

The European Union and the Arctic

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Formulating a Cross-cutting Policy: Challenges and Opportunities for Effective EU Arctic Policy-making

Adam Stępień and Timo Koivurova

1 Introduction

The European Union (EU) has been developing its over-arching Arctic policy for almost ten years, starting with the EU Parliament's Resolution¹ and European Commission's Communication² in 2008. Over the years, the Union has made much progress in clarifying its approach to the Arctic, moving towards more nuanced and cautious approaches, as visible from the Joint Communication³

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*** The chapter draws upon: Adam Stępień, Timo Koivurova and Paula Kankaanpää, 'Strategic Assessment of Development of the Arctic: Assessment Conducted for the European Union' (2014) <www.arcticinfo.eu/sada> accessed 7 March 2016; Adam Stępień, Timo Koivurova and Paula Kankaanpää, *The Changing Arctic and the European Union* (Brill/Nijhoff 2016); Timo Koivurova and others, 'The Present and Future Competence of the European Union in the Arctic' (2012) 48 *Polar Record* 361; Adam Stępień, 'The EU Needs a Two-Tier Approach towards the Arctic: A General Policy for the Circumpolar Arctic and a Concrete Strategy for the European Arctic' [10 December 2015] <<http://www.the-arcticinstitute.org/2015/12/EU-needs-two-tier-approach-towards-the-arctic.html>> accessed 7 March 2016.

1 European Parliament, Resolution of 9 October 2008 on Arctic governance [2008] P6_TA(2008)0474.

2 European Commission Communication of 20 November 2008 on the European Union and the Arctic Region, COM (2008) 763.

3 Joint Communication of the European Commission and High Representative of the European Union for Foreign Affairs and Security Policy of 26 June 2012 on Developing a European Union Policy towards the Arctic Region: Progress since 2008 and Next Steps, JOIN (2012) 19.

from 2012, EU Council Conclusions,⁴ and the latest Joint Communication⁵ from 2016. The latest of this series of policy statements is even titled ‘An integrated European Union policy for the Arctic’. Yet, the EU Arctic policy remains a work in progress and faces a number of structural challenges.

The EU exerts an influence on Arctic regions in a variety of forms. This includes affecting regional development in Northern Fennoscandia, the EU’s environmental and economic footprint, shaping international Arctic-relevant norms and taking part in regional governance. It is not easy for the EU to act in a coherent manner in the Arctic given the broad scope of the Union’s presence, as well as the fact that the EU itself is a very complex governance entity and the Arctic is a very heterogeneous policy environment. Consequently, we need to ask whether establishing an overarching EU Arctic policy framework, first, can make EU Arctic activities more coherent (i.e. synergetic and lacking contradictions), and second, whether—as is often assumed without reflection—it can actually enhance the EU’s performance as an actor in the Arctic. If yes, what policy instruments could lead to such an enhancement? While much existing literature discusses the EU’s participation in Arctic co-operation and its relations with Arctic States, this chapter focuses on the EU policy-making relevant for the Arctic, predominantly of internal nature. A large part of the EU’s Arctic policy is about what the EU can do itself that is of importance for Arctic regions. We believe that in the long-term, the EU’s constructive influence in the Arctic will depend primarily on mechanisms and instruments enhancing procedural coherence, which entails setting up a coherent Arctic-relevant decision-making process in the EU.

This chapter begins with the presentation of a broad spectrum of the EU Arctic-relevant policies and the way in which these have been brought together under the umbrella of the “EU Arctic policy”. Building on this overview, we consider the questions of coherence and added value (within the EU’s overall policy system) of the EU Arctic policy. This yields three challenges: balancing between Circumpolar and European Arctic policy spaces, influencing general EU decision-making within various policy fields, and managing multiple channels of interaction with Arctic actors and stakeholders. We offer some ideas as regards addressing these challenges.

4 Council of the European Union, Conclusions on Developing a European Union Policy Towards the Arctic Region, Brussels [14 May 2014].

5 Joint Communication of the European Commission and High Representative of the European Union for Foreign Affairs and Security Policy of 27 April 2016 on An Integrated European Union Policy for the Arctic, JOIN (2016) 21.

2 The EU Arctic Policy: “A Sum of Many Parts”

In 2013, the former EU Commissioner for maritime affairs and fisheries referred to the 2012 EU policy statement on the EU Arctic policy an “all-encompassing policy document”.⁶ At the same time, EU institutions acknowledge “the cross-sectoral nature of Arctic issues” that Arctic policy strives to encompass.⁷ What are “all” the issues and sectors that the EU Arctic policy is to cut across?

Tonami and Watters⁸ described Japanese Arctic policy as a “sum of many parts”. This could be said about every Arctic policy adapted by Arctic and non-Arctic States over the last decade. In particular, the policies of Arctic States are multifaceted, combining matters of typically internal and external nature. They refer to socio-economic development and environment of their northernmost regions, to investments in the North, alongside international co-operation. The EU-Arctic nexus is similarly complex. The EU originally emphasized the external dimension of its Arctic policy (international co-operation remains a central aspect of the EU’s presence in the region). However, the Union’s Arctic policy increasingly encompasses questions of regional socioeconomic development in the northernmost parts of Europe as well as issues—of primarily internal character—where the EU acts towards the Arctic, such as climate change mitigation. The multidimensional—internal, cross-border and external—character of the EU’s Arctic policy is visible especially in the Joint Communication published in 2016.⁹

Within this broad EU-Arctic landscape, two distinct yet interconnected geographical and policy spaces can be distinguished: the pan-Arctic, Circumpolar, maritime space of external affairs and the European Arctic policy domain, primarily of a terrestrial and internal nature. The EU influences both the European and Circumpolar Arctic by three channels: its internal regulations, its funding programs and co-operation with international partners.

Firstly, the EU makes policies and legislates in areas where the Union has acquired competences from its Member States. The EU is a *sui-generis* organization that has pooled competences from its Member States and manages some policy areas at the supranational level. Some of these competences are exclusive, such as commercial policy or the conservation of living biological

6 Maria Damanaki, speech at Arctic Frontiers conference, Tromsø, Norway, 21 January 2013.

7 See Council of the European Union 2014, n. 5 above, 35.

8 Aki Tonami and Stewart Watters, ‘Japan’s Arctic Policy: The Sum of Many Parts’ [2012] Arctic Yearbook 2012, 93, <<http://www.arcticyearbook.com/index.php/articles/21-japan-s-arctic-policy-the-sum-of-many-parts>> accessed 7 March 2016.

9 JOIN (2016) 21.

resources.¹⁰ In some areas, the EU shares competences with its Member States, including in the fields of transport, energy, economic, social and territorial cohesion, as well as the environment. Shared competence means that once the EU regulates a particular issue, actions of Member States are limited. There are also fields of complementary competence, where the EU institutions are allowed to act without constraining Member States' competences, including tourism, culture and education.¹¹

Secondly, the EU's influence is visible via numerous funding instruments. The Union budget is a major source of financing for Arctic research with about EUR 150 million on Arctic-related research spent during the previous multiannual seven-year financial perspective (which encompassed the International Polar Year).¹² That effort is likely to be matched or exceeded under Horizon 2020 program running from 2014.¹³ Further, the EU provides funding for regional development and cross-border co-operation. EU structural programs are of key importance for northernmost Finnish and Swedish regions, which face challenges of remoteness and sparse population, in some cases being among the poorest regions with the lowest development potential in their respective states.¹⁴ The same can be said about the EU-supported cross-border co-operation programs in the North (such as Northern Periphery and Arctic Program or Northern Dimension partnerships). Moreover, the EU provides support for development of education and training in Greenland as a part of the EU-Greenland Partnership Agreement.¹⁵

Thirdly, the EU takes part in co-operation with other actors (including Arctic States). For example, the EU, Canada and the US adopted the Galway Statement on Atlantic Ocean Co-operation,¹⁶ which includes joint efforts in Arctic research. Since 2010, and in the aftermath of the seal ban, the EU has

10 Article 3, The Treaty on the Functioning of the European Union (TFEU) [2012] OJ C326/47.

11 Articles 3–6, TFEU.

12 JOIN (2012) 19.

13 JOIN (2016) 21.

14 Lise Smed Olsen and others, 'Sustainable Business Development in the Nordic Arctic' (Nordregio Nordic Centre for Spatial Development 2016).

15 Council Decision 2014/137/EU of 14 March 2014 on relations between the European Union on the one hand, and Greenland and the Kingdom of Denmark on the other, [2014] OJ L76/1, together with Programming Document for the Sustainable Development of Greenland 2014–2020, 2014/137/EU.

16 Galway Statement on Atlantic Ocean Co-operation. Launching a European Union—Canada—United States of America Research Alliance [24 May 2013] <https://ec.europa.eu/research/iscp/pdf/galway_statement_atlantic_ocean_co-operation.pdf> accessed 7 March 2016.

organized regular meetings with representatives of Arctic indigenous people.¹⁷ The EU's special relationship with Greenland¹⁸ revolves primarily around fisheries and enhancing human resources.¹⁹ The EU's Raw Materials Initiative²⁰ emphasizes resource diplomacy and securing resource imports from stable and well-governed regions. The co-operation with Greenland (and potentially Canada) is supposed to be a step towards achieving that objective.²¹ The EU is also involved in developments in northwest Russia via its regional and cross-border funding (e.g. Kolarctic program).²² EU funding finds its way to the Russian Arctic also via the Northern Dimension (ND), a Finnish initiative from the 1990s, which developed into a common policy of the EU, Iceland, Norway and Russia from 2006. Different "partnerships"—through which ND cooperation is organized—support, among others, feasibility studies for much desired East-West transport connections in the European North or environmental infrastructure in northern Russian settlements.²³

The EU can also influence development of international norms and decision-making that are of relevance for the region. EU competences as regards setting rules for maritime transport make the European Commission's Directorate General Mobility and Transport (DG MOVE) (responsible for transport) an important actor in any international negotiation referring to maritime traffic. This has included negotiations in the International Maritime Organization (IMO)²⁴ as regards the mandatory Polar Code (International Code for Ships

17 Adam Stępień, 'Incentives, Practices and Opportunities for Arctic External Actors' Engagement with Indigenous Peoples: China and the European Union', in Timo Koivurova and Tianbao Qin (eds) *Arctic Law and Governance: the role of China, the EU and Finland* (Hart Publishing, 2017).

18 Greenland left the European Economic Community—the EU's predecessor—in 1985.

19 The government of Denmark, itself a member of the EU, represents the Faroe Islands and Greenland (as parts of the Kingdom of Denmark) as non-EU territories in a number of policy areas.

20 European Commission Communication of 4 November 2008 on the raw materials initiative—meeting our critical needs for growth and jobs in Europe, COM (2008) 699.

21 For example, European Commission—MEMO/12/428 13/06/2012 Greenland's raw materials potential and the EU's strategic needs <http://europa.eu/rapid/press-release_MEMO-12-428_en.htm> accessed 7 March 2017. However, so far Greenlandic raw materials production and export to the EU has not materialized.

22 Kolarctic (ENPI, 2007–2014) Program's website at <<http://www.kolarcticenpi.info/en>> accessed 7 March 2016.

23 European External Action Service website, Northern Dimension <http://www.eeas.europa.eu/north_dim/> accessed 7 March 2017.

24 The European Union or the European Commission is not a member of the International Maritime Organization. However, as many aspects under discussion in the IMO are in the

Operating in Polar Waters), concluded in 2015 (in force 1 January 2017).²⁵ The European Commission is also one of the key players in the international negotiations on the protection of biodiversity in areas beyond national jurisdiction;²⁶ a process that is potentially of high importance for the future governance of the Central Arctic Ocean. Owing to the exclusive EU competence as regards conservation of marine biological resources under common fisheries policy, the European Commission would be among key non-Arctic actors in the discussion on any future Arctic fisheries management scheme.²⁷ In addition, as a party to the Stockholm Convention on Persistent Organic Pollutants (POPs)²⁸ as well as the UN Economic Commission for Europe (UNECE) Convention on Long-range Transboundary Air Pollution (LRTAP)²⁹—international instruments targeting POPs—the EU can influence the placing of new Arctic-relevant POPs on the list of substances to be eliminated or restricted.

At the regional level, the European Commission is a full member of the Barents Euro-Arctic Council and provides a significant portion of the funding for cross-border co-operation in the Barents region. In the Arctic Council, the EU acts in practice as an observer and its representatives are active in several of the Arctic Council's working groups, including the Conservation of Arctic Flora and Fauna (CAFF) and the Protection of Arctic Marine Environment (PAME).

The EU's regulatory power, its relations with trade partners and its influence on international processes are relevant for the Arctic because the EU's internal market, its economy and population exert a noticeable environmental and economic footprint on the region. Among others, the 2010 EU *Arctic Footprint and*

scope of competences shared between the Member States and the Union, the EU and Member States meet before the IMO (and its committees) meetings in order to speak, where possible, with a single voice.

25 International Code for Ships Operating in Polar Waters (Polar Code), MEPC 68/21/Add.1, <<http://www.imo.org/en/MediaCentre/HotTopics/polar/Documents/POLAR%20CODE%20TEXT%20AS%20ADOPTED.pdf>> accessed 7 March 2016.

26 For example, Stephen Hodgson, Andrew Serdy, Ian Payne, Johan Gille, 'Towards a Possible International Agreement on Marine Biodiversity in Areas Beyond National Jurisdiction' (2014) <[http://www.europarl.europa.eu/RegData/etudes/STUD/2014/536292/IPOL_STU\(2014\)536292_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/STUD/2014/536292/IPOL_STU(2014)536292_EN.pdf)> accessed 7 March 2016.

27 For example, establishing a Regional Fisheries Management Organization for the Arctic Ocean.

28 Stockholm Convention on Persistent Organic Pollutants 22 May 2001 (entry into force 17 May 2004), 2256 UNTS 119; 40 ILM 532 (2001).

29 Convention on Long-range Transboundary Air Pollution, 13 November 1979 (entry into force 16 March 1983), 1302 UNTS 217; 18 ILM 1442 (1979).

*Policy Assessment Report*³⁰ and the 2014 *Strategic Assessment of Development of the Arctic report*³¹ outlined the scope of such EU's links with the Arctic. For example, a relatively high percentage of emissions produced in the EU find their way into the Arctic,³² as Europe is the closest highly industrialized region to the Arctic. Various EU policies that influence European emissions of persistent organic pollutants, such as Polychlorinated biphenyls (PCBs), mercury, acidifying pollutants (sulphur and nitrogen oxides) or short-live climate pollutants (black carbon and methane), contribute to the amount of contamination reaching the Arctic environment via wind patterns and ocean currents. Approximately a quarter of the mercury emissions reaching the Arctic from southern latitudes is emitted within the EU, primarily due to Europe's proximity to the region. In 2013, the EU contributed 11% to global carbon dioxide emissions (although the figure would be different if it included the EU consumption of goods produced elsewhere in the world).³³ The EU accounts for 30%–40% of fish imports from Arctic countries, and 24% of final demand for products from the Arctic oil and gas industry.³⁴

The Arctic footprint of the European population, economy and market is influenced by various EU policies, making the EU one of the actors shaping—albeit often from afar—Arctic realities. Climate and energy policies provide the clearest examples. Climate change is widely considered one of key drivers of the Arctic's transformation.³⁵ The EU introduced mitigation actions, including via energy transition, regulations supporting renewables, energy efficiency and the emissions trading system.³⁶ The EU also significantly supports climate research including Arctic research projects.³⁷ Furthermore, the EU action on

30 Sandra Cavalieri and others, 'EU Arctic Footprint and Policy Assessment: Final Report' 1 <<http://www.endseurope.com/docs/10119a.pdf>> accessed 7 March 2016.

31 Stępień, Koivurova and Kankaanpää 2014, n. 1 above.

32 Cavalieri and others 2010, n. 31 above.

33 Jos GJ Olivier and others, 'Trends in Global CO₂ Emissions 2014 Report' (2014) PBL Netherlands Environmental Assessment Agency and the Institute for Environment and Sustainability (IES) of the European Commission's Joint Research Centre (JRC) Report.

34 Cavalieri and others 2010, n. 31 above.

35 *Arctic Biodiversity Assessment. Status and Trends in Arctic Biodiversity* (2013) <<http://www.abds.is/>> accessed 7 March 2016; *Snow, Water, Ice and Permafrost in the Arctic* [2011] AMAP Report to the Arctic Council chapter 4 59 <<http://amap.no/swipa/>> accessed 7 March 2016.

36 See, for example, the website of the EU Climate Action at <http://ec.europa.eu/clima/policies/ets/index_en.htm> accessed 7 March 2016.

37 Website of the Horizon 2020 EU Framework Program for Research and Innovation at <<http://ec.europa.eu/programs/horizon2020/>> accessed 7 March 2016.

climate change should in principle affect European long-term demand for Arctic hydrocarbons.

The EU can also set rules for maritime traffic via its Member States' port state and flag state authority. For instance, EU legislation requires Member States to provide information on ice conditions, recommend routes and icebreaking services, as well as request from vessels certification documents commensurate with the ice conditions.³⁸

REACH Regulation³⁹ and POPS Regulation⁴⁰ are good examples of EU policies affecting long-range pollution. While these policies are primarily important for the environment of highly industrialized regions in Europe, they are also relevant for regulating contaminants reaching the Arctic.

The best-known case of the EU's formally internal rules influencing Arctic regions—owing to the EU's leverage as a major market—is the regulation banning the placing of seal products on the EU market.⁴¹ Originating both from animal welfare concerns and the introduction (or the processes leading to the introduction) of bans by several Member States, and underpinned by powerful campaigns by animal rights organizations, the so-called seal ban significantly affected the livelihoods of both commercial sealers in Canada and Inuit hunters. The latter, while in principle exempted from the ban, claimed they were impacted owing to the overall collapse of the global seal skin market following the introduction of the EU ban.⁴² The ban caused outrage among many Arctic communities as well as Inuit organizations and—for several years—led Canada to prevent the EU from gaining formal observer status in the Arctic Council.

38 Directive 2009/17/EC of 23 April 2009 amending Directive 2002/59/EC establishing a Community vessel traffic monitoring and information system [2009] OJ L31/101.

39 Regulation 1907/2006/EC of 18 December 2006 concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC [2006] OJ L396.

40 Regulation (EC) No 850/2004 of 29 April 2004 on persistent organic pollutants and amending Directive 79/117/EEC [2004] OJ L158/7.

41 Regulation (EC) No 1007/2009 of 16 September 2009 on trade in seal products [2009] OJ L286/36.

42 Nikolas Sellheim, 'The goals of the Eu seal products trade regulation: from effectiveness to consequence' (2015) 51(3) *Polar Record* 274; Dorothee Cambou, 'The Impact of the Ban on Seal Products on the Rights of Indigenous Peoples: A European Issue' (2013) 5 *Yearbook of Polar Law* 389.

The EU's influence on the Arctic could also entail setting examples of standards and best practices. This becomes of particular importance as increasing number of countries currently call for defining Arctic standards for various activities.⁴³ However, while the EU has certainly exerted influence as a standard-setter in regions such as Central-Eastern Europe, the EU's sway in the Arctic is comparatively minimal, as Arctic actors usually have confidence in their own Arctic expertise and management/governance frameworks.⁴⁴ Nonetheless, there are a few promising areas for the EU's "rule by example" to be also visible in Arctic affairs. SafeSeaNet⁴⁵ (information on ships, ship movements, hazardous cargoes, etc.) and CleanSeaNet⁴⁶ (mainly oil spill monitoring) run by the European Maritime Safety Agency (EMSA) are good examples of internal EU solutions that could be presented as good practices to be reproduced—in the long-term—in Arctic waters.⁴⁷

The EU's influence on the Circumpolar Arctic is significant, but the Union is even more important in the policy space of the European Arctic. There, the EU's influence is much more direct, repositioning the Union as an Arctic internal—rather than external—actor and a key player in the European Arctic affairs. The northernmost territories of Finland and Sweden are located in the Arctic region⁴⁸ and the European Economic Area (EEA) Agreement⁴⁹ means that large parts of EU legislation are applicable in Iceland and Norway.

The early EU policy reflection on the Arctic—manifested in documents published between 2007 and 2010—clearly had an external and maritime

43 For example, U.S.-Canada Joint Statement on Climate, Energy, and Arctic Leadership, 16 March 2016, The White House, Office of Press Secretary <<https://www.whitehouse.gov/the-press-office/2016/03/10/us-canada-joint-statement-climate-energy-and-arctic-leadership>> accessed 13 June 2016.

44 Piotr Kobza, 'Civilian Power Europe in the Arctic: How Far Can the European Union Go North?' (2015) EU Diplomacy Paper 01/2015, Brugge and Natolin: Collage of Europe.

45 European Maritime Safety Agency website at <<http://www.emsa.europa.eu/ssn-main.html>> accessed 7 March 2016.

46 European Maritime Safety Agency website at <<https://portal.emsa.europa.eu/web/csn>> accessed 7 March 2016.

47 Gunnar Sander and others, 'Changes in Arctic Maritime Transport' in Adam Stępień, Timo Koivurova and Paula Kankaanpää (eds), *The Changing Arctic and the European Union* (Brill/Nijhoff 2016).

48 As defined by the Arctic Human Development Report or Arctic Council's Arctic Monitoring and Assessment Program, while there are many definitions of "the Arctic". See, Joan Nymand Larsen and Gail Fondahl (eds.) *Arctic Human Development Report: Regional Processes and Global Linkages*, TemaNord 2014:567, Nordic Council of Ministers, 2014, doi:10.6027/TN2014-567.

49 Agreement on the European Economic Area, OJ No L 1, 3.1.1994, p. 3.

focus.⁵⁰ The Arctic Ocean, interactions with Arctic coastal States and sea-dependent indigenous peoples (like the Inuit) comprised Arctic policy space for the EU policy-makers. However, the idea that the EU should develop its own overarching approach to the Arctic activated various actors from the European part of the Arctic, who felt that the EU formulates Arctic policy ignoring the part of Europe located above the Arctic Circle, that is the northernmost regions of Finland, Sweden and Norway.⁵¹ Crucially, these actors would like to use the greater EU interest in the Arctic to emphasize their own priorities and to encourage the Union's support to developing responses to various economic, demographic, social or accessibility challenges faced by Europe's northern communities. Reacting to these calls, the EU Arctic policy had gradually acquired a second, European Arctic dimension. That has become particularly visible in the 2016 Joint Communication.

European Arctic regions are directly affected by EU environmental, transport, energy and competition legislation. For example, the EU's Natura 2000 network—based on the Habitats and Bird Directives⁵²—establishes a very strong conservation framework for large swaths of European Arctic ecosystems. In the 1990s, for example, a major hydropower project in Northern Finland did not come to pass due to the requirements of Natura 2000 and the threat of the European Commission's legal action against Finland.⁵³ Similar examples of the EU's central role in the region are numerous. The EU legislation creates baselines for environmental impact assessment procedures.⁵⁴ Policies supporting renewable energy developments⁵⁵ boost wind power investments

50 COM (2008) 763; Resolution of 9 October 2008 on Arctic governance [2008] P6_TA(2008)0474.

51 See, for example, Northern Sparsely Populated Areas network, The NSPA position on the future EU Arctic Policy, <<http://www.nspa-network.eu/media/11809/nspa%20position%20on%20arctic%20final.pdf>> accessed 7 March 2016. Norwegian northernmost regions are not part of the EU, but are strongly affected by EU regulations via the EEA Agreement and take part in numerous EU funding programs. They have proven over the years to be particularly active in lobbying for the EU Arctic policy.

52 Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora [1992] OJ L206/7; Directive 2009/147/EC of 30 November 2009 on the conservation of wild birds [2010] OJ L20/7.

53 Timo Koivurova, 'The Case of Vuotos: Interplay Between International, Community and National Environmental Law' (2004) 13 *Review of European Community & International Environmental Law* 47.

54 Directive 2011/92/EU of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment [2012] OJ L26.

55 European Commission 2013 <http://ec.europa.eu/clima/policies/2030/index_en.htm> accessed 29 January 2014; Renewable energy in 2011 accounted for 31.8% of energy produced in Finland (90% of energy produced regionally in Lapland), Finland's 2020 national

in the North. The decisions on the structure of trans-European transport networks have implications for the chances of infrastructural projects in the North obtaining funding. Various pieces of legislation influence how mining—one of the key industries in Northern Fennoscandia—is conducted, including rules on waste management or chemicals.⁵⁶ The EU's Raw Materials Initiative⁵⁷ calls for increased domestic EU production of metals and other minerals.⁵⁸ In the mid-term, the EU Climate Adaptation Strategy⁵⁹ and its implementation will likely be of importance in the northernmost part of Europe, the fastest warming region in the continent.⁶⁰ The priorities of EU funding programs also influence northern regional development strategies.⁶¹

As elsewhere, not all Arctic stakeholders judge EU policies to be advantageous. Not untypically, perceptions of specific EU rules vary between different interest groups. A few instances can be mentioned here. Reindeer herders are often unhappy with what they consider too high a population of predators (wolves, bears, wolverines, lynxes), which is partly linked to protective EU environmental regulations.⁶² The EU directive enforcing new international standards on sulphur content in marine fuels⁶³ establishes emission limits

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- target is 38%; 46.8% in Sweden (2020 target–49%); 65% in Norway (2020 target–67.5%). See: Eurostat data on the share of energy from renewable resources <<http://epp.eurostat.ec.europa.eu/portal/page/portal/energy/data/database>> accessed 7 March 2016.
- 56 For example, Directive 2006/118/EC of 12 December 2006 on the protection of groundwater against pollution and deterioration [2006] OJ L372/19; Directive 2006/21/EC of 15 March 2006 on the management of waste from the extractive industries and amending Directive 2004/35/EC [2006] OJ L102/15.
- 57 N. 21 above.
- 58 See also Kim van Dam and others, 'Mining in the European Arctic' in Adam Stepień, Timo Koivurova and Paula Kankaanpää (eds), *The Changing Arctic and the European Union* (Brill/Nijhoff 2016).
- 59 European Commission Communication of 16 April 2013 "An EU Strategy on Adaptation to Climate Change", COM (2013) 216.
- 60 See, for example, Santtu Mikkonen and others, 'Trends in the Average Temperature in Finland, 1847–2013' (2015) 29 *Stoch Environ Res Risk Assess* 1521.
- 61 For instance, Finnish Lapland formulated the so-called Arctic smartness portfolio as a part of the regional "smart specialization" within the EU. Regional Council of Lapland, Arctic Smartness Portfolio, <<http://www.lappi.fi/lapinliitto/arctic-smartness-portfolio>> accessed 7 March 2016.
- 62 See, for example, Hannu Heikkinen and others, 'Managing Predators, Managing Reindeer: Contested Conceptions of Predator Policies in Finland's Southeast Reindeer Herding Area' (2011) 47 *Polar Record* 218.
- 63 Directive 2012/33/EU of 21 November 2012 amending Council Directive 1999/32/EC as regards the sulphur content of marine fuels [2012] OJ L327/1.

for Finnish maritime transport in the Baltic Sea. This could potentially raise transport costs for Lapland's resource exports, and therefore it resulted in critical industry voices as regards the EU policy.⁶⁴ While for some stakeholders the Natura 2000 constitutes a welcome additional protection for the highly fragile sub-Arctic environment, for others it appears to be a far-reaching constraint on regional development, disproportionately affecting northernmost regions.

In sum, on one hand, the EU shares a number of similarities with other external Arctic actors, such as China or Japan. The EU's industrialized centers are far from the region, but influence the Arctic in various ways. On the other hand, owing to direct EU presence as a policy-maker and funding-provider in Northern Europe, the EU is a *sui generis* case in the landscape of Arctic governance. It is an influential yet secondary external player as regards circumpolar affairs, and at the same time a crucial actor in the European part of the Arctic.

3 Coherence and Added Value of the Overarching EU Arctic Policy

The above overview suggests that an overarching EU Arctic policy is bound to be a “sum of many parts”, and the spectrum of issues that the EU Arctic policy is to encompass is very broad. The resulting “all-encompassing” Arctic policy framework is bound to be multifaceted. Moreover, the EU Arctic policy is also component-driven,⁶⁵ which means that it brings together issues anchored in various sectoral policies, policies that are primary/antecedent—in terms of time and the position in the policy system—to the cross-cutting Arctic framework. These characteristics of the EU Arctic policy raise questions as to whether a framework bringing together these different “parts” can genuinely facilitate better EU performance as a polity affecting the Arctic.

The 2012 Joint Communication of the Commission and High Representative of the Union for Foreign Affairs and Security Policy together with accompanying Staff Working Document⁶⁶ were the most wide-reaching EU Arctic policy documents. They brought together a large number of EU Arctic-relevant policies,

64 Discussions during the 2013 9th Fennoscandian Exploration and Mining Conference, Levi, Finland, 30 October 2013.

65 See, Peter J May and others, ‘Policy Coherence and Component-Driven Policymaking: Arctic Policy in Canada and the United States’ (2005) 33 *Policy Studies Journal* 37.

66 European Commission and the High Representative of the EU, The inventory of activities in the framework of developing a European Union Arctic Policy, Joint Staff Working Document Accompanying JOIN (2012) 19, SWD (2012) 183 final.

activities and projects. However, wide-reaching did not mean more coherent and “bringing together” did not signify anything else than a new labelling of existing activities under vague and abstract headlines of “knowledge, responsibility and engagement”.⁶⁷ Adele Airoidi stated in her analysis of the EU Arctic policy⁶⁸ that these “three abstract catchwords [...] do not quite translate into a clearer vision nor in a better defined and developed program than in 2008” (when the first Arctic policy document was published). Many measures or actions listed in the Communication were “statements of fact rather than commitments to action, which appear to be in great part a continuation or intensification of existing activities at EU, bilateral or multilateral level”.⁶⁹

The 2016 Joint Communication⁷⁰ is an attempt to introduce more focus into the EU’s key Arctic statement. To a certain degree that has been achieved, as the emphasis is on fewer issues—those where the EU’s leverage in Arctic affairs is the clearest. The document identifies three “priority areas” for the EU’s action in the Arctic:

- Climate change and safeguarding the Arctic environment
- Arctic (primarily European Arctic) and Arctic-related economic development
- International cooperation

However, these areas still encompass a variety of issues including climate research, adaptation, investments, coordination of EU funding, biodiversity protection, innovative Arctic technologies, transport and communication links, space technologies, maritime safety, dialogue with indigenous people and the EU’s participation in regional co-operation. It is unclear how these aspects are interrelated, though the relative chaos of the 2012 document has not been repeated. There are still no overarching objectives that guide the EU’s approach towards the region. Regional development trajectories to which the EU funding and policies are to contribute are not defined. Many mentioned actions are already ongoing or are included in the “Arctic policy” as a part of pre-existing general EU policy frameworks, such as climate mitigation, investments, research, or air pollution policy. Some statements that refer to future or planned activities are vague and do not include clear commitments on the side

67 JOIN (2012) 19.

68 Adele Airoidi, “The European Union and the Arctic: Developments and Perspectives 2010–2014” (2014), *TemaNord* 2014:565, Nordic Council of Ministers.

69 *Ibid.* See also, Andreas Østhagen, “The European Union—An Arctic Actor?” (2013) 15 *Journal of Military and Strategic Studies* 71.

70 JOIN (2016) 21.

of the EU. That should not be seen as criticism, rather an acknowledgement that the formulation of an “integrated” EU Arctic policy is highly unlikely, despite the claim contained in the title of the 2016 policy document.

Rather than providing direction and consistency for the multifaceted EU activities, the 2012 and 2016 joint communications still serve primarily as public relations statements directed towards both Arctic actors and the public of the EU. They justify EU Arctic engagement and highlight the role of the EU in the Arctic.

Can the EU Arctic policy-making go beyond listing activities and justifying the EU’s interests in regional affairs? Can the Arctic policy-making truly bring together various EU activities and make a positive difference in the EU’s presence in the Arctic? These questions invoke two interrelated notions: added value (making a positive difference) and coherence (bringing together).

First, an overarching Arctic policy is expected to “make a difference”. Added value can be understood as something that appears when a cross-cutting policy is more than just a “sum of its parts”, when the act of bringing together is followed by changes in policies and actions or in new activities.

“Bringing together”⁷¹ means not only producing an inventory but also introducing some minimal degree of coherence and coordination into the EU Arctic-relevant policies and activities. Østhagen⁷² submits that the “natural end goal of the EU’s Arctic policy development is a coordination of EU policies interlinked with, or influencing, the Arctic region”. Coordination can be seen as a set of practices and arrangements (institutional, functional) to enhance the coherence of the polity’s activities,⁷³ a crucial element of “procedural coherence”.⁷⁴ On the one hand, coherence can be understood as minimizing contradictions between different aspects of EU regional presence (consistency, negative coherence). On the other hand, enhancing positive coherence means finding synergies in order for different actions to strengthen one another, to

71 Carmen Gebhard, ‘Coherence’ in Christopher Hill and Michael Smith (eds), *International Relations and the European Union* (Oxford University Press 2011).

72 See Østhagen, n. 70 above, 84–85.

73 Tom Jones, ‘Policy Coherence, Global Environmental Governance and Poverty Reduction’ (2002) 2 *International Environmental Agreements: Politics, Law and Economics* 389; Evert Meijers and Dominic Stead, ‘Policy Integration: What Does It Mean and How Can It Be Achieved? A Multi-Disciplinary Review’, *Human Dimensions of Global Environment Change: Greening of Policies—Interlinkages and Policy Integration* (2004) <http://userpage.fu-berlin.de/ffu/akumwelt/bc2004/download/meijers_stead_f.pdf> accessed 7 March 2016.

74 Gebhard 2011, n. 72 above.

avoid duplications and to use resources more efficiently.⁷⁵ Coordination and coherence can have horizontal (various EU institutions and agencies), vertical (EU and its Member States) and regional (EU and other Arctic actors) dimensions. EU policies so far refer primarily to the horizontal coherence between various DGs of the European Commission and the European External Action Service's Arctic-relevant activities. They do not advance coordination with and among Member States.

The EU institutions have pronounced that one of the tasks of the EU Arctic policy framework is to introduce more coherence into the EU policy-system (across its external and internal dimensions) as regards the Arctic. The 2012 Joint Communication was described as a pathway towards a “coherent approach”.⁷⁶ In 2014, the European Parliament called for the formulation of a “united EU policy on the Arctic” and a “coherent strategy and concretized action plan on the EU's engagement in the Arctic”,⁷⁷ while the Council of the European Union (EU Council) requested the European Commission to work towards “further development of an integrated and coherent Arctic Policy”.⁷⁸ Following the EU Council's request, the 2016 Joint Communication is presented as an “integrated EU policy”. It is unclear what “integrated” is to mean in the EU Arctic context. It certainly does not refer to establishing an overarching policy, the objectives of which would overshadow sectoral approaches, as is supposed to be the case, for instance, with the EU's Integrated Maritime Policy. Rather, integration refers to juxtaposing different policies and actions and—confusingly—integrating (i.e. anchoring) the “Arctic policy” into the EU's pre-existing regulatory and policy system.⁷⁹

The challenge of introducing coherence or integration is a result of the component-based character of the Arctic policy. Policy statements are collections of actions arising from general policies. These actions are thus not designed or chosen based on an Arctic-specific assessment of needs or on Arctic-specific

75 *Ibid.*; Stefano Bertea, ‘Looking for Coherence within the European Community’ (2005) 11 *European Law Journal* 154 DOI: <<http://dx.doi.org/10.1111/j.1468-0386.2005.00255.x>>; Hartmut Mayer, ‘The Challenge of Coherence and Consistency in EU Foreign Policy’ in Mario Telò and Frederik Ponjaert (eds), *Globalisation, Europe, Multilateralism Series: EU's Foreign Policy: What Kind of Power and Diplomatic Action?* (Ashgate 2013).

76 JOIN (2012) 19, 17.

77 European Parliament, Joint Motion for a Resolution on the EU strategy for the Arctic, 10/12 March 2014. B7-0229/2014, B7-0230/2014, B7-0231/2014, B7-0232/2014.

78 Council of the European Union, Conclusions on developing a European Union Policy towards the Arctic Region 2014.

79 Adam Stępień and Andreas Raspotnik, ‘The EU's new Arctic Communication: Not-so-integrated, not so-disappointing?’, *ArCticles: Arctic Centre Papers* 1/2016.

objectives. Moreover, the identification of focused and concrete objectives would require making political choices. In the case of the 2012 and 2016 documents, the EU policymakers wanted to satisfy all stakeholders and include all relevant issues. Policymakers circumvent politicized policy choices by avoiding controversial topics such as extraction of hydrocarbons and minerals or sealing and whaling. Furthermore, tensions between different objectives and values are obscured by labelling developments, technologies, actions or desired outcomes as sustainable, responsible or resilient, without providing details on the contextualized meaning of these words.

The abovementioned shortcomings of the EU Arctic policy documents and lack of synergies between actions are not, however, a result of the failure of EU policymakers. Rather, they are outcomes of the character of this region-focused policy field as a component-based framework. Aiming at formulating a coherent set of EU-Arctic objectives and drafting comprehensive yet focused documents is extremely challenging if not impossible. Instead, the EU policymakers should focus on strengthening the procedural dimension of coherence which comprises mechanisms for enhancing consistency in Arctic decision-making.⁸⁰

The questions of procedural coherence and added value of the EU Arctic policy have three practical challenges for the Arctic policy-making in the EU. The first challenge is how to bring together various policy fields, in particular those specifically aimed at European and Circumpolar Arctic. The second challenge is how to facilitate the relatively marginal cross-cutting Arctic policy framework to make a tangible difference in the way the EU interacts with the region through sectoral policies and actions. The third challenge is managing the EU's interactions with Arctic stakeholders and actors. The 2012 Joint Communication rendered all three challenges visible. The 2016 Joint Communication constitutes a step towards addressing them.

4 Challenge One: Balancing Diverse Spaces: European and Circumpolar Arctic

The diverse set of issues that fall under the umbrella of the EU Arctic policy-making reflects two dimensions of the EU's presence in the region. Marine issues, energy and the Arctic Council belong to the Circumpolar Arctic, global Arctic or Arctic Ocean policy space. Regional economic development,

80 As argued by one of the authors in Adam Stępień. "Internal Contradictions and External Anxieties: One 'Coherent' Arctic Policy for the European Union", (2015) 7 *Yearbook of Polar Law* 249.

investments, European Economic Area, Barents co-operation, transport and raw materials comprise the European Arctic dimension of the EU's Arctic policy. We believe that the challenge of bringing together different Arctic-relevant EU policies and actions is to a great extent about balancing and clarifying the EU's role in these two interconnected but distinct policy areas.

The confusion between these two spaces is visible in interactions between the EU and Arctic stakeholders, in the European Parliament debates,⁸¹ as well as, most recently, the reactions and misinterpretations of the content of the 2016 Joint Communication.⁸² Often different actors refer to divergent understandings of what constitutes "the Arctic". Some policy-makers and stakeholders talk about the distant, exotic High Arctic, populated by Inuit hunters and symbolized by diminishing Arctic Ocean sea-ice and currently very limited offshore oil extraction. Climate change, shipping and pan-Arctic co-operation stand out as key issues to be tackled. Others, when they discuss the Arctic in the EU context, think about Northern Fennoscandia and the North Atlantic. The challenges of regional development, reindeer herding and transport accessibility in remote, sparsely populated areas are therefore highlighted.

The Circumpolar and European Arctic policy spaces entail different problems, issues, and roles for the EU. Circumpolar Arctic questions are primarily of a maritime nature and the EU's presence is mainly visible via international co-operation, where the EU has encountered a discouraging backlash manifested in the lack of formal status as an observer in the Arctic Council.⁸³ Involvement in circumpolar affairs yields interactions with stakeholders from maritime industries, fisheries, energy and global environmental NGOs.

81 See for example, the European Parliament, Debate on the EU Strategy for the Arctic, 17 April 2013, Strasbourg, <<http://www.europarl.europa.eu/sides/getDoc.do?type=CRE&reference=20130417&secondRef=ITEM-018&language=EN>> accessed 7 March 2016; see also, Andreas Østhagen, 'The Arctic and the Need for Greater Differentiation in a Non-Coherent Region' (2012) The Arctic Institute <<http://www.thearcticinstitute.org/2012/02/arctic-and-need-for-greater.html>> accessed 15 March 2015.

82 Based on the authors observations from a number of meetings and seminars following the publication of the 2016 Joint Communication.

83 However, in the Ministerial Meeting in Kiruna in May 2013, the Arctic Council accepted the EU's application for observer status. The implementation of this positive decision was then suspended until the EU resolves problematic questions with Arctic Council members (primarily, the seal ban dispute). Notwithstanding the suspension, the EU was allowed to observe Council meetings on par with other observers and is often called "observer-in-principle", that is. without having a formal, symbolic status (Arctic Council, 'Kiruna Declaration' <<http://www.arctic-council.org/index.php/en/document-archive/category/5-declarations>> accessed 7 March 2016.).

In contrast, European Arctic challenges are chiefly terrestrial. In this European Arctic policy space, the EU is a policy-maker, regulatory actor and a source of funding. Among relevant stakeholders in this policy space are Europe's northernmost regions (in Brussels grouped within the Northern Sparsely Populated Areas network),⁸⁴ the Sámi, reindeer herders, local businesses, the mining industry, and national environmental NGOs.

In the Circumpolar Arctic, the EU occupies a back seat, and for many Arctic stakeholders it remains a secondary actor. In the European Arctic, the EU is a key player, and EU institutions are targets of intense regional lobbying. Some actors in the Circumpolar Arctic appear to be anxious about the EU's presence,⁸⁵ while many in the European Arctic are contrastingly anxious that the EU's interest and involvement in the Arctic are not strong enough.

The 2016 Joint Communication is clearer than previous documents in terms of distinguishing the two geographic policy spaces. However, introducing clearer wording may not be enough to accommodate diverse interests that play out within the EU-Arctic nexus. In an analysis for the Arctic Institute, Stępień⁸⁶ proposed to resolve the intermingling of European Arctic and Circumpolar Arctic policy fields by formulating the EU Arctic policy as a two-tier framework: an overarching policy for the Circumpolar Arctic, and within it, a focused strategy for the European Arctic. A Circumpolar Arctic policy could then retain its current set of general, vague objectives or policy keywords. It would include maritime issues, climate change mitigation, climate and ocean research, earth observation, involvement in the Arctic Council, and the EU's role in shaping Arctic-relevant international norms.

A focused strategy for the European Arctic would address challenges arising from the Arctic transformation as they are manifested in the Europe's northernmost regions. A short list of specific goals or targets would need to be identified together with Nordic States, northernmost regions and local stakeholders, with the involvement of the EEA partners. Relevant issues here include cooperation within the Barents region (Barents Euro-Arctic Council, where the European Commission is a full member) and transport networks extending to Russia and Norway.

84 Northern Sparsely Populated Areas (NSPAs) network website at <<http://www.nspa-network.eu/>> accessed 7 March 2016.

85 See Stępień, 2015, n. 81 above.

86 Stępień, 2015, n. 1 above.

Building on the experiences of the EU macro-regional strategies,⁸⁷ the precondition for the feasibility and effectiveness of such a strategy is that concrete action plans are agreed and that all relevant actors commit to the targets and to the implementation of actions. “Strategy” is a word often avoided by external Arctic actors. This is owing to the notion that strategy entails a certain degree of control over the geographic space and is aimed at achieving concrete goals towards securing specific interests. Calling the whole EU (Circumpolar) Arctic policy “a strategy” could therefore trigger anxiety among Arctic states.⁸⁸ However, the EU’s more coherent approach towards the European Arctic could certainly constitute “a strategy”; exactly because the EU institutions, Member States and EU actors have a great deal of control over developments in the region and have direct, tangible interests in its sustainable development. Indeed, when the calls for a “coherent strategy” are voiced—such as in the 2014 European Parliament Resolution—usually they refer to the European Arctic affairs.⁸⁹

The 2016 Joint Communication makes a step towards devising a European Arctic strategy. In 2017, the European Arctic Stakeholder Forum together with a network of EU funding programs attempt to identify overarching key investment and research priorities for the European Arctic. The Forum is to include regional and national authorities as well as other stakeholders, with participation of Norway, Iceland and Greenland. The Forum is supposed to deliver its proposals for priorities by the end of 2017.

Several possible goals for the European Arctic strategy could be envisaged. Actors will face the need to jointly address climate adaptation in Europe’s fastest warming region, with increased flooding, impacts on winter roads and winter tourism raised among future concerns.⁹⁰ Strategic targets could include also the North-South and intra-regional (East-West) transport networks, digital connectivity, as well as tackling developmental or demographic problems specific to these sparsely populated areas. The challenges faced by the Sámi have to be highlighted, including energizing traditional livelihoods in light of

87 European Commission, ‘Report Concerning the Added Value of Macro-Regional Strategies’ (2013) SWD (2013) 233.

88 It was for this very reason that the word “strategy” was not used in, for instance, the United Kingdom’s Arctic policy statement, according to the statement by a UK official at the “In the Spirit of Rovaniemi Process” conference on 25 November 2015 in Rovaniemi, Finland.

89 European Parliament 2014; European Parliament, Debate on the EU Strategy for the Arctic, quoted above.

90 Mikkonen and others 2013; Lapin Liitto (Regional Council of Lapland), Lapin Ilmastostrategia 2030 (Lapland’s Climate Strategy 2030). 2011. Julkaisu 27/2011.

expanding resource extraction.⁹¹ Further, the development of Arctic towns could be supported, as in the Europe's northernmost regions these relatively small settlements play a socio-economic role similar to large population centres in Central Europe. The challenges they experience do not fit well to either urban or rural development programs.⁹²

Owing to economic, demographic and social challenges that trouble northern Fennoscandia,⁹³ a policy referring to the European Arctic is likely to acquire emphasis on economic development. The 2016 Joint Communication stands as clear proof of such dynamics.

It is unlikely that the strategy will include long-term institutional arrangements, mechanisms for policy co-ordination, and dedicated funding instruments supporting specific European Arctic priorities, adding to existing programs. The EU has adopted an approach to its macro-regional strategies (for the Baltic Sea Region, Danube, the Alps, Adriatic-Ionian Region or for Atlantic) based on the principles that no new institutions are to be created, no new funding instruments established and no new regulations adopted ("3xNO"). Therefore, the proposed Arctic Stakeholder Forum is to be a temporary, short-lived mechanism—finalizing its work in 2017—with its legacy to be carried on in the framework of loose annual stakeholder conferences rather than any institutionalized arrangement.

Instead of creating new programs, the strategy would streamline existing financing, prevent duplications and in the long-term affect priorities for funding instruments. The concept of the European Arctic Stakeholder Forum is heading precisely in that direction. In addition, ideas indirectly supporting European Arctic strategic priorities within already operating programs could be considered. A good example of such a mechanism is the Seed Money Facility within the EU Strategy for the Baltic Sea Region (EUSBSR).⁹⁴ It provides seed grants for work on proposals directed to various EU programs for projects that match the EUSBSR priorities.

91 Based on the consultations leading towards the drafting of the Strategic Assessment of Development of the Arctic report, as well as consultations on "Streamlining EU funding in the European Arctic carried out by the European Commission, see European Commission, Public consultation on streamlining EU funding in the European Arctic, <http://ec.europa.eu/dgs/maritimeaffairs_fisheries/consultations/arctic-eu-funding/doc/consultation-paper_en.pdf> accessed 14 February 2015.

92 Adam Stępień and others, 'Socioeconomic and Cultural Changes in the European Arctic' in Adam Stępień, Timo Koivurova and Paula Kankaanpää (eds), *The Changing Arctic and the European Union* (Brill/Nijhoff 2016).

93 *Ibid.*

94 Seed Money Facility website at <<http://seed.eusbsr.eu/>> accessed 7 March 2016.

In terms of institutional arrangements, currently the EU Arctic policy is coordinated jointly by the European External Action Service (EEAS) and the DG Maritime Affairs and Fisheries (DG Mare), with the involvement of various Commission DGs and agencies such as the European Environment Agency and European Maritime Safety Agency. The coordination is conducted via the Arctic Inter-Service Group, which serves primarily information purposes.⁹⁵ However, the European Arctic strategy could be ultimately led by the Commission's units responsible for regional development, transport or environment. While any additional organizational arrangements may be difficult for the Arctic policy as a whole, the European Arctic strategy—similarly to macro-regional strategies—could be supported by networks of responsible officials from different Member States, EEA States and regions.⁹⁶ Moreover, regional stakeholder forums and conferences—as proposed in the 2016 Communication—could strengthen the long-term interaction between actors.

5 Challenge Two: Influencing Sectoral Policy-making in the EU

The precondition for a cross-cutting framework to have added value is its capacity to influence EU sectoral decision-making processes.⁹⁷ Only actions dedicated to coordination, dialogue and outreach have been so far carried out within the EU Arctic policy itself.⁹⁸ In order for Arctic policy to enhance the EU's presence in the Arctic, the actions need to be taken within sectoral policies, such as environment, transport, energy, external relations, or international ocean governance. The critical aspect is therefore the interlinkage between the Arctic policy-making and sectoral, substantial policies.

95 Personal communication (by A. Stepień, on file), policy officer, European Commission DG Environment (August 2015); policy officer, European Environment Agency (July 2015).

96 Jonathan Metzger and Peter Schmitt, 'When Soft Spaces Harden: The EU Strategy for the Baltic Sea Region' (2012) 44 *Environment and Planning A* 263; Sandrine Moretti and Jan Martinsson, 'Multi-Level Governance in the European Union for the Baltic Sea Region: An Actor's Mapping Perspective' 1 <<http://groupspaces.com/eusbsr-governance/>> accessed 7 March 2016.

97 Basing on David Dery, 'Policy by the Way: When Policy Is Incidental to Making Other Policies' (1998) 18 *Journal of Public Policy* 163; Grant Jordan and Darren Halpin, 'The Political Costs of Policy Coherence: Constructing a Rural Policy for Scotland' (2006) 26 *Journal of Public Policy* 21.

98 Albeit even such coordinating activities entail using existing sectoral structures and programs, as no arrangements exist for the EU Arctic policy.

May et al.⁹⁹—building on Dery’s¹⁰⁰ concept of a “policy by the way”—proposed a notion of “component-driven policies” to describe the Arctic policies of Canada and the USA. May et al. and Dery suggest that for identity-based and space-based policy domains (such as youth policy or regional policies) it is sectoral, primary policies that determine the content of cross-cutting frameworks. That undermines the possibility for these frameworks to be coherent, but also limits the influence of the cross-cutting policies on polities’ tangible actions. Sectoral policies have a much longer history, established communities of stakeholders and advocacy coalitions, as well as well-grounded institutional arrangements. The component-driven character of the EU Arctic policy is visible from the policy documents, which so far have simply collected existing Arctic-relevant activities. The role of EU Arctic policy-makers has been not to propose new objectives and set a course for EU Arctic action, but rather to choose among different possible sets of Arctic-relevant actions, prioritize and organize them in a sensible manner.

Arctic policy within the EU is a rather marginal policy topic. EU services are not willing to invest any greater resources even in coordination activities.¹⁰¹ It is unlikely that it will follow the path of, for instance, environmental or climate policies, which over the years have moved to a central position in policy systems worldwide.

In some cases, the new “Arctic dimension” is primarily an act of re-labeling. The 2007–2013 Northern Periphery Program was renamed for the current financial perspective¹⁰² as the Northern Periphery and Arctic Program, but without adding any tangible Arctic dimension that would distinguish it from its 2007–2013 predecessor. Conversely, the changes that occurred in program priorities and operation are connected with the new set-up and objectives of the overall EU regional and cross-border policies, not with a new Arctic labelling.¹⁰³

Notwithstanding, the very fact of considering issues from a new, Arctic perspective constitutes an intrinsic added value. The increased attention and visibility of Arctic issues within the EU has had a certain leverage. This is visible,

99 May and others 2005, n. 66 above; also, Peter J May, Joshua Sapotichne and Samuel Workman, ‘Policy Coherence and Policy Domains’ (2006) 34 *Policy Studies Journal* 381.

100 Dery 1998, n. 98 above.

101 Personal communication (by Adam Stępień, on file), policy officer from European Commission DGs for Environment (August 2015) and Maritime Affairs and Fisheries (April 2015), European Environment Agency (July 2015).

102 The EU’s multiannual budget operates via seven-year financial perspectives.

103 Personal communication (by Adam Stępień, on file), Ole Damsgaard, Northern Periphery Program Secretariat, February 2014.

for instance, in the process of adopting the EU Directive on the safety of offshore oil and gas extraction,¹⁰⁴ which includes several references to the Arctic. Another good example is research. In a survey conducted among European research organizations,¹⁰⁵ several respondents suggested that a strong visibility of Arctic topics in the Horizon 2020 research program could be partly attributed to EU Arctic policy-making.¹⁰⁶ The interest in the Arctic resulted also in the launch of the EU-Polarnet project, which is to develop the European Polar Research Program and enhance the coordination of European Polar research infrastructures.¹⁰⁷

The process of developing a cross-cutting Arctic policy also translates to increased EU exposure to Arctic actors and stakeholders. For instance, the EU adopted a conciliatory position in the Convention on International Trade in Endangered Species (CITES)¹⁰⁸ as regards banning international trade in polar bear products. Instead of trade prohibition, the EU proposed requesting information on health of polar bear populations, on the levels of harvesting and trade and on feasibility of tagging regime for polar bear products.¹⁰⁹ The EU action in this way demonstrated sensitivity to Inuit, Greenlandic and Canadian concerns.

In the future, Arctic policy-making may play a role in the EU's actions regarding international ocean governance and as regards the protection of biodiversity in areas beyond national jurisdiction and establishing marine protected areas in the high seas. The preparatory work on a new global agreement

104 Directive 2013/30/EU of 12 June 2013 on safety of offshore oil and gas operations [2013] OJ L178/66.

105 A survey conducted by one of the authors via surveymonkey.com among participants to the EU-Polarnet network in November 2015.

106 It is worth noting that the Horizon 2020 program follows Seventh Framework Program, which encompassed research efforts within the International Polar Year 2007–2009. In addition, major EU satellite surveillance and observation programs (Galileo and Copernicus) include services critical for Arctic navigation and environmental monitoring.

107 However, the respondents highlighted that there are many drivers shaping research priorities and the eight-year long increased interest in the Arctic is only one of them.

108 Convention on International Trade in Endangered Species of Wild Fauna and Flora, concluded 3 March 1973, entry into force 1 July 1975, 27 UST 1087; TIAS 8249; 993 UNTS 243.

109 Convention on International Trade in Endangered Species of Wild Fauna and Flora, Sixteenth meeting of the Conference of the Parties Bangkok (Thailand), 3–14 March 2013, European Union Proposal Regarding *Ursus Maritimus* (Polar Bear), CoP16 Inf. 44, <<https://www.cites.org/sites/default/files/eng/cop/16/inf/E-CoP16i-44.pdf>> accessed 7 March 2016.

has already started under the UN General Assembly.¹¹⁰ While these issues are of special importance for the Central Arctic Ocean, the EU position is likely to be shaped primarily by global concerns and balancing with developing States' interests.¹¹¹

While the new Arctic perspective on problems and stronger interactions with stakeholders is of intrinsic value, the EU should build on these qualities and consider procedural opportunities for enhancing the way Arctic policy-making influences the EU's sectoral activities and actions.

The primary means is facilitating internal flows of information, in order to raise awareness of the specific impacts EU actions have in the North. The Arctic Inter-Service Group of the European Commission serves such information purposes, but it operates only among lower officers responsible for Arctic matters. How, if at all, that information is conveyed within specific DGs depends on the particular case and on the personal interest of policy officers.¹¹² The tangible co-operation going beyond information exchange within the EU services occurs, not on an on-going basis, but during the work on policy statements (2012 or 2016 communications and accompanying staff working documents) or cross-sectoral activities, such as preparation of a survey for Streamlining EU Arctic funding consultations.¹¹³ Some policy ideas and instruments are, however, worth exploring in this context.

One such policy idea is "Arctic footprint management". Major external actors take part in shaping Arctic realities owing to long-range pollution, economic influence via market leverage and resource demand, as well as via influence on private actors under their jurisdiction. Due to these "Arctic footprints", polities like China, the EU and Japan have in their policy arsenals the capacity to control their impact on the Arctic. "Footprint management" requires three steps. First, polities need to assess and acknowledge their impact on the Arctic.

110 See, Oceans and Law of the Sea website of the United Nations, ('Preparatory Committee established by General Assembly resolution 69/292') at <<http://www.un.org/depts/los/biodiversity/prepcom.htm>> accessed 7 March 2017.

111 Sébastien Duyck, 'Conservation of Marine Living Resources and Fisheries Management in the Arctic: Perspectives from Non-Arctic Actors' in Timo Koivurova and Tianbao Qin (eds), *Arctic Law and Governance: the role of China and Finland*, pp. 181–204 (Hart Publishing / Bloomsbury, 2017). Also, the European Commission has carried out major consultation process before its stances towards international ocean governance questions are formulated.

112 Personal communication (by Adam Stępień, on file), European Commission policy officers, DG Maritime Affairs and Fisheries (April 2015), DG Environment (August 2015).

113 Personal communication, policy officers (by Adam Stępień, on file), European Commission DG Maritime Affairs and Fisheries (April 2015).

Second, there needs to be a mechanism for communicating the knowledge on Arctic footprints to sectoral—primarily domestic—policy-making. This way, the awareness of Arctic footprints becomes a part of policy processes. Third, a regular monitoring of the polity's footprint has to be carried out.

The EU has shown a responsible approach early in its Arctic policy-making by commissioning the EU Arctic Footprint and Policy Assessment Report.¹¹⁴ Following the project results, the EU partly acknowledged its own responsibility for the Arctic environment in the 2012 Joint Communication.¹¹⁵ However, EU officials have not been successful in channeling Arctic-specific concerns into general policy-making yet. Moreover, despite suggestions from the European Environment Agency¹¹⁶ and the EU Arctic Information Centre initiative network,¹¹⁷ a periodic monitoring and reassessment of the EU's Arctic footprint has not been adopted. On the other hand, the footprint approach has proven interesting enough that the European Commission is conducting studies—based on a similar methodology—for EU policy impacts on the South Mediterranean region and the Eastern Partnership countries.¹¹⁸

Better coordination among EU institutions, between the EU and its Member States as well as coordination with the activities of other actors present in the Arctic is in principle a basis for better flow of information. It could prevent any unnecessary overlaps and could help to identify gaps that the EU policies and EU funding could fill. Certainly, the very process of Arctic policy-making leads to a better overview of what Arctic-relevant activities different departments, agencies and EU actors engage in. The European Commission also commissioned an inventory of a broad range (EU, Member States, institutions and private sector) of European Arctic initiatives.¹¹⁹ The 2016 Joint Communication proposed establishing the European Parliament's delegation and the Council's working party dedicated to northern cooperation and Arctic issues. While especially the latter is unlikely to be established, neither addresses the key need for

114 The authors of this chapter were involved in the work on the Arctic Footprint study (Cavalieri and others 2010, n. 31 above).

115 JOIN (2012) 19 4.

116 Personal communication (by Adam Stepień, on file), policy officer, European Environment Agency (July 2015).

117 The authors work at the Arctic Centre which has been leading this network.

118 Personal communication (by Adam Stepień, on file), European Commission policy officer, DG Environment (August 2015).

119 Björn Dahlbäck and others, 'European Arctic Initiatives Compendium' (2014) <www.artcticinfo.eu> accessed 7 March 2016. The study was carried out in the framework of the "Strategic Environmental Impact Assessment of development of the Arctic" project.

the intra-EU flow of information: from the officers responsible for Arctic affairs to the teams working on Arctic-relevant policy and regulatory developments.

One concrete way in which Arctic concerns (including Arctic footprints) can be communicated to general policy-making processes is via regulatory impact assessments (IAS). IAS are conducted by the European Commission and EU services—sometimes with input from external experts or consultancies—in order to consider different alternatives and review the expected impacts of applied policy instruments, including for different constituencies and regions.¹²⁰ The European Commission's IAS of proposed policies or regulations could incorporate a special focus on how new policy or legislative proposals influence the Arctic.¹²¹ Due to the complexity of both Arctic realities and EU policy frameworks, the identification of policies that have consequences in the Arctic constitutes a major challenge and requires stakeholder engagement. Taking Arctic issues into account is particularly important in areas where EU policies designed for a broad European constituency may yield specific consequences in the context of Arctic-specific challenges, such as remoteness, long distance, Arctic nature-based livelihoods, sparse population or vulnerability of Arctic environment. This is likely the case for regulations or policies in fields like transport, environment, ocean governance or rural policy.¹²²

A significant part of information on Arctic-specific concerns and impacts would need to be acquired from a broad spectrum of Arctic actors and stakeholders. This leads us to the third problem related to coherence and added value of EU Arctic policy-making, namely handling interactions between EU institutions and Arctic stakeholders.

6 Challenge Three: Managing Multiple Interactions with Arctic Actors and Stakeholders

More effective and meaningful participation of Arctic stakeholders in decision-making processes is a vital component of a response to social and

120 More transparent and better impact assessments are at the core of the new Better Regulation agenda of Juncker's Commission (Better regulation for better results—An EU agenda, Communication from the Commission 2015).

121 As was already partly suggested (regarding environmental impacts) in the Commission's 2008 Arctic Communication. See European Commission (2008). Communication COM/2008/0763 from the Commission to the European Parliament and the Council—The European Union and the Arctic Region.

122 Kirsi Latola and others, 'Activities Affecting Land Use in the European Arctic' in Adam Stępień, Timo Koivurova and Paula Kankaanpää (eds), *The Changing Arctic and the European Union* (Brill Nijhoff 2016);

environmental changes and to the rising complexity of Arctic governance. It is crucial to enhance two-way communication between Arctic stakeholders and EU decision-makers as well as to facilitate spaces for stakeholders to enter into dialogue with each other. So far, Arctic inhabitants, communities, businesses, local governments and organisations still lack appropriate information on the EU's role, interests and relevant activities in the region.¹²³

Enhanced participation enables understanding of values and livelihoods that might be neglected from the perspective of densely populated European economic centres, where human-environment relations (e.g. subsistence use of forests) may not be as vital for culture and identity as in the North.¹²⁴ EU cohesion and co-operation programs in the North are an example of added value provided by stakeholder involvement. There, the key role of local actors in setting objectives has resulted in the alignment of local perceptions of needs and challenges and the goals of EU-funded programs.¹²⁵

However, when carrying out stakeholder engagement activities, the EU institutions need to take into account the limited capacities of many Arctic actors¹²⁶ and better coordinate various stakeholder consultations mechanisms. Recently, a number of processes carried out by different EU services have involved the same groups of stakeholders, including: 'Strategic Environmental Impact Assessment of Development of the Arctic' commissioned by the DG Environment; operation of the Arctic NGO Forum (overseen by DG Environment project on creating space for exchange between NGOs focused on Arctic, primarily environmental, issues);¹²⁷ the DG MARE consultations on streamlining Arctic funding; and the work with stakeholders within the EU-Polarnet process leading to the European Polar Research Program, supervised by the DG Research. The 2016 Joint Communication adds to these processes the European Arctic Stakeholder Forum, goal of which is to identify overarching investment and research priorities, partly overlapping with the aims of the EU-Polarnet. Moreover, annual stakeholder conferences and the EU Arctic Policy Assessment¹²⁸ process are to complement this landscape of spaces for engagement.

123 This assessment is based on 'Strategic Assessment of Development of the Arctic', n. 1 above.

124 Latola and others 2016, n. 123 above.

125 According to feedback received in the stakeholder consultations.

126 Adam Stepień and others, 'Arctic Indigenous Peoples and the Challenge of Climate Change' in Elizabeth Tedsen, Sandra R Cavalieri and Andreas Kraemer (eds), *Arctic Marine Governance: Opportunities for Transatlantic Co-operation* (Springer 2014).

127 Arctic NGO Forum website at <<http://arcticngoforum.org/>> accessed 7 March 2016.

128 The EU Arctic Policy Assessment process is to examine the implementation of the EU's Arctic policy until 2019, see the Arctic Centre website at <<http://www.arcticcentre.org/>>

Furthermore, the EEAS and the European Commission have engaged Arctic indigenous organizations within the format of the so-called Arctic Dialogue. First taking place in 2010, this dialogue has become more regular starting from 2013. However, these meetings are mainly filled with presentations on various indigenous-relevant EU projects rather than discussing challenging issues. The discussions should be more focused and concrete, including practical, pressing matters and EU strategic interests in the Arctic. Possible questions could include the EU's strategic interest in developing EU-domestic resource extraction or infrastructural projects potentially supported by the EU.¹²⁹ The interaction with indigenous peoples needs to be linked up to other stakeholder engagement processes.

In the context of stakeholder engagement it must be remembered that indigenous people are also rights-holders. The participation of indigenous people (in particular the Sámi) in decision-making should be addressed in the light of evolving international indigenous rights (including land rights and the principle of free, prior and informed consent), primarily the UN Declaration of the Rights of Indigenous Peoples.¹³⁰ Responsible decision-making with regard to EU policies that may affect Arctic indigenous communities requires their meaningful participation. The concept of establishing a more permanent presence of the Arctic indigenous peoples or the Sámi in Brussels remains relevant.¹³¹ Such representation has to be independent from state and regional authorities and would need to address the constraints of indigenous organisations' human and financial capacities.

Better streamlining of different consultation mechanisms would avoid stretching the capacities and patience of Arctic academics, NGOs, policy-makers, and in particular local and indigenous communities. The 2016 Joint Communication does not deliver on such streamlining. Moreover, clear feedback on how consultation outcomes influenced specific decision-making is necessary to ensure participants remain engaged.¹³²

EN/News/uutinen?ln=x4ueznur&id=6244f2bc-27a7-4bec-8e69-bf5b097b03df> accessed 23 July 2017.

129 Stępień 2015, n. 1 above.

130 United Nations Declaration on the Rights of Indigenous Peoples (2007), General Assembly Resolution 61/295, New York, 13 September 2007.

131 This was already suggested at the 2010 'Arctic Dialogue' meeting. See the website of the European Commission's DG Maritime Affairs and Fisheries at <<https://webgate.ec.europa.eu/maritimeforum/content/1831>> accessed 4 March 2014.

132 See, for example, Stępień and others 2014, n. 1 above.

7 Conclusion

The scope of EU engagement in the Arctic is vast. The broad set of Arctic-relevant issues brings two distinct dimensions to the EU's presence in the Arctic: the Circumpolar and European Arctic. These spaces entail different foci (maritime versus terrestrial, environmental versus economic) and different composition of relevant stakeholders. In the European Arctic the Union is a key player, while in the pan-Arctic affairs it takes a back seat. The very diversity of Arctic-relevant policies, activities and external interactions suggests that it is unlikely that concrete, focused and operationalizable objectives of EU Arctic policy will ever be proposed. While abstract objectives may be necessary in order to give EU Arctic policy a recognizable identity and a narrative, such objectives will not translate into policy coherence across sectors and will not cause the EU Arctic policy to have an added value within the EU's policy system. The EU needs to focus on procedural mechanisms and instruments for coherent policymaking. Three challenges can be highlighted in this context: first, balancing between European Arctic and Circumpolar policy spaces; second, exerting effective influence on general policy and decision-making processes in the EU; and third, managing the multiplicity of interactions with Arctic actors and stakeholders. There are options that the EU should consider in order to address these three challenges. Distinguishing between the European and Circumpolar Arctic affairs and maybe even adopting a separate focused strategy for the European Arctic could lead to a clearer overarching framework. The 2016 Joint Communication takes the first steps in this direction. There is a need for better visibility of Arctic issues in EU policy-making, including via assessment, acknowledging and monitoring of the EU's Arctic environmental, economic and regulatory footprints. The intra-EU coordination and information flows regarding Arctic concerns could be improved, with regulatory impact assessments supported by stakeholder engagement playing a central role. Eventually, the numerous instances of interactions with Arctic actors should be streamlined in order to avoid overstressing the limited capacities of Arctic stakeholders. Considering the character of a cross-cutting policy dedicated to a transnational region, the EU Arctic policy is likely to remain a constant work in progress. By focusing now on procedural aspects of its interaction with the Arctic region, the EU can in a more realistic fashion make an increasingly positive contribution to the state of the Arctic and its governance in the long-term.