

Canada Can Help Russia With Northern Sea Route

By [Michael Byers](#)

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The Arctic Ocean's coastline belongs mostly to Russia and Canada, the two largest countries in the world.

Each country owns territory on either side of a series of contested, and increasingly ice-free, Arctic straits. Russia considers the narrowest parts of the Northern Sea Route to be "internal waters." Canada takes the same view of the Northwest Passage. Internal waters are not territorial waters, and foreign ships have no right to access them without permission from the coastal state.

Russia and Canada face a single, common source of opposition to their claims — namely, the United States, which insists that both the Northern Sea Route and the Northwest Passage are "international straits."

The United States thus accepts that Russia and Canada "own" the Northern Sea Route and Northwest Passage, while asserting that foreign vessels have a right of "transit passage"

through the straits that exceeds the right of "innocent passage" in regular territorial waters. A right of transit passage entitles foreign ships to pass through a strait without coastal state permission. It also means that foreign submarines can sail submerged, something that they are not allowed to do in regular territorial waters.

The Northern Sea Route has become seasonally ice-free. Thirty-two ships traversed the waterway last summer, most of them transporting natural resources from Russian ports to Asian markets.

The Kremlin is intent on turning the Northern Sea Route into a commercially viable alternative to the Strait of Malacca and the Suez Canal. In September 2011, then-Prime Minister Vladimir Putin said: "The shortest route between Europe's largest markets and the Asia-Pacific region lies across the Arctic. This route is almost a third shorter than the traditional southern one. I want to stress the importance of the Northern Sea Route as an international transport artery that will rival traditional trade lanes in service fees, security and quality. States and private companies that choose the Arctic trade routes will undoubtedly reap economic advantages."

The dispute over the legal status of the Northern Sea Route began in 1965 when the U.S. Coast Guard icebreaker *Northwind* set out to traverse the Vilkitsky Strait between the Kara and Laptev seas. Strong diplomatic pressure was applied by the Soviet Union, pressure that, according to a U.S. State Department spokesman, extended to a threat to "go all the way" if the American ship proceeded into the strait. Washington responded by ordering the *Northwind* to turn around. Since then, no foreign surface vessel has sailed through the Northern Sea Route without Moscow's permission.

The Northwest Passage has been ice-free for four of the last five summers. Twenty-two ships sailed through in 2011.

The United States has twice sent surface vessels through the Northwest Passage without seeking Canada's permission: the SS *Manhattan*, an American owned-and-registered ice-strengthened super-tanker, in 1969; and the USCGC *Polar Sea*, a coastguard icebreaker, in 1985.

On the 1985 occasion, the press attaché at the Soviet Embassy in Ottawa publicly expressed support for Canada's claim: "Whether it is the Northwest Passage or the Northeast Passage does not matter. Our position is based on provisions of international law. The waters around islands belonging to a country are the internal waters of that country."

But there is no evidence of any prior or subsequent statements of support by the Soviet Union or Russia for Canada's position, nor any evidence of Canadian statements in the reverse.

During the Cold War, it would have been difficult enough for Canada to oppose the United States — its most powerful NATO ally — on the Northwest Passage issue. Taking the Soviet Union's side in the Northern Sea Route dispute was simply not an option.

As for the Soviet Union's near-complete silence on the Northwest Passage, one can postulate that Moscow decided not to disrupt the delicate balance that allowed Ottawa and Washington to "agree to disagree" on the issue. Had Moscow expressed more support for Ottawa's

position, Washington might have decided that Ottawa's independent stance was no longer tolerable.

But the Cold War is long over, and Russia has become an important trading partner of the West, as reflected in its recent admission to the World Trade Organization. Economic opportunities and environmental concerns dominate the policy landscape, and cooperation has replaced conflict as the dominant paradigm in the North.

In January 2010, according to WikiLeaks, Canadian Prime Minister Stephen Harper told NATO Secretary-General Anders Fogh Rasmussen that the alliance had no role to play in the Arctic because "there is no likelihood of Arctic states going to war." Harper also said that "Canada has a good working relationship with Russia with respect to the Arctic, and a NATO presence could backfire by exacerbating tensions."

Nine months later, Putin told an international conference: "It is well known that if you stand alone, you cannot survive in the Arctic. Nature alone, in this case, demands that people, nations and states help each other."

Putin's comments came just a week after the Russian and Norwegian foreign ministers signed a boundary treaty for the Barents Sea, where the two countries had previously disputed 175,000 square kilometers of oil- and gas-rich seabed. Then, in May 2011, Russia, Canada, the United States, Denmark, Norway, Sweden, Finland and Iceland signed an Arctic search-and-rescue treaty.

All this cooperation provides Russia and Canada with a narrow window of opportunity. With foreign shipping companies looking north, it is only a matter of time before other countries join the United States in overtly opposing Russia and Canada's internal waters claims.

It is time for a joint Russian-Canadian position on the legal status of the Northern Sea Route and Northwest Passage — before it's too late.

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