily to protect their own position, but the effect of this secrecy was the inability of other decision-makers to involve themselves in the proceedings. Clark and other officials from External Affairs were compelled to report on their actions only when prodded by media reports. To date, Clark still refuses to discuss the negotiations. Without knowing what happened, it is impossible to critically assess the position and tactic employed by the relevant decisions-makers.

Target: The targets of the discussions were the United States

and critics of the Canadian Government. The intent of the Canadian decision-makers was to create an agreement that either settled the issue of Canadian jurisdiction over the Northwest Passage in Canada's favour or, failing that, managed future transits of American icebreakers through the Northwest Passage. Through such an agreement, it was hoped that in the future the government would avoid the criticism it endured in 1985 over its actions regarding the POLAR SEA.

Cost: The negotiations took place over a two year period. As such, some costs were incurred in terms of the salary of the officials involved. But since all of the main participants were governmental officials, such costs were not new costs and would have been paid to the officials regardless of their assigned tasks. As such, the costs were minimal.

It is difficult to speculate how the Agreement itself could cost Canada in the long term. The disclaimer included in it would seem to preclude its employment against the Canadian claim to the north in any future court challenge.

Genesis: The decision to undertake negotiations with the United States was made in August 1985. It was the only decision out of the six that saw its genesis as a direct result of the POLAR SEA's voyage.

Fate: The Arctic Cooperation agreement was officially signed in January 1988. Since it was signed, it has been implemented several times in order to manage the transit of either the POLAR SEA or her sistership, the POLAR STAR, through the Northwest Passage.

SUMMARY

Upon examining the preparation of both the initial American and Canadian position, it is impossible not to notice the informality of the process. Officials phoned each other directly and formulated their respective position on an ad hoc basis. Such informality renders it difficult to analyze the process, and it is therefore impossible to determine the complete context of the discussions with confidence.

The first phase of negotiations provides evidence to support the bureaucratic model of decision-making.²³² As outlined by Allison, the bureaucratic model showed that decision-making within government will be the outcome of bargaining between the various units within government, and specifically among the administrative units. While officials from the Department of State were in favour of reaching some form of accommodation with Canadian officials, United States Department of Defense officials, led by naval personnel, aligned themselves with Coast Guard officials in a successful effort to prevent an

agreement with Canada.

However, the second phase of negotiations demonstrates the power that the elected representatives had over the bureaucrats, particularly when the two groups disagreed on policy.²³³ The driving force behind the final agreement on icebreakers was the relationship between Ronald Reagan and Brian Mulroney. Their close friendship enabled Mulroney to make a strong presentation on the behalf of the Canadian position that was ultimately accepted by Reagan.

Interviews with American officials clearly indicated that once Reagan had made up his mind on the issue, he was not going to alter it simply because his advisors disagreed with him. It was somewhat surprising to learn that at one meeting of the NSC, Reagan listened to the opposition levied against concluding an agreement with Canada from the Joint Chief of Staffs, the Secretary of Defense and others. After listening to them, Reagan then explained why he disagreed with them. He then directed the relevant officials to reach an agreement with Canada, and that was the end of the debate. Therefore, on this specific issue, the elected representative made the final decision, despite direct opposition from members of the bureaucracy. In the case of the Arctic Cooperation Agreement, the politicians had the final say over the bureaucrats.

Reagan and Mulroney's direct involvement in this case also demonstrates the influence of direct communications between officials. Had the relationship between the two not been as good as it was, it is unlikely that Reagan would have been willing to support the Canadian position.

The negotiations also provide important insights into the utilization of international law and its impact on negotiations. In these particular negotiations, the Law of the Sea Convention provided the reference point of the discussions. Even though Canada has not ratified it, and the United States has not even signed it, let alone ratified it, the core of the negotiations were founded on concepts drawn from it.

While both the United States and Canada have stated that they "accept" most of the Convention, this factor alone does not completely explain why it provided the framework for this issue. Instead, a more important factor can be found by examining who was leading the negotiations. Both Len Legault and David Colson are international lawyers. As such, they are members of the relatively small world community of international lawyers. Therefore, they defined the problem in terms that they understood and shared. Thus, concepts such as the EEZ and the marine scientific consent regime were drawn directly from the Convention. Had the head of the American

delegation been from the United States Navy, it is likely that the negotiations would have been defined in a different fashion. Therefore, concepts of international law provide a means of common language for the negotiators.

ENDNOTES

1. Interviews with Peggy Mason, External Affairs, Halifax, June 28, 1990; and Len Legault, External Affairs, Washington, April 24, 1990.

2. There was some controversy over the actual costs. Estimates ranged from \$350 million to \$600 million. Given the fact that there has always been cost overruns on all lead ships on new classes built for the Canadian navy, it seems very probable that this vessel would have also experienced such problems.

3. In fact, it is possible to trace the history of Canadian icebreakers as far back as 1876, when Canada attempted to build "a steamboat specially adapted for the Winter service and running through the ice", for service in the St. Lawrence and Northumberland Strait. Kim Nossal, "Polar Icebreakers: The Politics of Inertia," in The Politics of the Northwest Passage, edited by Franklyn Griffiths (Montreal and Kingston: McGill and Queen's University Press, 1987), p.217.

A Transport Canada document makes it very clear that the prospects of resource development in the north and the voyage of the MANHATTAN were the two main factors that started consideration of building a large (Polar 7 or larger) icebreaker. See: Canada, Transport Canada, Discussion Paper: Polar Icebreaker Program, No. TC 31-80, October 27, 1980, p.3.

4. In 1958, then transport minister George Hees suggested that Canada would build a nuclear icebreaker "as soon as it is feasible". Quoted in Matthew Fisher, "Experts Get Cracking on Super Icebreaker Plans," Globe and Mail August 7, 1985.

5. Canada, House of Commons, Standing Committee on Indian Affairs and Northern Development, Minutes of Evidence and Proceedings, Issue 25, June 15, 1971, pp.25:5-6.

6. Nossal, "Polar Icebreakers," p.228.

7. *Ibid.*, pp.229-231.

8. SCIAND, Minutes, p.25:3.

9. *Ibid.*, pp.25:3-4.

10. *Ibid.*, p.25:3.

11. *Ibid.*, p.25:5.

12. *Ibid.*, p.25:3.

13. *Ibid.*
14. Lawson W. Bringham, "A World-Class Icebreaker: The Canadian Polar-8," Proceedings 112 (March 1986), p.150.
15. John Langford, "Marine Science, Technology, and the Arctic: Some Questions and Guidelines for the Federal Government," in The Arctic in Question, edited by E.J. Dosman (Toronto: Oxford University Press, 1976), p.166.
16. "Liberals Want Icebreaker to Carry Cargo," Globe and Mail June 20, 1974.
17. For a review of the problems posed by such a vessel see, Langford, "Marine Science," pp.166-167.
18. *Ibid.*
19. Nossal, "Polar Icebreakers," p.229.
20. *Ibid.*
21. Canada, Minister Transport Canada, Design of Nuclear Icebreaker, No.39/70, March 6, 1978.
22. Nossal, "Polar Icebreaker."
23. Transport Canada, Polar Icebreaker Program, p.3.
24. *Ibid.*
25. *Ibid.*, p.57.
26. *Ibid.*, p.59.
27. *Ibid.*
28. *Ibid.*, p.61.
29. Interestingly, there was very little concern about the international ramifications of building a nuclear powered vessel. In the report to Cabinet, Transport officials reviewed all relevant domestic and international regulatory requirements and concluded that,
 If there are to be activities outside Canada (e.g., overseas construction, operation in international and foreign waters, etc.) it will be necessary to consider the requirements of other regulatory bodies such as the United Nations Intergovernmental Maritime Consultative Organization (IMCO) and foreign equivalents of AECB [Atomic Energy Control Board] and other government departments. At the present time no definitive guidelines

for nuclear propulsion have been produced by any of these regulatory bodies. However, provisional rules exist for some aspects, and work is proceeding by IMCO on the formulation of guidelines. (*Ibid.*, p.45)

The fact that this was the only mention of the international regulatory ramifications suggests that the officials did not see this issue as an important factor. Of course it is possible that Cabinet ministers were more concerned, but given Cabinet secrecy, no public sources exist to determine if such concerns were raised.

30. *Ibid.*; Canada, Minister Transport Canada, "Canada to Design World's Most Powerful Icebreaker," Information, No. 64/78, April 22, 1981; and Carey French, "Word Expected on Icebreaker By the Spring," Globe and Mail December 6, 1982.

31. French, "Word Expected." It was also reported that the decision on the propulsion unit was in part to be made once tests have been completed on the USCG POLAR STAR, the sister-ship of the POLAR SEA.

32. *Ibid.*

33. Nossal, "Polar Icebreaker," p.231.

34. Canada, Department of National Defence, "Letter," from Minister of National Defence, Jean-Jacques Blais, to Mr. Frank Cserepy, Yellowknife, NWT, December 15, 1983.

35. Carey French, "3 Firms to Seek Job of Building Icebreaker," Globe and Mail July 9, 1984.

36. *Ibid.*

37. Matthew Fisher, "Experts Get Cracking on Super Icebreaker Plans," Globe and Mail August 7, 1985.

38. Ran Quail, Assistant Deputy Minister, Marine Commissioner, Canadian Coast Guard, Transport Canada, in Canada, House of Commons, Standing Committee on National Defence, Minutes of Proceedings and Evidence, Issue #3, January 27, 28, 1987, p.35.

39. Fisher, "Experts get Cracking."

40. Interview with J.Y. Clarke, Canadian Coast Guard (ret.), Ottawa, April 28, 1993.

41. The Transport Department, through the Coast Guard, is responsible for the Canadian icebreaker fleet.

42. Interview with Peggy Mason, Halifax, June 28, 1990.

43. Interview with Paul Chapin, External Affairs, Washington, April 24, 1990.

44. Interview with Len Legault, External Affairs, Washington, April 24, 1990.
45. Interview with Peggy Mason, External Affairs, Halifax, June 28, 1990.
46. Confidential interviews with Canadian officials.
47. Bringham, "A World-Class Icebreaker," p.152.
48. Carey French, "Commitment to Super-Icebreaker Not Popular With Naval Planner," Globe and Mail October 3, 1986.
49. Canada, House of Commons, Standing Committee on National Defence, Consideration of the Arctic Sovereignty and Security, January 27, 28, 1987, p.3:37.
50. *Ibid.*
51. James Bagnall, "Icebreaker Project Could Founder on Ottawa Decision," Financial Post February 15, 1986.
52. Canada, House of Commons, Debates, Robichaud, September 17, 1985, p.6709; Caccia, September 19, 1985, p.6777; Donald Johnston, October 24, 1985, p.7946; Tobin, June 12, 1986, p.14286; and Tobin, June 27, 1986, p.15004.
53. CTV National News, August 3, 1985.
54. Jean-Jacques Blais, "Icy Challenge to Canadian Power: Letter to the Editor," Globe and Mail August 7, 1985. Of course one must always be somewhat suspicious of the motivation of such letters. The question remains as to how concerned Blais was in seeing the vessel built and to what degree he wished to embarrass the existing government. In all probability, it was a little of both.
55. For his writings before the transit of the POLAR SEA see his, "The Development of Arctic Ships," in A Century of Canada's Arctic Islands, 1880-1980, edited by Morris Zaslow (Ottawa: Royal Society of Canada, 1981). Following the voyage, he became one of the strongest supporters of the Polar 8 project until its cancellation. See Tom Pullen, "What Price Canadian Sovereignty?" Proceedings (September 1987).
56. Margaret Munro, "U.S. Arctic Voyage Stirs Debate: Canadian Sovereignty Undermined, Critics Say," Montreal Gazette July 17, 1985; and "Use the Arctic or Lose It, Panel on U.S. Voyage Told," Globe and Mail July 30, 1985.
57. Interview with Coast Guard official, Ottawa, December 10, 1990.
58. Confidential interviews with U.S. officials.

59. Interviews with USCG officials, Washington, April 1990.
60. In addition, the fact that several commercial actors were involved meant that concern over the confidentiality of information became even more of an issue.
61. SCND, Minutes, January 27, 28, 1987, p.35.
62. Iain Hunter, "Arctic Sovereignty: Delays Put Our Polar Standard-Bearer in Limbo," Ottawa Citizen July 29, 1989.
63. Bagnall, "Icebreaker Project Could Founder."
64. P.J. Aaria, Angus Bruneau and P.A. Lapped, ed., Arctic Systems (New York: Plenum Press, 1977).
65. "Ottawa Underrated Potential of Our Icebreaker Design: Finnish Firm," Montreal Gazette January 19, 1987.
66. Patricia Poirier, "B.C. Firm Favoured for Icebreaker Contract," Globe and Mail January 17, 1987.
67. "Icebreaker Maker Doubts Objectivity of Group Favouring Rival," Montreal Gazette February 17, 1987.
68. *Ibid.*
69. SCND Minutes, January 27, 28, 1987, p.36.
70. Poirier, "BC Firm Favoured."
71. "Icebreaker Maker Doubts Objectivity,"; "Klein Warns of 'Political Trouble' over Icebreaker," Calgary Herald January 17, 1987.
72. The Western Report was the most vocal proponent of this perspective starting in November of 1986. See: "The Icebreaker or Bust: Will Ottawa Save BC's Shipyards or Give Another Contract to Quebec?" Western Report November 24, 1986; Mike Byfield and Tim Gallagher, "Score One More for Montreal: the Icebreaker: Quebec-Finland Bid Favoured Over Western Design," Western Report January 5, 1987; Mike Byfield, "New Icebreaker Ammunition: The Westerners' Case is Bolstered By Their Finnish Rival's Data," Western Report February 9, 1987; and Ralph Hedlin, "The Coast Guard's Bureaucrats Mustn't Win on the Icebreaker," Western Report February 23, 1987.
73. Ken MacQueen, "Patrolling the Arctic," Maclean's August 18, 1986, p.17.
74. *Ibid.*

75. Canada, House of Commons, Debates, March 11, 1986, p.11420.
76. Harvie Andre in: SCND, Minutes of Proceeding and Evidence, April 15, 21, 1986, p.1:18-1:19.
77. "Decision on Icebreaker Contract 'Imminent'," Globe and Mail January 5, 1987.
78. *Ibid.*
79. Canada, Department of External Affairs, "Subject - Arctic Icebreaker. How Will the Icebreaker Help Defend Canada's Arctic," House of Commons -Briefing Note, by Legal Operations, January 19, 1987.
80. *Ibid.*
81. Canada, House of Commons, Debates, March 2, 1987, p.3723.
82. "Versatile Expected to Win Icebreaker Contract Today," Montreal Gazette March 2, 1987.
83. Iain Hunter, "Arctic Sovereignty: Delays."
84. *Ibid.*
85. Jennifer Hunter, "Versatile Pacific Forms Partnership for Icebreaker Project," Globe and Mail May 6, 1987.
86. Poirier, "B.C. Firm Favoured."
87. Iain Hunter, "Arctic Sovereignty: Delays."
88. Jennifer Hunter, "Versatile Pacific Forms Partnership."
89. *Ibid.*
90. Ron Sudlow, "Federal Approval Given for Icebreaker Design Talks," Globe and Mail August 13, 1987.
91. *Ibid.*
92. James Bagnall, "Versatile May Get Icebreaker Job," Financial Post November 10, 1986.
93. "Versatile Expected to Win Icebreaker Contract Today," Montreal Gazette March 2, 1987.
94. Canada, House of Commons, Debates, October 3, 1986 pp.59-61; and December 10, 1986, p.1990.

95. "Ice Ship Defects Outlined," Calgary Herald May 10, 1988; and "Propulsion System for Polar 8 is Guaranteed, Bouchard Says," Montreal Gazette May 11, 1988.

96. "Icebreaker's Cost Climbing: Coast Guard," Montreal Gazette July 14, 1988.

97. *Ibid.*

98. Paul Koring, "Bouchard Delays Plans for Polar 8 as Cost Rises," Globe and Mail May 8, 1989.

99. *Ibid.*

100. Koring, "Bouchard Delays Plans,"; and Ken Romain, "Polar 8 Delay Leaves Shipyard Short of Work," Globe and Mail May 15, 1989.

101. Koring, "Bouchard Delays Plans."

102. *Ibid.*

103. Canada, House of Commons, Debates, May 8, 1989, p.1434.

104. *Ibid.* McLaughlin was probably making a dig at Defence Minister Bill McKnight's explanation for what Canada would do, since it decided not to build the nuclear submarines, i.e., "We may have to rely more on our allies." Also quoted in Paul Koring, "Defence of Arctic Left to Allies by Budget Cuts," Globe and Mail April 28, 1989.

105. *Ibid.*

106. Iain Hunter, "Arctic Sovereignty: Delays."

107. Canada, Canadian Coast Guard, Summary of the Initial Environmental Evaluation of the Polar 8 (Ottawa: Canadian Coast Guard, 1990), p.2.

108. Deborah Wilson, "Axing of the Polar 8 Seen as a Cruel Blow But BC Shipbuilder Plans to Stay Open," Globe and Mail February 22, 1990, p.B22.

109. Ken MacQueen, "Ottawa's Paper Ship: A Massive Waste of Time, Talent and Money," Montreal Gazette February 22, 1990.

110. Paul Koring, "Polar 8 Founders on Shoals of Tory Cuts," Globe and Mail February 20, 1990.

111. Canada, House of Commons, Debates, March 13, 1990, p.9158.

112. The one possible exception may be some form of an understanding reached between the U.S. Defence Department and the Canadian Department of National Defence regarding American submarine passage. It is known as the "Arctic Strawman", and focused around the creation of an underwater version of NORAD. However, if such a rumoured agreement was or is in existence, it is highly classified. What is known will be discussed in the next chapter.

113. Interview with Barry Mawhinney, External Affairs, Ottawa, April 30, 1993.

114. Confidential interviews with Canadian officials.

115. Mary Janigan, "A Secret Plan for Free Trade and Sovereignty," Maclean's November 11, 1985, pp.18-19.

116. Interview with Len Legault, External Affairs, Washington, April 24, 1990.

117. Interviews with David Colson and Tucker Scully, Department of State, Washington, April 17, 1990.

118. Interview with Commander Waldon, USCG, Washington, April 15, 1990.

119. Interview with Admiral Schachte JAG, USN, Washington, April 25, 1990.

120. For a fascinating story on the voyage of the SEADRAGON see the book written by her commanding officer, Commander George Steele, Seadragon: Northwest Under the Ice (New York: E.P. Dutton & Co., Inc., 1962). Of particular interest is the close cooperation that existed between the USN and Canadian navy during the voyage.

121. Norman Polmar, "Sailing under the Ice," Proceedings 110 pt 1 (June 1984), p.122.

122. Much of the following discussion is drawn from a previous paper by the author, "The Voyage of the Polar Sea: The Reaction of the United States to Canadian Reaction," presented at the 1990 CPSA Annual meeting in Victoria.

123. Canada, Department of External Affairs, "Policy on Canadian Sovereignty," Statement and Speeches, No. 85/7, September 10, 1985, p.3.

124 "U.S. Proposes Further Talks on Arctic Claims," Ottawa Citizen September 12, 1985.

125. Canada, Department of External Affairs, "Subject - U.S. Reaction to Your Statement on Arctic Sovereignty," House of Commons- Briefing Note, by United States General Relations and Programs Division, September 12, 1985.

126. Interview with David Colson and Tucker Scully, Department of State, Washington, April 17, 1990.

127. Canada, Department of External Affairs, "Subject - Arctic Sovereignty - Canada/USA Talks," House of Commons - Briefing Note, by Legal Operations Division, September 23, 1985.

128. United States, Department of State, "Secretary Visits Canada," Bulletin, June 1987, pp.42-43.

129. *Ibid.*, p.46.

130. Interview with Len Legault, External Affairs, Washington, April 24, 1990.

131. LOS Convention, Article 234.

132. Interview with Dennis Bryant, USCG, Washington, April 23, 1990.

133. LOS Convention, Article 236.

134. Confidential interviews with American and Canadian officials.

135. Several American officials made it clear that while State officials had been willing to compromise, it was representatives from the navy who refused to bend on this issue. The naval officials were very concerned about the precedent that would be created if Canada was granted full sovereignty.

136. Ross Howard, "De Facto Control of Non-Arms Shipping Won in Northern Passage, Officials Say," Globe and Mail December 8, 1987.

137. Canada, External Affairs, "Subject - Arctic Sovereignty - What is the Status of Canada/USA Talks," House of Commons - Briefing Note, by Legal Operations Division, September 24, 1986.

138. Canada, Department of External Affairs, "Subject - Arctic Sovereignty," House of Commons - Briefing Note, prepared by Legal Operations Division, September 22, 1986.

139. Confidential interview with American naval official.

140. Interview with Dennis Bryant, USCG, Washington, April 23, 1990.

141. Confidential interview with American official.

142. Interview with Ty Cobb, former NSC official, Washington, April 27, 1990.

143. This story is referred to in Ross Howard's report, "De facto Control of Non-Arms Shipping Won in Northern Passage, Officials Say," Globe and Mail December 8, 1987. This story has also been referred to by at least two external affairs officials and one official of the National Security Council. Some officials in External Affairs remember the story as being true, but stated that it occurred in the 1987 Summit and not in 1986. Unfortunately, no further evidence can be found.

144. It was impossible to get an exact date. One official from External Affairs who participated in the negotiations suggested that the negotiations may have started even before the 1986 Summit. Unfortunately, he could not remember for certain. Most other officials have suggested that it was the summit that led to the convening of the special negotiators.

145. 1993 Who's Who in Canada, 84th ed. (Toronto: Global Press, 1993), p.116.

146. Interview with Edwin Derwinski, Washington, April 26, 1990.

147. Pernick followed Derwinski to the Department of Veteran Affairs, when the latter was elevated to Cabinet level in the Bush Administration.

148. Interview with Edwin Derwinski, Washington, April 26, 1990.

149. Interview with Dennis Bryant, USCG, Washington, April 23, 1991.

150. Canada, Department of External Affairs, "Subject - Arctic Sovereignty," House of Commons - Briefing Note, by Legal Operations Division, September 22, 1986.

151. House of Commons, Debates, March 23, 1987, p.4446.

152. Canada, Department of External Affairs, House of Commons - Briefing Note, March 22, 1987, prepared by JLO Howard Strauss.

153. *Ibid.*

154. Confidential interview with American official.

155. United States, President, Public Papers of the President of the United States, Ronald Reagan Book 1 (Washington: US Government Printing Office, 1989), p.334.

156. Interview with Ty Cobb, Washington, April 27, 1990.

157. United States, State Department, "President's Visit to Canada," Bulletin, June 1987, p.7.

158. Interviews with Ty Cobb, Washington, April 27, 1990; Barry Mawhinney, External Affairs, Ottawa, April 30, 1993.

159. Interview with Barry Mawhinney, External Affairs, Ottawa, April 30, 1993.

160. Howard, "De facto Control," and interview with Irwin Pernick, Washington, April 27, 1990.

161. Interview with Edwin Derwinski, Washington, April 26, 1990; Interview with Irwin Pernick, Washington, April 27, 1990. They made it clear that it was Powell, in his capacity as Deputy Assistant to the President on the National Security Council, who made sure that the agreement passed the NSC despite the opposition of others. He took the position that since the President had given his OK, the time for dissent was over. Powell served on the NSC between January 1987 to January 1989, first as the Deputy Assistant to the President (January 1987-December 1987) and then as the Assistant to the President (December 1987-January 1989).

162. Transcript: Interview with foreign print journalists, Washington, D.C., May 27, 1987.

163. United States, President, Public Papers of the President of the United States, Ronald Reagan 1987, Book 1, p.571.

164. Canada, Department of External Affairs, "Subject - In interviews with foreign reporters on May 26 and 27, President Reagan commented positively on Canada's concerns regarding the Arctic," House of Commons - Briefing Note, by Legal Operations Division, May 28, 1987.

165. Interview with Ty Cobb, Washington, April 27, 1990.

166. Interview with Paul Chapin, External Affairs, Washington, April 24, 1990.

167. "Arctic Agreement with U.S. Ignores Canadian Sovereignty," The Ottawa Citizen December 5, 1987.

168. Peter C. Newman, "Uncle Sam's Sovereignty Promise," Maclean's March 30, 1987, p.33.

169. *Ibid.*

170. Canada, House of Commons, Debates, March 23, 1987, p.4446.

171. *Ibid.*

172. Joe Clark, "The View from Ottawa: Letters," Maclean's April 6, 1987.

173. Canada, House of Commons, Debates, March 23, 1987, p.4446.

174. Canada, House of Commons, Standing Committee on National Defence, Minutes of Proceedings and Evidence, January 27, 28, 1987, pp.3:10-11.

175. Canada, House of Commons, Debates, March 24, 1987, p.4507.

176. *Ibid.*

177. Canada, Department of External Affairs, "Memorandum," for the Secretary of State for External Affairs, Subject: Canada-United States Cooperation--Consultations with the North, by Derek Burney, March 26, 1987.

178. An External Affairs briefing note states that another briefing took place on December 7, 1987, and hinted that other briefings had taken place: Canada, Department of External Affairs, "Subject - Arctic: Have the territorial governments been consulted on the Canadian-U.S.A. Arctic Cooperation Agreement?" House of Commons - Briefing Note, by Legal Operations Division, December 7, 1987. One cannot help but be suspicious however about the timing of these briefings. They seem to occur exactly and only on the days in which the media released information on the negotiations. Of course, it is possible that the causal relationship may be inverted, that the media would find out about the negotiations when the northern leaders were briefed. However, the true relationship is simply not known.

179. *Ibid.* The last point of the talking points is also interesting from the perspective that it is an admission that the government was by then viewing the voyage of the POLAR SEA as something to be avoided. If, as the government had argued in August of 1985, the voyage created no problems, why did it now need to be avoided?

180. Canada, House of Commons, Debates, December 8, 1987, p.11594.

181. Matthew Fisher, "Inuit Unhappy with Marine Pact," Globe and Mail January 2, 1988.

182. The Inuit Tapirisat were asked about this in 1990. Unfortunately, they were unable to find their records on the issue, and the person who had handled the administration of the material was no longer with them. Thus, they simply could not answer any questions.

183. Fisher, "Inuit Unhappy."

184. Canada, Canadian Coast Guard, Summary of the Initial Environmental Evaluation of the Polar 8 (Ottawa: Canadian Coast Guard, 1990).
185. Canada, House of Commons, Debates, April 7, 1987, pp.4926-9.
186. *Ibid.*
187. *Ibid.*, p.4928.
188. *Ibid.*, p.4929.
189. Graham Fraser and Jeff Sallot, "No Pact With the US on Arctic, Clark Says," Globe and Mail March 24, 1987; and Tim Harper, "Arctic Vigilance Growing Clark Says," Toronto Star April 23, 1987.
190. The leaks were correct as demonstrated when the text of the Agreement was officially released. "Arctic Agreement with U.S. Ignores Canadian Sovereignty," Ottawa Citizen December 5, 1987; and see Iain Hunter, "Arctic Key to Subs Deal," Ottawa Citizen December 7, 1987.
191. Canada, House of Commons, Debates, September 10, 1985, p.6465.
192. "Arctic Agreement with U.S. Ignores Canadian Sovereignty," and Iain Hunter, "Arctic Key to Subs Deal."
193. Canada, House of Commons, Debates, December 7 1987, p.11536.
194. *Ibid.*, p.11539.
195. Canada, Department of External Affairs, "Subject - Arctic: Is the Canada-USA Arctic Cooperation Agreement a treaty that will be submitted to the House for approval?" House of Commons - Briefing Note, by Legal Operations Division, December 7, 1987.
196. Iain Hunter, "Arctic Claim Not At Risk, Government Says," Ottawa Citizen December 7, 1987.
197. Martin Cohn, "Canada-U.S. Deal Ignores Sovereignty," Toronto Star January 12, 1988.
198. "Agreement Between the Government of Canada and the Government of the United States of America on Arctic Cooperation," signed in Ottawa, January 11, 1988.
199. *Ibid.*
200. "Inuit Unhappy"; "U.S. Rejects Canada's Claim to Sovereignty in Arctic Treaty," Ottawa Citizen January 12, 1988.

201. Canada, Department of External Affairs, "Canada-United States Agreement on Arctic Cooperation," News Release, #010, January 10, 1988; and United States, United States Embassy, Ottawa, "United States-Canada Agreement on Arctic Cooperation," Backgrounder, 88-5, January 11, 1988.

202. *Ibid.*

203. Jeff Salot, "Shultz Won't Budge on Acid Rain Issue: Arctic Accord Signed," Globe and Mail January 12, 1988.

204. CIIA working Group, The North and Canada's International Relations (Ottawa: CARC Publishing, 1988), p.43.

205. *Ibid.*

206. Iain Hunter and Daniel Drolet, "U.S. Rejects Canada's Claim to Sovereignty in Arctic Treaty," Ottawa Citizen January 12, 1988.

207. Canada, House of Commons, Debates, January 18, 1988, pp.11998-99.

208. "Canada-U.S. Deal Ignores Sovereignty," Toronto Star January 12, 1988.

209. *Ibid.*; and Mark Nicols, with Michael Rose, "Arctic Compromise," Maclean's January 12, 1988.

210. Nicols and Rose, "Arctic Compromise," p.12.

211. CIIA, The North and Canada's International Relations, p.43.

212. *Ibid.*, pp.43-44.

213. *Ibid.*, p.44.

214. It should be noted that the study elicited one question from John Turner in the House and at least one newspaper article. Canada, House of Commons, Debates, March 22, 1988, p.14005; Iain Hunter, "Experts Warn Arctic Pact Threatens Sovereignty Case," Ottawa Citizen March 22, 1988.

215. The sistership to the POLAR SEA.

216. Paul Koring, "Canada Allows Entry by US Icebreaker," The Globe and Mail October 7, 1988; and Bill McAllister, "U.S. Breaks Diplomatic Ice for Trapped Ship: Plan Will Let Vessel Cross Disputed Canadian Waters," Washington Post October 12, 1988.

217. "Americans Seek Permission for Coast Guard Icebreaker to Enter Arctic for Repair Work," The Whitehorse Star October 7, 1988; and Paul Koring, "Canada Allows Entry by Icebreakers," Globe and Mail

October 7, 1988.

218. Captain Dick Smith of the POLAR STAR was reported as stating that the only difference that he noticed regarding the agreement was the fact that he had to wait outside Canadian waters until consent was granted. However, the fact that he was required to wait signals that the consent is not meaningless, and implies that he could have been required to turn around had it not been granted. Beverly Ware, "Icebreaker's Passage Trip Uneventful," Halifax Daily News October 27, 1988.

219. Arctic Waters Pollution Prevention Act. R.S.C. 1985, c. 2 (1st Supp.), s. 1.

220. "Ottawa Exempts U.S. Ship from Pollution Regulations," Globe and Mail September 6, 1990.

221. United States, Department of State, Bulletin, May 11, 1970, Volume 62, pp.610-11.

222. Matthew Fisher, "U.S. Remains Silent Over Testing Claim on Soviet Passage," Globe and Mail August 8, 1985.

223. Nicols, with Rose, "Arctic Compromise."

224. Canada, Department of External Affairs, "Sovereignty in an Interdependent World: Remarks by the Right Honourable Joe Clark, Secretary of State for External Affairs at Carleton University," Statements and Speeches, October 18, 1988, p.3.

225. "Canada-United States: Agreement on Arctic Cooperation and Exchange of Notes Concerning Transit of Northwest Passage," in International Legal Material 9 (1970), p.144.

226. There have been numerous attempts by the opposition parties to force the Conservative Government to acknowledge if such agreements exist. The government has steadfastly refused to do so, explaining that such a pronouncement, whether positive or negative, could hurt national security. See Canada, House of Commons, Debates, November 17, 1986, p.1206; December 5, 1986, p.1823; December 8, 1986, p.1873; and December 9, 1986, pp.1923-7. It seems to stretch the imagination to believe that if such an agreement does exist that the Soviet Union did not already know of it, if through no other way than the Walker family spy network. Still, naval officials have unofficially confirmed that undersea water management systems are in place for all NATO members.

227. One other recent study (June 1993) undertaken by Christopher Kirkey of Brandeis University has also raised questions as to the meaning of the term "Consent" for the Agreement.

228. Interview with Admiral Schachte JAG, USN, Washington, April 25, 1990; and Commander Waldon USCG, Washington, April 25, 1990.
229. LOS Convention, Article 245, p.87.
230. LOS Convention, Article 246(2).
231. "Text of U.S. Note no.425 (October 10, 1988)," International Legal Material 9 (1990), p.144.
232. The seminal source on the bureaucratic decision-making model is Graham Allison, Essence of Decision: Explaining the Cuban Missile Crisis (Boston: Little, Brown and Company, 1971).
233. For a brief and well written exchange on a Canadian version of the bureaucratic versus politician questions see the debate between Flora MacDonald and Mitchell Sharp in, Flora MacDonald, "Who is on Top? The Minister or the Mandarins?" and Mitchell Sharp, "A Reply from a Former Minister and Mandarin," Politics Canada 7th edition, edited by Paul Fox and Graham White (Toronto: McGraw-Hill Ryerson Limited, 1991).

CHAPTER VII

THE INDIRECT CONSEQUENCES OF THE POLAR SEA ON CANADIAN FOREIGN POLICY

INTRODUCTION

This study has focused on the voyage of the POLAR SEA and the decisions that were taken directly as a result of it. The voyage also influenced other policy decisions in a less direct fashion. In order to fully understand the foreign policy decision-making process it is necessary to examine the manner by which the POLAR SEA voyage influenced these other policy decisions.

There are five separate but inter-related sets of decisions that are included in this section: 1) the Foreign Policy Review; 2) the 1987 Defence White Paper and related defence programmes; 3) polar science; 4) transits of the Northwest Passage; and 5) the voyage of the POLAR SEA as a political tool.

Each one of these sets of decisions could be examined in its own right. For example, the complete story behind the decision to equip the Canadian forces with nuclear submarines as promised by the White Paper has not yet received a full examination. As such, an exhaustive study of each of the above is beyond the parameters of this examination. This chapter

will be limited to examining the manner by which the POLAR SEA affected each of the five sets of decisions.

SECTION I

THE FOREIGN POLICY REVIEW AND THE VOYAGE OF THE POLAR SEA

When the Conservative Government came to power in the fall of 1984, one of its first acts was to announce that it would undertake reviews of both Canada's foreign policy and defence policy. In order to undertake the foreign policy review, the Department of External Affairs drafted a discussion paper. This paper, officially entitled, Competitiveness and Security: Directions for Canada's International Relations, was also known as the Green Paper.¹ Tabled in the House of Commons on May 14, 1985, the government specifically noted that the Green Paper

...was not a proclamation of government policy; its purpose was to prompt a long overdue public discussion of issues that have a major impact on the lives of all Canadians.²

Once tabled in the House of Commons, the government referred the Green Paper to a Special Joint Committee of the House of Commons and Senate. This committee was in turn empowered to hold a series of public hearings on future directions for Canadian foreign policy across Canada.

The hearings resulted in a report known officially as Independence and Internationalism: Report of the Special Joint Committee on Canada's International Relations.³ However, it

is usually referred to as the Simard-Hockin Report, in reference to the joint chairpersons of the hearings. The report included eleven chapters and 121 policy recommendations covering a wide range of issues. Upon completion of this report, the government had ninety days in which to respond and did so in December 1986.⁴ While the development of the three reports provide important insights into the foreign policy formulation process, this study is concerned only with the impact that the POLAR SEA Voyage had on them.

THE GREEN PAPER

The purpose of the Green Paper was to establish a dialogue on Canadian foreign policy. The new Conservative Government wanted to distance its foreign policy from that of the preceding Liberal Government, and develop its own policies. Therefore, the Green Paper specifically stated that it was a only a policy discussion.

Nevertheless, an examination of the main issues raised by the Green Paper indicates the areas that the government wished to focus upon. This was confirmed by External Affairs officials responsible for the drafting of the report.⁵ At that time, in early 1985, the government's attention was mainly on the issue of the Strategic Defence Initiative (SDI) and preparations for the free trade discussions. Therefore, the Green Paper was mainly concerned with international economic affairs and

international peace and security issues.

The Green Paper mentioned the Arctic and the north in general terms only in the introduction. Listing the attributes that make up Canada, the Green Paper stated:

Finally, we are an Arctic nation. The North holds a distinct place in our nationhood and sense of identity. We view it as special, and ourselves as special because of it.⁶

Another more specific reference to the north was made when the document focused on the issue of upgrading the air defence of the Canadian north.⁷ But this was not so much concern with the Arctic per se, but rather a concern with Canadian defence issues.

In discussions, officials who were involved in drafting this report make no secret that its main focus was issues of Canadian sovereignty.⁸ The government was concerned that if Canadian international economic policy and defence policy was coordinated closely with the United States, the Conservatives could be seen as being too pro-American. Thus, officials suggested that the government believed it necessary to provide assurances that regardless of the specific policies taken, Canadian sovereignty was being promoted and protected.⁹

THE SIMARD-HOCKIN REPORT AND THE VOYAGE OF THE POLAR SEA

In contrast to the Green Paper, the Simard-Hockin Report released in June 1986, contained a specific chapter on "a

Northern Dimension for Canadian Foreign Policy".¹⁰ This chapter examined three main areas: general issues of concern in the north; the question of sovereignty; and defence questions.¹¹ The Report made nine policy recommendations ranging from the fur trade, native self-government and new submarines. Of particular relevance to the present examination is the section on the "Question of Sovereignty". In this section, the report was open about the impact of the POLAR SEA on its deliberations: "The deficiencies in backing up Canada's claim to sovereignty were highlighted by last summer's voyage through the Northwest Passage by the POLAR SEA, a U.S. Coast Guard icebreaker."¹²

The Simard-Hockin Committee determined that Canada needed to reach an agreement with the United States on the status of the Passage. However, if this proved to be impossible, the committee recommended that Canada not immediately take the case to the International Court of Justice.¹³

In interviews, officials involved in the writing of the Report indicated that the voyage's main effect was that members of the committee were made aware of the fact that Canada has three oceans and not two.¹⁴ They also pointed out that the voyage added weight to the testimony of several experts on the north including Franklyn Griffiths, Donat Pharand and Bruce McKinnon.¹⁵

The officials' general consensus was that the timing of the voyage resulted in a greater willingness by the committee to recognize a northern component to Canadian foreign policy. Most of the committee's policy recommendations were generally non-controversial. However, their main significance was that they required the government to acknowledge the northern dimension of Canadian foreign policy.

THE GOVERNMENT'S RESPONSE AND THE VOYAGE OF THE POLAR SEA

As previously mentioned, the government had bound itself to provide a written reply to the recommendations of the committee.¹⁶ When Joe Clark presented the government's response in the House of Commons, he specifically noted the importance that the committee had placed on the "northern dimension of Canadian foreign policy."¹⁷

The government's detailed reply to each of the nine policy recommendations of the Hockin-Simard report also included a general policy position statement on Canadian northern foreign policy.¹⁸ Once again, the impact of the POLAR SEA voyage was clearly stated.

The voyage of the U.S. Coast Guard icebreaker Polar Sea in summer of 1985 dramatically underlined the deep concerns of Canadians for Arctic sovereignty. In his statement to the House of Commons on September 10, 1985, the Secretary of State for External Affairs affirmed that Canadian sovereignty extended to all the waters of the Arctic archipelago.¹⁹

The report then listed the six policy initiatives of the

September 10 announcement. However, more significantly, it then went on to state that:

These recent commitments by the government, and their implementation, must now be set into a broad policy context. A comprehensive northern foreign policy will have four dominant themes:

- Affirming Canadian Sovereignty;
- Modernizing Canada's northern defence;
- Preparing for commercial use of the Northwest Passage; and
- Promoting enhanced circumpolar cooperation.

These themes are interrelated and, and indeed provide essential balance and support for one another. Taken together, they provide the basis for an integrated and comprehensive northern foreign policy.²⁰

These four themes were announced as the mainstay of the northern dimension of Canadian foreign policy. In 1987, Clark gave a speech in Tromso, Norway, explaining how these four points were to be implemented.²¹ Clark specifically stated that Canada's northern foreign policy was directly founded on its response to the Hockin-Simard Report.²²

Clark's speech, in addition to the government's response to the Hockin-Simard report, demonstrates that the substance of the four themes is found in the September 10, 1985, speech. The principal elements of the affirmation of Canadian sovereignty were based on the September 10 policy statement and included: talks with the United States over the status of the Northwest Passage; the building of the Polar 8 icebreaker; and the passage of the Canadian Offshore Laws Application Act.²³ An additional component to the affirmation of Canadian

sovereignty, that was not a part of the September 10 speech, was the government's report noting the importance of the Inuit to Canadian claims.

Defence concerns focused mainly on developing means of effectively monitoring the north, both in the air and under the ice.²⁴ These included an increase in the Northern Sovereignty Patrol flights and increased naval activity, as well as upgrading the northern early warning system through the installation of a North Warning System. The possibility of replacing the Oberon submarines with a class that could operate under the ice was also mentioned.

The third policy theme, the preparation of the Passage for commercial use, concerned the protection of the environment and the building of the Polar 8 class icebreaker.²⁵ Vague references to "develop the necessary infrastructure and operational capabilities" were made, but were not elaborated upon.

The government did not rely heavily on the September 10 policy announcement for the substance of its fourth theme, circumpolar cooperation. Circumpolar cooperation called for greater cooperation with not only the United States, but also with the USSR, Greenland and the Inuit Circumpolar Conference.²⁶ In particular, it sought increased scientific

links with the USSR in shared northern research as a means of reducing East-West tensions.

SUMMARY

The government's northern foreign policy did expand beyond the specific six policy initiatives of September 10 as a result of its foreign policy review. Nevertheless, the September 10 initiatives resulting from the voyage, formed the backbone of three of the four themes for northern foreign policy. The voyage of the POLAR SEA crystallized the government's thinking at a time when it was attempting to establish its own distinctive foreign policy. The voyage also provided a focal point for many experts who had championed the need for a more active northern foreign policy.

SECTION II

THE 1987 DEFENCE WHITE PAPER AND THE VOYAGE OF THE POLAR SEA

At the same time that External Affairs officials were undertaking their review of Canadian foreign policy, Department of National Defence officials were beginning a similar review of Canadian defence policy. However, they proceeded secretly with minimal public participation. As such, the decision-making process of the entire drafting of the White Paper is not yet fully understood.²⁷ This is

particularly true of its key component, the proposed purchase of ten to twelve nuclear-powered submarines. In fact, the full story leading to efforts to equip the Canadian forces with these weapon systems has not yet been told. Thus, any effort to identify the factors influencing the decision-making process is still limited by the lack of information.

The manner by which the POLAR SEA voyage interacted with the defence review is important to this analysis. However, due to the highly classified nature of this project, in addition to the reluctance of most officials to discuss it, much of the following cannot be fully documented and, as such, must be read with caution.²⁸ The POLAR SEA voyage's main impact was substantial but indirect. It focused the attention of both the government decision-makers and the public on the issue of defending Arctic sovereignty and it provided individual decision-makers with the means to justify several programmes within the government, including the nuclear powered submarine and underwater listening device programmes.

THE NUCLEAR POWERED SUBMARINE PROGRAMME AND THE VOYAGE OF THE POLAR SEA

Interviews with Defence officials have indicated that the Department of Defence had been considering replacing the three Oberon conventional-powered submarines since the mid-1970s.²⁹ Although a study group was created to examine the possibility

of procuring nuclear-powered submarines, this option was considered unlikely because of the cost factor. However, when Erik Nielsen was being briefed on the submarine replacement plan in 1985, he reportedly requested that the nuclear option be explored.³⁰ Eventually, his initiative led to the June 1987 announcement in the White Paper that,

Given the vast distances in the three ocean areas in which Canada requires maritime forces and the SSN's unlimited endurance and flexibility, the Government has decided to acquire a fleet of nuclear-powered submarines to enhance the overall effectiveness of the Canadian navy.³¹

In turn, the government then proceeded to examine both a British and French design. However, before a final selection was made, the government rescinded its decision in the April 27, 1989 budget and the nuclear submarine programme was eliminated.³²

The voyage of the POLAR SEA was used by several Canadian decision-makers to justify the purchase of the submarines for use in Arctic Waters, despite the fact that the actual operational requirement for them was primarily in the Atlantic and Pacific Oceans. Most naval planners wanted the nuclear-powered submarines to counter the threat posed by Soviet submarines in the Atlantic and to a lesser degree in the Pacific. The operational need in the Arctic was perceived as secondary.³³ As Rear-Admiral (ret.) Fred Crickard writes,

The perception prevailed that the SSNs would be acquired exclusively for Arctic sovereignty. This image was enhanced by statements from Prime

Minister Brian Mulroney, as well as Minister of External Affairs Joe Clark, despite repeated and public "clarification" by Minister of National Defence Perrin Beatty and senior naval officers. Unfortunately, their attempts to justify the acquisition in the context of a balanced maritime force to exercise sea control in Canada's three oceans went unheeded by the public.³⁴

One defence official who was involved in the early stages of the programme explained that there were actually four main rationales for the acquisition of nuclear powered vessels:

- 1) to counter the threat posed by Soviet submarines carrying the SS-N-21 submarine launched cruise missile, operating off the coasts of Canada (primarily the Atlantic);
- 2) the uncertainty in the international system;
- 3) the enormous size of Canada's three ocean areas; and
- 4) the need to have adequate surveillance in all of Canada's waters including the ice-covered arctic waters.³⁵

Yet, if one examines the government's stated rationale for acquiring the nuclear submarines, the Arctic sovereignty considerations always received tremendous, if not primary, attention.³⁶ The White Paper also focused on the North. It explained that the decision to acquire nuclear submarines for the Canadian Navy had been made because DND officials were concerned about the ability of Soviet submarines to enter the Atlantic through the Arctic Ocean:

Over the past two decades, with the development of nuclear power, the Arctic has become an operating area for submarines. Deep channels through the Canadian Arctic offer a means of passing between the Arctic and Atlantic oceans. In a period of

tension or war, Soviet submarines could seek to operate off the deep channels of the Canadian Archipelago to intercept Allied submarines entering the Arctic.³⁷

While the White Paper stated that nuclear submarines would balance the Canadian armed forces' composition in all three oceans, public statements by several key decision-makers suggest that Arctic considerations were their main focus.

Before the release of the White Paper, Joe Clark testified before the Standing Committee on National Defence that in terms of Canadian sovereignty, the United States posed a greater threat than did the USSR, adding that:

One of the realities about nuclear-generated power submarines is that they can stay under ice. Their capacity under ice is much superior to anything else. One of the advantages of our having them - I am recasting arguments I have heard recently - is that possessing the capacity yourself makes it more likely that others who have that capacity will let you know what they are doing because if they do not know where you are they may run some risks to very expensive apparatus of their own.³⁸

Thus, Canadian nuclear submarines in the North would force the Americans to develop a shared water space programme with Canada.³⁹ Clark was essentially stating that the Americans would be prevented from having a free ride in Canadian Arctic waters, if for no other reason than to avoid having one of their submarines collide with a Canadian vessel. Such concerns would force them to share information on their submarines' northern locations. Prime Minister Mulroney was on record as stating that: "We are going to proceed with nuclear-powered

submarines so we can fulfil our defence commitment and *affirm our sovereignty*."⁴⁰ (emphasis added)

In the House of Commons, Mulroney directly linked the acquisition of the submarines to the protection of Canadian northern sovereignty. In response to a question posed by Bill Blakie (NDP) in December 1987, on the Arctic Cooperation Agreement, Mulroney provided a list of the government actions to protect Canadian sovereignty in the Arctic. He concluded by stating,

That is why the Government has made an important commitment with regard to nuclear submarines to ensure the exercise of sovereignty over Canada's North which has been so badly neglected by previous Governments.⁴¹

But as such statements were being made by Cabinet members, senior military officials were stating a different story. At a conference on Nordic Arctic Security, Rear Admiral John Anderson, the head of the nuclear submarine acquisition programme, stated

The suggestion by some detractors that Canadian SSNs would be used "to stop United States submarines from using the Northwest Passage" is absurd. Canadian SSNs will respond to potentially hostile submarines; United States submarines can hardly be placed in that category.

It is equally ludicrous to suppose that allied submarines will be sent out into ocean areas to listen for other allied submarines. It doesn't happen now, and Canada's acquisition of nuclear propulsion won't change things.

Waterspace management will provide a safe and

efficient way of managing our sub-surface northern affairs.⁴²

Defence Minister Perrin Beatty made public statements supporting both positions. In a statement to reporters, he defended the decision to purchase the nuclear submarines by stating that: "Somebody's navy will be in our Arctic, whether it's Soviet, American or Canadian...I want to make sure it's Canadian."⁴³

Yet, he also made it clear that the submarines were not primarily for the Arctic. In an interview he stated, that "[i]f we were simply interested in surveillance, submarines would be a bad investment...They will enhance sovereignty, but that's not why we're buying them. It's for security."⁴⁴ In the House of Commons, Beatty declared that it was a falsehood to state that the submarines were "simply to protect our sovereignty in the Arctic."⁴⁵ He explained that only nuclear-powered submarines could go into the Arctic because of the unique problems and dangers created by the ice.

Reports emerged that Beatty and Fowler used the sovereignty arguments in order to achieve Cabinet's agreement to pursue the acquisition of the nuclear submarines.⁴⁶ Reports indicated that Clark was strongly opposed to the proposal to buy the nuclear submarines, but that Beatty and Fowler used Clark's previous arguments to increase Canadian presence in

the Arctic to justify the purchase. In doing so, they were able to preempt Clark's opposition.⁴⁷

Despite having rescinded the decision in April 1989, the government continued to state that the main cost would be the continued inability to defend Canadian sovereignty. Defence Minister Bill McKnight lamented that,

There are better ways of defending northern sovereignty and unfortunately we cannot afford those ways. Canadian sovereignty in the Arctic will remain as it has been for 122 years.⁴⁸

He ended with the argument that the loss of the submarines would be more in terms of sovereignty than security.

The classification of information prevents a complete understanding of the rationale for the submarine programme. However, it is clear that Arctic sovereignty concerns were used as one of the primary means of justifying the programme. Evidence suggests that such a concern, though important, was secondary to DND officials. Although the link cannot be clearly established, it is plausible that the concerns raised about the Canadian north following the voyage of the POLAR SEA were exploited to promote the submarine programme.

UNDERWATER ARCTIC SURVEILLANCE SYSTEMS AND THE VOYAGE OF THE POLAR SEA

Evidence also suggests that officials used the voyage to support the acquisition of an underwater surveillance system

in the Arctic. An analyst has pointed out that public discussions of putting an Arctic underwater listening system in place have been conducted as early as 1971.⁴⁹ However, the first public acknowledgement that Canada had an experimental system came on August 21, 1985. Senator Paul Lafond, the chairperson of the Senate committee on National Defence, confirmed in an interview that an experimental hydrophone system was placed in the narrows of Lancaster Sound between Borden Peninsula to the south and Devon Island to the north.⁵⁰ While little more than its existence was disclosed at the time, interviews have indicated that little more than a small unit was required to be removed for the winter.⁵¹

Immediately following the September 10 speech, Rear-Admiral Fred Crickard, a high ranking DND official, stated in an interview that if "sovereignty means anything at all, we should have a detection system for the Arctic archipelago".⁵² Efforts to proceed with that project continued. In the White Paper, a specific commitment to proceed with the project was given.

In all three oceans, underwater surveillance is essential to monitor the activities of potentially hostile submarines. Greater emphasis will be placed on underwater detection by continuing to develop Canadian sonar systems, by acquiring array-towing vessels to provide an area surveillance capability in the northeast Pacific and northeast Pacific and northwest Atlantic, and by *deploying fixed sonar system in the Canadian Arctic.*⁵³ (emphasis added)

In 1989, the government announced that it was considering a

\$50 million project placing three groups of listening devices in the Arctic. In January 1991, a further announcement was made that an initial environmental evaluation of the sonar system would take place.⁵⁴ In September 1991, Defence Minister Masse acknowledged that the listening devices were still being considered.⁵⁵

SUMMARY

Due to the classified nature of this project, it is impossible to provide a detailed examination of how officials attempted to get approval for it. However, the fact that the first public acknowledgement of such a system of underwater listening devices occurred immediately after the voyage of the POLAR SEA would appear to indicate that officials were attempting to use that voyage to justify continued support for the programme. The fact that it is still on track means that officials have been successful in promoting it and acquiring political support to continue with its development. However, given the time that has passed, it is unlikely that this support still is due to the POLAR SEA voyage.

U.S./CANADA SUBMARINE COOPERATION IN ARCTIC WATERS AND THE VOYAGE OF THE POLAR SEA

The cooperation between Canada and the United States regarding submarine transits of the Northwest Passage is another area of defence activity possibly affected by the voyage of the POLAR

SEA. Public pronouncements and interviews with defence officials have indicated that the Canadian and American Governments have agreements by which submarine traffic is overseen in the Northwest Passage. What is not publicly known is the degree of control that Canada has over the system. There is also some evidence that discussions were held between Canadian and American naval officials on the possibility of creating a "maritime NORAD" which would oversee submarine activity in the Arctic regions.

The arrangements that govern Canada United States submarine cooperation in the Arctic in the post-war era were created following the end of the Second World War. The core Agreement, the Canada-United States Basic Security Plan, specifies that each country has "primary responsibility for the control of its own territory, adjacent oceans and airspace".⁵⁶ Canada receives its mandate for surveillance in its Arctic up to the North Pole from the agreements creating the Permanent Joint Board of Defence (PJBD).

The current specific agreements that govern the submarine traffic in the Arctic are highly classified under the authority of the PJBD. Public pronouncements have been limited to simply acknowledging their existence. In December 1986, reports emerged that on May 6, 1986, three American nuclear-powered submarines surfaced at the North Pole. Opposition

members questioned whether the government had knowledge about the trip.⁵⁷ Joe Clark initially refused to offer any comments on the submarines, but under constant pressure he eventually stated that "I will say that there are provisions in place that allow us to know the information and to assert and protect our sovereignty, and those provisions are respected."⁵⁸

Three days latter, under further questioning from Lloyd Axworthy, Clark acknowledged that "there are arrangements in place to know about the presence in our waters of any submarine".⁵⁹ Though it cannot be confirmed, it appears that these arrangements are established under the PJBD's authority.

There is some evidence to suggest that there were efforts to develop even closer cooperation that would be roughly equivalent to an underwater version of NORAD. These efforts, known as the Arctic Anti-Submarine Warfare "Strawman Strategy", was initiated in August 1984 following a discussion between Canadian Vice-Admiral Wood and American Admiral Watkins. Fred Crickard, who was Deputy Commander Maritime Command at the time, has indicated that

...the USN would assume ASW [anti-submarine warfare] in the Arctic Basin and Canadian efforts would be concentrated in the Archipelago. It [the Strawman Strategy] assumed unfettered use of the channels for transit by U.S. submarines as well as safe havens, anchorages for submarine depot ships and plans for defensive mining of the egress channels to the Arctic Ocean.⁶⁰

These talks were initially held at a navy-to-navy level, but by June 1985, had been "taken over" by National Defence Headquarters on the Canadian side and presented as a new agenda item at the June meeting of the PJBD.⁶¹ The Canadian response ended in the presentation of a paper entitled "Canadian Maritime Arctic Strategy" and was tabled at the CANUS Permanent Joint Board on Defence in 1987.⁶² The basic elements of this paper provided the main elements for the White Paper section on the Arctic and stated that Canada would meet its obligations for the surveillance and control of Arctic Waters as agreed upon in the Basic Security Plan through the development of an underwater surveillance system in the Arctic and the purchase of a fleet of nuclear-powered submarines.⁶³

The timing of the development of this strategy overlapped with the voyage of the POLAR SEA. This would suggest that Canadian and American naval planners involved in the development of the strategy would have been affected by the heightened Canadian sensitivity created by the 1985 voyage. However, the reaction of Canadian and American naval planners to this new sensitivity is unknown.

It is also logical to assume that the negotiations for the Arctic Cooperation Agreement had some interaction with the existing PJBD submarine arrangements and any new arrangements

proposed by "Strawman". As discussed in the previous chapter, the negotiations initially focused on a comprehensive agreement that would have included naval vessels and submarines. Such an agreement therefore, would have to have been coordinated with the existing submarine water management arrangement, and with any changes brought about by "Strawman". The reluctance of American naval decision-makers to undertake any such coordination provides an additional reason for explaining their opposition to the inclusion of submarines in the Arctic Waters Cooperation Agreement, beyond their concern for the international precedent that it would set in other narrow waterways.

SUMMARY

To summarize, it is apparent that much remains to be known about Canadian efforts to develop and implement the 1987 Defence White Paper. Since little conclusive evidence exists as to the factors that shaped its formation, any observations on them must be made with caution. Nevertheless, evidence does exist that defence planners were aware of the voyage's value as a means of promoting various programmes. The voyage probably also sensitized defence officials much in the same manner by which External Affairs officials had been sensitized.

SECTION III

POLAR SCIENCE AND THE VOYAGE OF THE POLAR SEA

The Development and support of two major Canadian scientific projects in the Arctic were also affected by the POLAR SEA voyage. The first was the Polar Continental Shelf Project which involved research camps in the Arctic islands, as well as an ice island floating in the Arctic Ocean. The second project was the Polar Commission established to coordinate Arctic research in Canada.

Similar to the case of the Arctic listening devices, the case can be made that the two research projects received significant increases in both their funding and political support due to their ability to support Canadian sovereignty in the Arctic. Circumstantial evidence suggests that officials involved in both projects attempted to exploit the attention to the POLAR SEA voyage in order to promote their projects. However, while officials may have used sovereignty claims to build support, the two projects were nevertheless created for other reasons, mainly scientific in nature. Additionally, both projects are still viable for reasons independent of the voyage. Having said that, it is still important to understand the voyages's impact on the projects.

THE POLAR COMMISSION AND THE VOYAGE OF THE POLAR SEA

The groundwork for the Canadian Polar Commission began on September 19, 1985 during an Arctic Policy Conference held at McGill University. At the Conference, David Crombie, then Minister of Indian Affairs and Northern Development, announced that he had asked W.P. Adams, Peter Burnet, Mark Gordon and E.F. Roots to, "make recommendations concerning the setting up of a National Polar Institute for Canada."⁶⁴ Crombie stated:

We must develop a new, effective, world-class focus for our network of northern science and education; one which will work with our northern territories and their people, one which will bring together university, college, government, private sector bodies already in the field and which will become the point of contact for other circumpolar countries and agencies.⁶⁵

The subsequent report containing their recommendations, entitled Canada and Polar Science, drew a connection between polar research and the protection of Canadian sovereignty.

It is difficult to state categorically the degree to which polar research relates to Canada's legal position respecting the waters of the Arctic archipelago. However, a strong national commitment to polar science and research is an essential component of Canada's self-assertion as a major Arctic nation, and of its determination to exercise all the rights and responsibilities that this entails.

The report then argued,

In our view, the most important link between polar research and Arctic sovereignty is the degree to which Canada is perceived by the international community as a vigorous actor in the territories it claims, a leading force in polar research, and an

active participant in international organizations and initiatives respecting the Arctic. Canada's resolve to exercise sovereignty in the Arctic can be strongly expressed through an outward-looking presence that impresses and earns the respect of other nations engaged in polar research, and some of whom carry considerably more military and technological might than Canada.⁶⁶

Therefore, the connection was explicitly made that research can be used as a means of providing a presence in the north.

However, the main recommendation of the report called for the establishment of a Polar research commission. This led to a call for a second study focusing on the possible creation of the Canadian Polar Commission. In January 1988, Bill McKnight, Minister of Indian Affairs and Northern Development, commissioned Thomas Symons, Vanier Professor with the assistance of Peter Burnet, to undertake this task.⁶⁷

Completed in May 1988, the study found unanimous support for the establishment of the Commission and therefore recommended,

...that the Government move forthwith to create an independent commission concerned with the development and dissemination of polar knowledge in Canada, to be called the Canadian Polar Research Commission.⁶⁸

On November 24, 1989, while on a trip to Leningrad, USSR, Prime Minister Mulroney announced the creation of the Canadian Polar Commission which was to be based in Ottawa with additional bases in Quebec City and Yellowknife.⁶⁹

The connection of this Commission to sovereignty had

disappeared by the time Mulroney made his announcement which focused on the need to battle pollution in the Arctic. The four-part mandate of the Commission did not even mention sovereignty and, instead, was concerned only with enhancing Canada's profile as an Arctic power.⁷⁰

The question then arises as to the significance of the earlier reliance on sovereignty. As all reference to sovereignty had vanished by the time the Commission was instituted, it was likely that sovereignty issues had been used prior to that to justify the establishment of the Commission. David Crombie has also confirmed that he viewed the voyage of the POLAR SEA as a means of furthering the agenda of his department. In an interview, he indicated that when he was appointed Minister, he had little previous knowledge of the north. As such, he found that much of what CARC proposed made sense to him and, therefore, relied on their advice.⁷¹ He also stated that his speech of September 19 was not coordinated with Clark's speech of September 10. Crombie's references to sovereignty in his September 19 speech, which initiated the process leading to the creation of the Commission, were tactical. He viewed the process as an opportunity to pursue part of his policy agenda and combine it with an effort to increase Canadian presence in the North.⁷²

THE POLAR CONTINENTAL SHELF PROJECT (PCSP) AND THE VOYAGE OF
THE POLAR SEA

The second scientific project receiving additional support as a result of the voyage was the Polar Continental Shelf Project (PCSP). It was created on April 5, 1958 in response to three events: 1) the launching of Sputnik; 2) the 1958 Convention on the Continental Shelf; and 3) the lack of existing knowledge of the Arctic Continental Shelf.⁷³ The Project was allocated \$266,000 for start-up costs, and was placed under the auspices of the Department of Energy, Mines and Resources. The head of the Project was to report to the Assistant Deputy Minister of Earth Sciences.⁷⁴

In 1988, its twin missions were to "provide research support and to help exercise Canadian sovereignty over the continental shelf, the Arctic Islands and the northern mainland."⁷⁵ The Project's main function is to provide assistance to scientists from government, universities and other interested agencies. There are three base camps: Resolute on Cornwallis Island, Tuktoyaktuk in the Mackenzie Delta and the ice island to the north of Ellef Ringnes Island.⁷⁶

The connection of this project to Canadian arctic sovereignty is more established than for the Polar Commission. The PCSP was partly established in 1958 in order to enable Canada to have a presence over its continental shelf. Therefore, it is

not surprising to note that during the POLAR SEA voyage, George Hobson, long-time director of the Project, suggested in an interview that the PCSP provided a very useful means for Canada to promote Canadian sovereignty, stating, "[w]hat better way for Canada to express its interest in sovereignty in the Arctic Ocean than to have a group of peaceful scientists working there?"⁷⁷ While there were no other references to PCSP in connection to the POLAR SEA's voyage at this point in time, the story in which Hobson was quoted was carried on the front page of the Globe and Mail.

Through interviews with officials involved in the Project, there are indications that the link between sovereignty and the PCSP was successful in increasing the level of funding available to the Project. In April 1988, Deputy Prime Minister Don Mazankowski announced that the PCSP was to have its funding increased.

Clearly this is one way Arctic sovereignty can be asserted. It's very important to us. As long as we're around, we'll continue to support scientific research in the Arctic.⁷⁸

His announcement went on to state that the Project's budget would be given an extra \$4.5 million over the next two years, and \$1.2 million after 1990.⁷⁹ It was not announced that this increase was in addition to an earlier increase of \$7.5 million over three years in the Project's capital budget to allow for the refurbishment of the three base camps.⁸⁰ Cabinet granted this increase in 1985 or 1986. The increase in

funding was partly necessary due to the large increase in demand for the Project's services (See figure 7-1). But the increased attention created by the POLAR SEA voyage led some officials to believe that it was an opportune time to get increased levels of funding.⁸¹

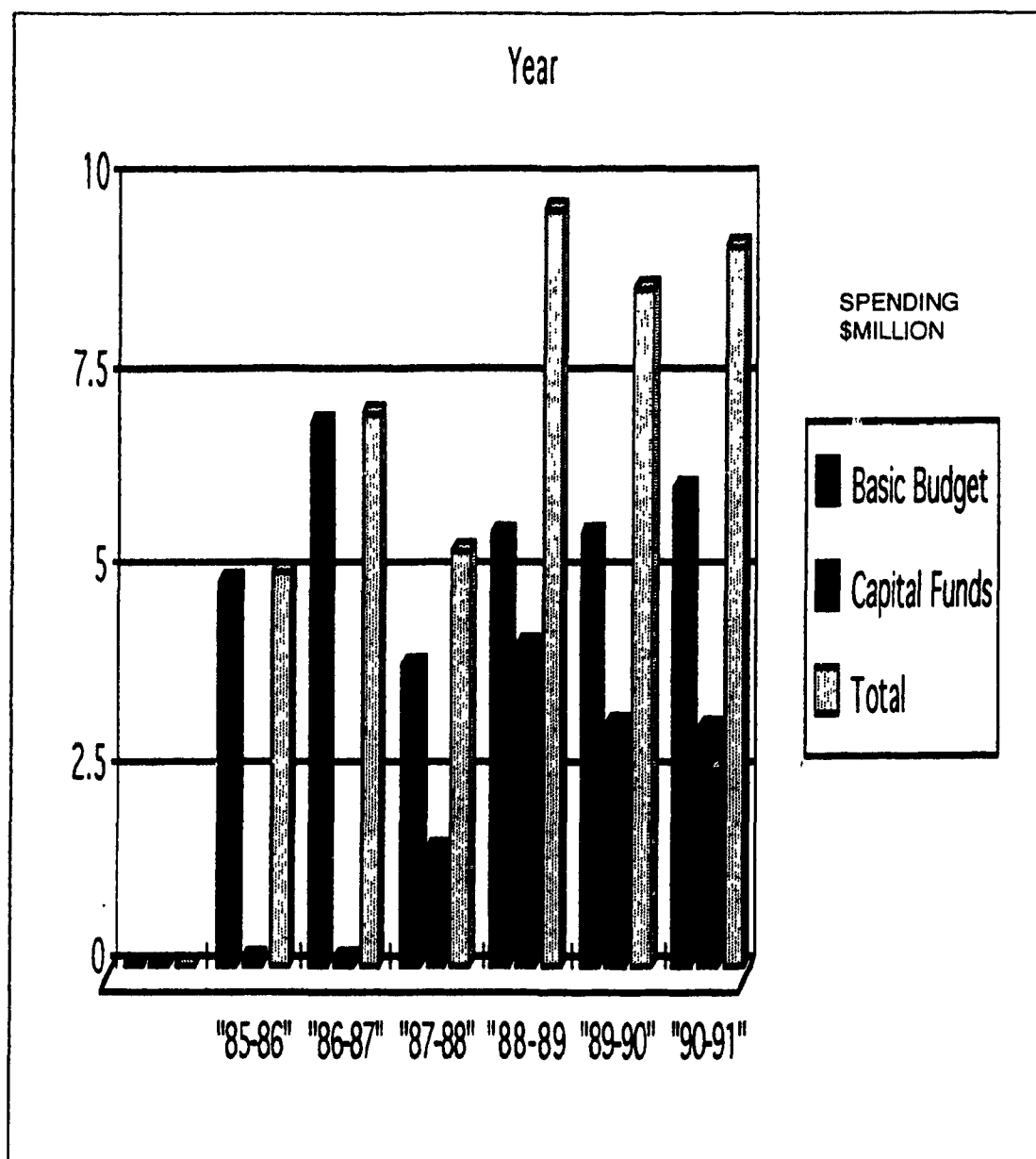
SUMMARY

The voyage of the POLAR SEA had a beneficial, albeit short-term, effect on the Polar Commission and the PCSP. In the case of the Polar Commission, the POLAR SEA Voyage provided the starting point to initiate the project. For the PCSP, the attention focused on northern affairs by the voyage served to increase its funding.

The importance of policy justification was made abundantly clear when the link between the voyage of the POLAR SEA and the development of the Polar Science projects were examined. The main rationale for the establishment of both projects was the advancement of science, and only secondarily for the promotion and protection of Canadian Arctic sovereignty. Yet, the sovereignty issue was the major catalyst for advancing both projects.

The attention created by the media reaction to the POLAR SEA voyage proved to be fortuitous to the officials involved in both projects. While the supporters of the Polar Commission

FIGURE 7-1
GOVERNMENT EXPENDITURE AND THE POLAR CONTINENTAL
SHELF PROJECT



SOURCE.
DEPARTMENT OF ENERGY
MINES AND RESOURCES

were more aggressive in the exploitation of this attention, both projects benefited from the attention focused on the North.

SECTION IV

THE VOYAGE OF THE POLAR SEA AND OTHER TRANSITS OF THE NORTHWEST PASSAGE

The Canadian Government's response to the Hockin-Simard Report clearly indicated that it wanted to encourage international shipping in the Northwest Passage as a means of promoting the long-term economic development of the Arctic.⁸² As such, the government has welcomed requests to transit part or all of the Passage, on the condition that permission is requested and that all Canadian regulations are followed as required by the AWPPA.

THE CANCELLATION OF THE VOYAGE OF THE NORTHWIND

However, one voyage was "discouraged" because of sensitivities created by the POLAR SEA voyage. In letters dated June 25 and July 17, 1986, External Affairs documents record that:

...the U.S. Department of State sought permission for the U.S. Coast Guard vessel Northwind to conduct marine scientific research in Canadian waters in Nares Strait. The proposed research involved the following activities on both the Danish and Canadian sides of Nares Strait: measuring temperature, salinity and water currents; taking plankton samples; and determining sea ice and iceberg observations and drift.⁸³

The document then stated,

In light of the potential sensitivities of a U.S. icebreaker operating in Canadian waters barely a year after the voyage of the Polar Sea, we asked the State Department to withdraw the request and we offered to make available a Canadian Coast Guard icebreaker Franklin to conduct, as part of a Canadian program, all of the oceanographic research program by the State Department. The U.S. authorities have agreed to withdraw their clearance request and are willing to take up the Canadian offer.⁸⁴

The SIR JOHN FRANKLIN sailed on September 6, 1986 from Resolute, with eight American scientists and one Canadian scientist, and two Danish observers. It was headed by Professor R.H. Bouke of the United States Naval Postgraduate School at Monterey, California and completed its mission on September 29.⁸⁵

This event raises several important points. First, there is the fact that the United States asked permission. In a media interview given much later after the FRANKLIN's voyage, and just prior to the signing of the Arctic Cooperation Agreement in 1988, External Affairs official, Francois Mathys, stated that the fact the United States had actually requested permission suggested "both sides are intent in developing a better understanding of factors in the north."⁸⁶ However, he was not certain if their request was a "tacit acknowledgement that these waters belong to Canada."⁸⁷

The difference between the POLAR SEA's voyage and that

proposed of the NORTHWIND was the nature of their missions. The POLAR SEA was undertaking a transit passage, while the NORTHWIND was to undertake scientific research. Each type of mission required a different set of responsibilities under the LOS Convention. As discussed in the previous chapter, the Convention requires states wishing to undertake research in another state's EEZ to request the consent of the coastal state.⁸⁸ As stated earlier, American officials have accepted this aspect of the Convention.⁸⁹ Thus, the American request for permission is not to be viewed as a change of policy regarding the Northwest Passage, but is instead a reaffirmation of their acceptance of the marine research section of the Convention.

Despite efforts to find out, it is unclear as to who paid for the mission. It is possible that the Americans "rented" the FRANKLIN, but this cannot be confirmed. The FRANKLIN is a newer and more capable vessel than the NORTHWIND. Mr. Mathys was correct when he stated in his interview that,

...we convinced them that because of the nature and location of the research and the type of vessel that they proposed using, it would be better to use a more modern Canadian Coast Guard Vessel and they did so.⁹⁰

However, while his statement is true, it glosses over the warnings, contained in the briefing notes, of the "potential sensitivities". Regardless, the willingness to provide a Canadian vessel demonstrates the sensitivity of Canadian

officials to the previous year's outcry over the POLAR SEA's voyage. Although the Americans had requested permission, and the Canadian Government had stated that it wanted to encourage shipping in the Arctic, Canadian officials offered the use of a Canadian vessel to avoid having an American icebreaker in the Northwest Passage at that time.

It should be noted that the substitution of a Canadian icebreaker for a foreign icebreaker because of sovereignty considerations is not without precedent. A declassified Transport Canada document disclosed that in the 1970s, Dome Canada had entered into negotiations with the Swedish Government in order to lease the military icebreaker FREJ.⁹¹ Due to sovereignty considerations, the Canadian Government advised Dome that such a move was "deemed not to be in the national interest".⁹² A Canadian Government icebreaker was then offered for charter and accepted. Unfortunately, the document does not provide a specific date as to when this occurred. However, since it involved Dome Canada as an active company, it can be assumed that it occurred in the late 1970s when that company was still viable and developing new projects..

In 1992, another icebreaker voyage illustrates the somewhat fickle nature of the media. In August of that year, a Russian icebreaker, KAPITAN KHLEBNIKOV, made the first transit of the

Northwest Passage by that country (or its predecessor, the USSR).⁹³ Yet, except for a report in the travel section of the Globe and Mail, there was no other media coverage. The Russian icebreaker requested and received permission, and was serving as a charter vessel for a pleasure cruise. Thus, there were significant difference between its voyage and that of the POLAR SEA. Nevertheless, it is somewhat surprising that the first above water transit of Canadian waters by the Russians would receive so little attention.⁹⁴

SUMMARY

In summary, the POLAR SEA voyage influenced which vessels the Canadian Government would allow through the Passage. Canadian officials were reluctant to allow an American vessel through the Passage but had no hesitation allowing a Russian vessel through, even though permission was requested in both instances. The main difference between the two requests was timing. The NORTHWIND was to enter the Canadian Arctic only one year after the POLAR SEA's voyage. The voyage of the KAPITAN KHLEBNIKOV occurred seven years later.

The refusal of Canadian officials to allow the NORTHWIND to undertake research in the Canadian Arctic illustrates two points. First, it shows the tendency of officials to "close the barn door after the horse is gone". Second, it shows that politics will take precedence over policy.

The entire POLAR SEA issue could have been avoided if the sensitivity demonstrated by the actions of both Canadian and Americans officials when the NORTHWIND was scheduled to sail, had been shown the year before. If Canadian officials were willing to provide the Americans with a Canadian icebreaker to replace the NORTHWIND, it stands to reason that they should have been willing to undertake the resupply of Thule. Hindsight is of course 20-20, but given the fact that Canadian forces had previously undertaken the resupply, it is a little surprising that no one had considered that as an option.

As discussed earlier in this chapter, Canada has adopted an official policy of encouraging international shipping through the Northwest Passage. This is clearly stated in the government's response to the Hockin and Simard Report.⁹⁵ Yet, when the opportunity arose to encourage shipping through the voyage of the NORTHWIND (which requested permission), the government undertook substantial efforts to avoid it. In this instance, the officials' concerns were focused primarily on the reaction that such a voyage could cause, than they were in supporting their stated policy of encouraging traffic in the Passage.

SECTION V

THE VOYAGE OF THE POLAR SEA AS A WEAPON IN PARLIAMENT

Though not a specific policy, and especially not a policy of the government, the POLAR SEA's voyage also indirectly influenced several other policies. The name "POLAR SEA" came to be used as an attribute by opposition parties to denote any Conservative Government action that could be framed as a "sell-out" to the United States. For the five years following the voyage, the term "POLAR SEA" was used to criticize the government on the following issues: free trade; Canada-United States relations; aboriginal policies; SDI; and the lumber trade.

The government developed two standard replies; 1) for the sixteen years that they were in power, the Liberals did nothing; and/or 2) the September 10, 1985 policy statement is all the proof necessary that the government took the necessary action in response to the POLAR SEA.

FREE TRADE AND THE VOYAGE OF THE POLAR SEA

The Conservative Government was most sensitive to the criticism of the opposition parties that linked free trade and the POLAR SEA. In an interview given on September 18, 1985, one week after Clark's speech, Mulroney took great pains to separate the free trade talks from the government's reaction to the POLAR SEA voyage. He stated that certain issues, such

as Star Wars and Arctic sovereignty, would not be on the table when Canada met with the United States to discuss free trade.⁹⁶

We would never discussed anything that impinged upon our national sovereignty or on many of the things that make Canada unique or different. It is a commercial transaction.⁹⁷

However, the government's sensitivity extends beyond the Prime Minister's words. As discussed previously, Maclean's published excerpts from a secret External Affairs document entitled Canadian Sovereignty.⁹⁸ The alleged report, dated October 10, was a 29-page secret memorandum that combined a public relations campaign to promote the recent government's actions concerning the protection of arctic sovereignty, along with a list of activities that the government planned to implement. The list included all of the policies announced on September 10, as well as considering the possibility of purchasing four nuclear-powered submarines and a surveillance satellite for the North.⁹⁹ The article ended by arguing that the government felt compelled to develop this programme because of concerns that the recent voyage of the POLAR SEA could hurt their efforts to pursue free trade talks with the Americans.

As explained in the last chapter, Clark gave a somewhat questionable denial of the document's existence.¹⁰⁰ A careful reading of his comments suggests that he did not necessarily deny the existence of the document, only that Cabinet had not discussed it. One External Affairs official did state that the

document was real. Thus, it is possible to make the guarded conclusion that the POLAR SEA voyage had an impact on the government's preparation for the upcoming trade talks.

The government was concerned that its reaction to the voyage would be used by the opposition as a means of criticizing the trade negotiations. As early as September 26, 1985, John Turner was arguing that since the Conservatives had not stood up to the Americans regarding the POLAR SEA, how was the country to believe that they would be stronger in the trade talks.¹⁰¹ This line of attack continued throughout 1986 to 1988.¹⁰²

As discussed at the beginning of this section, the government's response to almost all of these criticisms followed a predictable pattern. When a member of the Liberal Party linked the government's reaction (or inaction) to the POLAR SEA and the free trade negotiations, the standard reply almost always echoed a reply provided by Joe Clark in March 1986:

The problem was a lack of preparation for some 16 years by a Liberal Government that left the Government of Canada with practically no way to defend or assert our sovereignty.¹⁰³

A second, commonly employed response used against members of both the NDP and Liberals was to deny that the government had caved in to the Americans and then to reiterate the six policy proposals promised in the September 10 speech.¹⁰⁴

OTHER POLICIES AND THE VOYAGE OF THE POLAR SEA

The opposition parties also were quite vigorous in arguing that the government's response was humiliating for Canada. This point was made repeatedly by Jean Chretien and, to a lesser degree, by Jim Fulton of the NDP.¹⁰⁵ However, government members tended to ignore these comments and by the end of 1985, they were no longer used as a means of attack.

However, this did not indicate a general willingness to cease using the POLAR SEA as a weapon of criticism. It was used by both the NDP and the Liberals to pressure the government to speed up the resolution of land claims in the north. Usually, the speakers would point out that the government did not do much to protect Canadian sovereignty when the POLAR SEA went through, but that it could now make a real contribution by reaching land settlement agreements with the various native and Inuit groups.¹⁰⁶ This it was argued would demonstrate Canada's control over the areas. In most instances, the government responded by stating that it was already attempting to address the "rights and land titles of our aboriginal peoples" as Clark did in an 1987 answer in the House of Commons.¹⁰⁷

The Liberals also attempted to establish a link between SDI and the inability of the government to prevent the American tariff on Canadian softwood, with the voyage of the POLAR

SEA.¹⁰⁸ Once again, these attacks followed a predictable route. The opposition MPs would begin by reminding the House that the government did not "stand up" to the Americans when the POLAR SEA went through the Northwest Passage.

It is impossible to know for certain the impact that these attacks had on the government. The latter's sensitivity during the free trade discussions suggests that these specific attacks were viewed seriously. However, at no point did the criticisms lead to an informed and intelligent debate in the House. Instead, the attacks followed a standard script and hence elicited a preset reaction. Likewise, the opposition parties were seldom interested in discussing the issues in detail and only seemed to want to embarrass the government. Perhaps the best example of this occurred when Sheila Copps and Lynn McDonald focused their attacks on the prosecution of the civilian pilot who overflew the POLAR SEA during its voyage. The overflight had been made to allow the Council of Canadian members to drop the Canadian flags on it in protest. Instead of addressing the government's actions concerning straight baselines or the role of the ICJ which warranted serious discussion, Copps preferred to focus on the charges brought against the pilot.¹⁰⁹

It should be noted that in their speed to use the POLAR SEA as a means of attack, the opposition members did not always get

their facts straight. Andre Ouellet, the former Liberal Cabinet member, attacked the government for not having any Canadians on board the POLAR SEA, in contrast, he said, to the situation when the MANHATTAN went through the Northwest Passage.¹¹⁰ This was incorrect. There were two Canadian Coast Guard officials and one Indian Affairs and Northern Development official on board the POLAR SEA during the entire time it was in the Passage. Furthermore, this information had been released at the time of the voyage, a full year before Ouellet made his comments. His misinformation preempted what could have been the focus of a serious discussion on the role played by these representatives while on the POLAR SEA.

SUMMARY

No one should be naive about the role played by Parliament in the foreign policy-making process. Still, the abysmal level of debate within the House is disheartening. This is the only forum where the government may be pressed on an issue that it may not wish to discuss. Yet the opposition members do not press the government on important issues. Instead, they remain content to use important issues only as a crude means of criticism.

CONCLUSION

The POLAR SEA's voyage through the Northwest Passage had an impact on Canadian foreign policy that is remarkable. It influenced almost ever major (and some minor) government policies that involved the north. It is possible to identify two main effects as a result of the voyage on Canadian decision-makers.

First, it sensitized the decision-makers on issues concerning the Canadian north. This was clearly the case in the development of the Canadian foreign policy review. The focus of those undertaking the review was strongly influenced by the events surrounding the voyage. There is little doubt that the voyage played a substantial role in the development of the existing Canadian northern foreign policy for much of the 1980s.

The second effect of the voyage was that it gave decision-makers a means of justifying their own pet projects. There is strong evidence that the voyage was used by DND officials to promote several acquisitions programmes, of which the nuclear submarine programme was the most well known. Officials in other departments also were willing to make a connection between their projects and the voyage when they saw that there was advantage to be gained.

However, it is also clear that both of these effects were time sensitive. As time progressed, the utility of linking a project with the POLAR SEA diminished. While a means of measuring the precise strength of this factor would appear difficult to devise, a study could be undertaken in the future to determine the length of time that events such as the POLAR SEA influence decision-makers. However, it is not immediately clear how this could be measured.

ENDNOTES

1. Canada, Department of External Affairs, Competitiveness and Security: Directions for Canada's International Relations (Ottawa: Supply and Services, 1985).

2. Canada, Department of External Affairs, "Overview: Competitiveness and Security," Canadian Foreign Policy Series, September 1985.

3. Canada, Special Joint Committee of the Senate and House of Commons on Canada's International Relations, Independence and Internationalism, June 1986.

4. Canada, Department of External Affairs, Canada's International Relations: Response of the Government of Canada to the Report of the Special Joint Committee of the Senate and the House of Commons, December 1986.

5. Interview with Gerald Wright, Ottawa, December 14, 1990.

6. Competitiveness and Security, p.1.

7. *Ibid.*, p.38.

8. Interview with Mr. Robert Miller, Parliamentary Centre, Ottawa, March 14, 1990; and Gerald Wright, Ottawa, December 14, 1990.

9. Further evidence of this can be found in a series of speeches given by Joe Clark in which he defended his party's policies regarding the protection of Canadian sovereignty. See: Canada, Department of External Affairs, "Sovereignty and Foreign Policy," Address by the Right Honourable Joe Clark at Dalhousie University, September 14, 1985; Canada, Department of External Affairs, "Statement by the Secretary of State for External Affairs, the Right Honourable Joe Clark to the Canadian Club," Statement, 85/51, Winnipeg, September 19, 1985; Canada, Department of External Affairs, "Power and Influence: The Making of an Active Foreign Policy. Speech by the Right Honourable Joe Clark, Secretary of State for External Affairs, to HEC," Statement, 86/13, Montreal, February 12, 1986; and Canada, Department of External Affairs, "Sovereignty in an Interdependent World. Remarks by the Right Honourable Joe Clark Secretary of State for External Affairs," Statement and Speeches, Carleton University, October 18, 1988.

This is not an exhaustive listing of Clark's efforts to defend the government's role on sovereignty, but it does indicate that he believed it was necessary to defend it.

10. Independence and Internationalism, p.127.

11. *Ibid.*, pp.127-135.
12. *Ibid.*, p.130.
13. *Ibid.*, p.132.
14. Interview with Gerald Wright, Ottawa, December 14, 1990.
15. Interview with Peter Dobell, Parliamentary Centre, Ottawa, March 16, 1990; and Gerald Wright, Ottawa, December 14, 1990.
16. The process by which the government's response was crafted makes for an interesting study in itself. One official who was involved in the process reported that a large number of drafts were prepared, before the final one was accepted close to the self-imposed deadline. The official also noted that there was debate between External Affairs officials and Department of National Defence officials. DND officials did not want anything included in the External Affairs' response that would affect its position that was then being formulated in a White Paper. Seminar given by Donald Page, Department of External Affairs, St. John's NF, February 19, 1988.
17. Canada, House of Commons, Debates, December 4, 1986, pp.1763-5.
18. Canada's International Relations, December 1986, pp.31-33; 85-87.
19. *Ibid.*, p.31.
20. *Ibid.*
21. Canada, Department of External Affairs, "Speech by the Honourable Joe Clark, Secretary of State for External Affairs, to the Norway-Canada Conference on Circumpolar Issues," Statement, 87/72, Tromsø, Norway, December 9, 1987.
22. Independence and Internationalism, p.3.
23. *Ibid.*, p.31.
24. *Ibid.*, p.32.
25. *Ibid.*, p.32.
26. *Ibid.*, pp.32-33.
27. Canada, Department of National Defence, Challenge and Commitment: A Defence Paper for Canada (Ottawa: Supply and Services, June 1987). Also known as the 1987 White Paper on Defence.

28. Robert Fowler, who was with the PCO during the voyage of the POLAR SEA, gained a promotion to the position of Assistant Deputy Minister (policy) of DND following John Anderson's retirement in 1986. This is one of the highest positions a civilian may occupy in DND next to the Minister.

29. Confidential interview with retired DND official.

30. Several DND officials have confirmed Nielsen's action, but all have requested anonymity. Additionally, no documented sources can be found so one must approach the recounting of these events with some caution.

31. Challenge and Commitment, p.52.

32. Paul Koring, "Tory Defence Promises Wiped Out," Globe and Mail April 28, 1989.

33. There is substantial literature on the nuclear submarine acquisition programme. Most of the articles examined the technical and/or strategic aspects of the submarines. Nevertheless, it is possible to determine that the dominant view among retired officers was that the operational purpose of the submarines was more oriented to the Pacific and Atlantic than to the Arctic. While they do not discount the need to have submarines with under ice capability, the speed and endurance of the nuclear powered vessels is their main concern. See: Fred Crickard, "Canada and Nuclear Submarines: A New Submarine for Canada," Wings News Magazine Special Edition (1986); Fred Crickard, "Nuclear-Fuelled Submarine: The Strategic Rationale," Canadian Defence Quarterly 17 (Winter 1987-88); Peter Haydon, "The Future of the Canadian Navy," Canadian Defence Quarterly (Winter 1990); and Mike Young, "Submarines for the Canadian Maritime Force," Canadian Defence Quarterly 16 (Summer 1986).

34. Fred Crickard, "The Rise and Fall of the Three-Ocean Concept," Canada's Navy Annual Issue #4 (1989/90), p.11.

35. Phone interview with John Harwood (ret.), May 31, 1993.

36. For perhaps the best strategic analysis of the Arctic issues see: Peter Haydon, The Strategic Importance of the Arctic: Understanding the Military Issues (Ottawa: Directorate of Strategic Policy Planning, Department of National Defence, March 1987).

37. Challenge and Commitment, p.50.

38. Canada, House of Commons, SCND, Minutes of Proceedings and Evidence, issue #10, April 14, 1988, p.10:12-13.

39. A detailed examination of the issues created by waterspace management issues is provided in Joseph Jockel, "The US Navy, Maritime Command, and the Arctic," Canada in Defence Quarterly (December 1989).

40. Crickard, "The Rise and Fall of the Three-Ocean Concept," p.11.

41. House of Commons, Debates, December 8, 1987, p.11594.

42. Rear Admiral John Anderson, "Canadian Perspective on Arctic Security Issues," paper presented at Colloquium on Nordic Arctic Security, Centre for International Affairs, Harvard University, March 17, 1988, pp.22-23.

43. "Ottawa Puts \$200 Billion Into Defence," Winnipeg Free Press June 6, 1987.

44. "Nuclear Submarines to Enable Canada to Fight Modern War, Minister Says," Globe and Mail June 18, 1987.

45. Canada, House of Commons, Debates, June 9, 1988, p.16282.

46. Jonathan Manthorpe, "Beatty Torpedoes Clark on Submarine Fleet," Ottawa Citizen June 6, 1987.

47. Unfortunately, while this particular report was stated to be based on reliable sources, there are no other means of verifying it. In fact, Clark subsequently made a statement in which he directly contradicted the report's claim that he had opposed the submarine in the relevant cabinet committee.

I chaired the committee through which the submarine proposal came - I very strongly support the decision the government announced.

in Crickard, "The Rise and Fall of the Three-Ocean Concept," p.11. The fact that Cabinet discussions are tightly guarded secrets means that it is impossible to know if the report was wrong.

48. Paul Koring, "Defence of Arctic Left to Allies by Budget Cuts," Globe and Mail April 28, 1989.

49. Ann MacInnis, "Sovereignty Through Sonar?" Canada's Navy Annual (1991/92), p.48.

50. "Detection System in Arctic Revealed," Halifax Chronicle Herald August 21, 1985.

51. Interview with DND official, Halifax.

52. "Sub Detection Next Step for North, Experts Say," Globe and Mail September 12, 1985.

53. Challenge and Commitment, p. 51.

54. MacInnis, "Sovereignty Through Sonar?" p.48.
55. Jeff Salot, "True North Needs Less Guarding, Ottawa Decides," Globe and Mail September 18, 1991.
56. Captain Keith Nesbit, "Canadian Maritime Strategic Considerations," Briefing to Canadian Forces Command and Staff College, January 16, 1989.
57. Canada, House of Commons, Debates, December 5, 1986, p.1823; December 8, 1986, pp.1869-1874, p.1882; December 9, 1986, pp.1923-1927; December 19, 1986, pp.2296-2297.
58. Canada, House of Commons, Debates, December 5, 1986, p.1823.
59. Canada, House of Commons, Debates, December 8, 1986, p.1874.
60. Fred Crickard, "A Tale of Two Navies: Australian and Canadian Naval Policy, and the American Alliance in the Cold War," MA thesis, Dalhousie University, forthcoming, p.142.
61. *Ibid.*, pp. 142-143.
62. Presentation given by Canadian Defence official, 1989. Also see Fred Crickard, "A Tale of Two Navies," pp.142-144.
63. Crickard, p.143.
64. W.P. Adams, P.F. Burnet, M.R. Gordon, and E.F. Roots (chairperson), Canada and Polar Science (Ottawa: Department of Indian Affairs and Northern Development, March 1987), p.3.
65. *Ibid.*
66. *Ibid.*, p.26.
67. Thomas Symons (Chairperson) and Peter Burnet (Study Coordinator), The Shield of Achilles: The Report of the Canadian Polar Research Commission Study (Peterborough: Department of Indian Affairs and Northern Development, May 31, 1988).
68. *Ibid.*, p.8.
69. Carol Goar, "Mulroney Announces Commission on Arctic," Toronto Star November 25, 1989.
70. *Ibid.*
71. Interview with David Crombie, Toronto, June 18, 1990.

72. Fred Roots, one of the authors of the first report and a highly respected expert on the north, explained in an interview that Rod During, one of Crombie's aides, put in the section calling for the creation of the Commission. Roots also stated that no one was briefed before the speech on the proposal. Interview with Fred Roots, Ottawa, March 16, 1990.

73. Michael Foster and Carol Marino, The Polar Shelf: The Saga of Canada's Arctic Scientists (Toronto: NC Press Limited, 1986), p.15.

74. *Ibid.*, pp.15-18.

75. Canada, Department of Energy, Mines and Resources Canada, The Polar Continental Shelf Project (Ottawa: Minister of Supply and Services, 1988).

76. The ice island is a huge chunk of ice measuring 8 km x 3 km x 45 m, which broke away from Ellesmere Island's Ward Hunt Ice Shelf in 1982. It allows researchers an intimate view of the dynamics of the ocean area, as well as the opportunity to study the ice island itself. For a helpful article on the island see Lawrence Jackson, "Ice Island an Ideal Platform," Canadian Geographic (Dec 88/ January 89).

77. Wallace Immen, "Ice Island Symbolizes Piece of Canada," Globe and Mail August 5, 1985.

78. "Arctic Research Financing Boosted," Globe and Mail April 19, 1988.

79. *Ibid.*

80. Interview with Bonni Hrycyk, EMR Ottawa, March 15, 1990.

81. *Ibid.*

82. Canada's International Relations, p.32.

83. Canada, Department of External Affairs, "Subject - Arctic Sovereignty. Canada and the USA are planning to conduct a joint marine scientific research project in Nares Strait," House of Commons - Briefing Note, by Legal Operations Division, August 22, 1986.

84. *Ibid.*

85. Canada, Department of External Affairs, "Subject - Arctic Sovereignty. Canada and the USA are planning to conduct a joint marine scientific research project in Nares Strait," House of Commons - Briefing Note, by Legal Operations Division, September 3, 1986; and Canada, Department of External Affairs, "Subject - Arctic Sovereignty. Joint Canada/USA marine scientific research off

Ellesmere Island," House of Commons - Briefing Note, by Legal Operations Division, September 29, 1986.

86. Matthew Fisher, "U.S. Heeded Ottawa in Cancelling Voyage," Globe and Mail January 2, 1988.

87. *Ibid.*

88. LOS Convention, Article 246(2), p.87.

89. United States, President Reagan, "United States Ocean Policy," March 10, 1983, reprinted in United States, Assistant Secretary of Defence for International Affairs, Maritime Claims Reference Manual, Volume 1, 1987, p.1-5, 1-6.

90. Fisher, "US Heeded Ottawa."

91. Canada, Transport Canada, Discussion Paper: Polar Icebreaker Program, No.TC 31-80, October 27, 1980, p.9.

92. *Ibid.*

93. Wallace Immen, "Breaking the Ice: Northwest Passage With the Russians," Globe and Mail September 5, 1992.

94. For interest, a second voyage was planned for summer of 1993.

95. Canada, External Affairs, Canada's International Relations, p.31.

96. "Star Wars, Arctic Sovereignty Taboo at Trade Talks, PM Says," Globe and Mail September 18, 1985.

97. *Ibid.*

98. Mary Janigan, "A Secret Plan for Free Trade and Sovereignty," Maclean's November 11, 1985. Not surprisingly, the existence of this document was very difficult to verify. Almost all officials questioned stated that they were unaware if it really existed. However, one official from External Affairs, speaking on the condition of anonymity, confirmed that the excerpts published in the article were indeed "a draft that was before Cabinet regarding the north."

99. *Ibid.*, pp.14-15.

100. Canada, House of Commons, Debates, November 5, 1985, p.8367.

101. Canada, House of Commons, Debates, September 26, 1985, p.7059.

102. Canada, House of Commons, Debates, March 18, 1986, pp.11635-7; June 9, 1986, pp.14129-30; March 16, 1987, p.4154; March 23, 1987, pp.4446-7; December 7, 1987, pp.11536; July 4, 1988, p.17027; July 7, 1988, p.17242; August 12, 1988, pp.18275-6; August 15, 1988, p.18317; and August 15, 1988, p.18327.
103. Canada, House of Commons, Debates, March 11, 1986, p.11420.
104. Canada, House of Commons, Debates, March 23, 1987, p.4446.
105. Canada, House of Commons, Debates, September 10, p.6466; November 6, 1985, p.8402; and November 19, 1985, p.8620.
106. Canada, House of Commons, Debates, September 11, 1985, p.6497; December 8, 1987, p.11594; and June 19, 1989, p.3216.
107. Canada, House of Commons, Debates, March 2, 1987, p.3725.
108. Canada, House of Commons, Debates, December 2, 1985, pp.9045-6; January 19, 1987, pp.2412-3; and January 26, 1987, pp.2698-9.
109. Canada, House of Commons, Debates, October 29, 1985, pp.8129-30; November 1, 1985, p.8264; November 19, 1985, pp.8620-1; and December 2, 1985, pp.90450-6.
110. Canada, House of Commons, Debates, June 9, 1986, pp.14129-30.

CHAPTER VIII

CONCLUSION

INTRODUCTION

There are three separate issues that must now be considered: 1) this study's explanation of the voyage of the POLAR SEA and its subsequent impact on the making of Canadian foreign policy; 2) the broader conclusions that may be reached regarding theories about the process by which decision-makers make foreign policy; and 3) where and under what conditions will Canadian decision-makers face similar problems in the future.

SECTION I

THE VOYAGE OF THE POLAR SEA AND ITS AFTERMATH

OPERATIONAL NATURE OF THE VOYAGE

One of the more controversial findings of this study is the discovery that, despite media claims to the contrary, there is no evidence that American decision-makers sent the POLAR SEA through the Northwest Passage as a blatant, direct challenge to Canadian Arctic water claims. The evidence overwhelmingly demonstrates that the voyage occurred because the United States Coast Guard icebreaker, NORTHWIND, was unable to undertake its regular re-supply of the American base in Thule.

The American Coast Guard can be used to challenge the boundary claims of other states through the U.S. Freedom of the Seas programme. However, the 1985 voyage of the POLAR SEA was not such a challenge. There is some evidence that the voyage would have been cancelled if Canadian decision-makers had strenuously objected to it. Furthermore, if Canadian decision-makers had authorized the re-supply of Thule in 1985, they could have avoided the problems that were ultimately generated by the POLAR SEA's voyage.

COAST GUARD TO COAST GUARD COOPERATION

Another controversial finding is the fact that the two Coast Guards had planned the voyage together before any relevant decision-makers had been informed. They had determined a set of operational orders for the voyage well in advance of the official American notification. The two services have a long history of close cooperation as evidenced by the Volpe-Jamieson Accord. Although the actual Operational Order is still confidential, interviews with its drafter show that neither Coast Guard foresaw any major difficulty with the voyage.

ARCTIC SOVEREIGNTY REVIEWS

It was determined that prior to the voyage of the POLAR SEA, the Canadian Government had undertaken a review of the possible means of enforcing Canadian sovereignty in the

Arctic. These reviews were conducted by The Arctic Waters Panel, an interdepartmental committee which has been conducting such reviews since at least 1979. However, until the POLAR SEA's voyage, there is little evidence that any substantial policies had resulted from these reviews.

After the media attention focused on the voyage, the government was compelled to direct the PCO, in conjunction with External Affairs, to undertake an immediate review. The purpose of this review was to prepare a policy statement of Canadian measures to protect Canadian sovereignty in its Arctic Waters.

THE ROLE OF THE MEDIA AND THE CREATION OF AN EVENT

This examination has concluded that to a substantial degree, the process that led to the policy initiatives announced on September 10, 1985 was media driven. It is unlikely that the voyage would have compelled the Cabinet, specifically Joe Clark, to have announced the six policies initiatives if the media had not seized on the issue.

The media's role raises an interesting question that is beyond the parameters of this study. That is, the point at which media coverage compels government to respond to an issue. Had only one media report emerged about the voyage, it is unlikely that Clark would have believed it necessary to react as he

did. Thus, the question is: at what point was media coverage sufficient to convince Cabinet members that the voyage had become a crisis? A further question is: at what point was there enough attention on the voyage to compel a decision to expand the group overseeing the voyage from the Legal Branch of External Affairs to the PCO/External Affairs committee? This case study isolated the total number of media reports in the national media sources, but further study is needed on these issues.

THE SEPTEMBER 10, 1985 POLICY STATEMENT

Figures 8-1 to 8-6 review the main elements of each of the six main decisions announced on September 10, 1985. These summaries include the identities of the main decision-makers, the target of the decisions and their costs.

In examining each of these six main policies, it is clear that all but one underwent a lengthy developmental stage prior to the voyage. The origin of these five policies can be traced to the early 1970s and was the direct, or indirect, result of one or all of the following events: the voyages of the MANHATTAN; the discovery of substantial mineral and fuel reserves in the north; and the development of international law, particularly the negotiations of the third UN Conference on the Law of the Sea.

Therefore, each of the five policies that underwent a lengthy development were not specifically developed to respond to the POLAR SEA's voyage. Rather, they were included in the September 10, 1985 policy statement as a means of quickly demonstrating the Canadian Government's decisive action in the defence of Canadian northern sovereignty. Only the decision to negotiate with the Americans represented a new policy created as a direct result of the voyage.

Despite the ad hoc adoption of these policies, they nevertheless formed the backbone of Canada's northern foreign policy in the second half of the 1980s. Two of the six policies were quickly implemented. The groundwork for the establishment of straight baselines, and the withdrawal of the ICJ reservations, had been completed long before the voyage of the POLAR SEA had occurred. Therefore, the voyage simply provided the rationale for Cabinet's consideration. Furthermore, these policies could be described as "one shot" affairs. Once, Cabinet had approved them and the relevant External Affairs officials had implemented them, the policies required no further attention.

Two other policies, the adoption of the Canadian Laws Offshore Application Act and the increased Northern Overflights and Naval activity, were political sleight of hands. Both sets of policies were well established long before the voyage, and

POLAR SEA DECISION SUMMATION
FIGURE 8-1

DECISION: Establishment of Straight Baselines

Decision-Makers: Clark, External Affairs (Legal Bureau: Len Legault, Barry Mawhinney, Alan Gotlieb, Derek Burney)

Decision-Implementors: External Affairs (John Cooper)

Influence on Decision-Makers: International Legal Experts (Pharand)

Direct Target: United States; other international Users of Passage; Critics of Government

Indirect Target: Canadian Public

Unintended Target

Cost: Salary of officials

Genesis: 1969

Fate: Enacted January 1, 1986

POLAR SEA DECISION SUMMATION
FIGURE 8-2

DECISION: Adoption of Canadian Laws Offshore Application Act

Decision-Makers: Joe Clark, External Affairs; Justice Department
Decision-Implementors: Justice Department; RCMP

Direct Target: Foreign and National individuals within Canadian Offshore Areas; Critics of Canadian policy

Indirect Target:

Unintended Target: Northwest Territories Government

Cost: Salaries of officials

Genesis: Mid-1970s

Fate: Died on Order Paper 1988; reintroduced 1989, passed 1990

POLAR SEA DECISION SUMMATION
FIGURE 8-3

DECISION: Increased Overflights and Naval Activity in Arctic

Decision-Makers: Joe Clark, External Affairs; National Defence

Decision-Implementors: Air Force (Air Crew and Support staff
of Tracker and Aurora aircraft); Navy (Maritime
Command, crews of Cormorant and Quest)

Direct Target: United States; other potential intruders in
north; critics of government

Indirect Target: Northern residents

Unintended Target: Northern Researchers

Cost: cost of 4 additional flights/year (\$ cost ?)
cost of northern deployment/deployment (\$ cost ?)

Genesis: Overflights - early 1970s
Naval activity - 1971

Fate: Overflights - Ongoing
Naval - Periodical Ongoing

POLAR SEA DECISION SUMMATION
FIGURE 8-4

DECISION: Withdrawal of ICJ Reservation

Decision-Makers: Clark, External Affairs (Legal Bureau, Len
Legault)

Decision-Implementors: External Affairs

Influence on Decision-Makers: International Legal Experts

Direct Target: United States; Critics of Government

Indirect Target:

Unintended Target: Any other state wishing to use the
Northwest Passage

Cost: Salary of officials

Genesis: 1970

Fate: Lifted 1985

POLAR SEA DECISION SUMMATION
FIGURE 8-5

DECISION: Construction of a Polar 8 Class Icebreaker

Decision-Maker: Cabinet; Clark, External Affairs (Legal Bureau Len Legault, Coast Guard (Northern Fleet: Ran Quail, Carol Stephenson)

Decision-Implementors: Coast Guard, Ship-Builders (VPSI)

Direct Target: United States; other users of Passage; Critics of Government

Indirect Target: Northern Coastal Inhabitants, Shipbuilders, Design Companies

Unintended Target:

Cost: \$230-630 million + yearly maintenance

Genesis: 1971

Fate: Cancelled 1990

POLAR SEA DECISION SUMMATION
FIGURE 8-6

DECISION: Negotiations with the United States on Cooperation

Decision-Makers: Brian Mulroney, Clark; External Affairs (Legal Bureau, Derek Burney, Len Legault, Barry Mawhinney)

Decision-Implementors: External Affairs

Direct Target: United States (USCG/State Department/USN); Critics of Government

Indirect Target:

Unintended Target:

Cost: Salaries of officials

Genesis: 1985

Fate: Agreement reached 1988

were included only as a means of increasing the number of actions the government could claim to be undertaking in the north. There is evidence that the inclusion of these two policies in the September 10, 1985 speech gave the bureaucratic agencies supporting them a slight increase in terms of political support, but even if this was the case, the support soon dissipated. However, to suggest that these policies were specifically crafted to counter the "threat" posed by the POLAR SEA is stretching the truth so much as to be dishonest.

The overflights represent a real effort to protect Canadian sovereignty, but they were initiated by the preceding Liberal Government in response to the MANHATTAN voyage. The increase of the overflights could be viewed as a serious policy announcement on the part of the Conservative Government only if they had actually purchased the six additional Aurora aircraft promised in the Defence White Paper. However, the purchase was ultimately cancelled. Three new Arctus Aircraft (Auroras without the anti-submarine capabilities) were purchased at the same time that the medium-range Trackers were pulled out of service. This negated any increased ability to undertake northern sovereignty patrols.

The inclusion of the Polar 8 class icebreaker represented the only policy that entailed a new set of substantial costs.

However, the icebreaker was also planned long in advance of the POLAR SEA's voyage. The project had already reached an advanced stage of development by March 1985.

The Polar 8 project demonstrates the limitations that governments face when making policy. For the other five policies, the government had the ability to both select and implement each policy. For example, once Cabinet had decided to withdraw its reservation to the ICJ, a government official wrote to the Secretary General of the U.N. and notified the world of Canada's decision.¹ In the case of the icebreaker, once the decision had been made to build the vessel, non-governmental participants had to be found who had the ability to implement the decision or, more specifically for this case, build the icebreaker. However, the government lost a substantial amount of control over the process once outside actors were involved. The entire project quickly became transformed into a regional development scheme which pitted foreign designers against Canadian designers, and western builders against eastern builders.

Despite the fact that the builder, VPSI, was selected and financially assisted by the Canadian Government, the government could not always influence events as it wished to. The company's financial difficulties proved decisive in prolonging the project long enough to give those who opposed

it the opportunity to kill it.

The only policy among the six that was specifically designed as a response to the POLAR SEA voyage was the decision to enter into negotiations with the Americans. The resulting Arctic Cooperation Agreement could have been sub-titled the POLAR SEA and POLAR STAR Agreement, because of its narrow focus regulating the transit of those two American icebreakers. While it is a limited agreement, it does ensure that there will be no replication of the problems created by the POLAR SEA voyage. While there is disagreement over the definition of "consent" as stipulated by the Agreement, it will prevent the Canadian Government from appearing indecisive during any future American icebreaker transits.

The negotiations of the agreement also demonstrate the power of political elites over bureaucratic actors under certain circumstances. The first phase of the negotiations also supports the bureaucratic model of decision-making. The USN was not going to offer any concessions that could adversely affect American interests. The negotiations were able to proceed once its concerns were met (i.e. the exclusion of naval craft from any agreement). However, the Coast Guard, lacking equivalent political power, was unable to block the negotiations once it lost the Navy as an ally. This provides additional support to the bureaucratic model.

Having said that, the tempo of the negotiations changed once Mulroney and Reagan became involved in them through the Summit meetings. In the face of strong opposition from his own bureaucracy, President Reagan still insisted on reaching an agreement with Canada. Therefore, when the political elites disagreed directly with their bureaucratic officials, the political elite would prevail. Questions immediately arise regarding two issues.

The question remains as to whether American officials would have been as willing to submit if Reagan had promised to ask for "permission" instead of "consent". As discussed previously, these terms are substantially different in the context of international law. The argument could be made that the navy's opposition would have been much more strenuous if Reagan had promised to ask permission. But an answer to this question is purely speculative.

At a general level, the question arises as to the number of times that political elites are able to directly challenge their bureaucratic officials. How often was Reagan able to enforce his will? Were his actions regarding these negotiations an isolated case, or one of many such actions? And what of Mulroney? In the case of the Arctic Cooperation Agreement, he was in complete agreement with his officials. Are there instances in which this was not the case, and if so

what was the outcome of the disagreement? These are all important questions that are beyond the scope of this study, and thus require future examination.

A final comment can also be made on the indirect impact of the POLAR SEA's voyage on several other important policy actions that were being considered at the time. To a large degree, the voyage sensitized Canadian decision-makers to northern issues during the foreign policy review. Had the voyage not taken place, it is likely that the emphasis given to the north would have been missing from both the Hockin-Simard Report and the government's response. At the same time, several other decision-makers developing policies also took advantage of the government's focus on the north following the voyage to promote their actions. While some efforts were more successful than others, there was no doubt that the POLAR SEA's voyage justified any policy even remotely connected with the Canadian north.

SECTION II

FOREIGN POLICY MAKING AND THE VOYAGE OF THE POLAR SEA

This study has demonstrated that a detailed decision-making model provides important insights into the foreign policy making process. This model has given rise to several significant findings.

The foreign policy process can best be understood as an ongoing series of decisions arising from a decision-making chain. These chains may be characterized as a continuing process comprised of decisions undertaken by a number of decision-makers including, but not limited to, the political elites (in this case, the Canadian Cabinet) and members of the bureaucracy. Foreign policy is created when an event acts as a catalyst that requires the two sets of decision-chains to interact. In this study, the event was the voyage of the POLAR SEA and the subsequent media attention to it. This catalyst then required the political elites to interact with a large number of bureaucrats in order to formulate a Canadian northern foreign policy. For example, John Cooper of External Affairs had spent a significant portion of his career making a series of decisions that led to his expertise in drawing straight baselines. However, for various reasons prior to the 1985 voyage, the government decided never to implement these straight baselines in the Arctic regions. But when the media castigated the government for its perceived lack of action, Joe Clark believed it was necessary to act. His action consisted of a series of decisions that included giving approval to the establishment of straight baselines. Thus, when the POLAR SEA sailed through the Northwest Passage acting as the event/catalyst, the decision-chains of John Cooper and Joe Clark interacted resulting in the Canadian declaration of straight baselines.

This process indicates that in order to understand the manner by which foreign policy is created, it is necessary to identify as many relevant decision-makers as is possible and to then chart the interactions of the important decision-chains as summarized by Figure 8-7 and 8-8. By examining only one case study, it is not possible to generalize about the main causes of the intersection of the decision chains. In this specific instance, the intersection was the result of a combination of luck and the actions of the media. Had the NORTHWIND not broken down, there would have been no need for the POLAR SEA to transit the Northwest Passage. Had the media not decided to focus on the voyage, it is unlikely that the political elites would have been compelled to direct the PCO/External committee to craft a policy statement which was approved by Clark. More study must be undertaken to identify the conditions leading to these decision-chains in other foreign policy formations.

These decision-chains also help explain why foreign policy often appears to be a strange mixture of rationality and irrationality as discussed in Chapter II. On an individual basis, each of the actors developing his or her own policy initiatives may be doing so in a manner that is rational to their requirements. However, when these policies are put

FIGURE 8-7
SUMMARY : PRE-VOYAGE

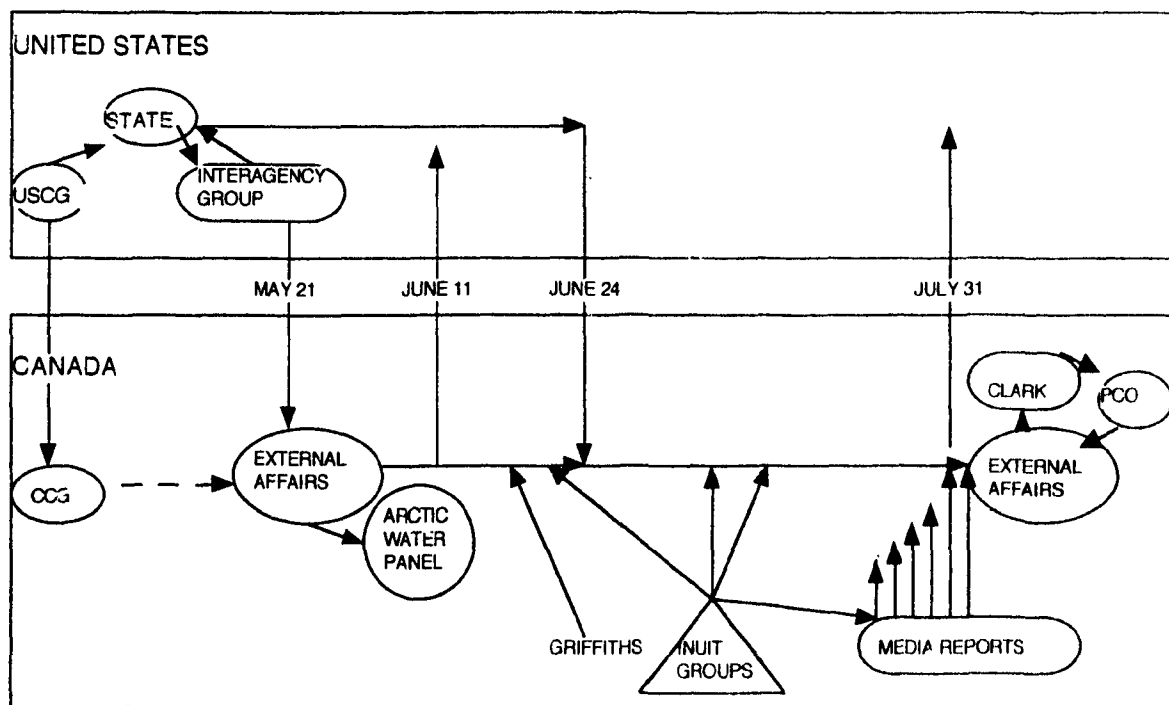
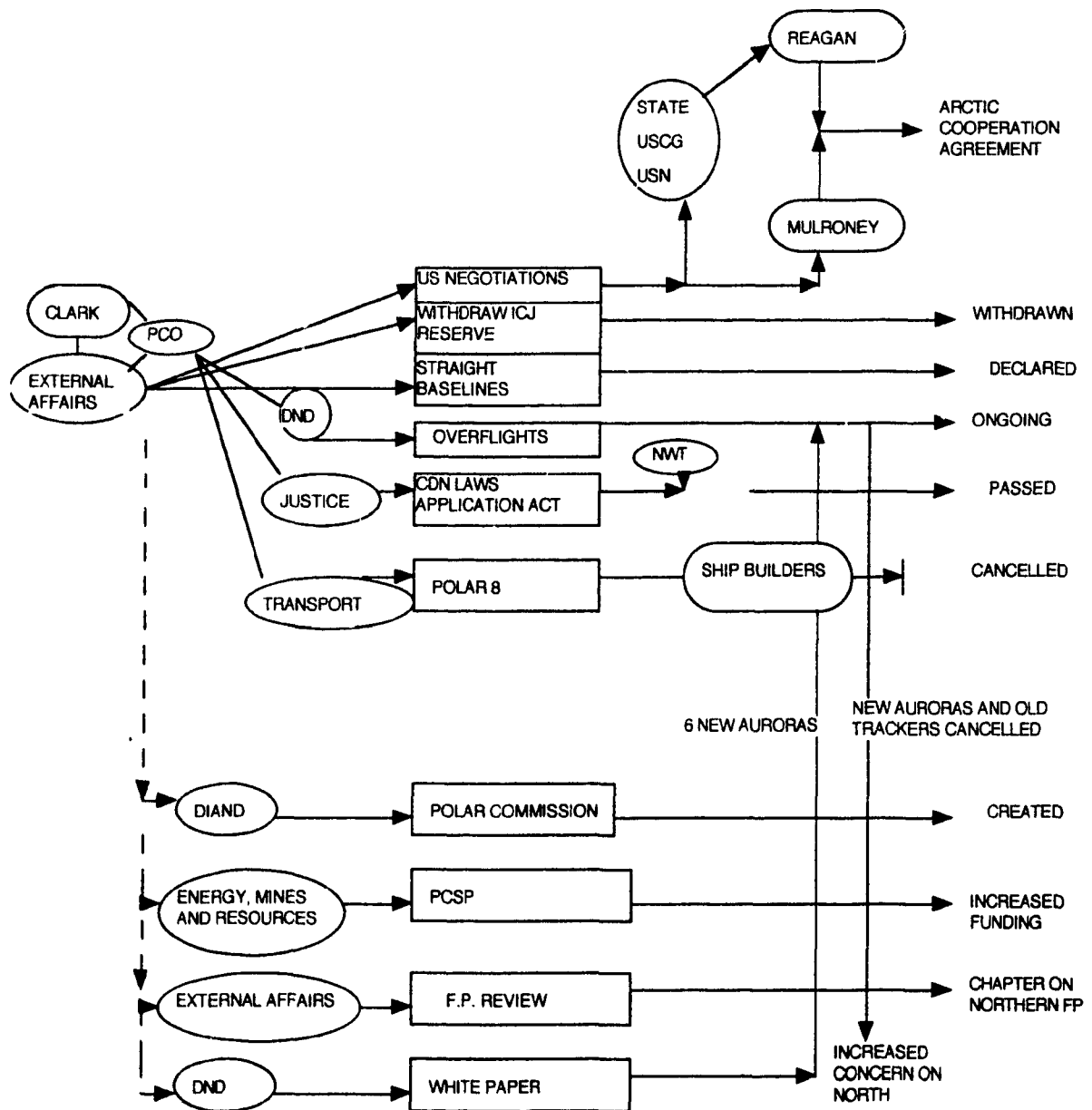


FIGURE 8-8
SUMMARY : POST-VOYAGE



together, this rationality will assume a piecemeal appearance. Thus, the combination of the six policy initiatives will appear to be a disjointed set of policies to be included in one package. Yet, to the officials developing each of these policies, they were, individually, rational policies. But this can only be determined through a detailed future examination.

EXISTING SHORTCOMINGS OF THE STUDY

Despite the fact that the examination was entirely predicated on a decision-making model, and made limited progress, it has not been an unqualified success. First, as predicted, it has proven extremely difficult to gain access to all relevant decision-makers. Despite extensive efforts, it was not possible to interview Secretary of State for External Affairs Joe Clark. While interviews with his officials helped to explain and understand his actions, the lack of a direct interview diminished the strength of this study's findings. It also was not possible to gain access to the decision-makers within the various companies and consortiums which competed to build the Polar 8.

Such problems question the practicability of the decision-making approach. However, this is a problem of methodology. When it was possible to interview the key decision-makers, for example Edwin Derwinski or John Crombie, the information provided was of tremendous value. Furthermore, interviews with

other decision-makers often filled the blank spots created by a key decision-maker's refusal to be interviewed. This indicates that it is not the approach that is at fault, but rather, the means of gaining access to the decision-makers. Another shortcoming of this study was its inability to provide a detailed quantification of the decisions within the process. The model devised in Chapter III stated that there are different types of decisions. However, it proved impossible in this case study to identify the differences among the decisions. The main difficulty is that each individual decision tended to incorporate an element of each of the typologies suggested. The methodology of this study was not advanced enough to isolate the different elements of each decision.

It also proved impossible to draw indirect links between the decision and intended and unintended targets. It was possible to establish links between the decisions and their direct targets, but further theoretical development of these connections must still be developed.

SECTION III

FUTURE PROBLEMS AND CHALLENGES

In closing, it is instructive to ponder the manner in which the government might react when the next crisis occurs in the Northwest Passage. There are three sources of potential difficulties that guarantee future problems.

Traditionally, the prospects of shipping oil and gas through the Northwest Passage has always presented the greatest, long-term challenge to Canadian interests in the north.² For example, the MANHATTAN voyages were designed to determine if it would be more viable to ship the oil from the northern Alaska oilfields or to construct a pipeline. Though the pipeline was built, unconfirmed reports indicated that the existing pipeline faced a much greater degree of degeneration than anticipated and that a replacement would be required much sooner than expected. The question could once again arise as to the best means of shipping oil to the American mainland. The Valdez oil spill, has raised the awareness of many Americans to the dangers to the environment posed by the oil industry. Thus, there could be substantial opposition within the United States against rebuilding the Alaska pipeline. It is conceivable that in order to avoid domestic opposition, American officials could decide that it would be more politically acceptable to ship the oil straight from the northern oilfields. Therefore, the alternative would be to

again consider the shipment of oil through the Northwest Passage. Given the Canadian declared policy of encouraging shipping in the north, provided pollution regulations were observed, and vessels carrying the oil conformed with the standards set out by the AWPPA, the Canadian Government would find it difficult to find reasons by which to refuse such transits. However, it is unlikely that the media and other interest groups would refrain from criticising proposals for such voyages. It would be instructive to observe the government's reaction. Would it be as piecemeal and ad hoc as in 1985, or would it be more coherent? The former seems more likely.

A second potential problem could be created through the accidental grounding of a nuclear-powered submarine in the Arctic archipelago. As noted, all of the inter-state submarine agreements between Canada and the United States are highly classified. What is not classified is that American nuclear-powered submarines do transit the Northwest Passage on occasion. While the end of the Cold War may have reduced, and perhaps eliminated these voyages, there is no information to indicate that this is so. And even if they have ceased, there is no guarantee that American submarines (or even Russian ones for that matter) will stay out indefinitely. If one of these submarines should encounter difficulties, it will be difficult for Canadian agencies to undertake a rescue effort on their

own. There is no doubt that the political fallout from such an event would severely affect Canadian relations with the particular state involved, secret agreements notwithstanding.

A third possible problem facing Canadian decision-makers is created by tourism trips in the north. So called "adventure tours" have been carried out occasionally since 1984.³ The most recent voyages in the Northwest Passage have been undertaken by Russian icebreakers chartered by private Canadian companies.⁴ The operators of these tours have always been careful to request Canadian permission and have strictly abided by all regulations. But Canada possesses limited abilities to assist in the event that any of these vessels encounters difficulties. This was dramatically and tragically demonstrated by the length of time it took to rescue the crew of a Hercules Transport that crashed in the high Arctic.⁵ Since the Polar 8 was cancelled, it is not at all certain that Canada now has the ability to conduct a rescue if one of these "adventure tour" vessels is ever trapped and damaged by ice.

Given the Canadian Government's ad hoc and reactive nature to policy making in matters regarding the north, it is unlikely that any measures to avoid these potential problems will develop until the problems actually occur. The best that can be hoped for is that decision-makers within the bureaucracy have recognized the dangers posed by these problems and have

begun to develop policies to react. Thus, if any or all of these problems erupt, the political elites in Cabinet will have a viable set of policies to select from.

ENDNOTES

1. The official was Stephen Lewis, then Ambassador and Permanent Representative to the UN. See "Canada: Acceptance of I.C.J. Compulsory Jurisdiction with Regard to Disputes Arising Out of Jurisdictional Claims," in International Legal Materials 24 part 2 (1985), pp.1729-30.
2. For a good historical overview of this see Shelagh Grant, Sovereignty or Security: Government Policy in the Canadian North 1936-1950 (Vancouver: University of British Columbia Press, 1988); and for a more up-to-date examination, see Robert Page, Northern Development: The Canadian Dilemma (Toronto: McClelland and Stewart, 1986).
3. Donat Pharand, Canada's Arctic Waters in International Law (Cambridge: Cambridge University Press, 1988), pp.206-207.
4. Wallace Immen, "Breaking the Ice: Northwest Passage With the Russians," Globe and Mail September 5, 1992, p.A9.
5. The crash occurred on October 30, 1991 as the pilot made a visual approach to the airbase at Alert.

APPENDICES



Statements and Speeches

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No. 85/7

POLICY ON CANADIAN SOVEREIGNTY

Statement by the Right Honourable Joe Clark, Secretary of State for External Affairs, in the House of Commons, Ottawa, September 10, 1985.

Sovereignty can arouse deep emotion in this country. That is to be expected, for sovereignty speaks to the very identity and character of a people. We Canadians want to be ourselves. We want to control our own affairs and take charge of our own destiny. At the same time, we want to look beyond ourselves and to play a constructive part in a world community that grows more interdependent every year. We have something to offer and something to gain in so doing.

The sovereignty question has concerned this government since we were first sworn in. We have built national unity, we have strengthened the national economy, because unity and strength are hallmarks of sovereignty, as they are hallmarks of this government's policy and achievements.

In unity and strength, we have taken action to increase Canadian ownership of the Canadian petroleum industry. We have declared a Canadian ownership policy in respect of foreign investment in the publishing industry. We have made our own Canadian decisions on controversial issues of foreign policy — such as Nicaragua and South Africa. We have passed the *Foreign Extraterritorial Measures Act* to block unacceptable claims of jurisdiction by foreign governments or courts seeking to extend their writ to Canada. We have arrested foreign trawlers poaching in our fishing zones. We have taken important steps to improve Canada's defences, notably in bolstering Canadian forces in Europe and in putting into place a new North Warning System to protect Canadian sovereignty over our northern airspace. And we have reconstructed relations with traditional friends and allies, who have welcomed our renewed unity and strength and the confidence they generate.

In domestic policy, in foreign policy, and in defence policy, this government has given Canadian sovereignty a new impetus within a new maturity. But much remains to be done. The voyage of the *Polar Sea* demonstrated that Canada, in the past, had not developed the means to ensure our sovereignty over time. During that voyage, Canada's legal claim was fully protected, but when we looked for tangible ways to exercise our sovereignty, we found that our cupboard was nearly bare. We obtained from the United States a formal and explicit assurance that the voyage of the *Polar Sea* was without prejudice to Canada's legal position. That is an assurance which the government of the day, in 1969, did not receive for the voyage of the *Manhattan* and of the two United States Coast Guard icebreakers. For the future, non-prejudicial arrangements will not be enough.

The voyage of the *Polar Sea* has left no trace on Canada's Arctic waters and no mark on Canada's Arctic sovereignty. It is behind us, and our concern must be what lies ahead.

Many countries, including the United States and the Federal Republic of Germany, are actively preparing

for commercial navigation in Arctic waters. Developments are accelerating in ice science, ice technology, and tanker design. Several major Japanese firms are moving to capture the market for icebreaking tankers once polar oil and gas come on stream. Soviet submarines are being deployed under the Arctic ice pack, and the United States Navy in turn has identified a need to gain Arctic operational experience to counter new Soviet deployments.

The implications for Canada are clear. As the Western country with by far the greatest frontage on the Arctic, we must come up to speed in a range of marine operations that bear on our capacity to exercise effective control over the Northwest Passage and our other Arctic waters.

To this end, I wish to declare to the House the policy of this government in respect of Canadian sovereignty in Arctic waters, and to make a number of announcements as to how we propose to give expression to that policy.

Canada is an Arctic nation. The international community has long recognized that the Arctic mainland and islands are a part of Canada like any other. But the Arctic is not only a part of Canada. It is part of Canada's greatness.

The policy of this government is to preserve that greatness undiminished.

Canada's sovereignty in the Arctic is indivisible. It embraces land, sea, and ice. It extends without interruption to the seaward-facing coasts of the Arctic islands. These islands are joined and not divided by the waters between them. They are bridged for most of the year by ice. From time immemorial Canada's Inuit people have used and occupied the ice as they have used and occupied the land.

The policy of this government is to maintain the natural unity of the Canadian Arctic archipelago, and to preserve Canada's sovereignty over land, sea, and ice undiminished and undivided.

That sovereignty has long been upheld by Canada. No previous government, however, has defined its precise limits or delineated Canada's internal waters and territorial sea in the Arctic. This government proposes to do so. An order-in-council establishing straight baselines around the outer perimeter of the Canadian Arctic archipelago has been signed today, and will come into effect on January 1, 1986. These baselines define the outer limit of Canada's historic internal waters. Canada's territorial waters extend 12 miles seaward of the baselines. While the *Territorial Sea and Fishing Zones Act* requires 60 days' notice only for the establishment of fisheries limits, we consider that prior notice should also be given for this important step of establishing straight baselines.

Canada enjoys the same undisputed jurisdiction over its continental margin and 200-mile fishing zone in the Arctic as elsewhere. To protect the unique ecological balance of the region, Canada also exercises jurisdiction over a 100-mile pollution prevention zone in the Arctic waters. This too has been recognized by the international community, through a special provision in the United Nations Convention on the Law of the Sea.

No previous government, however, has extended the application of Canadian civil and criminal law to offshore areas, in the Arctic and elsewhere. This government will do so. To this end, we shall give priority to the early adoption of a *Canadian Laws Offshore Application Act*.

The exercise of functional jurisdiction in Arctic waters is essential to Canadian interests. But it can never serve as a substitute for the exercise of Canada's full sovereignty over the waters of the Arctic archipelago. Only full sovereignty protects the full range of Canada's interests. This full sovereignty is vital to Canada's security. It is vital to Canada's Inuit people. And it is vital even to Canada's nationhood.

The policy of this government is to exercise Canada's full sovereignty in and over the waters of the Arctic archipelago. We will accept no substitutes.

The policy of this government is also to encourage the development of navigation in Canada's Arctic waters. Our goal is to make the Northwest Passage a reality for Canadian and foreign shipping, as a Canadian waterway. Navigation, however, will be subject to the controls and other measures required for Canada's security, for the preservation of the environment, and for the welfare of the Inuit and other inhabitants of the Canadian Arctic.

In due course, the government will announce the further steps it is taking to implement these policies, and especially to provide more extensive marine support services, to strengthen regulatory structures, and to reinforce the necessary means of control. I am announcing today that the government has decided to construct a Polar Class 8 icebreaker. The Ministers of National Defence and Transport will shortly bring to Cabinet recommendations with regard to design and construction plans. The costs are very high, in the order of half a billion dollars. But this government is not about to conclude that Canada cannot afford the Arctic. Meanwhile, we are taking immediate steps to increase surveillance overflights of our Arctic waters by Canadian Forces aircraft. In addition, we are now making plans for naval activity in eastern Arctic waters in 1986.

Canada is a strong and responsible member of the international community. Our strength and our responsibility make us all the more aware of the need for co-operation with other countries, and especially with our friends and allies. Co-operation is necessary not only in defence of our own interests but in defence of the common interests of the international community. Co-operation adds to our strength and in no way diminishes our sovereignty.

The policy of this government is to offer its co-operation to its friends and allies, and to seek their co-operation in return.

We are prepared to explore with the United States all means of co-operation that might promote the respective interests of both countries, as Arctic friends, neighbours, and allies, in the Arctic waters of Canada and Alaska. The United States has been made aware that Canada wishes to open talks on this matter in the near future. Any co-operation with the United States, or with other Arctic nations, shall only be on the basis of full respect for Canada's sovereignty. That too has been made clear.

In 1970, the government of the day barred the International Court of Justice from hearing disputes that might arise concerning the jurisdiction exercised by Canada for the prevention of pollution in Arctic waters. This government will remove that bar. Indeed, we have today notified the Secretary-General of the United Nations that Canada is withdrawing the 1970 reservation to its acceptance of the compulsory jurisdiction of the World Court.

The Arctic is a heritage for the people of Canada. They are determined to keep their heritage entire. The policy of this government is to give full expression to that determination.

We challenge no established rights, for none have been established except by Canada. We set no precedent for other areas, for no other area compares with the Canadian Arctic archipelago. We are confident in our position. We believe in the rule of law in international relations. We shall act in accordance with our confidence and belief, as we are doing today in withdrawing the 1970 reservation to Canada's acceptance of the compulsory jurisdiction of the World Court. We are prepared to uphold our position in that Court, if necessary, and to have it freely and fully judged there.

In summary, these are the measures we are announcing today:

- (1) immediate adoption of an order-in-council establishing straight baselines around the Arctic archipelago, to be effective January 1, 1986;
- (2) immediate adoption of a *Canadian Laws Offshore Application Act*;
- (3) immediate talks with the United States on co-operation in Arctic waters, on the basis of full respect for Canadian sovereignty;
- (4) an immediate increase of surveillance overflights of our Arctic waters by aircraft of the Canadian Forces, and immediate planning for Canadian naval activity in the Eastern Arctic in 1986;
- (5) the immediate withdrawal of the 1970 reservation to Canada's acceptance of the compulsory jurisdiction of the International Court of Justice; and
- (6) construction of a Polar Class 8 icebreaker and urgent consideration of other means of exercising more effective control over our Arctic waters.

These are the measures we can take immediately. We know, however, that a long-term commitment is required. We are making that commitment today.

S/C

STRAIGHT BASELINES



CANADIAN LAWS OFFSHORE APPLICATION ACT

38-39 ELIZABETH II

CHAPTER 44

An Act to apply federal laws and provincial laws to offshore areas and to amend certain Acts in consequence thereof

[Assented to 17th December, 1990]

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE

Short title **1.** This Act may be cited as the *Canadian Laws Offshore Application Act*.

INTERPRETATION

Definitions **2.** (1) In this Act,

"artificial island"
"île artificielle"

"continental shelf"
"plateau"

"federal laws"
"lois fédérales"

"artificial island" means any man-made extension of the seabed or a seabed feature, whether or not the extension breaks the surface of the superjacent waters;

"continental shelf" means the seabed and subsoil of those submarine areas that extend beyond the territorial sea throughout the natural prolongation of the land territory of Canada to the outer edge of the continental margin or to a distance of two hundred nautical miles from the inner limits of the territorial sea, whichever is the greater, or that extend to such other limits as are prescribed pursuant to paragraph (2)(a);

"federal laws" includes Acts of Parliament, regulations as defined in section 2 of the *Interpretation Act* and any other rules of law within the jurisdiction of Parliament [but does not include ordinances within the

meaning of the *Northwest Territories Act* or the *Yukon Act*;

"internal waters"
"eaux intérieures"

"internal waters" means the internal waters of Canada within the meaning of the *Territorial Sea and Fishing Zones Act*;

"marine installation or structure"
"ouvrages en mer"

"marine installation or structure" includes

(a) any ship, offshore drilling unit, production platform, subsea installation, pumping station, living accommodation, storage structure, loading or landing platform, dredge, floating crane, pipelaying or other barge or pipeline and any anchor, anchor cable or rig pad used in connection therewith, and

(b) any other work or work within a class of works prescribed pursuant to paragraph (2)(b);

"offshore area"
"zone extracôtière"

"offshore area", with respect to a province, means

(a) any area of the sea that is not within any province, that is on the landward side of the outer limits of the continental shelf and that is nearer to the coast of that province than to the coast of any other province, or

(b) such other area as is prescribed pursuant to paragraph (2)(c),

and includes the seabed and subsoil thereof;

"provincial laws"
"lois provinciales"

"provincial laws", in respect of a province, includes the laws and rules of law from time to time in force in the province, other than federal laws, and the provisions of any instrument having effect under any of those laws;

"ship"
"navire"

"ship" includes any description of vessel, boat or craft designed, used or capable of being used solely or partly for marine navigation without regard to method or lack of propulsion;

"territorial sea"
"mer"

"territorial sea" means the territorial sea of Canada as determined in accordance with the *Territorial Sea and Fishing Zones Act*.

Regulations

(2) The Governor in Council may make regulations

(a) prescribing outer limits of the continental shelf or any portion thereof for the purpose of the definition "continental shelf" in subsection (1), or designating, for greater certainty, a particular area of the sea as being part of the continental shelf.

(b) prescribing a work or a class of works for the purpose of the definition "marine installation or structure" in subsection (1).

(c) prescribing an area of the sea adjacent to a province for the purpose of the definition "offshore area" in subsection (1); and

(d) prescribing, in respect of any area of the sea and for the purpose of the definition "offshore area" in subsection (1), the manner of determining the province that has the coast nearest to that area

DECLARATORY PROVISIONS

Rights of Her Majesty

3. (1) For greater certainty, it is hereby declared that in any area of the sea not within a province,

(a) the seabed and subsoil below the internal waters and territorial sea, and

(b) any rights of Canada beyond the territorial sea with respect to the seabed and subsoil and their resources

are vested in Her Majesty in right of Canada.

Saving

(2) Nothing in this section abrogates or derogates from any legal right or interest held prior to the coming into force of this Act.

Part of Canada and application of federal laws

4. For greater certainty, it is hereby declared that

(a) the internal waters and territorial sea form part of Canada;

(b) unless the context otherwise requires, a reference to the internal waters or the territorial sea includes a reference to the airspace above and the seabed and subsoil below those waters or that sea; and

(c) federal laws apply in the areas referred to in paragraphs (a) and (b) to the extent that such application is con-

sistent with the intent and object of those laws

APPLICATION OF FEDERAL LAWS

Application — continental shelf installations

5. (1) Subject to any regulations made pursuant to subsection (2) or (3), federal laws apply

(a) on or under any marine installation or structure from the time it is attached or anchored to the continental shelf in connection with the exploration of that shelf or the exploitation of its mineral or other non-living resources until the marine installation or structure is removed from the waters above the continental shelf,

(b) on or under any artificial island constructed, erected or placed on the continental shelf, and

(c) within such safety zone surrounding any marine installation or structure or artificial island referred to in paragraph (a) or (b) as is determined by or pursuant to regulation

Regulations

(2) The Governor in Council may make regulations

(a) excluding any federal laws or any provisions thereof from the application of subsection (1) in respect of any area in or above the continental shelf or in respect of any specified activity in any such area; and

(b) determining or prescribing the method of determining the safety zone referred to in paragraph (1)(c).

Application generally

(3) The Governor in Council may make regulations making federal laws or any provisions thereof applicable, in such circumstances as are specified in the regulations,

(a) in or above the continental shelf or any portion thereof;

(b) in any exclusive economic zone that may be created by Canada or in any portion thereof; or

(c) in any area beyond the continental shelf where such application is made pursuant to an international agreement or arrangement entered into by Canada

Interpretation

6. For the purposes of section 5, federal laws shall be applied

(a) as if the places referred to in subsection 5(1) or in any regulations made pursuant to paragraph 5(2)(a) or subsection 5(3) formed part of the territory of Canada;

(b) notwithstanding that by their terms their application is limited to Canada; and

(c) in a manner that is consistent with the rights and freedoms of other states under international law and, in particular, with the rights and freedoms of other states in relation to navigation and overflight.

APPLICATION OF PROVINCIAL LAWS

Application of provincial laws

7. (1) Subject to this section and to any other Act of Parliament,

(a) provincial laws apply in that part of the offshore area adjacent to a province that forms part of the internal waters or territorial sea; and

(b) provincial laws apply to the same extent as federal laws apply pursuant to section 5 in that part of the offshore area adjacent to a province that is situated on the seaward side of the internal waters and territorial sea.

Limitation

(2) Subject to any regulations made pursuant to subsection (3) or (4), subsection (1) does not apply in respect of any provision of a provincial law that

(a) imposes a tax or royalty; or

(b) relates to mineral or other non-living natural resources.

Exclusion or application

(3) The Governor in Council may make regulations respecting the exclusion or application of provincial laws to the same extent as the Governor in Council may make regulations respecting the exclusion or application of federal laws pursuant to subsection 5(2) or (3).

Regulations

(4) The Governor in Council may make regulations

(a) making any provincial law applicable in respect of any part of the offshore area adjacent to a province, even though the law, by its own terms, is applicable only in respect of a particular area within the province;

(b) restricting the application of subsection (1) to such provincial laws as are specified in the regulations;

(c) making subsection (1) applicable, on the terms and conditions, if any, specified in the regulations, in respect of any provincial laws that impose a tax or royalty or relate to mineral or other non-living natural resources; and

(d) excluding any provincial law from the application of subsection (1).

Restriction

(5) A regulation made under subsection (3) or (4) may be restricted to a specific area or place or to a specific provision of a provincial law.

Interpretation

(6) For the purposes of this section, provincial laws shall be applied as if the offshore area adjacent to the province were within the territory of that province.

Sums due to province

(7) Any sum due under a provincial law that applies in the offshore area pursuant to this section belongs to Her Majesty in right of the province whose legislature enacted the law.

Limitation

8. For greater certainty, the provisions of section 7 shall not be interpreted as providing a basis for any claim, by or on behalf of a province, in respect of any interest in or legislative jurisdiction over any offshore area adjacent to the province or the living or non-living resources of that offshore area, or as limiting the application of any federal laws.

COURT JURISDICTION

Jurisdiction extended

9. (1) Subject to subsection (3) and to any regulations made pursuant to subsection (4), a court has jurisdiction in respect of any matter that arises in whole or in part in an offshore area adjacent to a province and to which a law applies pursuant to this Act, if

the court would have jurisdiction had the matter arisen in that province.

Orders and powers

(2) A court referred to in subsection (1) may make any order or exercise any power it considers necessary in respect of any matter referred to in that subsection.

Certificate cannot be compelled

Criminal offences

(3) The jurisdiction and powers of courts with respect to offences under any federal law are determined pursuant to sections 477.3 and 477.4 of the *Criminal Code*.

Saving

Regulations

(4) The Governor in Council may make regulations restricting the application of subsections (1) and (2) to courts of a district or territorial division of a province.

Prior notice

Saving

(5) Nothing in this section limits the jurisdiction that a court may exercise apart from this Act.

Definition of "court"

(6) For the purposes of this section, "court" includes a judge thereof and any justice.

Single publication required

GENERAL PROVISIONS

Evidence

10. (1) In any legal or other proceedings, a certificate issued by or under the authority of the Secretary of State for External Affairs containing a statement that any geographic location specified in the certificate was, at any time material to the proceedings,

(a) in the internal waters or territorial sea, or

(b) in or above the continental shelf or in any area created by Canada as an exclusive economic zone,

is conclusive proof of the truth of the statement without proof of the signature or official character of the person appearing to have issued the certificate.

R.S., c. C-33

Fishing of sedentary species

Idem

(2) In any legal or other proceedings, a certificate issued by or under the authority of the Minister of Energy, Mines and Resources containing a statement that any geographic location specified in the certificate was, at any time material to the proceedings, within the offshore area adjacent to any province named therein is conclusive

Definitions

proof of the truth of the statement without proof of the signature or official character of the person appearing to have issued the certificate.

(3) A certificate referred to in subsection (1) or (2) is admissible in evidence in proceedings referred to in that subsection but its production cannot be compelled.

11. Nothing in sections 1 to 10 limits the operation that any Act, law or instrument has apart from this Act.

12. (1) Subject to subsection (2), a copy of each regulation that the Governor in Council proposes to make under this Act shall be published in the *Canada Gazette* at least sixty days before the proposed effective date thereof and a reasonable opportunity shall be given to interested persons to make representations with respect thereto.

(2) No regulation need be published more than once under subsection (1), whether or not it is altered after publication as a result of representations referred to in that subsection.

CONSEQUENTIAL AND RELATED AMENDMENTS

Coastal Fisheries Protection Act

13. Section 4 of the *Coastal Fisheries Protection Act* is renumbered as subsection 4(1) and is further amended by adding thereto the following subsections:

"(2) No person, being aboard a foreign fishing vessel or being a member of the crew of or attached to or employed on a foreign fishing vessel, shall fish or prepare to fish for a sedentary species of fish in any portion of the continental shelf that is beyond the limits of Canadian fisheries waters, unless authorized by this Act or the regulations, or any other law of Canada.

(3) For the purposes of subsection (2),

continental
shelf
«plateau»

«sedentary
species»
«espèce»

“continental shelf” has the same meaning as in the *Canadian Laws Offshore Application Act*.

“sedentary species” means any living organism that is immobile on or under the seabed or is unable to move except in constant physical contact with the seabed or the subsoil.”

14. Subparagraph 6(a)(ii) of the said Act is repealed and the following substituted therefor

“(ii) persons to do all or any of the things described in paragraphs 4(1)(a) to (e), subsection 4(2) or section 5,”

Restriction

RS c C-46

Criminal Code

15. Section 477 of the *Criminal Code* is repealed and the following substituted therefor

Words and
expressions

“477. (1) In this section and sections 477.1 to 477.4,

(a) “fishing zone of Canada” has the same meaning as in the *Territorial Sea and Fishing Zones Act*, but does not include any portion of the internal waters or territorial sea; and

(b) unless the context otherwise requires, other words and expressions have the same meaning as in the *Canadian Laws Offshore Application Act*

Consent of
Attorney
General

Saving

(2) Nothing in sections 477.1 to 477.4 limits the operation of any other Act of Parliament or the jurisdiction that a court may exercise apart from those sections

Idem

Offences in
above or
beyond
continental
shelf

477.1 (1) Every person who commits an act or omission that would be an offence under a federal law if it occurred in Canada shall be deemed to have committed that act or omission in Canada if it occurred

(a) in a place in or above the continental shelf or in any exclusive economic zone created by Canada, where the act or omission is an offence in that place

Idem

by virtue of section 5 of the *Canadian Laws Offshore Application Act*,

(b) in any fishing zone of Canada,

(c) outside Canada, on board or by means of a ship registered or licensed, or for which an identification number has been issued, pursuant to any Act of Parliament;

(d) outside Canada, in the course of hot pursuit; or

(e) in the case of a Canadian citizen, outside the territory of any state.

(2) Paragraph (1)(b) applies only where

(a) the act or omission is committed by a person who is in a fishing zone of Canada in connection with the exploration, exploitation, management or conservation of the living resources thereof; and

(b) the act or omission is committed by or in relation to a person who is a Canadian citizen or a permanent resident within the meaning of the *Immigration Act*.

477.2 (1) Where an offence is committed by a person in or on the territorial sea, no proceedings in respect of that offence, other than proceedings on summary conviction, shall be instituted without the consent of the Attorney General of Canada if the accused is not a Canadian citizen and the offence is alleged to have been committed on board any ship registered outside Canada.

(2) Proceedings in respect of which courts have jurisdiction by virtue only of paragraph 477.1(1)(a) or (b) shall not be instituted without the consent of the Attorney General of Canada if the accused is not a Canadian citizen and the offence is alleged to have been committed on board any ship registered outside Canada

(3) Proceedings in respect of which courts have jurisdiction by virtue only of paragraph 477.1(1)(d) or (e) shall not be

instituted without the consent of the Attorney General of Canada

Exercising
powers of
arrest, entry,
etc

477.3 (1) Every power of arrest, entry, search or seizure or other power that could be exercised in Canada in respect of an act or omission referred to in subsection 477.1(1), and in the circumstances referred to in that subsection, may be exercised

(a) at the place or on board the ship or marine installation or structure where the act or omission occurred; or

(b) where hot pursuit has been commenced, at any place on the seas, other than a place that is part of the territorial sea of any other state.

Arrest, search,
seizure, etc

(2) A justice or a judge in any territorial division in Canada has jurisdiction to authorize an arrest, entry, search or seizure or an investigation or other ancillary matter related to an offence

(a) committed in or on the territorial sea or any area of the sea that forms part of the internal waters, or

(b) referred to in subsection 477.1(1)

in the same manner as if the offence had been committed in that territorial division

Limitation

(3) Where an act or omission that is an offence by virtue only of subsection 477.1(1) is alleged to have been committed on board any ship registered outside Canada, the powers referred to in subsection (1) shall not be exercised outside Canada with respect to that act or omission without the consent of the Attorney General of Canada.

Territorial
division for
prosecution

477.4 (1) Proceedings in respect of an offence

(a) committed in or on the territorial sea or any area of the sea that forms part of the internal waters, or

(b) referred to in subsection 477.1(1)

may, whether or not the accused is in Canada, be commenced in any territorial division in Canada and the accused may be tried and punished in respect of that offence in the same manner as if the

Appearance of
accused at trial

offence had been committed in that territorial division

(2) For greater certainty, the provisions of this Act relating to

(a) the requirement of the appearance of an accused at proceedings, and

(b) the exceptions to that requirement, apply to proceedings commenced in any territorial division pursuant to subsection (1) or section 481

Evidence

(3) In proceedings in respect of an offence,

(a) a certificate referred to in subsection 10(1) of the *Canadian Laws Off-shore Application Act*, or

(b) a certificate issued by or under the authority of the Secretary of State for External Affairs containing a statement that any geographical location specified in the certificate was, at any time material to the proceedings, in a fishing zone of Canada or outside the territory of any state,

is conclusive proof of the truth of the statement without proof of the signature or official character of the person appearing to have issued the certificate

Certificate
cannot be
compelled

(4) A certificate referred to in subsection (3) is admissible in evidence in proceedings referred to in that subsection but its production cannot be compelled "

R S c 12

Immigration Act

16. Subsection 12(2) of the *Immigration Act* is repealed and the following substituted therefor

Where
physically
outside Canada

"(2) For the purposes of this section, a person who leaves Canada and thereafter seeks to return to Canada, whether or not that person was granted lawful permission to be in any other country, shall, unless the person is in a prescribed class of persons, be deemed to be seeking to come into Canada "

R.S. c L-2

Canada Labour Code

17. The definition "federal work, undertaking or business" in section 2 of the *Canada Labour Code* is amended by striking out the word "and" at the end of paragraph (h) thereof, by adding the word "and" at the end of paragraph (i) thereof and by adding thereto the following paragraph:

"(j) a work, undertaking or activity in respect of which federal laws within the meaning of the *Canadian Laws Off-shore Application Act* apply pursuant to that Act and any regulations made under that Act."

Aboriginal rights

20. Nothing in this Act shall be construed so as to abrogate or derogate from any existing aboriginal or treaty rights of the aboriginal peoples of Canada under section 35 of the *Constitution Act, 1982*.

COMING INTO FORCE

Coming into force

21. (1) Subject to this section, this Act or any provision thereof shall come into force on a day or days to be fixed by order of the Governor in Council.

Application of provincial laws

(2) Subject to subsection (3), section 7 shall come into force with respect to the offshore area adjacent to a province only on a day fixed by order of the Governor in Council declaring it to be in force in that area.

Prior notice

(3) An order under subsection (2) may be issued only after the expiration of sixty days from the publication of a notice thereof in the *Canada Gazette*, so that a reasonable opportunity may be given to interested persons to make representations with respect thereto.

Single publication required

(4) No notice need be published more than once under subsection (3), whether or not the proposed order is altered after publication as a result of representations referred to in that subsection.

R.S. c S-9

Canada Shipping Act

18. (1) Sections 612 and 613 of the *Canada Shipping Act* are repealed.

(2) Wherever in any Act of Parliament or any order, regulation, by-law or proclamation made or issued thereunder reference is made to "sections 610 to 613 of the *Canada Shipping Act*", there shall in every case, unless the context otherwise requires, be substituted a reference to "sections 610 and 611 of the *Canada Shipping Act*".

R.S. c T-8

Territorial Sea and Fishing Zones Act

19. Subsection 5(3) of the *Territorial Sea and Fishing Zones Act* is repealed and the following substituted therefor:

Baselines where historic title

"(3) In respect of any area not referred to in subsection (2), baselines are the outer limits of any area, other than the territorial sea of Canada, over which Canada has a historic or other title of sovereignty.

Baselines in other areas

(3.1) In respect of any area not referred to in subsection (2) or (3), baselines are the low water lines along the coast or along any low tide elevation situated wholly or partly at a distance not exceeding the breadth of the territorial sea from the coast."

CANADA-U.S. AGREEMENT ON ARCTIC COOPERATION

AGREEMENT BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND THE GOVERNMENT OF CANADA
ON ARCTIC COOPERATION

1. The Government of the United States of America and the Government of Canada recognize the particular interests and responsibilities of their two countries as neighbouring states in the Arctic.

2. The Government of Canada and the Government of the United States also recognize that it is desirable to cooperate in order to advance their shared interests in Arctic development and security. They affirm that navigation and resource development in the Arctic must not adversely affect the unique environment of the region and the well-being of its inhabitants.

3. In recognition of the close and friendly relations between their two countries, the uniqueness of ice-covered maritime areas, the opportunity to increase their knowledge of the marine environment of the Arctic through research conducted during icebreaker voyages, and their shared interest in safe, effective icebreaker navigation off their Arctic coasts:

- The Government of the United States and the Government of Canada undertake to facilitate navigation by their icebreakers in their respective Arctic waters and to develop cooperative procedures for this purpose;

- The Government of Canada and the Government of the United States agree to take advantage of their icebreaker navigation to develop and share research information, in accordance with generally accepted principles of international law, in order to advance their understanding of the marine environment of the area;
- The Government of the United States pledges that all navigation by U.S. icebreakers within waters claimed by Canada to be internal will be undertaken with the consent of the Government of Canada.

4. Nothing in this agreement of cooperative endeavour between Arctic neighbours and friends nor any practice thereunder affects the respective positions of the Governments of the United States and of Canada on the Law of the Sea in this or other maritime areas or their respective positions regarding third parties.

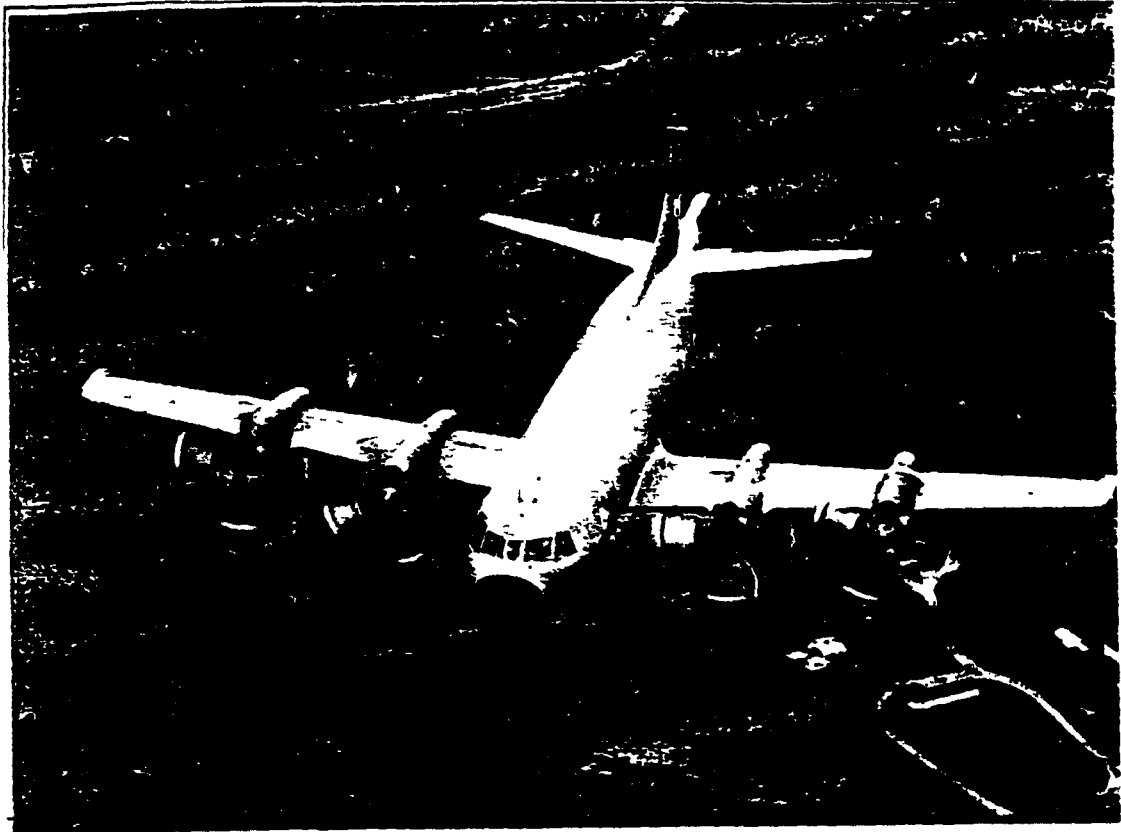
5. This Agreement shall enter into force upon signature. It may be terminated at any time by three months' written notice given by one Government to the other.

IN WITNESS WHEREOF, the undersigned, duly authorized to that effect, have signed this Agreement.

DONE in duplicate, at Ottawa, this *11th* day of *January*, 1988, in the English and French languages, each version being equally authentic.

INCREASED SURVEILLANCE OVERFLIGHTS

CP140 AURORA/CP140A ARCTURUS



Source: Department of National Defence

WITHDRAWAL OF THE 1970 I.C.J. RESERVATION

*The Permanent Mission of Canada
to the United Nations*

*La Mission Permanente du Canada
aupres des Nations Unies*

Dear Secretary-General:

On behalf of the Government of Canada,

- (1) I give notice that I hereby terminate the acceptance by Canada of the compulsory jurisdiction of the International Court of Justice hitherto effective by virtue of the declaration made on 7 April 1970 in conformity with paragraph 2 of Article 36 of the Statute of that Court.
- (2) I declare that the Government of Canada accepts as compulsory ipso facto and without special convention, on condition of reciprocity, the jurisdiction of the International Court of Justice, in conformity with paragraph 2 of Article 36 of the Statute of the Court, until such time as notice may be given to terminate the acceptance, over all disputes arising after the present declaration with regard to situations or facts subsequent to this declaration, other than:
 - (a) disputes in regard to which parties have agreed or shall agree to have recourse to some other method of peaceful settlement;

H.E. Mr. Javier Pérez de Cuéllar
Secretary-General
United Nations
New York

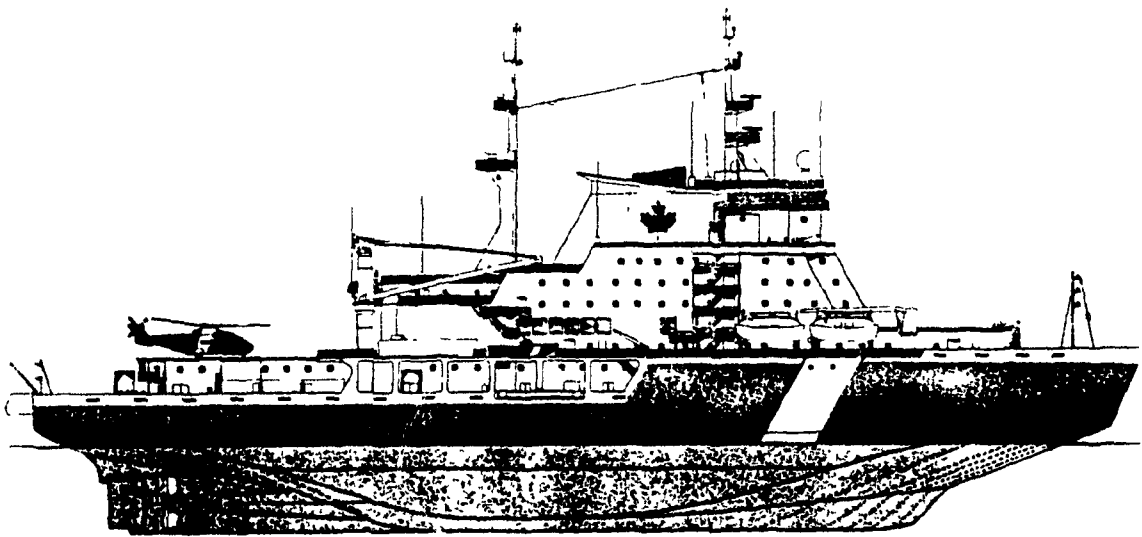
- (b) disputes with the Government of any other country which is a member of the Commonwealth, all of which disputes shall be settled in such manner as the parties have agreed or shall agree;
 - (c) disputes with regard to questions which by international law fall exclusively within the jurisdiction of Canada.
- (3) The Government of Canada also reserves the right at any time, by means of a notification addressed to the Secretary-General of the United Nations, and with effect as from the moment of such notification, either to add to, amend or withdraw any of the foregoing reservations, or any that may hereafter be added.

It is requested that this notification may be communicated to the governments of all the States that have accepted the Optional Clause and to the Registrar of the International Court of Justice.

New York, September 10, 1985



Stephen Lewis
Ambassador and
Permanent Representative

POLAR 8 CLASS ICEBREAKER

Source: Canadian Coast Guard

THE POLAR SEA

ICEBREAKERS

2 "POLAR STAR" CLASS. ICEBREAKERS (WAGB)

Name	No	Builders	Commissioned	FS
POLAR STAR	WAGB 10	Lockheed Shipbuilding Co Seattle Washington	19 Jan 1976	PA
POLAR SEA	WAGB 11	Lockheed Shipbuilding Co Seattle Washington	23 Feb 1978	PA

Displacement, tons 12 087 full load

Dimensions, feet (metres) 399 x 86 x 31 (121.6 x 26.2 x 9.5)

Aircraft 2 HH 52A helicopters

Guns 2—40 mm Mk 19 MGs

Main engines Diesel electric 6 Alco diesels 18 000 shp 3 gas turbines (Pratt & Whitney FT4A 12) 60 000 shp 3 shafts (cp propellers = 18 knots

Range, miles 28 000 at 13 knots

Complement 163 (13 officers 125 enlisted men plus 10 scientists and 15 flight crew)

These ships are the first icebreakers built for US service since *Glacier* was constructed two decades earlier. *Polar Star* authorised in the Fiscal Year 1971 budget of the Department of Transportation, *Polar Sea* in the FY 1973 budget. *Polar Star* was laid down on 15 May 1972 and launched on 17 November 1973. *Polar Sea* was laid down on 27 November 1973 and launched on 24 June 1975. *Polar Star* based at Seattle.

Primarily because of the initiative taken by Congress it is now planned that one new icebreaker will be funded in the FY 1987 budget, and a second one the following year. These ships are to be smaller and somewhat less powerful than the *Polar Star* and her sister ship and with less of an icebreaking capability. It is anticipated they will be constructed from a completely new design with the design function undertaken in house. Estimated cost per ship in FY 1984 dollars, is approximately \$200 million.

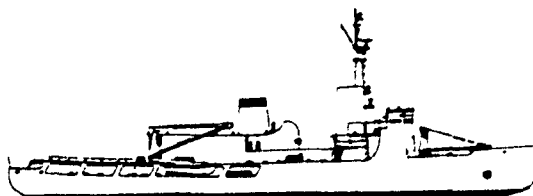
Design. The "Polar Star" class icebreakers are the largest ships operated by the US Coast Guard. At a continuous speed of 3 knots these ships can break ice 6 ft thick and by riding on the ice they can break 21 ft pack.

These ships have a conventional icebreaker hull form with cutaway bow configuration and well rounded body sections to prevent being trapped in ice. Two 15 ton capacity cranes fitted aft hangar and flight deck aft, extensive research laboratories provided for arctic and oceanographic research.

Engineering. This CODOG design provides for conventional diesel engines for normal cruising in field ice and gas turbines for heavy icebreaking. The diesel engines drive generators producing ac power, the main propulsion dc motors draw power through rectifiers permitting absolute flexibility in the delivery of power from alternate sources. The use of cp propellers on three shafts will permit manoeuvring in heavy ice without the risk to the propeller blades caused by stopping the shaft while going from ahead to astern.

The Coast Guard had given consideration to the use of nuclear power for an icebreaker, however, at this time the gas turbine-diesel combination can achieve the desirable power requirements without the added cost and operating restrictions of a nuclear powerplant. Both had serious propeller problems which resulted in their being alongside for prolonged periods in the first two years of operation.

Radar SPS 64



(Scale 1 : 1 800) A. D. Baker III

Source: Jane's (1986)

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