

## THE EU AS A GLOBAL ACTOR IN THE ARCTIC OCEAN

### Preliminary remarks

The general proposition of this special issue is that the European Union (EU) is becoming increasingly more influential in the Arctic. This was the hypothesis of the research project ‘Boosting the EU Arctic Policy: Security, Safety and Sustainability’ (EU\_ARCTYCA)<sup>1</sup> carried out by Claudia Cinelli at the K.G. Jebsen Centre for the Law of the Sea, UiT the Arctic University of Norway between 2014 and 2017.<sup>2</sup>

This special issue is a result of collaboration between distinguished scholars from both Arctic and non-Arctic States. They participated in the two main academic events of the project: ‘The EU as a Global Actor in the Arctic’ (workshop in Tromsø, 26 October 2015) and the Final Conference ‘Protecting the “Commons” in the Arctic: The Role of the EU’ (Final Conference, Tromsø, 28-29 June 2017).<sup>3</sup> Whilst the 2015 Workshop focused mainly on when, why and how the EU became a global actor in the Arctic, the 2017 Conference outlined the role that the EU has played in the ongoing development of the changing Arctic, with a special focus on common concern for the Arctic Ocean (e.g. environmental protection and climate change, sustainability of resource-use, safety and security issues).<sup>4</sup>

The special issue includes seven contributions from both these events, in addition to these preliminary remarks.

The first two contributions (Joaquín Alcaide Fernández ‘The European Union, the Arctic and the International Law’ and Robin R. Churchill, ‘The EU as an actor in the Law of the Sea, with Particular Reference to the Arctic’) analyse general matters related to the EU, the Arctic and law of the sea. Alcaide Fernández focuses on the interrelations between the EU and the ‘general’ international law applicable in the Arctic as well as the international ‘specific Arctic’ law and

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<sup>1</sup> Marie Curie Actions FP7-2013-IEF; Project n. 625217; acronym EU\_ARCTYCA. Project website is available at [https://uit.no/prosjekter/prosjekt?p\\_document\\_id=400188](https://uit.no/prosjekter/prosjekt?p_document_id=400188) ; accessed 22 November 2017

<sup>2</sup> Suspension for maternity leave from 20 July 2016 to 27 June 2017. Project details are available at: [https://en.uit.no/forskning/forskningsgrupper/gruppe?p\\_document\\_id=355759](https://en.uit.no/forskning/forskningsgrupper/gruppe?p_document_id=355759) ; accessed 22 November 2017

<sup>3</sup> Information and programmes are available respectively at : [https://en.uit.no/tavla/artikkel/424052/workshop\\_on\\_the\\_eu\\_as\\_a\\_global\\_actor\\_in\\_the\\_arctic?p\\_document\\_id=424052](https://en.uit.no/tavla/artikkel/424052/workshop_on_the_eu_as_a_global_actor_in_the_arctic?p_document_id=424052) ; [https://en.uit.no/om/enhet/aktuelt/arrangement?p\\_document\\_id=498747](https://en.uit.no/om/enhet/aktuelt/arrangement?p_document_id=498747) ; accessed 22 November 2017

<sup>4</sup> *Common Concern for the Arctic*. Conference arranged by the Nordic Council of Ministers 9-10 September 2008, Ilulissat, Greenland, available at <https://oaarchive.arctic-council.org/handle/11374/887>; accessed 22 November 2017

the EU. On the other hand, Churchill discusses specifically to what extent the EU is an actor – and the kind of actor that it is– in the law of the sea, and the implications for the legal regime of the Arctic Ocean.

The subsequent contributions focus on specific matters. Indeed, the third contribution (Efthymios Papastavridis, ‘Fisheries Enforcement in the Arctic Ocean: Gaps, Solutions and the Potential Contribution of the EU and its Member States’) proceeds to address fisheries enforcement in the Arctic Ocean. Papastavridis examines the current legal frameworks concerning monitoring, control and surveillance as well as enforcement tools that could be adopted to ensure fisheries enforcement in the Arctic, with a special reference to the EU and how it could contribute to this effort. The fourth contribution (David Langlet, ‘Planning from the Margin - the EU’s Potential Role in Spatial Planning for Managing Activities in the Arctic’) explores what lessons may be learned from problems posed by spatial and temporal dimensions in EU environmental law, for the governance of Arctic natural resources, and, more specifically, to what extent it is feasible to draw on the emerging system for marine spatial planning in the EU and elsewhere for enhancing efficiency and legitimacy of Arctic environmental governance. The fifth contribution (Natalie Dobson and Seline Trevisanut, ‘Climate change and Energy in the Arctic: The Role of the EU’) analyses the positions of the EU in the field of mitigation and adaptation to climate change, also in the light of the recent COP21 negotiations, and assesses them in the Arctic context. It aims at mapping the role of the EU in the Arctic region in relation to climate change and at discussing how this is currently impacting the EU energy policy.

At this point, the last two contributions go down in details. In the sixth contribution (Martin Hennig, ‘The Untouchable Nature of the «EU Seal Regime» - Is the European Union Liable for the Damages Suffered by the Canadian Inuit due to the Violation of WTO Law in EC-Seal Products?’), the author asks whether the finding that the EU Seal Regime violates WTO law can be relied upon by Canadian Inuit sealers in an action for damages against the EU. Hennig also questions the soundness of current state of EU law, which offers slim possibilities for Canadian Inuit sealers. Finally, the seventh contribution (Elise Johansen, ‘The EU influence on Norwegian Domestic Legislation for the Protection of the Arctic Marine Environment’) looks at how the EU through the EEA-agreement has influenced the Norwegian domestic shaping of environmental laws and regulations, with special focus on domestic legal regulations applicable for the marine Arctic. In other words, Norwegian laws and regulations applicable for areas in the Arctic under Norwegian jurisdiction.

The different analytical perspectives provided by the contributions confirm the hypothesis of the EU\_ARCTYCA project arguing that despite its limited presence, the EU is nevertheless increasingly influential in the Arctic. In other words, for the EU, institutional presence is not a *sine qua non* for influence. While the EU is not a fully-fledged institutional actor in the Arctic, it does exert influence on decisions and discussions within the Arctic cooperation frameworks at international and regional level. This influence precisely derives from EU competence in areas that are directly relevant for the Arctic region. In turn, this competence directly affects its Member States, particularly in the context of the Arctic Council. The growing influence of the EU in the Arctic is the result of several elements which include on one hand, the deliberate choice of the EU to engage more in the Arctic through the EU internal legislative developments as well as from EU international commitments. On the other hand, through the presence of some of its Member States in Arctic regional bodies –which the EU influences through the exercise of its own competence.

It is clear that the limited institutional presence in the Arctic has not been as crippling as it could have been for the EU. In view of this, the question may be raised as to whether the EU needs more formal representation in the Arctic Council. In substantive terms, its influence might not be dramatically enhanced. Would it nevertheless enhance its visibility in the region, and foster more awareness internally toward Arctic concerns?

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28 November 2017