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## **Faculty of Political Science and Sociology**

### **Bachelor's Degree Final Project**

Title:

**The role of the EU towards the Arctic: international trade and sustainability**

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## **List of acronyms**

Appellate Body: AB

Arctic Free Trade Area: AFTA

Black carbon: BC

Comprehensive Agreement on Investment: CAI

European Commission: EC

Exclusive economic zone: EEZ

Greenhouse gas: GHG

Heavy fuel oil: HFO

International Maritime Organization: IMO

Northern Sea Route: NSR

Northern Dimension Environmental Partnership: NDEP

Prevention of Pollution from Ships: MARPOL

The Last Interglacial: LIG

World Trade Organization: WTO

## **Introduction**

The climate crisis is a global problem. The rising temperatures are caused by the emission of greenhouse gas (GHG) emissions, mainly carbon dioxide, to the atmosphere (United States Environmental Protection Agency, 2020). This climate change causes human crises and conflicts, because of water and food scarcity; natural disasters, like the large increase in fires and the coral reefs death; weather extremes; economic impacts; and more negative consequences (United Nations, n.d.).

The Paris Agreement has the objective of limiting the global average temperature below 2°C with the final goal to limit the temperature increase more than 1.5°C, as compared with the pre-industrial temperature levels (United Nations, 2015). This Agreement does not include international shipping. Focusing on maritime traffic, the United Nations agency's International Maritime Organization (IMO) is the regulatory body of this industry (IMO, 2018a) and has an initial strategy for the reduction of GHG emissions (IMO, 2018b). Related to the Arctic, the International Code for Ships Operating in Polar Waters (Polar Code) entered into force in 2017 (IMO, 2017).

Climate change has been causing the Arctic's meltdown faster. This reality is opening economic opportunities that directly affect the environment and the life of local people. Easier access to natural resources, such as fisheries, minerals, and the major reserves of oil and natural gas (National Ocean Economics Program, 2017). The increase of tourist cruises and their passengers flooding the small Inuit villages (Connolly, 2019). And the Northern Sea Route (NSR) increased in 2019 cargo volumes by 56.7% compared with the previous year (Digges, 2020), and would be able to compete with the Suez Canal Route in the future if it can be used more during the year and increase cargo ships traffic.

The European Union (EU) does not have a precise position on international trade through the Arctic. In contrast, the Russian Federation has a clear strategy to boost NSR.

The EU's gross domestic product totaled 15.626 trillion in 2019 in USD currency, being after the US (Annex 1) (The World Bank, n.d). With 500 million consumers and the most open market to developing countries, "*the EU is an attractive market to do business with*" (European Commission, 2019). This economic weight offers its global regulatory power through trade relations and agreements.

This paper focuses on the impact of climate change on the Arctic and the new international trade opportunities. It provides an overview of Russian actions in the region. With international law as a background, it shows the EU's policy. Finally, It shows different proposals with the objective to find a balance between the environment and the economy.

## Climate crisis's impact over the Arctic

Arctic amplification is a phenomenon that shows how, in the last few decades, the region has warmed more than twice as fast as the global average (Cohen et al, 2014. p 627).

In the late 1970s, satellite-based measurements started. Results have shown a strong decrease in arctic ice extension over the last 40 years, with more ice melting in summers and less ice forming in the winters, during all months and most of the regions, except the Bering Sea in the winter. Until 2018, the minimum sea ice extent has a downward trend of 12.8% per decade since 1979 and in 2019, relative to the 1981-2010 average (Annex 2). But in 2019, the sea ice cover reached its annual summer minimum. Increasingly, the ice that does not melt during the year is more fragile and thinner. The decrease of sea ice it's a problem, among others, because *"its white surface reflects up to 80 percent of incoming sunlight, deflecting additional energy away from the planet. With less ice present, the dark surface of ocean water absorbs considerably more sunlight energy, leading to further warming of the atmosphere and more melting of ice, which leads to further warming..."* (Lindsey and Michon, 2019). The ice and permafrost regions, which are the frozen ground, host large amounts of carbon dioxide and methane. So its thawing will cause the emission of GHG (Schuur et al, 2015. p 171).

The permafrost melting has more consequences. Around 55% of Russian territory is permafrost and it has its main oil and gas fields. In June 2020 there was an ecological emergency when 20.000 tons of diesel leaked into the Arctic Ambarnaya river. This was due to a power plant collapsed tank. Igor Krasnov, Russia's chief prosecutor, ordered monitoring of permafrost facilities at risk of thawing (BBC, 2020).

There exist different predictions about when the arctic will be completely ice-free in summer. One research brings this reality closer in time. The previous studies based on climate model simulations had failed to capture the impact of the high temperatures, and a possibility is because they had not the correct capacity to capture The Last Interglacial (LIG) sea-ice changes. But using the latest UK Hadley Centre's coupled climate model's versions, this study achieved a more accurate

simulation of the LIG, with high temperatures, in the Arctic. Through this comparative and analysis of the current growing temperatures, with a natural cycle of water temperatures and climate change, half of the models predict sea-ice-free conditions during the summer between 2030 and 2040. *“This should be of huge concern to Arctic communities and climate scientists”* (Guarino et al, 2020).

The consequences of climate change in the Arctic not only rest in this region but affect the entire planet. Based on scientific literature, Arctic ice melting’s consequences are less salty marine environment, with freshwater changing oceanic circulation patterns in the North Atlantic; winters with lower and snowier temperatures; higher temperatures during summers, which increase droughts and the number of fires; rising sea levels; extreme temperatures; superstorms, torrential rains, floods, and hurricanes. The changes in the atmospheric circulation pattern can cause the blockage of the meteorological cycles favoring a more extreme climate, originating the climatic consequences mentioned above. For example, causing extreme climate records between 2000 and 2010 in Europe (Thompson, 2016. pp 12-13).

Another impact is the microbes. The permafrost thawing can release *“ancient frozen microbes, Pleistocene megafauna and even buried smallpox victims”*. These ancient organisms, from Cenozoic to the Pleistocene, could interact with our current environment. The future consequences, such as the antibiotic-resistant bacteria impact, are unknown but will have a potential risk (Miner et al, 2020).

2020 was the warmest year recorded as 2016. *“The largest annual temperature deviation from the 1981-2010 average was concentrated over the Arctic and northern Siberia, reaching to over 6°C above average”*. This year wildfires released 244 megatonnes of carbon dioxide in the Arctic Circle. It is over a third more of 2019, being a new record (Copernicus Programme, 2021).



## **International trade opportunities: Northern Sea Route**

In the competitive global markets, the transport's time and cost, and their impact over the price of the final product are essential.

Climate change opens shorter sea routes along the geographic polar north, and these routes can be attractive, more and more over the years and thaw, for saving fuel and reducing piracy risks. Different Arctic sea routes with potential transit options exist, and the NSR is one of them (Annex 3). The NSR extends across the Russian Arctic and connects the markets of Asia and North Europe. It is usually the first route that is free of ice in summer, which facilitates ship traffic. Compared with the traditional routes, across Suez or Panama canals, this route can be 35% faster (ABS, 2016. pp 5-6).

This section focuses on trade and mainly on Russia, with China also playing a role.

For Russia, the access to the Arctic is a great opportunity to increase its influence in the global economy and politically. But currently, the NSR is not competitive. In 2019 only 37 ships made the NSR between Europe and Asia, and this is fewer than the ships crossing the Canal Suez in one day (Digges, 2020). In 2020, more than 32 million tons of goods have been shipped on the NSR. This was a new record (Staalesen, 2020a).

In 2018 the Danish company *Maersk*, the shipping company with more vessels and 17,90% of the market (Alphaliner, 2020)<sup>1</sup> sent the first container ship to the NSR (Jacobsen, 2018). Its new container ship under the flag of Denmark *Venta Maersk*, with a carrying capacity of 3600 TEU (twenty-foot equivalent unit) (Marine Traffic, n.d), in 2018 completed the NSR transporting 660 reefer containers. On August 22, the vessel started their trial passage from the Pacific Russian port city Vladivostok, near China and North Korea borders. Through the Bering Strait, it arrived at the German port city Bremerhaven and returned to Russia finishing the route in Saint

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<sup>1</sup> Data are from September 02 2020.

Petersburg on September 28 (Offshore Energy, 2018). This route needs eleven days and 3300 nautical miles less than through the Suez Canal; do not have pirates; need permissions by the Russian Northern Sea Route Administration, because most of the route is in Russia's exclusive economic zone (EEZ); and have Russian charges fees for icebreaking assistance and navigation. The problem is the route's difficulty and the navigable time: the NSR is only available a few months, and the Suez Canal Route is year-round (Annex 4) (Booth and Ferris-Rotman, 2018). Palle Anderson, Chief Technical Officer at *A.P. Moller - Maersk*, said *"currently, we do not see the Northern Sea Route as a viable commercial alternative to existing east-west routes (...) That said, we do follow the development of the Northern Sea Route. Today, the passage is only feasible for around three months a year which may change with time. Furthermore, we also must consider that ice-classed vessels are required to make the passage, which means an additional investment"* (The Maritime Executive, 2018). The next year, *Maersk* changed their position about the route and started exploring the possibility of sending cargo ships again during the summer. The company started conversations with the main icebreakers Russia operator *FSUE Atomflot*, for did together with the transport of goods due to growing demand. *Maersk* also has *COSCO*'s competition. *"With COSCO already planning 14 NSR transits this summer, Maersk may feel obligated to offer NSR sailings as well simply in the interest of preserving market share—or at least not ceding it to a strategic rival like COSCO without a fight"* said Ryan Uljua, an analyst at CargoMetrics Technologies (Humpert, 2019a).

*FSUE Atomflot* is part of the *State Atomic Energy Corporation Rosatom* and is the only operator with nuclear icebreakers in the world. These icebreakers are important because they offer assistance to the vessels that are in the NSR. For example, they helped *Venta Maersk* in the East Siberian Sea (The Maritime Executive, 2018). *Atomflot* invested in the construction of one new icebreaker named the *Leader*, with more capacity, which shows the strategic importance of icebreakers in the coming years. One of the objectives is to achieve year-round navigation in the north. The *Leader* is expected to be operational in 2027 (Blenkey, 2020). In 2020, the Russian icebreaker LNG carrier *Christophe de Margerie*, a gas fleet, has a successful trip in twelve days from the port of Sabetta, in Russia, to China. They received the escort of *Yamal*, *Atomflot's* icebreaker, in the eastern part after going through part of the Kara Sea without needing the assistance of another icebreaker. The transit was in May

and became the first large-capacity vessel that completed the route at this time (The Maritime Executive, 2020). Normally, the navigation conditions start in July and finish in October.

Russia expects to quadruple the shipment of NSR by 2024 compared to 2018. Aleksey Likhachev, general director of *Rosatom*, expects the annual traffic of 19.7 million metric tons to rise to 80 million. This perspective was presented in a working meeting of NSR Public Council, which is the sole infrastructure operator of the NSR (Communications Department of ROSATOM, 2019), with the participation of public and private Russian organizations and shipping companies interested in the route. The investment's estimation, that makes the route viable and safe, will be 736 billion roubles (\$11.7 billion). Likhachev said *“this requires the development of infrastructure, including the Arctic icebreaker fleet, satellite communications, accident prevention measures, port fleet and digital services for shipping. We will be able to meet these challenges together (...) charterers; shipping companies; scientific and project organisations; business representatives and the authorities”* (Schuler, 2019).

The Russian government has an Arctic Master Plan that President Vladimir Vladimirovich Putin signed in March 2020. The Ministry of the Far East and the Arctic is responsible for the creation of the Plan that covers until 2035. The plan, into effect upon President Putin's signature, has the objectives of increasing natural resources exploitation, massive industrialization on the far north and developing the NSR such as a competitive route on the world market, with new regulations and laws (Staalesen, 2020b). The Plan also considers the rational use of the resources and the protection of the environment, original habitat, and the traditional life of indigenous peoples (Ministry of the Development of the Russian Far East, 2020). This Plan also aims to answer in advance the doubts of some shipping companies, which do not see the route as a real possibility. For example, *Maersk*, despite dialogue with *Atomflot*, said the route is treacherous and uneconomical. One possibility is the creation of a State-run container ship operator that would help in the transport, cover the cost of risks and higher insurance payments, a minimum of one decade to make the route competitive (Tanas and Dina, 2019). Beyond economic efficiency, the environmental impact is also fundamental for some companies such

as France's *CMA GGM Group*, the fourth largest shipping company with 11.0% of the market (Alphaliner, 2020)<sup>2</sup>, because "*use of the NSR will represent a significant danger to the unique natural ecosystems of this part of the world, mainly due to the numerous threats posed by accidents, oil pollution or collisions with marine wildlife*" (Angell, 2019).

Russia knows that China is also very interested in the NSR.

In 2018, China announced its China's Arctic Policy. In this plan they explain its interest in building the "Polar Silk Road", inside their Belt and Road Initiative, developing the shipping routes across the Arctic through the investment and construction of infrastructure by the Chinese companies and stronger international cooperation. Vice-Foreign Minister Kong Xanyou said at the briefing that "*some people may have misgivings over our participation in the development of the Arctic, worried we may have other intentions, or that we may plunder resources or damage the environment. I believe these kinds of concerns are absolutely unnecessary*" (Wen, 2018). One of the concerns comes from the Clean Arctic Alliance, a group formed by twenty nonprofit organisations, which want China's *COSCO Specialized Carriers Company* not to use the heavy fuel oil (HFO) due to the serious impact that a spill of this fuel at sea could have on the ecosystem and the environment (HFO-Free Arctic, 2019).

China's *COSCO Specialized Carriers Company* is part of the *COSCO Shipping Group*, the third-largest shipping company with 12.5% of the market (Alphaliner, 2020)<sup>3</sup>. This company started its routes in the NSR in 2013, and has been increasing the traffic years by year between Asia and Europe. More than twenty of its vessels had voyaged across the Arctic since 2013. COSCO signed an agreement with the Russian gas company *Novatek*, intending to create the Maritime Arctic Transport LLC, and ensure a long-term partnership for the shipping of hydrocarbons and the organization of transit cargo across the NRS. Beyond *COSCO Company*, Chinese companies such as the China National Petroleum Corporation or the China National Offshore Oil Corporation invested in *Novatek* and the *Yamal LNG* project. Also,

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<sup>2</sup> Data are from September 16 2020.

<sup>3</sup> Data are from September 17 2020.

these Chinese companies are part-owners and operate nine, of fifteen, *Novatek Arc7 LNG*. China is the largest vessel's foreign operator in the NSR (Humpert, 2019b).

Russia used Suez Canal blockage to promote the NSR as an alternative in face of the “fragility” of the routes between Europe and Asia (Woody, 2021).

Access to the sea means increasing power and influence in the global sphere, and Russia will do everything it can to promote and make NSR a viable route.

With other powerful countries also interested in the NSR, such as China, it is only a matter of time before freight traffic increases more and more.

## EU

### **EU's Arctic policy**

The EU has been updating its Arctic Policy since 2008.

In 2016, the European Commission (EC) published a Joint Communication to the European Parliament and the Council about an integrated EU policy for the Arctic. The three priority areas are Climate Change and Safeguarding the Arctic Environment; Sustainable Development in and around the Arctic; International Cooperation on Arctic Issues. It shows aspects related to the EU EUR 10 million investment over the region with the 2016-2017 work programme related to research and the around EUR 200 million in the past decade with the Horizon Programme; the EU spaces programmes with the operational infrastructure and services of Copernicus; among others (European Commission, 2016. p 6).

In March 2017, the resolution *An integrated EU policy for the Arctic* was adopted by the European Parliament (Legislative Observatory, 2017).

An important element of this resolution is HFO. The HFO is the remains of the oil refining process, the residue left at the bottom of the barrel. Its use in the Arctic grew 75% between 2015 and 2019 (Comer et al, 2020). Currently, Over 80% of the fuel used in the Arctic is HFO (IMO Arctic Summer, 2020a). A spill would be very harmful because it is a dense fuel that sinks and can be transported over long distances, damaging the food supply of indigenous peoples. Its combustion emits heavy metals, sulfur oxides, and large quantities of black carbon. It increases the emission of heat, which is absorbed by the ice and contributes to melting. The resolution calls on the Commission and the Member States to take the necessary measures to prohibit the use of HFOs in the Arctic, through the International Convention for the Prevention of Pollution from Ships (MARPOL) of the IMO, and/or through port State control (European Parliament, 2017. p 15).

IMO presented in February 2020 a draft regulation banning HFO in the Arctic that will go into effect in 2024, but it could be not enough. With the exemptions and waivers, just 30% of HFO carriage and 16% of HFO use it's going to be banned; and the black carbon (BC) emissions would decrease only 5% (Annex 5) (Comer et al,

2020). This draft was approved in November 2020, with opposition from indigenous groups and other organizations. Russia, Norway, Canada, the United States, and Denmark (Greenland) have waivers with ships with their flag operating in their EEZ. Over half of the HFO use is from vessels without Arctic State flags. Non-neutral flag regulation may cause an increase in vessels flying the flags of Arctic States wanting to use the exemptions, how Senior Policy Advisor at NGO Seas at Risk's John Maggs fears (IMO Arctic Summer, 2020a).

This draft is an amendment to Annex I of the MARPOL. It adds the Regulation 43A “Special requirements for the use and carriage of oils as fuel in Arctic waters” which allows the use of the waivers until 1 July 2029 (IMO, 2020a. pp 79-80). This amendment is expected to be adopted in June 2021 (IMO, 2020b).

In international cooperation, the EU participates in multilateral forums (European Union External Action Service, 2017). For example the Arctic Council, established in 1996, is an intergovernmental forum that promotes cooperation and interaction between the Arctic States, indigenous people, and others with shared interests. The main objectives are the protection of the environment and sustainable development (Arctic Council, n.d.a). Three EU States are formal members: The Kingdom of Denmark, Finland, and Sweden (Arctic Council, n.d.b). The formal members have veto power over other States and organizations. The EU is not an observer with limited rights and it can't talk in the Council, because it was blocked by Russia due to the EU's economic sanctions against them for the Ukraine conflict (Brzozowski, 2020). The ban on European economic operators exporting technology for offshore oil exploration purposes affects Russian economic activity in the region. Furthermore, the Kremlin does not like the regulatory character of the EU, which could, for example, try to implement strong measures on maritime transport and affect its economic interests (Depledge and Tulopov, 2016).

Other experts, and stakeholders in the region, have confusion with EU's interests and strategies and consider it problematic that many European countries see the Arctic-like as a homogeneous region and not with their *eight different countries with*

*their objectives*<sup>4</sup>. Senior Research Fellow at the Fridtjof Nansen Institute's Andreas Østhagen, in Oslo, considers that the EU want focus more on grown their legitimacy and relevance over the region, and thinks the new Commission will continue more or less with the same objectives as the previous Commission, focusing on development, the cooperation's importance, and international law. *"But if von der Leyen wants this to be a 'geopolitical' Commission, it will be more interesting to see how the EU intends to react to the growing strategic importance of the Arctic"* (Brzozowski, 2020).

In July 2020, the EC and the European External Action started a public consultation about the future of the EU's Arctic policy until November 2020. The consultation and the new future policy have the objective of *"re-examine the role of the EU in Arctic affairs; revise the three priorities of the current Joint Communication on An integrated European Union policy for the Arctic; and identify possible new policy areas to be developed"*.

High Representative Josep Borrell remarked *"Climate change is dramatically transforming the region, and increasing its geopolitical importance, with a number of players seeing new strategic and economic opportunities in the High North. We must ensure that the Arctic remains a zone of low tension and peaceful cooperation"*.

Commissioner for Environment, Oceans, and Fisheries Virginijus Sinkevičius said *"What happens in the Arctic, does not stay in the Arctic. It concerns us all. The EU must be at the forefront with a clear and coherent Arctic policy to tackle the challenges in the years ahead"*.

(European Commission, 2020a). This policy is going to be unveiled in autumn 2021 (European Union External Action Service, 2021).

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<sup>4</sup> Canada, Denmark, Finland, Iceland, Norway, Russia, Sweden, USA.



## **Proposals for the EU**

The EU's Arctic Policy approved in 2017 does not include the following proposals that could be part of new strategies:

### **MULTILATERAL FRAMEWORK:**

- Access to waivers linked to sustainability (COP26).
- Carbon neutrality in the region at the latest by 2050.
- Arctic Free Trade Area (AFTA).

### **EU FRAMEWORK:**

- Special GHG emissions tax.
- Trade conflict.

### **MULTILATERAL PROPOSALS**

- **COP26 FRAMEWORK**

It is assumed that Regulation 43A points 4 and 5 related to the waivers amendment will be adopted in June 2021.

The EC base proposal, opened to changes for achieving consensus, could restrict access to the waivers.

The State fixes the conditions for the vessels if it wants to use its flag and has the responsibility to exercise its jurisdiction and control over the vessels with its nationality, as shown in the Articles 91 and 94 of the United Nations Convention on the Law of the Sea (United Nations, 1982. p 52). The EC proposal would call on States with waivers to ensure the access of their flags only if they are following some ambitious plan related to the reduction of the negative impact on the environment. For instance, *Maersk* has the objective to have carbon-neutral commercial vessels from 2030 with the target to achieve a carbon-neutral economy by 2050 (Johnson,

2019). This plan is more ambitious than the IMO strategy on the reduction of GHG emissions. It has as an objective *“to decline to reduce CO2 emissions per transport work, as an average across international shipping, by at least 40% by 2030, pursuing efforts towards 70% by 2050, compared to 2008; and reduce the total annual GHG emissions by at least 50% by 2050 compared to 2008”* (IMO, 2018b. p 6). It is necessary to reward the enterprises with ambitious sustainability plans with access to the Arctic sensitive seas.

The EC would start a debate with the European Council about this proposal related to finding a consensus position in this matter and defend together in the next COP26. The main objective is to defend the Arctic environment unopposed to Regulation 43A. The EC proposal would be based on the strategic agenda 2019-2024, promoting European values and interests related to the environment over the global stage (European Council, 2019). During the process, other countries could use a strategy based on causing discontent in the Council. For example, the ancient German Foreign Affairs Sigmar Gabriel warned of the risk of China dividing the EU and called for a unified strategy. China answered by questioning the unity and asking about the *“consensus on “one Europe” among EU members”* (Poggetti, 2017).

Beyond the EU States Members could be positive to find other alliances as the AFTA States and the United States of America. In the case of the U.S, the new Administration is aware of the importance of international trade policy in the protection of the environment (Office of the United States Trade Representative, 2021). How much more States will be together in this proposal more force is going to have in COP26.

- **REGION FRAMEWORK: Carbon neutrality and a future Arctic Free Trade Area (AFTA)**

The objectives are to achieve carbon neutrality in the region at the latest by 2050 and, in the long term, an Arctic Free Trade Area (AFTA).

The EU could show its current economic and environmental agreements with the rest of the European Arctic States<sup>5</sup> as the base to increase the cooperation with the decarbonisation plan and AFTA as the final step:

State	Waivers	Economic deal	Environmental aspects
The Kingdom of Denmark	YES	EU member	-European Green Deal -EU environmental and climate change legislation (EUR-Lex, n.d)
Finland	NO	EU member	
Sweden	NO	EU member	
Iceland	NO	EEA	-European Economic Area (EEA) Chapter 3 Article 73,74 and 75 (EFTA, 2016)
Norway	YES	EEA	-EEA Annex XX (EFTA, 2020)
The Russian Federation	YES	---	-Cross Border Cooperation -Northern Dimension -Strategic partnerships for the implementation of the Paris Agreement

<sup>5</sup> The People's Republic of China, the United States of America and Canada are not included in the table to delimit the work, but they are also important countries.

Russia and China will not stop their investments and projects over the Arctic, and the EU could use these strategies to increase its influence in the region. A trade deal is not feasible in the short term because negotiations can take years. During this time, the EU could propose carbon neutrality in the region at the latest by 2050 and find ways to start an AFTA negotiation. This objective is complementary to the climate neutrality in the EU by the same date, fixed in the European Green Deal (EUR-Lex, 2019). Michael Mann, the EU Special Envoy for Arctic Matters, asked about an oil-free Arctic, used Iceland as an example of how decarbonisation creates jobs and other opportunities (Jonassen, 2020). This is a way to increase environmental cooperation with a common goal on a regional basis and also facilitate the compliance of the Paris Agreement.

The AFTA would be the ideal final step. The achievement of this objective would mean economic, social, and environmental consensus. The dangerous conflict between the States would be reduced and this is important because currently we are having an increase of tensions and diplomacy conflict.

This proposal would cover Russia, China, and Arctic countries. China is not geographically in the Arctic, like most of the EU, but it is an essential player.

The EC will defend multilateral dialogue, searching for consensus, and not economic conflict. It is the best way to avoid negative economic impacts. The EU economic relation with Russia is substantial.

Russia is the fifth-largest trading partner; the EU is Russia's largest trading partner. The goods account balance with Russia is in deficit (Annex 6). Russian energy has a strong influence on European imports. They have not been negotiating anything since the annexation of Crimea and the Eastern Ukraine conflict, and the bilateral Partnership and Cooperation Agreement stopped (European Commission, 2020d). This Cooperation Agreement contemplated a future creation of a free trade area (EUR-Lex, 1997). The European Council prolonged the sanctions over the country until 31 July 2021 (European Council, 2020).

These EU proposals could be an opportunity to recuperate the initiative in the international economic framework politics, with sustainability values. And this is more

important in a context where Asia and Pacific nations signed the world's biggest trade deal, without unified environment standards (Aljazeera, 2020).

In front of these multilateral and regional proposals, Russia could be opposed. The country does not like the regulatory character of the EU. It is going to see this as an EU stratagem to increase its power over the region.

The EC may react with dialogue and avoid increasing the diplomatic conflict. The EU has channel dialogue with Russia despite the economic sanctions. The Northern Dimension Environmental Partnership (NDEP), for example, is a support fund for environmental and nuclear safety investments (Northern Dimension Environmental Partnership, n.d). The EC can offer investment through projects related to the environment and the Russian Arctic Master Plan, using the NDEP or other mechanisms as the Horizon Programme.

Russia needs the construction of the nuclear icebreakers to offer assistance and protection of the cargo ships. And increase also the efficiency of energy and nuclear waste management. These investments would be in addition to others already made by the EU in this field, such as those aimed at mitigating the legacy of the operation of the nuclear-powered ships and submarines of the Russian northern fleet, which are being dismantled. In this case, the EU is the largest contributor (European Union External Action Service, 2020). Russia also needs to industrialize far north and improve its ports and connections if it wants to be competitive while increasing traffic cargo. These are only some examples of where the EC could help in exchange for sustainability. Both sides would win. Russia would receive funding, and the EU could participate by investing in strategic sectors.

The EU economic sanctions will be non-negotiable because these are the answer to the Russian acts against international law. And these sanctions could increase in the future if Russia does not change its external policy.

Despite tensions between the EU and Russia, it would be good to seek bilateral dialogue on Arctic trade sustainability issues beyond multilateral fora. The EU must convince Russia of the importance of collaborating on this issue and finding the

balance between trade and sustainability. If the EU and Russia reach an agreement, even a minimal one, it will be easier to find a global deal with the rest of the Arctic States.

## **EU FRAMEWORK:**

If the previous strategies have not worked or are too slow, the EU has mechanisms in place to promote sustainability through economic policy. The EC is developing the initiative *Carbon border adjustment mechanism* to place a carbon price on imports from countries with less climate-ambitious plans. The purpose is to avoid carbon leakage (European Parliament, 2021)<sup>6</sup>. But if the EU considers that the Arctic States are abusing the waivers and implies a dangerous environmental impact in the Arctic, an additional tax could be considered.

Special taxes could be created for metric GHG emissions inside the EEZ of EU States beyond other mechanisms as port charges. These special taxes would be necessarily higher than the standard GHG taxes because they are focused on the vessels of the NSR. For example, a higher special tax for metric BC emissions. The objective is to act as a counterweight for the vessels that would use HFO under the IMO waivers. More taxes would be necessary for the different types of GHG emissions like carbon dioxide and methane of the Liquefied Natural Gas (LNG) fuels<sup>7</sup>.

In the same line of the multilateral strategy, the objective is to reward the enterprises that strive to increase their sustainability. Use scrubbers to reduce over 30% of BC emissions if the vessel uses residual fuel; or move to distillate fuels and reduce BC emissions by 33% (EUA - BCA, n.d.).

If the EU finds other allies in this strategy, it would be more effective.

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<sup>6</sup> It is specified that its role is not to promote trade protectionism. But, in a context in which the EU industry must make a transition towards more sustainable models such as the use of the circular economy, could this be the origin of a future *green protectionism*?

<sup>7</sup> It would be a fiscal policy, and it is the competence of the EU States. It would be necessary the consensus for having the same tax, and avoid competence between European States.

If the conflict with Russia increases, the EU could use other trade mechanisms such as increasing tariffs and banning some products. The objective of the sanctions would be to cause economic injury to specific Russian economic sectors.

In this case, the EU could use *Article XX General Exceptions of the General Agreement on Tariffs and Trade (GATT)* (World Trade Organization, 1986. p 45). Specifically:

(a) *necessary to protect public morals*: the protection of the Arctic environment is a moral duty.

(b) *necessary to protect human, animal or plant life or health*: the consequences of its environmental damage would be very negative over human, animal, and plant life or health of the EU and the world.

Russia might consider the measures as illegal because *constitute a means of arbitrary or unjustifiable discrimination between countries* as is remarked also in Article XX. But if the Appellate Body (AB) of the World Trade Organization (WTO) is still blocked, it will not be able to use it to denounce the EU.

But if the conflict was with China, it would be able to use the temporary system for appealing WTO disputes (Brunsden, 2020). This system would be in place until the AB becomes operational. Russia decided not to go inside. The EU should defend and demonstrate that these are not purely protectionist measures. It will have to rely on scientific studies and China-specific activities to defend its position. If the EU loses, it will be sanctioned. One risk would be that Russia would join in this temporary system of appealing in order to have the capacity to denounce the EU.

This strategy is one of the worst scenarios. It would cause a trade war with negative consequences for the EU economy. And the EU would be sanctioned sooner or later if it fails to convince the temporary system for appealing or the AB.

It is essential at the same time to research consensus for the WTO reform with environmental aspects in the center of the international trade order.

## Conclusions

The Arctic is a very sensitive and important area on Earth. It has been hit hard by climate change. The EU does not have all the legitimacy that it wanted over the region, but has a strong regulatory influence over the world because of its market power. In front of the other two main Eurasian actors, Russia and China, the EU needs to go one step further and take a stand in the world with a balanced proposal between the environment and climate change.

The EU multilateral strategies would give the initiative to it. Avoid the extreme of asking not to use the NSR and look for a pragmatic solution, open to the changes that may occur during the negotiation with the other Arctic States.

Rewarding companies that make ambitious improvements to reduce their ecological impact is necessary. Business competition for access to the Arctic would directly impact these improvements.

Related to Russia, it is necessary to avoid conflict and focus on dialogue channels to agree on the 2050 carbon neutrality and a future AFTA. The AFTA would be the best and definitive method to find a balance between the benefits of trade and the environment, but the current environmental cooperation and strategy are urgent. Creating this environment of negotiation and consensus with common objectives could help reduce tensions in other areas such as the military.

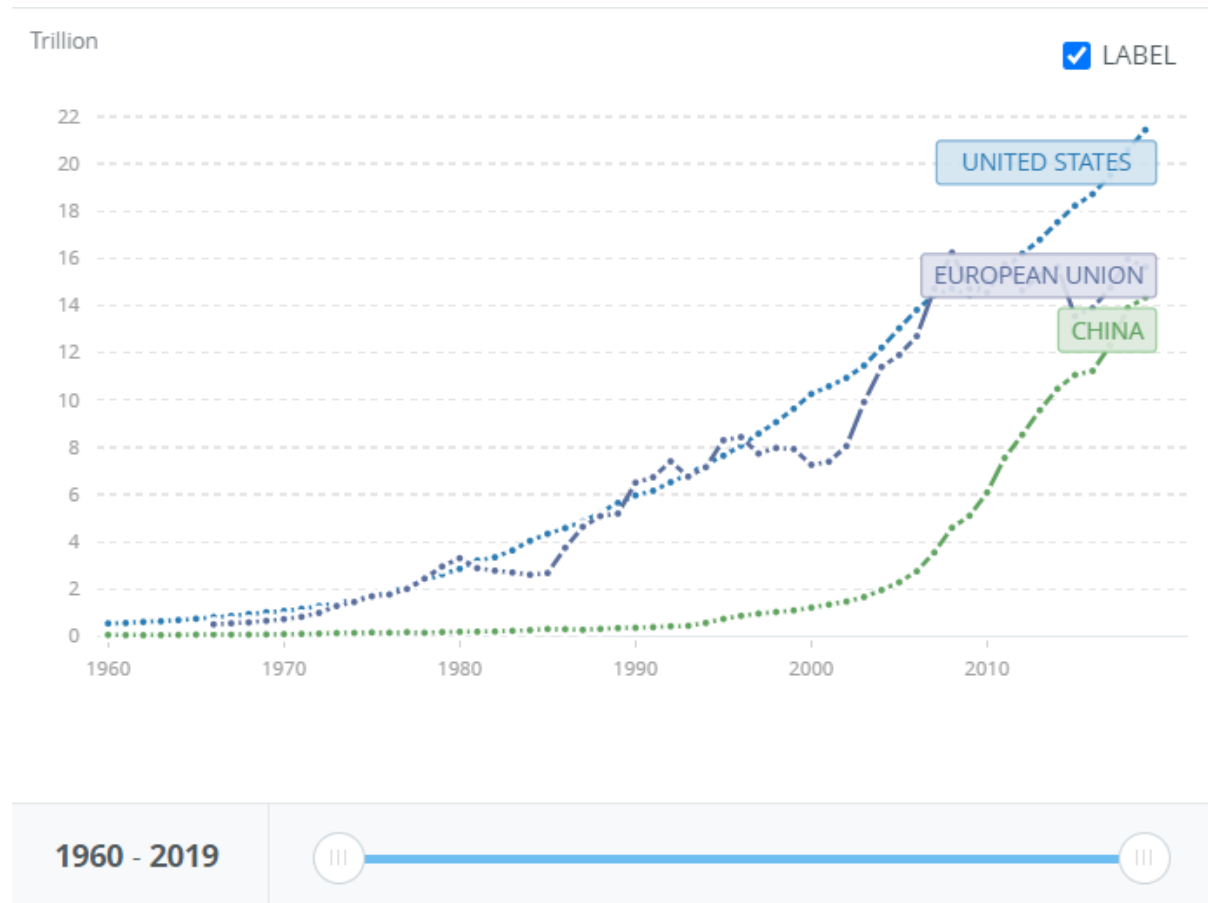
How said the author and correspondent at TIME Haley Edwards: "*We are not talking about trade, we are talking about rules. We are talking about global rules. Global standards. And what kind of world we want to be*" (TEDx Talks, 2017).

These global rules and multilateral cooperation are the only way to address climate change with any chance of success.



## Annexes

### 1 EU: the second largest economy.



The World Bank. n.d. "GDP (current US\$) - United States, China, European Union".

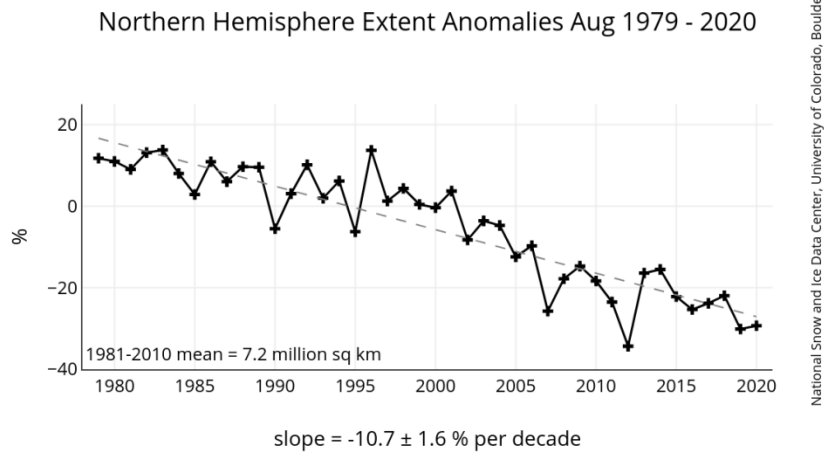
Most recent value (millions):

US: 21,433,226.00 USD

EU: 15,626,448.48 USD

China: 14,342,903.01 USD

## 2 Downward trend of the minimum sea ice extent.



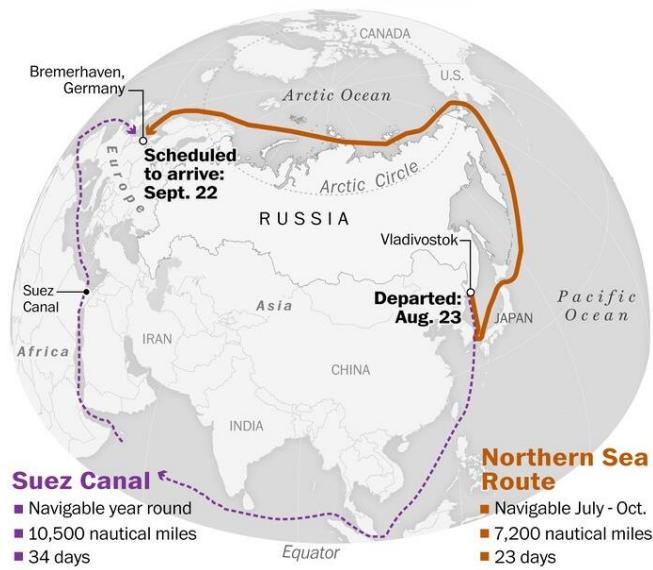
National Snow and Ice Data Center. n.d. "Sea Ice Index".

## 3 Arctic sea routes with potential transit.



ABS. 2016. "IMO Polar Code Advisory".

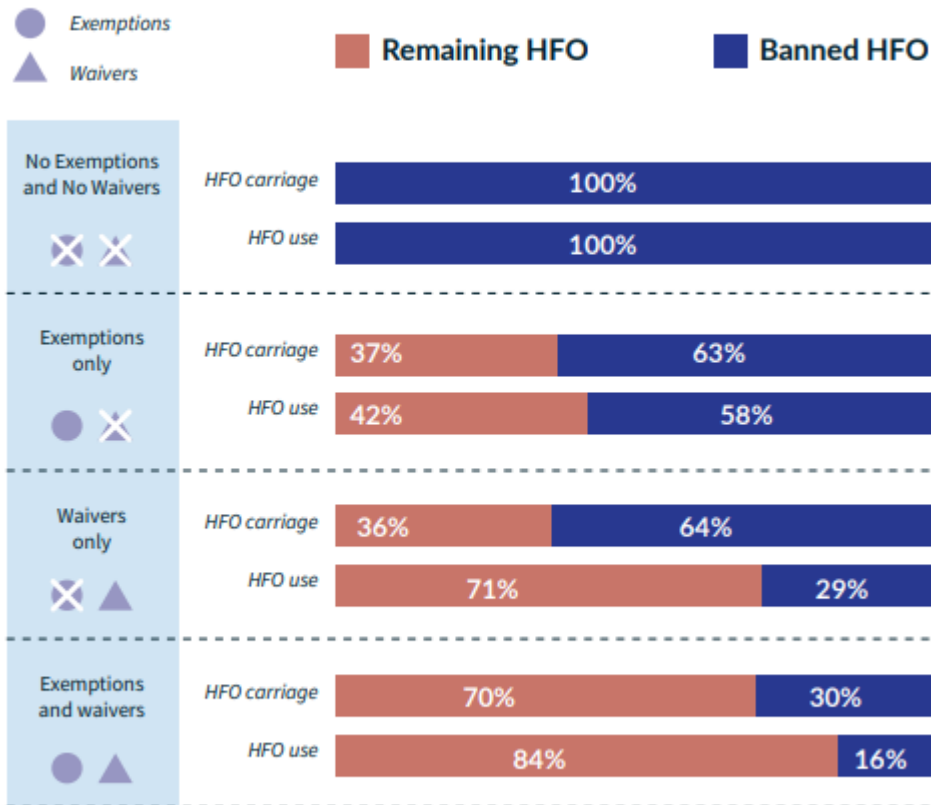
#### 4 Comparative: NSR and Suez Canal Route.



Booth and Ferris-Rotman. 2018. "Russia's Suez Canal? Ships start plying a less-icy Arctic, thanks to climate change".

## 5 Amendment to Annex I of the MARPOL: waivers and exemptions.

### How different combinations of exemptions and waivers affect HFO carriage and use:

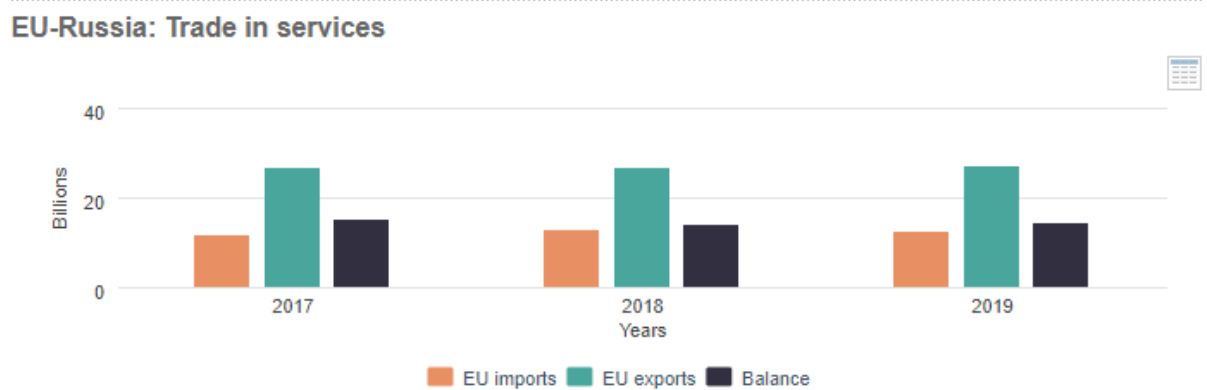
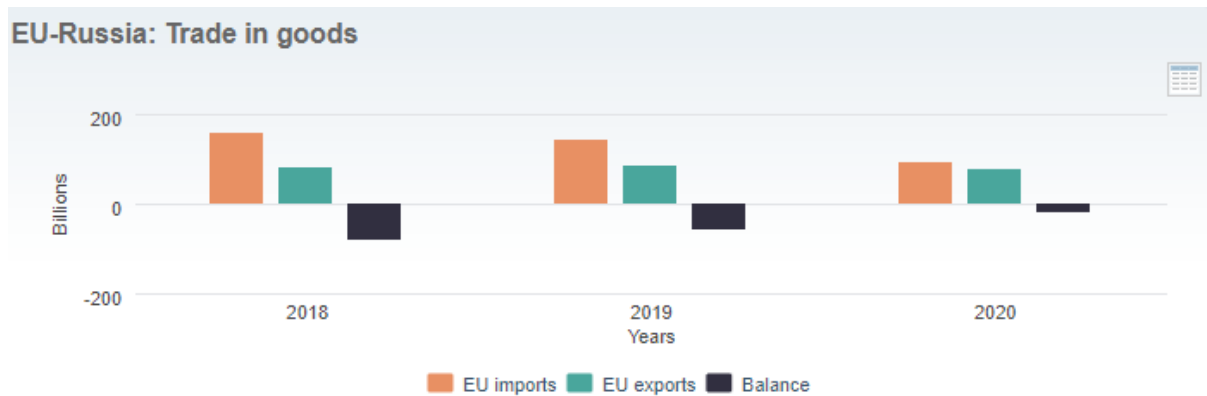


based on 2019 figures

Sources: Comer et al., 2020. <https://theicct.org/publications/analysis-HFO-ban-IMO-2020>  
 MEPC 75/10/7 Submitted by FOEI, Greenpeace International, WWF, Pacific Environment and CSC.  
 Legal Advice from Matrix Chambers & Leigh Day, and from E.J. Molenaar, Utrecht University, September 2020.

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## 6 EU – Russia: trade in goods and services.



European Commission. 2020d. "Countries and regions. Russia".

Note:

Deficit goods account balance: more imports than exports.

Surplus services account balance: more Russian tourists in the EU than EU tourists in Russia.

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