The Rise of China and Governance of Shipping in the Changing Arctic

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Introduction

› The Changing Arctic

› International Legal Regime

› China and Arctic Shipping
Smith & Stephenson (2013), PNAS
北极东北航道
航行时间约33天，比传统航道减少12至15天时间
International Legal Regime

› Increasing shipping activities in the Arctic


› International Maritime Organization: MARPOL, SOLAS, Anti-Fouling, Ballast Water Management Convention

Polar Code

› Expected entry into force: 1 January 2017

› The mandatory part of the Polar Code only touches construction, design, equipment and manning (CDEM) standards of Arctic shipping

› Thorny issues that had been debated during the negotiation, such as ban of heavy grade fuel oil in the Arctic, are put in recommendatory part

› The Polar Code will not deal with the interpretation of “ice-covered areas” (Art. 234 of the UNCLOS). A smart reservation made by Canadian delegation during the MSC meeting in May 2014
The Rise of China

› China is always there, no matter good or bad

› More visible and cannot be easily ignored in this changing world

› The rise of China as a global regulatory power?
› Direct influence: participation, negotiation, coercion
› Indirect influence
From Brussels Effect to Beijing Effect?

- The Brussels Effect (Anu Bradford, 2012)

- Big internal market

- Strong institution

- Motivation/initiative

- Capacity for effective law enforcement
Why China is interested in Arctic Shipping? – Why not?

› Chinese ownership of vessels ranked the 4th of the world. Chinese shipowners control 8.91 percent of the total world Deadweight tonnage

› The World’s biggest Ship builder

› Second largest supplier of seafarers

› Strategic interest: energy security
China and the UNCLOS


› Subject to continuous development

› The interpretation of Art.234: Coastal States have the right to adopt and enforce non-discriminatory laws and regulations for the prevention, reduction and control of marine pollution from vessels in ice-covered areas within the limits of the exclusive economic zone, 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.
China and the IMO

› It is of China’s interest to adopt a mandatory Polar Code

› China submitted a total of 88 proposals to different Committees and Sub-Committees of the IMO from 2000 to 2009. It ranks only ninth among 10 category (a) countries of the Council of the IMO in terms of the number of proposals submitted. In the same period, Japan submitted 640 proposals, Norway submitted 450, the UK submitted 627 and the US submitted 567
China and the IMO

› Flag state control, half of Chinese owned vessels are under flag of convenience

› Ratify the BWM Convention

› Port state jurisdiction: ports in the North China
China and Arctic Council

› China was accepted as an observer in May 2013

› Recognition of current regime

› First step to influence decision-making process

› East-Asian cooperation?

Meeting at Yokohama, Japan on 25 August 2014, China joined South Korea and Japan and adopted a joint declaration to promote co-operation on logistics systems, developing eco-friendly logistics services and achieving a good balance between safety and efficiency in logistics. One of the action plans is to launch services on the Northern Sea Route.
Conclusions

› Although China is interested in Arctic shipping, China has not been actively engaging with the governance of Arctic shipping

› China has potential to act: interpretation of Art.234; development of the Polar Code; flag state and port state jurisdiction
Thank you for your attention