



## The European Arctic policy in progress



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### ARTICLE INFO

#### Article history:

Received 5 January 2016

Received in revised form

31 May 2016

Accepted 21 June 2016

Available online 23 June 2016

#### Keywords:

Arctic region  
European Union  
Arctic policy  
Interests  
Law

### ABSTRACT

The geostrategic, political, economic, and scientific relevance of the Arctic is constantly growing due to the complex process of climate change. Accordingly, the European Union—as a global political actor—, is already taking steps to ensure and strengthen its influence in the region while demonstrating readiness to face the many opportunities and challenges ahead in cooperation with the traditional stakeholders. Therefore, in order to reflect the renewed importance of the Arctic transformation, the Union has been designing its Arctic Policy focusing on climate change mitigation and multilateral cooperation as its main strengths. Unfortunately, despite the diligence and impetus that has been invested, this process has been delayed in several occasions as the Union had to deal with internal and external destabilizing factors, such as the later immigration crisis or the lack of uniformity among its member states' foreign policy interests. These factors will be analyzed along with the process of creation and development of the EU's Arctic policy. Despite some delays, on 27 April 2016, the long-awaited third communication was issued and progress has been made: even if, in general terms, the new document remains a political statement, there is also a clear commitment to action.

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### 1. Introduction

Shorter navigational routes, undiscovered natural resources, and new fishing quotas are emerging in the Arctic<sup>1</sup> and contribute to enhance its geostrategic, political, economic, and scientific relevance.<sup>2</sup> Further exploitation of these opportunities implies,

however, a high-level risk for the environment and the traditional lifestyle of indigenous peoples. In such a context, the European Union (EU) shows continued interest in fostering regional cooperation in order to achieve sustainable development in the region.

The EU wishes to be recognized as a legitimate Arctic stakeholder by obtaining a formal observer status in the Arctic Council (AC),<sup>3</sup> but to do so the Union has to exert itself to engage more with its Arctic partners and become more aware of their concerns. It is true that in practice there might not be real differences between an *ad hoc* and full observer status, as both imply the right to participate in the meetings, but the symbolic value of this act will be of great importance: the EU will be accepted as an equal and trustworthy partner in the Arctic family. In order to achieve this aim a long-standing engagement has already been established through the Northern Dimension Policy, its participation in the Barents Euro-Arctic Council or the strategic partnerships with Canada, United

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<sup>1</sup> There has been a long-lasting debate on the exact south boundary of the Arctic, the Arctic Polar Circle situated on the 66° 33' north latitude being the most commonly used. Claims over land masses have been generally resolved with the exception of Hans Island. In contrast marine delimitation—mainly with regard to the continental shelf—remain in many cases disputed. In this regard, it is important to stress that the Arctic includes not only zones subject to sovereignty, but also areas such as high seas or international seabed area, where the International Law in force is being applied.

<sup>2</sup> Recently, there have been some analysis suggesting that the previously foreseen rapid emergence of the Arctic is rather unlikely, due to various long-term constraints in almost every economic sector discussed as well as the current fluctuation in the general global demand and trade situation. See, for example: [Käpylä and Miikkola \(2015a\)](#); [Stępień et al. \(2014\)](#).

<sup>3</sup> High-level political forum, established in 1996 to increase circumpolar cooperation. Despite working by consensus and having no binding authority, it remains an important institution promoting scientific research and dialogue on technical, economic and social cooperation.

States and Russia. Moreover, three of its member states and two of its direct economic partners form part of the eight states that control the region.<sup>4</sup> In addition, seven other member states<sup>5</sup> have become observers at the AC, thus, enabling the Union with more possibilities to bring European ideas and initiatives to the attention of the Council.

However, considering the complex state of international affairs and the difficulties the EU has to face in order to harmonize the foreign policy interests of its 28 diverse member states, it is not surprising that the adoption of one comprehensive Arctic policy has been progressing at an uneven pace. The quest for coherence (Stępień and Raspotnik, 2015) has been impeding the development of this regional policy. The last Joint Communication (High Representative and the European Commission 2016), however, supposes certain progress as there is finally a division between Circumpolar and European Arctic issues, insisting on the need for more investment in the European area and more internal coordination between the actions carried out in the region. The new policy also makes an inventory of existing EU actions in the Arctic and presents concrete plans for the near future, putting special stress on the scientific and technological capabilities of the EU as well as its funding priorities, highlighting their ability to improve Arctic sustainable development and economic progress. Nevertheless, the Union still has a long way ahead in defending its interests in the region if it wants to gain more influence in the discussions over its future. Basically, the EU is currently deepening its knowledge on Arctic matters so that it can reach internal consensus and, eventually, define clearly its priorities, while adapting to the constantly changing political environment and seeking to gain the recognition of traditional stakeholders (Weber, 2014).

Hence, the present essay tends to analyze the advances that have already been made in the creation of the EU Arctic Policy. The following section, on one hand, briefly considers the political nature and institutional functioning of the Union, and, on the other, outlines its major interests related to the Arctic. In Section 3, the development of this European policy will be traced and analyzed, including reference to the newest communication, before reaching concluding remarks.

## 2. Vigilant EU on the Arctic matters

### 2.1. Institutional framework and functioning of the EU

Before making any statement on the European interests in the

<sup>4</sup> United States (through the Alaskan state), Canada, Iceland, Finland, Denmark (through its sovereign, though limited, rights over Greenland and Faeroe Islands), Norway, Sweden, and Russia. The three EU member states are Denmark (although Greenland itself is outside of the EU, which puts Denmark in a special position as refers to any Greenlandic issues), Finland, and Sweden. Although all countries are interested in the geopolitical relevance of the Arctic and willing to exploit its resources in a sustainable way, recently there has been internal division among them, especially visible at the conclusion of the *Ilulissat Declaration* in 2008.

<sup>5</sup> France, Germany, Italy, Netherlands, Poland, Spain, and the United Kingdom. Among them, the most notable activities have been led by Germany and the United Kingdom. As one of the largest shipping nations, Germany is interested in new sea routes and was the first nation to send commercial vessels to sail successfully through the Northern Sea Route. Additionally, Germany can supply expert research and highly developed technology, as well as support for environmental standards and sustainable development (Federal Foreign Office, 2013; Pelaudeix and Rodon, 2013). The United Kingdom participates in many Arctic-related bodies and hosts scientific, legal, financial and commercial hubs of expertise, as a result of its interest in science, energy and defense (Depledge, 2014). It centers its attention on Arctic biodiversity and environment, aiming to reduce the impact of global warming and ice melting, and stresses the rights of Arctic indigenous peoples (Bailes, 2014; HM Government, 2013; Depledge, 2012).

Arctic, we consider it necessary to refer to the political nature of the Union. What started as an economically-oriented union has grown to become an active organization in all political spheres (Dinan, 2014) thanks to the adhesion of new and diverse members: from economic aspects, through humanitarian aid and development assistance to environmental issues, energy, foreign and security policy. Nowadays, EU constitutes a *unique international body*, whose policies result from the *complex interaction between institutions and member states*.

The three main bodies—Parliament, Council of the EU, and Commission—represent all political levels involved in the elaboration and application of European policies—citizens, member states, Union as a whole—and form the so called “institutional triangle.” Therefore, the EU’s standard decision-making procedure—the so called ordinary legislative procedure<sup>6</sup>—is conceived in a way that should lead to “solutions” that satisfy all parties involved. Normally, the EU Commission proposes the spheres where the Union should legislate to the Parliament and the Council, whose joint opinion and approval is needed in order to proceed with the adoption of new legislation, the implementation of which will be supervised by the Commission and the European Court of Justice, if necessary.

Overall, the Union functions according to the principles of *conferral of competence* and *representative democracy* (Mangas Martín and Liñán Nogueras, 2014; Kaczorowska, 2011; Jacqué, 2012). The *conferral* represents a *voluntary cession of state powers and sovereignty* to a single political unit of higher order in order to gain strength and influence that no state could achieve on its own. In other words, the decisions adopted by the EU have supranational character, defend a joint interest and, eventually, are applied equally by all members of the Union.

The Treaty on the Functioning of the EU contains a non-exhaustive list for each type of competence conferred: a) *exclusive* where the Union is able to legislate on its own; b) *shared* where the EU and its members may both adopt binding acts, although states exercise their competences only if the Union has not done it already or has decided not to; and c) *supporting* where the Union intervenes only to support, coordinate or complement the action of the member states. Nevertheless, states have reserved some competences for themselves, as there are areas where they still feel uneasy to surrender sovereignty. The general rule for deciding whether the Union is to act alone or together with its members depends on the legal basis (the most relevant for the case) and only when it is clearly impossible to invoke only one, more can be called upon.

Another important aspect regarding the EU external action is that along with the *explicit competences*, there also exist the so called *implied competences* that result from the activity of the European Court of Justice (principle of *parallelism*), many of which are endorsed *a posteriori* in the founding treaties. This doctrine was created following the principle *in foro interno in foro externo*, meaning that if the EU has a power to do something on its internal level; it also has the power to do so externally. It is commonly agreed by academia and practitioners that the advantage lays in its ability to adapt EU competences to changing international circumstances, considering that internal competences are naturally developing faster and cover far more areas than the external ones. However, matters were further complicated when the Court ruled that the EU can rely on implicit competences even when they have not yet

<sup>6</sup> The procedure used for a given legislative proposal depends on the policy area in question. Therefore, in especially sensitive areas, the founding treaties contain provisions for the use of special legislative procedure instead of the ordinary one.

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