Conclusion

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1 Introduction

Although the Arctic territory of the EU (the European Arctic) was mentioned in the EU's 2016 Arctic policy, it is fair to say the EU mainly sees the Arctic as an external affair. This is evidenced by the fact that the European External Action Service has been heavily involved in the formation of the EU's Arctic policy. From the Arctic States' perspective, the EU has always been seen as an external power to the region. It is clear from the Ilulissat Declaration that they believe that only the Arctic States, especially the five coastal States, should hold the stewardship of the Arctic.¹ So what kind of power does the EU have in the Arctic?

The questions of the EU's power in the Arctic should be seen in the context of the wider "EU as a power" debate, which has been running for decades. Manners argues that the EU, owing to its particular historical evolution, its hybrid polity, and its constitutional configuration, has a normatively different basis for its external affairs than States do.² Meanwhile, Damro believes that because it is fundamentally a large single market with significant institutional features and competing interest groups, the EU could be best understood as exercising its power through the externalization of economic and social market-related policies and regulatory measures.³ The Arctic has proved to be an interesting testing ground for the EU's power which both illustrates the ways in which the EU wields power and provides some important lessons. In

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1 The Ilulissat Declaration, Arctic Ocean Conference, Ilulissat, Greenland, 27–29 May 2008. <http://www.oceanlaw.org/downloads/arctic/Ilulissat_Declaration.pdf> accessed 11 June 2017.

2 I. Manners, 'Normative Power Europe: A Contradiction in Terms?' (2002) 40 (2) *Journal of Common Market Studies* 235–58.

3 C. Damro, 'Market Power Europe' (2012) 19 (5) *Journal of European Public Policy* 682–699.

this chapter we draw out these conclusions, before going on to explore how these lessons could be applied in future.

2 Lessons Learnt

An initial response to the question of the role of the EU in the Arctic is to focus on its role in the Arctic Council and to examine the routes to strengthening that role. There are, however, a number of challenges to this. As we have seen, the Arctic States are not always receptive to EU influence. The EU itself has not always helped its cause, sometimes scoring an own goal in international policy and harming its reputation in the Arctic. As the contributors to this book make clear the Arctic Council is not the only route to EU influence, nor should it be considered the gold standard for interaction. If the EU is to exert “power” in the Arctic a more nuanced approach is required. It has to address the focus of its own EU Arctic policies; recognise the benefits of alternative routes to influence and take a more sophisticated approach to its interactions with and impacts on indigenous and local populations in the Arctic.

At present EU Arctic policies address the Arctic as a whole. As Stępień and Koivurova demonstrate, there are in fact two dimensions to the EU’s engagement with the Arctic—the Circumpolar and the European Arctic—and the differences between these need to be teased out more. The focus of the EU in each is different. In the Circumpolar Arctic the focus is on maritime and environmental issues, in the European Arctic it is on terrestrial and economic issues. So too is the role the EU plays in each. In the European Arctic it is a key player, but this is not the case in the Circumpolar Arctic, where it acts as an observer, or a less important player. As such it is not easy for the EU to have a single, coherent, Arctic policy. Stępień and Koivurova suggest that the EU should develop a separate strategy for the European Arctic and note that the 2016 Joint Communication begins this process.

The second step to securing power is, as Bailes and Ólafsson demonstrate, to use the soft power afforded by membership of sub-regional Arctic bodies. The EU’s membership of these bodies affords it the opportunity to build relations through, for example, joint projects. This route is, however, at some risk due to the lack of understanding of some EU politicians of the benefit of such depoliticised cooperation, particularly as the fruits of such cooperation may appear quite limited at first.

As several of the authors point out, the EU’s policies can and frequently do impact negatively on indigenous peoples and this in turn diminishes the EU’s power in the Arctic by reducing the willingness of key actors to cooperate with

it. A key example of such negative impact is the effect of the EU's policies on sealing and whaling discussed by Hennig and Caddell. The status of indigenous peoples in the Arctic is somewhat unusual: their sovereign rights are, for example, respected in States such as Canada. The EU also proclaims to protect such rights and yet EU policies on, for example, sealing, have undermined the sovereignty of indigenous peoples. There are, however, positive examples that the EU can draw on. Fakhri, for example, compares the EU approach to sealing with that taken by the USA, drawing out similarities in approach of the EU and USA and demonstrating how alternative forms of regulation can be developed that would support indigenous sovereignty rather than undermining it. As Campins demonstrates, though the EU policies have had a negative impact in the EU's relations with Greenland, here again the EU has the opportunity to make a more positive impact through helping Greenland to diversify its economy. There are also less obvious examples of the negative impact the EU can have on indigenous or other stakeholders in the Arctic.

As Stępień and Koivurova note the EU can be "thoughtless" in its interactions with Arctic stakeholders, in that its procedures may lead the stakeholders to have to interact repeatedly with the EU in various contexts. While such interaction will not be problematic for the EU, it stretches the resources of local and indigenous stakeholders. Again solutions to these problems can be found. Stępień and Koivurova, for example, suggest that the EU should focus on procedural aspects of integration, such as reducing the number of interactions required.

One of the challenges in achieving this more nuanced approach is, however, that the Arctic States have differing views of the benefits of working with the EU and this is coupled with the challenge that the EU's relations with the Arctic States is never confined to Arctic issues. The result is that developments in other areas may influence relations in the Arctic, or at least how those relations are interpreted. Norway, for example, may be considered as having a good relationship with the EU, but it views the relationship with the EU in the Arctic as part of their wider relationship. The result is that Norway's cautious approach to integration with the EU in general influences their relationships in the Arctic. And, like many EU Member States, Norway has a tendency to blame the EU when things do not go according to plan. Canada, by contrast, has been portrayed as being at loggerheads with the EU, yet the EU and Canada have signed a declaration welcoming "the deepening ties in Arctic cooperation".⁴ The EU's emphasis on the European Arctic and its focus on sustainability, are seen by Lackenbauer and Lalonde to both chime with Canada's aims for

4 Joint Canada-EU Declaration Ottawa, 26 September 2014, see Lackenbauer and Lalonde, Chapter 6.

the Canadian Arctic and diminish the possibility of conflict between the EU and Canada. This is particularly so as Canada tends to focus on national issues within its Arctic policy. In this way both then are supporting the concept that sub-regional policies are required along side the “One Arctic” focus of the US Arctic Council Chairmanship for 2015–17 and the Inuit Circumpolar Council. The same type of misconception applies in EU-Russian Arctic relations. These relations have to some degree been clouded by Russian military operations elsewhere. Thus Russian re-militarisation of the Arctic has been viewed as a threat. The reality, as Hunter demonstrates, is however that the military is being used to support resource extraction because the military is the only body with the capacity to provide the support required and Russian Arctic policies in fact align with EU interests in the Arctic, in particular in using the Northern Sea Route and in accessing resources within Russian jurisdiction.

The papers presented in the Part 2 on EU-Arctic State relations, therefore go some way to addressing misconceptions about relations between these States and the EU. They demonstrate again, the need for greater clarity and a more nuanced understanding of these relations if the EU is to exert power in the Arctic. By understanding where interests and policies align, the EU will be better placed to forge alliances, either directly, or through regional and sub-regional bodies. Such alliances will enable the EU to better wield its “soft power” in the Arctic and it is by doing this that it is most likely to achieve influence in the Arctic.

A second challenge to taking a more nuanced approach is that the various sectors of interest to the EU may require different approaches. In shipping and fisheries, for example, the key appears to be for the EU to adopt internal measures, or rather measures that apply to its vessels and in its ports. In relation to shipping, however, Ringbom suggests that it is more useful for the EU to exert pressure within the global regulator, the International Maritime Organisation, to secure the adoption of appropriate measures there. In relation to fisheries, Liu emphasizes that the EU is, and should, play a role in the negotiation of any regional fisheries management organisation in relation to potential fisheries in the central Arctic Ocean high seas. In relation to the hunting of marine mammals and in relation to oil and gas activities the EU is urged to rely less on a unilateral approach. In relation to oil and gas this is because a regional approach is required (both under international law and in practice) as Jessen demonstrates. In relation to marine mammals cooperation is urged because the EU's tendency to act alone has caused significant harm to indigenous peoples in the Arctic. It is, therefore, urged, by Hennig and Caddell, to work with the States and indigenous peoples involved in sealing and whaling in order to arrive at a more nuanced approach to the regulation of these activities.

These conclusions are of importance to Arctic governance as much as to the EU as they demonstrate the interconnectedness of regimes and that the development and implementation of obligations (or norms) in international law is not a linear process. Rather, actors influence their development and implementation in a variety of locations, often in less obvious locales than may be anticipated, and must be flexible in their approach to regulation and governance. It also demonstrates that even seemingly interconnected issues may require States and actors such as the EU to take quite different approaches to the development and implementation of international obligations for their governance.

3 Future Application

The Arctic faces a number of challenges some of which (such as how to develop sustainably, how to respond to climate change) chime with the interests of the EU. At the same time, the EU has strong political will to get involved and shape the development of Arctic governance. In this section we outline some key issues for the Arctic and illustrate how the EU may learn from the lessons outlined above to ensure it wields its soft power in the Arctic effectively.

As a normative power, the EU is expected to project its core norms: peace, liberty, democracy, human rights and rule of law⁵ to the Arctic. Further, it is suggested by Manners that in addition to core norms, there are four minor norms—social solidarity, anti-discrimination, sustainable development and good governance—within the constitution and practices of the EU.⁶ In the EU's 2016 Arctic policy, the EU addresses sustainable development in and around the Arctic as one of its priority areas. However, although the United Nations Agenda 2030 sets out 17 concrete sustainable development goals,⁷ the meaning of sustainable development and how to achieve is still debated. The Arctic, arguably a pristine frontier, could possibly provide lessons for the rest of the world about sustainable development by providing an opportunity to demonstrate how to strike the right balance between economic, social and environmental interests. The EU could play a part in achieving this, not only by providing research funding, technical support and investment in the Arctic,⁸ but also by testing and/or transferring the EU's ideas about sustainable

⁵ See Manners n. 1 above, 242.

⁶ *Ibid.*

⁷ UN Sustainable Development Goals <<http://www.un.org/sustainabledevelopment/sustainable-development-goals/>> accessed 12 June 2017.

⁸ JOIN (2016) 21, An Integrated European Union Policy for the Arctic.

development in this region, through for example cooperation with Arctic States. In turn, the EU may also learn from its Arctic experience to enhance its domestic policies regarding sustainable development. Some suggestions for how this may be achieved are discussed below along side suggestions for a second issue area of focus.

Climate change has been recognised as a major challenge for the Arctic. For example, on the occasion of the 10th Ministerial Meeting of the Arctic Council, the Fairbanks Declaration recognized that “activities taking place outside the Arctic region, including activities occurring in Arctic States, are the main contributors to climate change effects and pollution in the Arctic.”⁹ This underlines the need for climate actions at the local, national, regional and international level to protect the Arctic. The Arctic is warming at more than twice the rate of the global average, resulting in widespread social, environmental, and economic impacts in the Arctic and worldwide, and the pressing and increasing need for mitigation and adaptive actions and to strengthen resilience.¹⁰

As one of most industrialised regions near the Arctic, the EU has responsibility to combat climate change so as to protect the Arctic. The EU climate and energy package was adopted in 2009 to implement the targeted 20% reduction of GHG emissions compared with 1990 by 2020 along with generation of a 20% share of renewables in EU energy production, and 20% improvement in energy efficiency.¹¹ Climate change and safeguarding the Arctic environment is also one of three priority areas in the EU’s 2016 Arctic policy. The EU sees its Arctic policy as an important element in implementing the Paris Agreement,¹² which sets out a global action plan to limit global warming to well below 2°C.¹³ The EU believes that the Paris Agreement is an ambitious, balanced, equitable and legally binding agreement, which marks a decisive turning point towards comprehensive and collective global action against climate change.¹⁴ However, the United States withdrew from the Paris Agreement under the Trump Administration.¹⁵ This has the potential to undermine global efforts in dealing

9 Fairbanks Declaration 2017, Arctic Council <<https://oaarchive.arctic-council.org/handle/11374/1910>> accessed 12 June 2017.

10 *Ibid.*

11 EU Climate Change Policies, European Environment Agency <<https://www.eea.europa.eu/themes/climate/policy-context>> accessed 12 June 2017.

12 The Paris Agreement, United Nations 2015. <http://unfccc.int/paris_agreement/items/9485.php> accessed 12 June 2017.

13 JOIN (2016) 21, An Integrated European Union Policy for the Arctic.

14 *Ibid.*

15 President Trump Announces US Withdrawal from the Paris Climate Accord, The White House <<https://www.whitehouse.gov/blog/2017/06/01/president-donald-j-trump-announces-us-withdrawal-paris-climate-accord>> accessed 12 June 2016.

with climate change, since the US is the second largest greenhouse gas emitter in the world, next to China. In these challenging times, a strong EU is needed to take global leadership, for example to work with China and accelerate joint efforts to reduce global carbon emissions.¹⁶

The EU has identified sustainable development and climate change as two priority areas of the EU's Arctic policy. These are global concerns and particularly important for the Arctic. In order to effectively implement its policy objectives, there are three aspects that the EU could further address in the future.

3.1 *Direct Application of the EU Law in the Arctic*

The EU already regulates EU citizens and companies and could use this power to help achieve sustainable development and/or combat climate change in the Arctic. For example, as discussed by Jessen, inspired by the Deepwater Horizon disaster, Directive 2013/30 on the safety of offshore oil and gas operations, was adopted with specific reference to the Arctic waters. In particular, Article 20 of Directive 2013/30 provides that 'Member States shall require companies registered in their territory and conducting, themselves or through subsidiaries, offshore oil and gas operations outside the Union as licence holders or operators to report to them, on request, the circumstances of any major accident in which they have been involved'. This may provide a model for further action by the EU in relation to the Arctic. Regulations could be adopted, for example, placing restrictions on drilling in particularly fragile environments, or requiring far more stringent measures to be in place to prevent an oil spill than is normally the case to help ensure sustainable development. Given that EU companies such as Shell (Netherlands) and Total (France) are major players in offshore oil and gas activities, any such regulation could have a major impact in the Arctic even without impacting on non-EU companies.

Moreover, with the adoption and subsequent implementation of the Erika III package, the EU now has one of the world's most comprehensive and advanced regulatory frameworks for shipping. The EU maritime safety legislation is applicable to EU-flagged vessels in the Arctic (See Chapter 9). In addition, the EU could lead the international community by enforcing higher standards in Arctic waters. A great example would be to ban the use of heavy fuel oil in the Arctic for all EU vessels. Although vessels are encouraged by the Polar Code not to use such fuel in the Arctic, there is no ban at present.

16 China and EU Strengthened Promise to Paris Deal with US Poised to Step Away, The Guardian <<https://www.theguardian.com/environment/2017/may/31/china-eu-climate-lead-paris-agreement>> accessed 12 June 2017.

3.2 *The EU as a Market Power*

The EU has the world's largest internal market, supported by strong regulatory institutions. The European single market represents the EU's material existence and the most salient aspect of its presence in the international system.¹⁷ Trading with the EU requires foreign companies to adjust their conduct or production to EU standards. While the EU regulates only its internal market, multinational corporations often have an incentive to standardize their production globally and adhere to a single rule. This has the potential to convert the EU rule into a global rule, labelled by Anu Bradford as the 'de facto Brussels effect'.¹⁸

The EU has been using its market power to exert influence in the Arctic. The seal trade ban, which was discussed by Hennig and Caddell provides an example, albeit it caused a lot of concerns and protest from the Arctic States. The EU's market power however does provide teeth for the EU's normative power when it comes to projecting EU norms to the rest of the world. As discussed by Liu, the EU's Regulation against illegal, unregulated and unreported fishing could be applied in the future, when fisheries occurs in the central Arctic Ocean. With the fact that 1/3 of fish caught in the Arctic are sold in the EU, it is expected that the EU IUU Regulation could play a significant role in regulating fisheries in the Arctic waters by implementing EU standards. A similar case could be drawn in respect of Arctic shipping. When commercial shipping across the Northeast Passage finally becomes viable, most ships' destinations will be the European market, calling at big European ports such as Hamburg, Rotterdam or Antwerp. At that point, EU maritime safety standards could be applicable to Arctic shipping through port State jurisdiction. If the EU is going to incorporate shipping into its emission trading scheme (ETS), then the EU ETS will also have an impact on reducing greenhouse gas emissions from Arctic shipping.

3.3 *The EU Playing a Supportive Role in Regional and International Cooperation*

The EU has developed solid relations with all Arctic States, as explained in Part II of the book. In the foreseeable future, the Arctic Council will keep being the most important forum for regional cooperation in the Arctic. Although not an official observer, the EU could exert its influence through its Member States Finland, Sweden, Denmark, or even Norway, who is a member of the European Economic Area. Other EU Member States France, Germany, the Netherlands, Poland, Spain and Italy all have observer status in the Arctic Council. By

17 D. Allen and M. Smith, 'Western Europe's Presence in the Contemporary International Arena' (1990) 16 (1) *Review of International Studies* 19–37.

18 A. Bradford, 'The Brussels Effect' (2012) 107 (1) *Northwestern University Law Review* 1–67.

speaking in one voice, the EU will be able to influence Arctic Council decision-making processes even without official observer status.

In the 2016 EU Arctic policy, the EU identified international negotiation processes that might have direct relevance to the Arctic. Here it may be able to learn from the discussion in the chapters relating to EU relations with individual States. As Part II of this book made clear, the EU often has shared interests with Arctic States. While these interests may not at first be apparent, they do play a key role in shaping EU-Arctic relations. The EU may then wish to draw on shared interests in these other negotiations to develop an approach to influence, for example, sustainable development, in the Arctic. Examples of areas in which the EU could develop this approach include the multilateral negotiations on the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction: a key ongoing negotiation that will be of relevance to the Arctic high seas. The EU is also invited and has been attending the Arctic 5 +5 negotiations on fisheries management in the high sea portion of the central Arctic Ocean. It must be pointed out that the EU cannot expect to play a leading role in these processes, but it could be a cooperative partner. Shared interests between the EU and one Arctic State are particularly obvious in the Arctic 5+5 process, where the US takes the initiative and the EU's position is more or less in line with the US. In addition, as mentioned above, the EU is taking on leadership of climate change actions as the US is retreating from the field. Here, the EU could do more, using its diplomacy to ally with other big emitters such as China and India to deal with this global problem.

4 Conclusions

The world has witnessed significant geopolitical change after the Second World War. The EU is now facing a challenging time, addressing issues such as the refugee crisis and Brexit. Nevertheless, as the EU High Representative Federica Mogherini has noted, in a difficult time, the world and Europe need a strong European Union that thinks strategically, shares a vision and acts together.¹⁹ The EU has set out its vision of its role in the Arctic. This book has demonstrated that there are a variety of ways in which the EU can achieve that vision. In this concluding chapter we have also suggested some areas in which the EU may wish to focus its efforts. We wish the EU good luck in its mission to protect the Arctic in the era of the Anthropocene.

19 Shared Vision, Common Action: A Stronger Europe, A Global Strategy for the European Union's Foreign and Security Policy, June 2016. <http://eeas.europa.eu/archives/docs/top_stories/pdf/eugs_review_web.pdf> accessed 9 June 2017.