



# Call for Papers: The European Union and the Arctic

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**Co-Host: School of Law University of Dundee & K. G. Jebsen Centre,  
University of Tromsø**

**Steering Committee: Nengye Liu, Elizabeth Kirk, Robin Churchill, Tore  
Henriksen**

# Towards an Enhanced Governance of Arctic Marine Fisheries, the Role of the European Union

Dr. Nengye Liu  
Marie Curie Fellow, School of Law, University of Dundee

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- › Fish Moving towards the North
- › Current International Legal Regime
- › EU's Potential Contribution

# Fish Moving towards the North

- › A moderate warming will improve the conditions for some of the most important commercial fish stocks. This is most likely to be due to enhanced levels of primary and secondary production resulting from reduced sea-ice cover and more extensive habitat areas for subarctic species such as cod and herring (Arctic Climate Impact Assessment)
- › No commercial fishing in the Central Arctic Ocean so far

# Risks

- › Overfishing
- › Bottom trawling
- › Discards

# International Legal Regime for the Regulation of Arctic Fisheries



- › UNCLOS
- › Fish Stocks Agreement
- › Compliance Agreement
- › Port State Measures Agreement
- › FAO Code of Conduct for Responsible Fisheries
- › International Guidelines on Deep-sea Fisheries in the High Seas
- › International Guidelines on Bycatch Management and Reduction of Discards
- › Relevant regional fisheries bodies however cover parts of the high seas areas of the Arctic and sub-Arctic: the Northwest Atlantic Fisheries Organization (NAFO), the North Atlantic Salmon Conservation Organization (NASCO) and the North East Atlantic Fisheries Commission (NEAFC)

# Has International Law been Successful?

- › Not completely useless but in general failed (FAO: around 85% of global fish stocks are over-exploited, depleted, fully exploited or in recovery from exploitation)
- › Is there any hope?
- › The Arctic might be the last opportunity to provide successful lessons for the rest part of the world
- › Opportunities and responsibility for the EU to take actions/initiatives

# The EU and the Arctic: Policy Objectives

- › COM (2008)763: 1)Protecting and preserving the Arctic in unison with its population;2)Promoting sustainable use of resources; 3)Contributing to enhanced Arctic multilateral governance
- › JOIN (2012) 19: “as climate change and economic development accelerate in the Arctic region, the EU should step up its engagement with its Arctic partners to jointly meet the challenge of safeguarding the environment while ensuring the sustainable development of the Arctic region”
- › New Arctic Policy by Dec 2015 (Council of European Union Decision, May 2014)

# The EU as an Arctic Player

- › Oran Young: the EU is the most dramatic case a non-Arctic organization that asserts claims to be treated as a legitimate stakeholder with regard to Arctic issues (2010)
- › The EU is not a coastal state in the Arctic
- › The EU is a key high sea fishing entity
- › The EU is an important market for Arctic fisheries
- › UK, Germany, France, Italy, Spain, Poland, Netherlands are observers of the Arctic Council (the EU as well soon)

# Competence: Global Mandate

- › Consolidated Versions of the Treaty on the European Union, [2010] OJ C83/13, Article 21 (2) (f): The Union shall define and pursue common policies and actions, and shall work for a high degree of cooperation in all fields of international relations, in order to help develop international measures to preserve and improve the quality of the environment and the sustainable management of global natural resources, in order to ensure sustainable development

# Exclusive Competence

- › Consolidated Versions of the Treaty on the Functioning of the European Union, [2010] OJ C83/47, Article 3 (1) (d):  
**The Union shall have exclusive competence in the conservation of marine biological resources under the common fisheries policy;**
- › Only the EU may legislate and adopt legally binding acts, the Member States being able to do so themselves only if so empowered by the EU or for the implementation of EU legislation

# External Actions

- › The EU has been advocating a precautionary approach whereby, prior to the exploitation of any new fishing opportunities, a regulatory framework for the conservation and management of fish stocks should be established for those parts of the Arctic high seas not yet covered by an international conservation and management system.
- › Expanding North East Atlantic Fisheries Commission?
- › A new RFMO for the Central Arctic Ocean?
- › Arctic High Sea Moratorium by a specific treaty?

# External Actions

- › The U.S. has adopted a closure of commercial fishing in its waters north of the Bering Strait until there is appropriate scientific understanding and management in place
- › Step 1: The EU therefore, as a key high sea fishing entity, could easily support American efforts to place a moratorium on high-seas fishing in the central Arctic Ocean
- › Step 2: European Parliament Resolution of 12 March 2014 on the EU Strategy for the Arctic: support for the development of a network of Arctic conservation areas and, in particular, the protection of the international sea area around the North Pole outside the economic zones of the coastal states

# Internal Action

- › The EU accounts for 6 % of total fisheries production worldwide
- › It is possible that the EU could use its position as the owner of a globally significant fishing fleet to promote the adoption of similar measures amongst other fleets, if, for example, the EU fleet can demonstrate improved profitability as a result of this new approach
- › The Torremolinos Convention for the Safety of Fishing Vessels, which has not entered into force, has been made mandatory for EU flagged vessels through Directive 97/70/EC
- › Changes in the Common Fisheries Policy effective from 1 January 2014, such as the discard ban.

# Brussels Effect

- › One third of fish caught in the Arctic are sold on the European market, the EU also has power to use internal actions that might create external impacts on sustainable fisheries in the Arctic, such as port state control measures
- › The import ban imposed by the EU on Atlanto-Scandian herring and Northeast Atlantic mackerel caught under the control of the Faroe Islands, is a perfect example



# Concluding Remarks

- › The EU is an important player in the Arctic
- › Concrete competence
- › Concrete measures can be taken by the EU for a better regulation of fisheries in the changing Arctic

Thank you for your  
attention