

Northwest Passage: Trump Card for US Arctic Policy?

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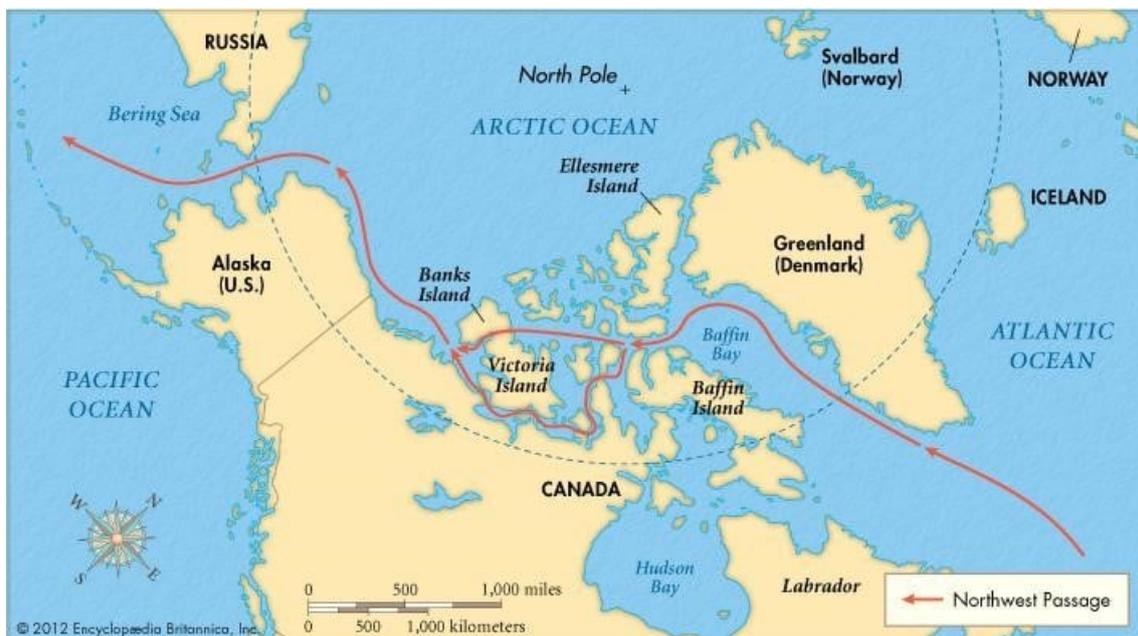
Global Research, December 07, 2016

Region: [Canada, USA](#)

Theme: [Environment](#), [Law and Justice](#)

Every time a new ice measurement is published that reveals the Arctic ice cap is shrinking, there is a flurry of media interest and predictions that the fabled Northwest Passage will become a viable alternative shipping route for transit between Asia, North America and Europe. The “Northwest Passage” refers to the sea route that connects the Atlantic and Pacific Oceans across the top of North America, via waterways through the islands lying between Canada’s northern continental coastline and the Arctic Ocean.

The Northwest Passage is [becoming navigable](#) for longer periods of the year. Ship traffic, however, still bears hazardous risks. The route is challenging not only due to the presence of a number of bays, islands, uncharted shoals and narrows, but also because of drift ice and extreme weather conditions. In addition other vessels sometimes do not record their positions or (in cases like those of illegal fishing vessels) record false positions.



The Canadian government [asserts](#) that the Northwest Passage is part of Canada’s internal waters, and subject to the nation’s full sovereignty. In fact, in 2009 the Canadian Parliament renamed the waterways the “Canadian Northwest Passage.” Under Canada’s view, no other nation has the right to navigate in or fly over those waters unless Canada consents.

Canada enjoys sovereignty over the Northwest Passage based on [historic title](#) — a status conveyed by Canada’s (and particularly the Canadian Inuit’s) historic usage of those waters. This claim has long been challenged by the United States and certain other nations, which consider the passage an international strait through which they enjoy transit rights.

This dispute arose in the late 1950s and has remained largely frozen since then, with both sides essentially agreeing to disagree. Since there have been so few transits over the past few decades, there has been little to shift the argument one way or another. Where the Chinese may prove useful to Canada is in the positive precedent that their shipping might set.

One of the weaknesses of the Canadian claim is that, under law, Canada must show that its historic claim has enjoyed the tacit support of foreign states. Canada has certainly never enjoyed that support from the U.S.; however, if any country begin using the Northwest Passage – and do so within the framework set by Canadian law and regulation – that activity will represent foreign acceptance of Canadian sovereignty.

In a March 10, 2016, op-ed in the Wall Street Journal, Canadian professor Michael Byers (along with U.S. co-author Scott Borgerson), reprises an earlier suggestion aimed at bringing legitimacy to Canada's claim of sovereignty over the waters of the Northwest Passage through a bilateral agreement between Canada and the United States.

The article, titled [The Arctic Front in the Battle to Contain Russia](#) closes with the warning that the United States and Canada must reach agreement on the status of the waters “before it is too late” because “there is little to stop an increasingly assertive Russia from sending a warship through” the passage. To Professor Byer's disappointment, the suggestion is unlikely to attract any support in Washington, D.C.

Recent White House statements make clear that the United States is not going to acquiesce in Canada's claims to sovereignty over the waters of the Northwest Passage. As reaffirmed in the 2009 U.S. [Arctic Region Policy presidential directive](#), the United States' position vis-à-vis the status of the Northwest Passage has been clear:

Freedom of the seas is a top national priority. The Northwest Passage is a strait used for international navigation...; the regime of transit passage applies to passage through those straits. Preserving the rights and duties relating to navigation and overflight in the Arctic region supports our ability to exercise these rights throughout the world, including through strategic straits.

President Barack Obama has pinned a chunk of his legacy to policies in the Arctic and circumpolar north. He made an historic trip to Alaska last year. Initiatives to address Arctic climate change and environmental concerns, rolled out while the United States chairs the eight-nation Arctic Council, have been high priorities for the outgoing president.

Now President-elect Donald Trump, a climate-change skeptic, is ready and able to rethink all of Obama's Arctic policies.

The mainstay of Trump's energy policy is working to [establish](#) energy independence by developing indigenous resources and creating jobs within the energy sector.

Trump has vowed to spend “[at least double](#)” the \$275 billion Hillary Clinton had proposed to spend on infrastructure over the next five years on projects such as roads, bridges, and ports. He's also especially keen to build more pipelines, including [Keystone XL](#), and “approve private sector energy infrastructure projects.” While pipelines are a dead end in terms of leading towards an energy transition, at least their construction may temporarily

employ people in places like Alaska.

Extended drilling in Alaska would be popular for many within the state, given that it would create many employment opportunities in one of America's most impoverished states. Alaskan unemployment is the [highest](#) in the United States at 6.7%, and the region has a number of societal issues like high levels of alcoholism and high suicide rates, which of course can be linked to low employment opportunities. Creating jobs in the energy sector and pursuing American energy independence would both be done through expanding Arctic drilling, granting more leases and removing environmental restrictions that prevent such efforts.

Preparing for increased drilling and shipping is something that the United States will focus on in the years ahead. The country will have to increase number of tankers and to explore more sea routes for oil delivery so the Northwest Passage could become the best way to solve this problem. Progress has been slow, but that's normal in the Arctic. Thankfully the region is not about to see a flood of new traffic; the United States has time to prepare and the country seems to be on track right now. Like it or not, Trump is going to increase Arctic drilling and infrastructure in the years ahead. Rather than fretting about it, America should begin to use the Northwest Passage to turn the situation to its advantage.

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