The role of the European Union in Arctic matters

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Summary

• The EU, briefly
• Why is the EU interested on the Arctic?
• Interactions between the EU and the Arctic
• Is there a role for the EU in the Arctic governance?
• Conclusion
The EU, briefly

• Founding Treaty (TEU, TFEU)
• Legal status
• Member States
• Permanent institutions (European Council, Commission, Council, European Parliament, Court of Justice): Institutions’ representation criteria
• Decision making procedure (co-decision, QM + security network v. 1 MS: 1 vote + double M)
• Fields of action (exclusive or concurrent)
• Government (principle of conferral of powers by sovereign MS)
• Direct effect & Supremacy of EU law
• ECJ compulsory and binding jurisdiction
EU external relations’ priorities

- Fields of action:
  - Trade
  - Association and cooperation agreements
  - Development policy
  - The Common Foreign & Security Police and the Defense Policy
  - Crisis management, conflict prevention and peacebuilding
  - Human rights and democracy

- Regions:
  - European Neighbourhood Policy (ENP): CIS, the Mediterranean region, the Middle East, Central Asia
  - MS’ old colonial ties: Africa
  - Asia and Latin-America: Focus on trade and contractual relations & Promotion of interregionalism
  - Potential membership: the Balkans and Turkey
  - The strategic partners: USA, Canada, Russia and China
The actors of the Arctic’s policy: an EU perspective

- **EU Member States:**
  - Denmark (coastal State via Greenland - but Greenland not part of the EU since 1985; UNCLOS Party)
  - Sweden (UNCLOS Party)
  - Finland (UNCLOS Party)

- **Associate States (EFTA-EEA):**
  - Iceland (UNCLOS Party; candidate to EU access)
  - Norway (coastal State; UNCLOS Party; Svalbard Islands Treaty)

- **Strategic partners:**
  - Canada (coastal State; UNCLOS Party)
  - USA (coastal State, no UNCLOS Party)
  - Russia (coastal State; UNCLOS Party)
The presence of EU in the Arctic

• The EU as an Arctic actor: 3 Arctic Member States (Denmark, Sweden & Finland) + (Iceland when it accedes to the EU).

• The EU as a leading contributor to Arctic RT+D: 200 million euros under its Sixth and Seventh RT+D framework programmes.

• The EU as a key investor in the region's economic development: Over 1.1 billion euros in programmes stretching Arctic regions of the EU and neighbouring areas for 2007-2013.

• The EU as a key actor in the climate change regime: 20% greenhouse gas emission reduction commitment from 2013 to 2020 and a long-term target of 80-95% emission reduction by 2050.
Why is the EU interested in the Arctic?

- Global issue: Climate change and the Arctic
- EU issues related to EU fields of action:
  - Environmental protection, including climate change and biodiversity
  - Exploration and exploitation of renewable and non-renewable energy resources
  - Research & scientific cooperation
  - International trade with relevance to the Arctic & Maritime transport
  - Fisheries
  - Defence and security
  - Cultural, linguistic and educational cooperation
Dramatic Changes in the Arctic: Imagine an Ice-free Arctic

The Arctic and climate change

• “2005-2010 has been the warmest period ever recorded in the Arctic.

• The Arctic Ocean is projected to become nearly ice-free summer within the next 30 to 40 years.

• Arctic glaciers, ice caps and the Greenland Ice Sheet contributed over 40% of the global sea level rise observed between 2003 and 2008.”

(Source: Arctic Monitoring and Assessment Programme, 2011 assessment of the impacts of climate change on Snow, Water, Ice and Permafrost in the Arctic (SWIPA), at JOIN(2012) 19 final)
The Arctic and climate change

• IPCC findings XX century:
  • 0.6 °C increase in average temperature
  • Decrease of glaciers in the Northern Hemisphere
  • Increase from 10 to 20 cm the sea level

• IPCC projections XXI century:
  • 1.4 °C to 5.8 °C increase in average temperature from 1990 to 2100
  • Decrease of glaciers in the Northern Hemisphere
  • Increase from 9 to 88 cm the sea level between 1990-2100
Climate change

- Ice melting: new opportunities open up for mankind in transport, trade, fisheries, oil and gas drilling

- Climate change as a “threat multiplier”: unprecedented ecological risks + altering the geostrategic dynamics of the Arctic with potential repercussions on international stability and EU security interest

- EU leadership in climate change

- Commission’s Green Paper 2007:
  - Arctic region among the most vulnerable areas in Europe
  - Involvement of Russia, Europe’s far north, Greenland and the Arctic region in adaptation efforts

- EU projects in the Arctic to mitigate/adapt to climate change effects ("Arctic Tipping Points“, "ice2sea“, Hermione, ArcRisk, CLEAR, ACCESS, etc.)

Source UNEP-GGRID Arendal
The EU and climate change

European Union’s leadership in combating climate change: The domestic dimension:

- European Climate Change Programme (ECCP)
- EU Emissions Trading Scheme (EU ETS)
- EU Energy & Climate Package
- EU Climate Change Adaptation Strategy
- GHG Monitoring

- RT&D
- Multilateral negotiations: Participation at CCFC & KP
- International Partnerships (SYNERGY, EU-China, EU-India, CSLF, etc.)
- Capacity Building (regional initiatives: CARDS, TACIS, PHARE, etc.)
- Development Aid (ACP, Mediterranean, Africa)
A role for the EU in the Arctic to fight climate change?

- European Union’s role in the fight against climate change at the regional and global level
- The EU as the only world power to simultaneously exercise leadership in post-Kyoto negotiations and provide its MS with a set of legislative and regulatory instruments for the articulation of actions focused on mitigation and adaptation.

- Global participation, comprehensive scope, legally binding agreement
- To prevent global warming exceeding 2°C
- Further emission reductions by industrialized countries (20-30% of emissions for 2020 and 80% for 2050 compared to 1990)
- Effective and measurable action in developing countries
- Extension of emissions trading schemes
- R & TD, development, dissemination
- Adaptation and strengthening links with sustainable development
- Incorporation of emissions from other sectors
Interactions between the EU and the Arctic

The Neighbourhood Policy

The Northern Dimension

The Arctic Window

The Arctic Strategy
Interactions between the EU and the Arctic

- The Northern Dimension and the Arctic Window
- 2008 Commission’s Communication on EU and the Arctic Region
- 2012 Commission’s Communication on Developing a European Union Policy towards the Arctic Region: progress since 2008 and next steps
Northern Dimension & the Arctic Window

- 1999 ND: from Iceland and Greenland to northwest Russia and from the Arctic region to the southern shores of the Baltic Sea
- ND actors: the EU, the MS and the partner countries (Iceland, Norway, Russia)
- ND objectives: “to provide a common framework for the promotion of dialogue and concrete cooperation, to strengthen stability and well-being, intensify economic cooperation, and promote economic integration, competitiveness and sustainable development in Northern Europe”
- ND’s Arctic Window:
  - The second Action Plan (2004-2006) included a short section on the Arctic
  - The Arctic becomes a recognized concept in the EU but political attention towards this area remains limited. Ministerial meeting of the ND (Oslo 2010) underlined the loss of chances for not developing the Arctic Window while it was proposed to consider new approaches for cooperation with the Arctic Council
Aim: To promote the sustainable management of the Arctic

EU Arctic strategy focused on three main policy objectives:
- Protecting and preserving the Arctic together with its population
- Promoting the sustainable use of resources and making sure that the emerging industrialization and exploitation of Arctic resources follow the highest environmental and safety standards
- Enhancing multilateral governance in the region based on the existing Conventions notably UNCLOS

EU’s commitment to the Arctic and EU’s willingness to be a contributor towards preserving the Arctic

EU recognises:
- The EU Arctic MS’ legitimate interests and rights in the region and primary responsibility
- The role of the Arctic Ocean coastal States
- The fundamental role to play by the Arctic Council in Arctic cooperation
2012 Commission’s Communication: Developing a European Union Policy towards the Arctic Region

Three main ideas:

• “Support research and channel **knowledge** to address the challenges of environmental and climate changes in the Arctic” (...):
  – “Developing environmental expertise and dialogue and enhancing the protection of the Arctic environment”
  – “Meeting tomorrow’s challenges through research”
  – “Harnessing information”

• “Act with **responsibility** to contribute to ensuring economic development in the Arctic is based on sustainable use of resources and environmental expertise” (...):
  – “EU funding for sustainable development”
  – “Promoting the sustainable management and use of resources”

• “Intensify its constructive **engagement** and dialogue with Arctic States, indigenous peoples and other partners.”

(source: JOIN(2012) 19 final)
Several actions to support the effective stewardship of the Arctic:

- “Support of Arctic research under the Commission’s proposed 80 billion EUR Horizon 2020 research and innovation programme;
- Contribution to search and rescue in the Arctic through the launch of the next-generation observation satellites;
- Stepping up of actions to combat climate change;
- Use of EU’s funding opportunities to maximise sustainable development in the Arctic for the benefit of local and indigenous communities;
- Promotion and development of environmentally friendly technologies that could be used by extractive industries in the Arctic;
- Enhancing of bilateral dialogue on Arctic issues with Canada, Iceland, Norway, the Russian Federation and the United States, including by applying for permanent observer status in the Arctic Council;
- Stepping up of efforts to hold regular dialogue with representatives of indigenous peoples organisations on EU policies and programmes” (IP/12/739)
Who governs the Arctic?

- Arctic governance system: “Patchwork of regimes and networks", as it is based on:
  - The legal regime of each Arctic States
  - The international law
  - The law of some International Organisations
  - The action of multiple non-governmental networks

- Question:
  - Is the Arctic governance system limited to the 5 Arctic circumpolar States (e.g., Ilulissat Declaration, 2008) or the 8 Arctic States?, Do other stakeholders including non-Arctic states or the EU have a legitimate role in the Arctic governance system?
A role for the EU?

• How to formalise international cooperation with Arctic regional bodies and Arctic partners, as well as within multilateral fora
  – EU strong commitment to the Northern Dimension policy and cooperation in the region
  – Collaboration with the Arctic Council

• The EU status as Arctic Council permanent observer still pending:
  – Member States: Finland, Sweden, Denmark
  – Permanent observers: France, Germany, The Netherlands, Poland, Spain, United Kingdom
  – The EU application to join the Arctic Council as a permanent observer was deferred in 2009 and 2011.
A role for the EU?

Internal dimension:

• Need of taking a more pro-active and systematic approach to the Arctic
• Need of encompassing all the relevant policy areas
  – Identify and develop the Arctic dimension of EU policies
  – Better internal coordination among sectoral policies
  – Supporting network linking the relevant DGs + Central “Arctic focal point” for coordination and contact (DG Environment or DG External Relations)
A role for the EU?

External dimension:

- Reinvigorated Northern Dimension as a vehicle for concrete action and cooperation
- Need to prove the legitimacy of the EU involvement vis-à-vis Arctic States/populations
- Need to be convincing and constructive both by its MS (Arctic and non-Arctic) as well as by the non-EU Arctic States
A role for the EU?

- Advantages of the EU status of permanent observer:
  - Fostered international cooperation;
  - increased effectiveness of the EU action;
  - bringing the EU experience,
  - knowledge and resources into the Council's work;
  - signal that the Arctic States welcome investors and researchers from the EU
What’s now?

World Trade Organization:

• European Communities- Measures Prohibiting the Importation and Marketing of Seal Products (DS400, DS401)
  – First submission of Canada: 9 November 2012
  – First submission of the EU: 21 December 2012

• Issues:
  – TBT
  – Art. XX GATT
EU Court of Justice:

- Case T-18/10: General Court’s ruling (6 September 2011): Inuit Tapiriit Kanatami and Others v Parliament and Council (concerning the request for the annulment of Regulation (EC) No 1007/2009 on trade in seal products):
  - The European Parliament and the Council erred in law when using Article 95 EC (art.114 TFEU) as the legal basis (it doesn’t improve but eliminate any possibility of an internal market in seal products)
  - Infringingment of the principles of subsidiarity and proportionality (it is not demonstrate why intervention at the European Union level is required)
  - The Regulation unduly limits the subsistence possibilities of the applicants, relegating their economic activities to traditional hunting methods and subsistence.
- Dismissed as inadmissible
  - The attacked Regulation is not a "regulatory act”, because it is a legislative act (for which stricter locus standi conditions applies: Direct and individual concern to the applicants)
  - The applicants are not directly and individually concerned (placing the products on the market)
What’s now?

- Pending Case C-583/11 P, Inuit Tapiriit Kanatami and Others v Parliament and Council: Advocate General’s Opinion proposes that the Court dismiss the appeal (January 17, 2013)
  - A legislative act such as the regulation at issue cannot be regarded as a regulatory act.
  - The less strict conditions in the Lisbon Treaty under which individuals may bring actions before the EU Court against such EU acts of general application do not therefore apply to the present case.
  - For actions against legislative acts the classical requirements (direct and individual concern) should continue to apply.
What’s now?

  - The implementing regulation has for legal basis the basic regulation against which they raise an exception of illegality
  - The Commission erred in law when adopting the implementing regulation since it misused the powers conferred to it by the basic regulation (true aim pursued by the Commission was to block any placing on the Union market of seal products.)
Conclusion

• The Arctic is high on the political agenda
• The EU should "contribute to enhanced governance in the Arctic"
• Cooperate with Arctic partners to address the challenges faced by the Arctic region: To ensure that we all go in the same direction and that what the EU does in the Arctic aligns with what others partners are doing.

• EU Arctic policy as a positive positive-sum game:
  – As a complement of national policies of Arctic MS
  – As a cooperative effort with the Arctic non MS
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Thank you very much for your attention

Merci de votre attention