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The Arctic New Political and Legal Perspectives

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Alessandra Pietrobon

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ALESSANDRA PIETROBON

FOREWORD

Climate change is affecting the whole planet, but the dramatic effects in the Arctic are deeper than anywhere else. As ice melts, new sea routes open for navigation, while fishing stocks change both in quantity and quality. Huge and rich underground resources come within reach, attracting the interest not only by the Arctic States, but also by countries and private companies far removed from the region, striving to obtain exploitation licences. Therefore, unprecedented perspectives of economic development for the region are coming into view.

However, exploitation of new resources will have an enormous impact both on the environment and on the life of the traditional communities that have been living in the Arctic region since centuries. On the one hand, the challenge lies in the “paradoxical spiral” – Lorenzoni, p. 62 – that Arctic gas and oil resources could ease the increasing problems of energy supply, but their extraction and exploitation would just aggravate the global warming, that the same fossil fuels have been causing since the last century.

On the other hand, the negative impact would be experienced, first of all, by the Arctic population still consisting mostly of indigenous Inuit peoples, living in the different States that presently incorporate and rule Inuit’s ancestral land. The way in which indigenous Arctic peoples’ rights are recognized may be quite different from State to State, but a common feature is of high concern: traditional lifestyle and culture are endangered by the on-going new economic activities. This means that the same survival of the indigenous communities as such is put at risk.

To learn more about such issues, an international conference, hosting distinguished experts in different fields, was held at the University of Padova in 2019. Some of the articles in this book do reproduce the contents of the presentations brought at the time – duly updated – but further contributions have been added, containing new developments of the on-going research project. Publication took far more than expected, due to a number of reasons, including the difficulties brought by the pandemic. In the meanwhile, the effects of global warming have become more and more evident, adding further relevance to Arctic studies: actually, the region can be seen now as a proper testing ground for the appropriateness of goals and perspectives in different fields.

Like the conference, the book is meant to be multidisciplinary, trying to

provide a larger perception of the complexity of the issues involved. The first part contains political and economic studies, while the second one deals with international law aspects.

The first part opens with the contribution of Marie-Anne-Coninx, former EU Ambassador at large for the Arctic, presenting the complexity of the Arctic issues at the European diplomatic level. Ambassador Giorgio Novello wrote his 10 theses on the Arctic, revealing his deep knowledge and personal affection for the region and highlighting the relations between the Arctic States and Italy in the past. On the same line of personal affection, Marzio G. Mian writes about his 10 yearlong enquiries, as a journalist, in the Arctic States, dealing with the impact of the on-going changes both for the countries in general, and for the people he met on his way. Arturo Lorenzoni clearly explains how the exploitation of Arctic fossil resources should be carefully considered as the side effects might definitely overcome economic benefits.

As for legal studies, Aslan Abashidze presents the newest developments in the Russian posture concerning Arctic lands, and the related international law aspects. Yugina Mishota discusses how the Russian Government's resource exploitation policy is severely affecting the fundamental human rights and living conditions of the Russian "small peoples of the Arctic". Enrico Zamuner considers the new issues in the field of the law of the sea, especially those concerning the potentially controversial legal status of the route of the Northwestern passage. Cristiana Fioravanti illustrates how the changing composition of the fishing stocks and maritime conditions impacts on the existing international law rules and on the EU fishing policy. Sergio Marchisio, bringing attention to space law, shows how it could be of relevance in Arctic matters, not only because space technologies can provide means to secure sustainable development, but also because States' commitment to cooperation and environmental protection – that are cornerstones of space law – should provide a proper legal model to face similar Arctic issues. As for my part, I took into consideration the legal systems of Canada and Greenland, whose comparison can highlight the different legal conception of the relation of each State with its indigenous Inuit community and their participation in the decision concerning exploitation of mineral resources.

Rather obviously, any attempt to provide an overall knowledge of the multifaceted issues posed by the rapidly changing situation in the Arctic would be unrealistic. The purpose of this book is to focus on some of the new problems, to raise a larger interest on Arctic studies, even by universities and scholars in non-Arctic States.

At the beginning of the war in Ukraine, this book was already in press. Nevertheless, to take the new situation into account, brief amendments of the contributions have been possible, while the consequences of the current events on Arctic issues remain unpredictable.

Padova, 20 June 2022



SECTION I
NEW POLITICAL PERSPECTIVES

MARIE-ANNE CONINSX

GOVERNING THE ARCTIC: KEY CHALLENGES AND STRATEGIC RESPONSE FROM THE EUROPEAN UNION

SUMMARY: 1. Introduction. – 2. The changing Arctic: what is happening there? What are the consequences? – 3. Why is the Arctic of strategic importance for the European Union?

1. Introduction

It is important to address the topic of the Arctic, and this for several reasons: overall, the Arctic is not very well known. The image, which usually comes up to mind in referring to the Arctic, is “a polar bear on ice”, but the Arctic is much more! Also, the Arctic is getting increased attention and has become a global issue. The Arctic is not only relevant for “Northern countries” but for the whole of Europe, including Italy, which is an active Observer State at the Arctic Council.

This article addresses the issue of “Governing the Arctic: Key Challenges and Strategic Response from the European Union”, starting with a brief overview of the changing Arctic, in order to better understand the implications of the changes under way in the High North. More extensively, I will address why the Arctic is of strategic importance for the EU, and how the EU is dealing with the Arctic.

2. The changing Arctic: what is happening there? What are the consequences?

The Arctic is warming up and undergoes major transformations. This is affecting the region itself, but also other parts of the world. It has an impact on the environment and climate change globally, and it has geo-economic and geo-political consequences. For these reasons and other effects of the changing polar regions, the Arctic is increasingly gaining attention world-wide.

It is a fact that the Arctic is warming up twice or three times as fast as the rest of the world, and this due to climate change¹. Why is this? Because of global

¹ See CORELL R.W., *Challenges of Climate Change: An Arctic Perspective*, in *Ambio*, 35, 2006, pp. 158-162.

warming. The Arctic is absorbing heat stemming from other parts of the planet. And with the warming, big parts of the Arctic that are still covered by snow, are melting. It is called “the Albedo-effect”²: white surfaces reflect the sun, while dark surfaces absorb the heat².

The changes that are happening in the Arctic do not just affect the Arctic, they also affect the rest of the planet. Indeed, what happens in the Arctic does not stay in the Arctic.

The warming up of the Arctic contributes to the warming up of the rest of the planet. Experts indicate that the melting sea-ice is responsible for about 25% of the global warming³. In other words, we are all getting warmer, because the Arctic-sea-ice is shrinking.

The warming-up of the Arctic impacts also the rise of sea-levels. The most worrying changes are happening in Greenland, which is six times the size of Germany. Greenland’s vast ice sheet could melt faster than previously thought over the 21st century, according to a new study⁴. It is estimated that the entire Greenland land-based ice-sheet or the glaciers hold enough water to – in case of entire melting – raise global sea-levels by 7.2 metres⁵.

Another consequence of the warming up of the Arctic is the thawing of the frozen ground in the Arctic region, called permafrost. When permafrost thaws, it releases huge amounts of carbon, greenhouse gases, methane and carbon dioxide⁶. It is estimated that what is stored in the permafrost is double the amount of carbon that is currently in the atmosphere⁷. The impact of this is serious. This makes global warming even worse. A major problem in the Arctic is that a lot of infrastructure is built on permafrost. When it thaws, roads and buildings collapse, and it causes major coastal erosion.

Other consequences of the warming up of the Arctic are, for example, more extreme weather patterns in North America and Europe. Recent science also indicates that there is a link between the shrinking Arctic ice, and both a build-up of

² For more details on “the Albedo-effect”, see DONOHOE A., BATTISTI D.S., *Atmospheric and Surface Contributions to Planetary Albedo*, in *JC*, 24, 2011, pp. 4402-4418.

³ See POTENZA A., *Here’s What Vanishing Sea Ice in the Arctic Means for You* [online], in *The Verge*, 10 May 2018, at <https://www.theverge.com/2018/5/10/17339046/arctic-sea-ice-decline-albedo-effect-climate-change-global-warming> (22/06/2021).

⁴ See HOFER S. *et al.*, *Greater Greenland Ice Sheet Contribution to Global Sea Level Rise in CMIP6*, in *NC*, 11, 2020, at <https://www.nature.com/articles/s41467-020-20011-8> (08/07/2021).

⁵ Similar data collected by the National Snow & Ice Data Center, University of Colorado, supported by data provided by NASA, 2021, at <https://nsidc.org> (08/07/2021).

⁶ On this phenomenon see: VOIGT C. *et al.*, *Increased Nitrous Oxide Emissions from Arctic Peatlands after Permafrost Thaw*, in *Proceedings of the National Academy of Sciences of the United States of America*, 114, 2017, pp. 6238-6243.

⁷ See SCHUUR T., *Permafrost and the Global Carbon Cycle* [online], in *Arctic Report Card: Update 2019 – Arctic Program*, 22 November 2019, at <https://arctic.noaa.gov/Report-Card/Report-Card-2019/ArtMID/7916/ArticleID/844/Permafrost-and-the-Global-Carbon-Cycle> (08/07/2021).

smog in China and prediction of monsoons in India. There is also a huge increase of heatwaves in the high North, what occurred rather seldom before. Today, there is also a record of wild-fires in Alaska and fires of unfrozen tundra in Siberia.

There might be divergence in findings and predictions among scientists regarding the speed of the warming up. However, all agree: the warming of the Arctic is not a good thing.

3. Why is the Arctic of strategic importance for the European Union?

The short answer to the question raised here is that a safe, stable, sustainable and prosperous Arctic is of strategic importance not only for the region and its people, but also for the whole of the EU and for the rest of the world.

The Arctic is of strategic importance for the EU for mainly three reasons.

1. In the first place, because the EU is not an “outsider” or “near-by”, as is the case with some non-Arctic States, who qualify themselves as such: for example China. The EU is in the Arctic. Indeed, three EU Member States are Arctic States and, by extension, also Iceland and Norway, who are members of the European Economic Area and very closely associated to the EU. This is not a dogmatic or philosophical question. As parts of the Arctic those States are part of the EU, this means that EU norms, legislation and standards cover the “European” Arctic region. Hence, EU’s expertise in setting high level standards – in areas such as fishing, climate change, the safety of shipping, offshore drilling, as well as environmental protection in general – currently applies in the European Arctic. Therefore, the EU is seen as playing a constructive role in providing solutions to the many challenges in the Arctic through integrated policy responses.

2. Secondly, what happens in the Arctic impacts on the whole EU. Hence, the EU has a strategic interest to address the challenges the Arctic is facing, because they also impact the EU itself, and *vice versa*. The main challenges the Arctic faces are well-known.

a. Climate Change: the Arctic is warming up much faster than the rest of the world.

EU’s response in addressing climate change takes place, first of all, at multilateral level. The EU is already a leader in tackling climate change. Our efforts to implement the Paris Climate agreement contribute also to positively impact the Arctic. The EU’s proposal that 25% of its budget – or no less than EUR 320 billion – be spent on climate action⁸ is an important contribution to protect the Arctic and its

⁸ See the EC’s proposal: *EU budget 2021-2027: Commission Proposal to Further Strengthen Climate Action*, at https://ec.europa.eu/clima/policies/budget/mainstreaming_en (22/06/2021).

people. With its “Green Deal” the European Leadership has moreover made the fight against climate change its top priority, with the objective of making the EU carbon-free by 2050⁹.

The EU also contributes to address the climate challenge with its EU Science, Research and Innovation Programs, the EU being a major leader on Arctic Research, notably with its Horizon 2020 and its successor “Horizon Europe” Program. To this end, together with Germany and Finland, the EU co-organised, in October 2018, the Second Arctic Science Ministerial in Berlin, which was a major success of science diplomacy, bringing together in meetings politics, scientists and Indigenous Peoples, the latter contributing actively with their traditional knowledge.

Also, the EU has major Space Programs such as Copernicus and Galileo, whose Earth observation-satellites are key for Arctic research and provide services that are useful for the end-users in the Arctic. In May 2019, the Living Earth Symposium took place in Milan, being one of the biggest Earth Observation conferences in the world, where space-technologies, and their application on the Arctic, were extensively discussed. At that time, Copernicus – or Europe’s eyes on Earth – was envisaging an extension of its reach in future, which should enable to cover both Poles.

b. Protecting the fragile Arctic environment is another challenge the Arctic is facing and also has a global impact.

The Arctic is being increasingly polluted by outside developments. Given that the Arctic and European environments are so linked, the EU has a strong interest in supporting efforts that contribute to strengthen eco-systems, by protecting biodiversity, improving health and living standards, reducing pollution and marine litter. Just to mention two striking examples: (1) Plastic pollution in the Arctic: the Arctic Ocean has the highest concentration of micro-plastics among the world’s ocean basins¹⁰. The EU has an ambitious European Plastic Strategy and assists third countries or regions: see e.g. EU project for reducing plastic waste and marine litter in East and South East Asia (EUR 9 million in 2019)¹¹. (2) Black

⁹ See *Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions, The European Green Deal*, COM/2019/640 final, at <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1583420149564&uri=CELEX:52019DC0640> (22/06/2021).

¹⁰ On the state of marine microplastic pollution in the Arctic, see HÄNNINEN J. *et al.*, *Plastic Debris Composition and Concentration in the Arctic Ocean, the North Sea and the Baltic Sea*, in *Marine Pollution Bulletin*, 165, April 2021, at <https://www.sciencedirect.com/science/article/pii/S0025326X21001843> (23/06/2021).

¹¹ The project is the implementation of one of the “Actions focusing on key regions” of: EC, *A European Strategy for Plastics in a Circular Economy*, COM(2018) 28 final, 16 January 2018, at https://eur-lex.europa.eu/resource.html?uri=cellar:2df5d1d2-fac7-11e7-b8f5-01aa75ed71a1.0001.02/DOC_1&format=PDF (08/07/2021).

Carbon, stemming from industrial and other human-driven activities in the Arctic, is a heavy pollutant which originates from China, India, Russia, the Americas, and affects badly the environment, including the Arctic. It is such an important issue that Finland, as the Chair of the Arctic Council (2017-2019), wanted to organise a Summit of the Arctic Council addressing this topic.

For all these reasons, addressing climate change and protecting the fragile Arctic environment has been one of the three key objectives of EU's Arctic Policy of 2016, and still is fundamental in EU's update Arctic Policy of 2021¹².

c. Another challenge that the Arctic faces is sustainable development.

The EU has a strategic interest that economic activities in the Arctic take place in a sustainable way. The Arctic is a region with 4 million inhabitants. Especially in Europe, you have an "Urban" Arctic, with vibrant cities, universities, industrial parks, relatively good infrastructure and connectivity. Hence, economic development is needed, provided it is done in a sustainable way. The key challenge is to have the right balance between safeguarding the Arctic's fragile environment, by protecting it, and increasing the Arctic's economic potential or sustainable development while, at the same time, respecting local and indigenous peoples' rights.

Sustainable development is thus another priority area of EU's Arctic Policy. It should be the strategic interest of all stakeholders operating in the Arctic, to promote sustainable economic growth in the region, in a responsible and environmentally sound manner.

The EU contributes to sustainable development of the Arctic via its EU Regional Programs – over the last years, the EU has spent about 1,3 billion euros in the European Arctic (beyond EU territory)¹³. The EU in addition, through its Research & Innovation Programs, has promoted, and still does, energy efficiency and renewable energy, including developing cold-climate-technologies for the Arctic regions¹⁴.

¹² EU Communication, *A stronger EU engagement for a Peaceful, Sustainable and Prosperous Arctic*, JOIN (2021) 27 final, Brussels, 13 October 2021.

¹³ EU regional and territorial cooperation programs, such as for example the Interreg North Programme, the Botnia-Atlantica Programme, the Baltic Sea Region Programme, and the Northern Periphery and Arctic Programme, as well as the Karelia and Kolarctic cross-border cooperation programmes under the European Neighbourhood Instrument, which all are referred to in the *EU Joint Communication on An Integrated EU policy for the Arctic of 2016*, (JOIN (2016) 21 final).

¹⁴ Major Arctic research projects funded under Horizon2020 – referred to in the Joint Communication of 2016 (see reference footnote 12), illustrated also in the following publication: EC, *Arctic Research and Innovation – Understanding the Changes, Responding to the Challenges*, October 2018, at <https://op.europa.eu/it/publication-detail/-/publication/402d0b40-e243-11e8-b690-01aa75ed71a1> (08/07/2021).

3. The third major reason of the geo-strategic importance of the Arctic for the EU ensues from the geo-economic and geo-political implications of the changing Arctic.

a. *Geo-Economics*

The three main geo-economic implications of the warming up of the Arctic are the following: (i) increased interest for the region's rich natural resources, which become more accessible thanks to the warming up of the Arctic; (ii) more accessible shipping routes along the North-Eastern and North-Western passages, especially for trade and tourism purposes; and (iii) new opportunities to step up connectivity.

Some explanation is due regarding these new economic opportunities.

i. Exploitation of new resources

According to a 2008 assessment of the US Geological Survey, the Arctic holds about 22% of the world's undiscovered oil and natural gas resources (13% of the world's undiscovered technically recoverable oil reserves; 30% of the world's undiscovered natural gas reserves); 84% are expected to be offshore and located in the shallow waters of the five Arctic coastal States' continental shelves¹⁵.

This is especially important for Russia, as the bulk of the expected oil and gas resources are on the Arctic continental shelf, especially the Barents and the Kara Seas. The Northern region of Russia is home to less than 10% of the population, while its contribution to the national revenue is up to 20% or one-fifth of Russia's GDP, and up to 60% of raw material exports come from the Russian Arctic¹⁶. Regarding off-shore oil-production, Russia is very much affected by the restrictive measures¹⁷ that prevent them to develop new offshore oilfields in the Russian Arctic.

The situation is different for the gas-sector, where restrictive measures do not apply. Russia invests a lot in the LNG sector in the Arctic. Russia is home to the world's largest natural gas reserves (with Yamal Peninsula in Siberia being its biggest natural gas reserve), holding 19% of the planet's known natural gas¹⁸. The first phase of the Yamal LNG plant, a natural gas extraction, liquefaction, and export project, was officially opened in December 2017, built with and financed by Russian, French (Total) and Chinese (30%) investments. Yamal LNG II plant is

¹⁵ See BIRD K.J. *et al.*, *Circum-Arctic Resource Appraisal: Estimates of Undiscovered Oil and Gas North of the Arctic Circle*, in USGS, Fact Sheet 2018-3049.

¹⁶ PILYAVSKY V.P., *The Arctic – Russian Geopolitical and Economic Interests* [online], FES Briefing Paper, March 2011, at <https://library.fes.de/pdf-files/id/07925.pdf> (08/07/2021).

¹⁷ The EU and the US have restrictive measures on equipment, technology and related services for use in Arctic offshore oil projects and for shale oil projects, as well as financial restrictions.

¹⁸ According to the BP Statistical Review of World Energy 2020, at <https://www.bp.com/content/dam/bp/business-sites/en/global/corporate/pdfs/energy-economics/statistical-review/bp-stats-review-2020-full-report.pdf> (08/07/2021).

being planned already. Russia joined the European LNG market through the Arctic Yamal production plant and hereby became the world's 4th largest LNG producer in 2019¹⁹. Every 48 hours, one LNG tanker leaves the Yamal LNG Plant. Although LNG from Russia is going to Europe, it is however expected that most of its Arctic's LNG will be exported to China and Japan²⁰.

This example demonstrates that energy resources from the Arctic impact on global energy markets, and hence are of high geo-economic and strategic interest. At least for the EU that imports for more than 50% of its energy from outside²¹.

The Arctic is also rich in rare-earth or precious mineral resources. About 25 minerals are essential minerals being used in new technologies such as iPhones or electrical cars. Alone Greenland is estimated to hold a quarter of the world's rare-earth minerals²². The potential is enormous. For the moment, the EU imports most of its rare-earth minerals from China²³. Importing these minerals from the European Arctic would not only reduce Europe's import dependency, but it would also ensure that these minerals are being produced in the most sustainable way as possible.

ii. New trade and shipping routes

The projected economic development of the region has major implications for the possibility of using new Arctic shipping routes for international trade, which are sea-routes that have become more accessible due to global warming. If it is true that around 80% of global trade by volume is carried by sea²⁴, any potential "new" sea-route has an impact on global shipping.

There are mainly three key Arctic shipping routes, of which the NSR is expected to be the most economic alley viable in future²⁵. Russia clearly advertises the NSR

¹⁹ See SÖNNICHSEN N., *Liquefied Natural Gas: Major Exporting Countries 2019* [online], in *Statista*, 15 June 2021, at <https://www.statista.com/statistics/274528/major-exporting-countries-of-lng/> (08/07/2021).

²⁰ See EVANS D., *Russia to Export more LNG to China* [online], in *EnergyVoice*, 1 March 2021, at <https://www.energyvoice.com/oilandgas/asia/lng/303172/russia-to-export-more-lng-to-china/> (08/07/2021).

²¹ A maximum of 58.4% was registered in 2008. For more data see: EUROSTAT, *Production of Primary Energy by Fuel Type, EU-27, 2008-2018* [online], 14 June 2021, at https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Energy_production_and_imports (23/06/2021).

²² NORTHAM J., *Greenland Is Not for Sale. But It Has Rare Earth Minerals that America Wants* [online], in *NPR*, 24 November 2019, at <https://www.npr.org/2019/11/24/781598549/greenland-is-not-for-sale-but-it-has-the-rare-earth-minerals-america-wants?t=1625739913419> (08/07/2021).

²³ In 2019, the EU got 98% of its rare earth minerals from China: EURACTIV, *Rare Earth Metals at the Hearth of China's Rivalry with US, Europe* [online], 14 June 2021, at <https://www.euractiv.com/section/circular-economy/news/rare-earth-metals-at-the-heart-of-chinas-rivalry-with-us-europe/> (08/07/2021).

²⁴ For more data see: UNCTAD, *Review of Maritime Transport 2018* [online], 2018, pp. 1-20, at https://unctad.org/system/files/official-document/rmt2018_en.pdf (23/06/2021).

²⁵ On the perspectives of the NSR, see MAKAROV I.A., SOKOLOVA A.K., STEPANOV I.A., *Prospects for the Northern Sea Route Development*, in *IJTE*, 42, 2015, pp. 431-460.

to encourage stronger international transit, one of the arguments being that this shipping route is much shorter than existing shipping routes (Suez and Panama Canals)²⁶. “Shorter” means also quicker, namely less time and thus less costs, though it remains very difficult – given the rough weather and natural conditions of Arctic waters – to navigate along the NSR.

This having said, there is a lot of discussion and conflicting views regarding the economic viability of the NSR in a foreseeable future. The development of the NSR is one of the key objectives of Russia’s Arctic policy. Russia has an impressive ice-breaker fleet, including nuclear ice-breakers, and it works hard in building the necessary infrastructure, on top of enacting laws to regulate the traffic in the NSR, which are being examined by lawyers, as they might be in breach of international law.

Here China comes into play. China wants to be a polar power. In January 2018, China published its first Arctic Policy or Arctic Policy White Paper²⁷. China wants to tap into the Arctic resources that will become easier to exploit with the warming of the Arctic. These include fish, minerals and oil and gas. Chinese firms are definitively interested in mining zinc, uranium and rare earths in Greenland. For China, Arctic shipping routes are likely to become important transport routes for international trade. It is excited using the NSR – which could cut several thousand kilometres off journeys between Shanghai and Europe. China’s vision is a “Polar Silk Road” as part of its “One Belt and One Road” initiative (OBOR)²⁸. China invests heavily in the Arctic by, for instance, building ports and other facilities in the Arctic to support shipping and invests in LNG plants. Given that China is expanding its position in global maritime trade (currently 60% of its trade travels by sea) and its ambition regarding global maritime connectivity²⁹, new sea routes – which at the same time mean shorter connections to Europe – are a big deal for Asia, China included. China is also by far the world’s largest fishing nation³⁰. With sea-ice disappearing, the Arctic may become a new and important fisheries frontier.

²⁶ See HOMMEL D., MURPHY A.B., *Rethinking Geopolitics in an Era of Climate Change*, in *GeoJournal*, 78, 2013, p. 516.

²⁷ Full text available at *The State Council Information Office of the People’s Republic of China’s* website, at http://english.www.gov.cn/archive/white_paper/2018/01/26/content_281476026660336.htm (23/06/2021).

²⁸ See CLARKE M., *The Belt and Road Initiative: China’s New Grand Strategy?*, in AP, 24, 2017, pp. 71-79.

²⁹ CHINAPOWER TEAM, *How is China’s Energy Footprint Changing?* [online], in *ChinaPower*, 15 February 2016, at <https://chinapower.csis.org/energy-footprint/> (08/07/2021).

³⁰ According to SHAHBANDEH M., *Global Leading Fishing Nations 2018* [online], in *Statista*, 14 December 2020, at <https://www.statista.com/statistics/240225/leading-fishing-nations-worldwide-2008/> (08/07/2021).

iii. More connectivity

The EU has adopted in 2019 a Strategy on Connecting Europe and Asia, as part of the implementation of EU's Global Strategy³¹. It does not address explicitly the Arctic, but new maritime routes are included as part of promoting connectivity. The focus in this strategy is on promoting sustainable, comprehensive, and rules-based connectivity or connectivity the EU's way. It is the EU's approach to establish stronger networks and strengthen partnerships for sustainable connectivity, across all sectors such as transport, energy, digital and human connections, and based on a respect for common rules.

EU is a big promoter of connectivity in general. EU also wants to promote more connectivity within the Arctic and connecting the Arctic with the outside world. Arctic is seen as a way to improve connectivity. Especially improving digital connectivity is important for the people living in the Arctic, particularly those living in remote areas, and could play a key role for example in the health sector.

In brief, the warming up of the Arctic means more economic activity in the Arctic – more drilling, shipping and fishing – and this in a fragile environment with unknown impact on the region and on its people. And here, the EU wants to play a key role in close cooperation with third States and together with the people living in the Arctic, to ensure that new economic opportunities do take place in a responsible and sustainable way.

These geo-economic implications lead to geo-political implications of the changing Arctic, which is only a small step.

b. *Geo-Politics*

The Arctic is being described as “one of the most dynamic areas of geopolitics in the last five years”. What does this mean for the EU?

The EU Global Strategy explicitly states that the EU has a strategic interest in the Arctic remaining an area of peace, security and low tension³². This means that, for the EU, the focus is on cooperation. Cooperation is in the DNA of the EU, and cooperation is the essence of EU's Arctic policy.

Therefore, international cooperation is one of the three priority areas of EU's Arctic Policy of 2016³³. The reason is simple: challenges affecting the Arctic and the solutions required to address them require joined-up response at regional and international level.

³¹ See *A Global Strategy for the European Union's Foreign and Security Policy*, presented by the EU High Representative Federica Mogherini to the European Council in June 2016, at https://eeas.europa.eu/archives/docs/top_stories/pdf/eu_gs_review_web.pdf (24/06/2021).

³² The EU Global Strategy of 2016 explicitly states: “... the EU has a strategic interest in the Arctic remaining a low-tension area, with ongoing cooperation ensured by the Arctic Council, a well-functioning legal framework, and solid political and security cooperation”.

³³ See *An Integrated EU Policy for the Arctic*, cit.

Cooperation in the context of the Arctic means working closely together with all the relevant stakeholders:

(1) with Arctic specific entities, such as the Arctic Council, where the EU is contributing to its working and expert groups. The Arctic Council is a key Forum of governance of the Arctic, but it is not the only, exclusive body having an importance for the Arctic. Non-specific Arctic entities, such as UN or multilateral organisations notably those dealing with climate change such as the one set up under the 1992 UNFCCC, or the IMO with its Polar-Code³⁴, are equally relevant. In this category, major annual Arctic conferences can be included such as the Arctic Circle Assembly in Reykjavik³⁵, or the Arctic Science Ministerial Meetings³⁶, given that both are examples of an inclusive and very productive process;

(2) with all Arctic States the EU has a good cooperation, without exception;

(3) with non-Arctic States that also are important stakeholders, European and non-European, and with whom the EU actively engages;

(4) with indigenous peoples and local communities. The EU pays a lot of attention that the voice of the people living in the Arctic be heard. EU has a yearly Indigenous Peoples Dialogue and a High-Level Stakeholders Forum³⁷.

Hence one may ask, what are the major foreign policy challenges in the Arctic? What are the risks? Overall, the risks of conflict in the Arctic are low, but they are not excluded. They are “low” because the Arctic is considered one of the most secure regions in the world. But there are “risks” because, with the opening of the Arctic, the region could become less secure. The biggest risk to security in the Arctic seems to be the spill-over of conflicts from elsewhere in the world into the Arctic.

In general, one can say that the North is hardly immune from the wider geopolitical winds. A demonstration of this is the case of EU’s status at the Arctic Council: the EU has not yet obtained a formal “Observer Status”, as Russia blocks it because of Ukraine (due to the “restrictive measures”) while maintaining that high politics have to be kept outside the Arctic.

Another prominent demonstration is the fact that seven of eight Arctic States decided to pause the work of the Arctic Council, in response to Russia’s invasion

³⁴ On IMO and the International Code for Ships Operating in Polar Waters (Polar-Code), see BAI Y., *The IMO Polar Code: The Emerging Rules of Arctic Shipping Governance*, in *IJMCL*, 30, 2015, pp. 674-699.

³⁵ See the Arctic Circle Assembly’s website, <http://www.arcticcircle.org> (24/06/2021).

³⁶ The first Arctic Science Ministerial (ASM) took place in Washington in 2016 – organised by the US; the 2nd ASM took place in Berlin in 2018 – co-organised by the EU, Germany and Finland; the 3rd ASM was co-hosted by Iceland and Japan and took place in May 2021 in Tokyo.

³⁷ The EU Arctic Forum – a high level Arctic Stakeholders Forum jointly organised by the EU and Sweden, together with the Indigenous Peoples Dialogue, took place in Umeå, Sweden, on 3 October 2019.

in Ukraine in February 2022³⁸. This decision of the “Arctic-7” puts cooperation with Russia in the Arctic “on hold” for the first time since the end of the cold war. This is unprecedented but absolutely the right response towards Russia that violated the fundamental rules of International law that also are key for the Arctic.

Before the Russian war in Ukraine, the EU did however cooperate well with Russia on the Arctic. For example, within the BEAC³⁹ of which the EU is a member, and within the Northern Dimension Partnership cooperation⁴⁰, thanks to programs focusing on people-to-people contacts, cross-border projects, sub-regional cooperation and projects in the field of environment, such as for example nuclear waste treatment, waste-water management and black carbon projects. All this cooperation also stalled the moment Russia invaded Ukraine.

c. What about security concerns?

The Arctic is marked by a relatively low level of political or military tension. Yet, the possibility of increasing national competition, disputes and even conflicts in Europe’s Far North cannot be ruled out. Indeed, growing great power presence in the Arctic increases also the risks in the region. The continuous military building-up in the Russian Arctic is adding to this security concern. It is obvious that Arctic is more and more affected by security challenges. “You cannot put a ‘do not disturb’ – sign on the Arctic”, said the former Finnish Minister of Foreign Affairs at the Munich Security Round Table Conference on the Arctic (May 2019, Helsinki)⁴¹.

Given that there are more rising concerns regarding security in the Arctic than in any other region, also here confidence-building measures are needed and to be recommended. It is also clear that here there is a gap in the Arctic governance structure, in addressing (hard) security matters.

Despite these security concerns, the Arctic is considered being a place where countries have managed to peacefully resolve disputes and cooperate. The Arctic is often described as a role-model for cooperation elsewhere in the world. The constructive approach adopted in Arctic dialogue has been conducted so far – first and foremost in the framework of the Arctic Council – is indeed an example, and

³⁸ Joint Statement on Arctic Council Cooperation Following Russia’s Invasion of Ukraine, 3 March 2022.

³⁹ The BEAC launched in 1993, is the forum for intergovernmental cooperation on issues concerning the Barents Region. Its members are: EU, Norway, Finland, Russia and Sweden. Norway took over the BEAC Chairmanship from Sweden at the 17th BEAC Ministerial Session in Umea, Sweden on 3 October 2019 (until 2021).

⁴⁰ The Northern Dimension is a joint policy between the EU, Russia, Norway and Iceland, regarding cross-border and external policies, geographically covering NW-Russia, the Baltic Sea and the Arctic regions, including the Barents Region.

⁴¹ See CONINX M.A., *European Union’s Arctic Policy and its Strong Engagement on the Arctic*, in CI, Quaderno 18 – *Arctic Connections: A Trust Building Arctic Cooperation on Energy, Security and Blue Economy*, 2020, at https://www.esteri.it/mae/resource/doc/2020/04/sioi_quaderno_18_-_artico.pdf (24/06/2021).

a welcome contrast to the breakdown of communication and cooperation in other areas of the world. It is called “the Arctic Spirit” or the spirit of Rovaniemi (Finland), where it all started. Indeed, the Arctic region has been an example of constructive cooperation, from oil spill detection to the safety of maritime routes. The EU has contributed to this positive engagement, through a dialogue and cooperation with all Arctic States, regional authorities and indigenous peoples. This Arctic cooperation and spirit should be not only preserved but also expanded, including “new” actors who are increasingly engaged on the Arctic file.

The Russian invasion in Ukraine in February 2022 has however jeopardised Arctic cooperation, making it impossible to continue for the time being constructive cooperation with the aggressor, even in the Arctic. There is clearly no more “Arctic exceptionalism”.

In conclusion, the Arctic is just more than “polar bears on ice”. The Arctic is a local and global issue, being of interest for many players. The Arctic is of strategic importance for the EU, as the Arctic is key in addressing global challenges, such as climate change, and in ensuring a safe, stable and prosperous and sustainable environment, and this for the sake of its people, for the sake of its very future, for the sake of Europe and the rest of the world. Despite “extra-Arctic developments” and political tensions, it is in everybody’s interest to keep the Arctic as a low-tension area.

Hence, the focus is and should remain on “cooperation” and not confrontation in the Arctic⁴², but which is only possible provided that each Arctic State and Arctic stakeholder respects the fundamental rules of international law, in the Arctic and beyond. Because, what happens in the world also affects the Arctic.

⁴² The EU updated its Arctic Policy in October 2021.