

direct threat to Canadian sovereignty.” In fact, however, Canadian sovereignty in the Arctic is well established. Our sovereignty over the Arctic Islands is well established in law and no country asserts a competing claim.⁽¹⁴⁾

The one area wherein our sovereignty claim is not recognized is with respect to the U.S. contention that the Northwest Passage is an international strait rather than an internal Canadian waterway. According to the Department of External Affairs, the Canadian position is that:

The waters of Canada’s Arctic archipelago are internal by virtue of historic title. Thus, Canada’s sovereignty over these waters, including the Northwest Passage, is absolute and unqualified. The Northwest Passage is not an international strait, not only because it has not been used for international navigation, but also since it is overlapped by internal waters. Neither the right of innocent nor the right of transit passage applies. Canada’s legal position is well-founded in fact and in law, and is widely accepted by other states.⁽¹⁵⁾

In 1988, Canada and the United States signed the Canada–U.S.A. Arctic Cooperation Agreement, which provides that Canadian consent be obtained in advance of every transit by a U.S. government-owned or-operated icebreaker through the waters of the Canadian Arctic archipelago, including the Northwest Passage. The Agreement came into effect in January 1988, and since, U.S. transits have been conducted under its auspices. While the Agreement can be seen to further Canadian interests, both the United States and Canada still maintain their initial legal positions with regard to the status of the Northwest Passage.⁽¹⁶⁾

Although Canada does not face much in the way of legal challenges to its Arctic sovereignty, the region is nevertheless subject to the same non-legal challenges affecting our other coasts. At some point, resource development in the region will increase and it is important that we be able to exercise effective control. Having clear legal title to the Northwest Passage would help ensure this, as would an enhanced surveillance capability. Therefore:

II The Committee recommends that the government consider improving its surveillance in Canada’s Arctic. In particular, the government should reconsider the cancellation of the Polar 8 icebreaker and examine the possibility of acquiring additional long-range patrol aircraft.

(14) Serge April, Director General, Legal Affairs Bureau, Department of External Affairs, Proceedings, 6A:1.

(15) Response by the Department of External Affairs to Questions Submitted by the House of Commons Standing Committee on National Defence and Veterans Affairs, 9 March 1990.

(16) *Ibid.*