

Regulatory Power Europe

How does the EU's regulatory impact differ between policy areas in the High
North?



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Abstract

This thesis analyses if and how the EU's regulatory impact differs between policy areas in the High North. This question will be examined through the lens of the 'regulatory power Europe' framework, which is represented by Bradford's interpretation of the Brussels Effect. This comparative study utilizes a mixed-method approach scrutinizing quantitatively all applicable regulations in the Arctic as well as using the benefits of a literature review for the qualitative evaluation of specific regulations. This will allow this study to give a comprehensive overview of the EU's regulatory impact across the different policy areas. The policy areas that this thesis analyses are defined as *economic*, *environmental*, *political* and *societal*. It will be shown how these areas vary between each other, regarding the EU's regulatory impact. To enhance the scope of the thesis, this paper will scrutinize the relevance of the Exclusive Economic Area for the EU's regulatory impact in the Arctic. That will allow this study to showcase some of the EU's strengths and weaknesses related to its regulatory capacities in the High North.

Key words: European Union, Arctic, Regulatory Power, Exclusive Economic Area, EU Law

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List of Abbreviations

AC – Arctic Council

Council – Council of the European Union

EC – European Commission

ECJ – European Court of Justice

EU – European Union

ERA – European Regulatory Agency

EP – European Parliament

ETS – EU Emission Trading System

EEA – Exclusive Economic Area

EEZ – Exclusive Economic Zone

EFTA – European Free Trade Association

TFEU – Treaty on the Functioning of the European Union

IMO – International Maritime Organization

OSPAR – Oslo Paris Agreement

UNCLOS – United Nations Convention on the Law of the Sea

1 Introduction

*'The Arctic is a rapidly evolving frontier in international relations. 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, where issues are solved through constructive dialogue. The European Union must be fully equipped to manage the new dynamics effectively, in line with our interests and values.'*¹

This statement, from the EU's High Representative Josep Borrell, highlights some of the challenges presented in the High North and shows the EU's ambition to participate in this region of the world. Borrell's statement stays relative vague and does not touch upon the issue of how the EU is archiving those goals. The question of how the EU is exercising power is a long and fervent topic in academic discussions.² This question seems even more complex if the region of interest is one of the most remote areas on the globe, the Arctic.

This study approaches the EU's involvement in the Arctic from a regulatory perspective.³ This allows this thesis to scrutinize the implementation of EU law in the form of regulations, directives and decisions, which is a very concrete and verifiable way to analyse the EU's impact on the High North. The use of the regulatory power Europe approach to explain the EU's Arctic power potential is nothing new. What is new though is that this study examines the EU's impact across different policy areas. Existing discussions in the field of regulatory power

¹ European Commission (20 July 2020): Arctic policy: EU opens consultation on the future approach, available at: https://ec.europa.eu/commission/presscorner/detail/en/IP_20_1318.

² See e.g. Damro, Chad (2015): Market power Europe. Exploring a dynamic conceptual framework, in: Journal of European Public Policy, vol. 22(9) and Ian Manners (2002): Normative power Europe. A contradiction in Terms?, in: Journal of Common Market Studies, vol. 40(2).

³ See e.g. Lavenex, Sandra (2014): The power of functionalist extension. How EU rules travel, in; Journal of European Public Policy, vol. 21(6).

Europe assume that the EU's regulatory impact differs between policy areas⁴ but so far nobody has explored this assumption in the context of the Arctic region. To conduct this research this study is classifying the EU regulations with Arctic relevance into four policy areas, which will allow this study to not only analyse if there is an impact at all but, moreover, how such an impact deviates between policy areas. Therefore, the research question this thesis is posing is:

'How does the EU's regulatory impact differ between policy areas in the High North?'

By comparing the policy areas of economic, environmental, political and social issues, this study will be able to answer the question how the EU regulations are impacting each of these areas and how that impact might differ from area to area. Furthermore, this might also reveal how those areas are interconnected with each other. This will allow this research to give a precise overview of the EU's regulatory impact in the context of its Arctic involvement.

This thesis is going to answer this question not only for the EU's Arctic territories but will also examine if EU regulations are implemented in the national law of the members⁵ of the Exclusive Economic Area (EEA). This will enable this paper to extend the scope of this study to encompass the EU's regulatory impact outside its own jurisdiction. By scrutinizing the EU's external regulatory power, we will be able to analysis the EU's role as a regulator in the region in a more in-depth way.

This study will be structured as follows: After this introduction, the Problematization will give an overview of the relevance of the topic and present as part of the literature review the academic debate on different theoretical concepts regarding what kind of power the EU can leverage. Finally, the paper will discuss more extensive the research gap this study is going to answer.

⁴ See e.g. Bradford, Anu (2020): *The Brussels Effect. How the European Union Rules the World*, Oxford University Press and Lavenex (2014).

⁵ The relevant EEA member in the Arctic are Iceland and Norway.

Following the Problematization the next chapter will discuss the theory of regulatory power Europe introduced by Majone⁶ and especially Bradford's⁷ approach to the concept of the Brussels Effect. This will allow the reader to follow the upcoming analysis of the EU regulatory impact by introducing the basic mechanisms of this theoretical approach. Proceeding the theoretical discourse, there will be a short summary of the specific rules and procedures that the members of the EEA Agreement are obliged to in the context of the application of EU laws.

Subsequent to the theoretical background of this paper there will be an outline of the methodological choices that were made. As a research design for this comparative study, a mixed-method approach was taken. This will allow this thesis to combine the benefits of qualitative and quantitative research. The quantitative part of this study consists of an analysis of one hundred regulations with Arctic relevance and how they are contributed across the four policy areas. For the qualitative part, this study chooses to pick two particular regulations that help the reader to understand the EU's strength and weaknesses as a regulator in the High North. Following the research design, there will be a clarification on the case's selection criteria for the chosen regulations. Finally, there will be the operationalization of the policy areas that we are going to analyse as well as the construction of four hypotheses this study will answer next to the research question.

Following the method chapter, the thesis will introduce the EU's role and relationships in the Arctic region. This will provide the reader with the compulsory background knowledge to understand the upcoming discussion. After the introduction of the EU in the High North, this study will present the four policy areas and incorporate exemplary regulations that are allocated to each specific policy area.

After the descriptive part of the EU's regulations in every policy area, this study will start with an analysis part. The analysis is divided into three parts. First, the policy areas are compared to each other to work out what the difference and

⁶ Majone, Giandomenico (1994): The rise of the regulatory state in Europe, in: West European Politics, vol. 17(3).

⁷ Bradford (2020).

the similarities are, but also to generate a general overview of the distribution of EU regulations. In the second part, there will be an in-depth examination of two regulations that will provide us with insights on the EU's power potential as well as possible strengths and weaknesses. The last part of the analysis will discuss the findings and answers the hypotheses and the research question posed in the beginning.

2 Problematization

This chapter will give an overview of the relevance of this study. This will be followed by a comprehensive literature review on the topic of what kind of power the EU exerts and how it is discussed in academia. Finally, this chapter will elaborate on the research gap this thesis tries to fill into.

2.1 Relevance of the Research

With the emergence of the rise of a multipolar world, the EU has to decide what kind of power it can leverage to achieve its goals outside of its own jurisdiction. This becomes even more present in areas where the EU only has partial access to the institutional setups that rule over certain regions, such as the Arctic. Since the EU does not seek to increase its hard-power capabilities,⁸ what tools are left in the toolbox to advocate the EU's external goals? In remote areas with an already narrowly fixed institutional setup, this puzzle can get quite difficult to solve.

The Arctic as a geographical region, which is located above the 66° parallel, combines all of these attributes. After Russia placed a flag on the seabed underneath the geographical North Pole in 2007⁹, the race for the Arctic has become more apparent. This race centres around the exploitation of resources and opening of new shipping routes. What is exacerbating the EU's position in this region is the institutional framework that is installed in the area. The institutional setup in the Arctic revolves around the Arctic Council (AC), which consist of the eight Arctic states.¹⁰ The EU has been denied to obtain an observer's seat in this

⁸ See e.g. Howorth, Jolyon and Anand Menon (2009): Still not Pushing Back. Why the European Union is Not Balancing the United States, in: *Journal of Conflict Resolution*, vol. 53(3), pp. 727–744.

⁹ Bergman-Rosamond, Annika (2011): Perspectives on security in the Arctic area, *Dansk Institut for Internationale Studier*, Copenhagen, p. 14.

¹⁰ Russia, the United States, Canada, Iceland, Norway, Finland, Sweden and Denmark (Greenland).

format mostly because of conflicts with Canada regarding particular EU regulations.¹¹

This leads to the question of how the EU can strive for power in this specific area. This study will take on the regulatory power model to explain the EU's regulatory impact as one means to shape the High North without hard power capabilities. The EU exerting regulatory power outside its jurisdiction to influence non-EU states is broadly represented in the academic literature as one of the most prominent ways of the EU's to exercise power.¹² The object of analysis for this thesis will be how this regulatory impact differs between the various policy areas in the Arctic.

2.2 Literature Review

In the academic community, there is a prolonged debate about the question of what kind of power the European Union exerts on the international level. One line of thought bases the EU's external power in its 'actorness'¹³ and influence in the context of the question how the EU can leverage its market power¹⁴ to achieve its goals outside its own jurisdiction. Damro argues that the single market boasts a bigger impact on the EU's identity than its perceived normative character.¹⁵ His argument is that the EU's power is mostly situated in the size of its internal market which is used to externalize its social and economic issues via regulations.¹⁶ The EU can utilize its market power as direct leverage in trade deals but there is also an indirect dimension where other countries or corporations adapt to EU rules and regulations without being asked to do so. This effect happens if

¹¹ Weber, Seffen and Iulian Romanyshyn (2011): Breaking the Ice. The European Union and the Arctic, in: *International Journal*, Autumn 2011, p. 854.

¹² See e.g. Sellheim, Nikolas (2014): The goal of the EU seal products trade regulation. From effectiveness to consequence, in: *Polar Record*, vol. 51 (258).

¹³ See e.g. Birchfield (2015): Coercion with kid gloves? The European Unions role in shaping a global regulatory framework aviation emissions, in: *Journal of European Public Policy*, vol. 22(9), pp. 1276–1294.

¹⁴ See e.g. Damro (2015), pp. 1336–1354.

¹⁵ See e.g. Damro, Chad (2012): Market power Europe, in: *Journal of European Public Policy*, vol. 19(5).

¹⁶ *Ibid.*, p. 683.

states fear negative repercussions in not following the EU's guidelines or standards.¹⁷

Another highly popular theory is the 'normative power' Europe approach. Supporters of this theory school argue that the EU's power potential comes from its distinct norms and values and not in terms of conventional hard power assets. They argue that the EU can externalize and transfer its norms and values to the international level to achieve the EU's international goals.¹⁸ Manners argues that '*the most important factor shaping the international role of the EU is not what it does or what it says, but what it is*'¹⁹. So the EU's specific power potential comes from its universal values such as democracy, environmental protection and human rights and not from its conventional armed forces or the single market.²⁰ Manners characterize normative power as '*the ability to define what passes for normal in world politics*'²¹. The normative power Europe theory understands the EU as a transnational actor, which is centred around its own set of community values and norms that are linked by '*systems of knowledge and discursive practices*'.²²

In the middle ground between these two lines of thought, there is a third theoretical approach which follows the assumption that the European Union is a regulatory power.²³ This approach combines elements of both normative power Europe as well as market power Europe. The main focus of this theory is to explain how and why European rules and regulations are externalized outside the EU jurisdictions. Especially in the field of environmental and energy issues, this theory is able to illustrate how regulatory change can happen outside of the EU's jurisdiction.²⁴ In this field of research, the dominant concept is called the 'Brussels Effect', which describes why corporations or states outside the EU are

¹⁷ Barnett, Michael and Raymond Duvall (2005): Power in International Politics, in: International Organization, vol. 59(1), p. 53.

¹⁸ See e.g. Vogler, John and Charlotte Bretherton (2006): The European Union as Global Actor, Routledge, London/New York. Manners, Ian (2006): Normative power Europe reconsidered. Beyond the crossroads, in: Journal of European Public Policy, vol., 13(2). Bickerton, Christopher J. (2011): European Union Foreign Policy. From Effectiveness to Functionality, Palgrave, London. And Howarth and Menon (2009).

¹⁹ Manners (2002), p. 252.

²⁰ Menners, Ian (2008): The normative ethics of the European Union, in: International Affairs, vol. 84(1), p. 41.

²¹ Menners (2002), p. 253.

²² Barnett and Duvall (2005), p. 55.

²³ See e.g. Bradford (2020) and Lavenex (2014).

²⁴ See e.g. Goldthau, Andreas and Nick Sitter (2015): A Liberal Actor in a Realist World. The European Union Regulatory State and the Global Political Economy of Energy, Oxford University Press, Oxford.

complying with EU regulations even without being affiliated with the EU's single market.²⁵ Some academics assess the EU's external policies in this area as a form of economic imperialism,²⁶ while others claim that the EU pursues mostly altruistic interests.²⁷ This discussion led into the more philosophical issue about the question on the EU's motivation and legitimacy to extend their regulations outside of its jurisdiction.

It's not the aim of this thesis to go deeper into the theoretical discourse on the EU's motivations in terms of regulatory power exertion but to shortly outline and cover the ongoing debate. The EU legitimates the externalization of regulations with the argument that its norms and values are normatively desirable and can be applied universally.²⁸ One example of this would be the EU's efforts to tackle climate change. In this specific case, the EU is particularly active to promote global change for the so-called greater good. The EU's unilateral regulations on the topic of climate change are in this case, declared to be for the global good of fighting climate change, which is benefiting the whole world.²⁹ This form of legitimation can, of course, also be pleaded in many areas of the EU's involvement. For this reason, people are claiming that there is a notion of colonial underlining when talking about the EU as a normative power that is exporting its 'standards of civilization'.³⁰

This thesis will follow the 'regulatory power Europe' approach since it contains elements of market power Europe and normative power Europe. On that account, it can cover more policy areas than just economic matters and is not as vague as the normative approach. Furthermore, many of the issues in the Arctic resolve around energy regimes and environmental concerns, which can be explained best if economical as well as normative aspects are taken into

²⁵ See e.g. Bradford (2020).

²⁶ See e.g. Zielonka, Jan (2008): Europe as a Global Actor. Empire by Example?, in: International Affairs, vol. 84(3), p, 471–484. Kogan, Lawrence (2005): Exporting Precaution. How Europe's Risk-Free Regulatory Agenda Threatens American Free Enterprise, Washington Legal Foundation, Washington.

²⁷ See e.g. Manners (2002). Smith, K. (2005): Still Civilian Power EU, London School of Economics, London.

²⁸ Stiglitz, Joseph (2007): The EU's global role, Guardian, Available at: <https://www.theguardian.com/commentisfree/2007/mar/29/theusglobalmission>, last visited: 13.05.2020.

²⁹ Bradford (2015), p. 165.

³⁰ See e.g. Diez, Thomas (2010): Europe's others and the return of geopolitics, in: Cambridge Review of International Affairs, vol. 17(2).

consideration. In the next section, the research gap this thesis will fill into will be discussed.

2.3 Research Gap

The question of what kind of power the European Union possesses is a long-standing debate in the academic discussion as shown in the last part. This thesis is not contending to answer this fiercely disputed question rather it will shed light on a regional issue area through the lens of the regulatory power approach. Choosing the arctic as a regional territory of scrutiny allows us to examine the effects of regulatory power and the Brussels Effect³¹ on an isolated region with very unique characteristics as already stated above.

So far, research on this topic has either been on an overarching perception of the EU's regulatory power on a global level³² or specific regulations and policies in the Arctic on a local level.³³ This study will fill the gap between the global and local level by analysing the EU's regulatory impact on the regional level. This will be achieved by explicitly examine how the EU's regulatory impact in the arctic differs between policy areas on the second level. In order to do so, this thesis will review Bradford's Brussels Effect model to develop a general understanding of what the impact of distinct regulation and policies mean on their respective policy area. In doing so this study will fit in the middle ground between Bradford's global theoretical approach and already existing single case studies of the EU's regulatory impact on specific regulations in the Arctic.

The main focus will be on the EU's effect of EEA Member States since those states increase the EU's regulatory influence in the Arctic beyond its own territory and jurisdiction. In the next chapter of this thesis, the theory of regulatory power Europe will be introduced and discussed.

³¹ See e.g. Bradford (2020).

³² Ibid., and Lavenex (2014).

³³ See e.g. Koivurova, Timo, Kai Kokko, Sebastien Duyck, Nikolas Sellheim and Adam Stepien (2012): The present and future competence of the European Union in the Arctic, in: *Polar Record*, vol. 48(4). Stepién, Adam and Timo Koivurova (2017): *Arctic Europe. Bringing together the EU Arctic Policy*.

3 Theorization

This chapter will introduce the idea of regulatory power Europe and the Brussels Effect as a theoretical framework, which will later be used to analyse the EU's impact on different sectors of its arctic involvement. First, there will be a reflection upon the conception of regulatory power Europe, how it emerged and what kind of mechanisms are in play. Next, the concept of the Brussels Effect will be introduced and examined. Finally, this chapter will give an introduction to the European Economic Area and its role in the regulatory power Europe approach.

3.1 The Rise of a Regulatory Power Europe

In response to the emergence of the neo-liberal agenda of the 1970s, which came with a rise in international competition, the integrating European states began to rely on internal and external regulations of their domestic markets.³⁴ The concept of regulations as a form of policy development in the EU was first discussed in the mid-90s. Giandomenico Majone indicated this historical transition from nation-state regulations to the supranational level. His main argument was that the growing complexity of existing institutional capabilities would not match the increasing complexity of policy areas in the EU. This was particularly evident in the areas such as the EU's expanding economic market and its negative impact on health, working conditions and environmental issues. To ensure the flow of goods, people and services in the Union, the EU had to increase its regulatory capacities in order to keep their high production standards.³⁵ Since then, the EU has rapidly

³⁴ Evans, Peter and William H. Sewell Jr. (2013): *The Neoliberal Ara. Ideology, Policy, and Social Effects*, Cambridge University Press, Cambridge, p. 2.

³⁵ See e.g. Majone (1994).

grown its regulatory capacity and *'is [nowadays] conventionally described as a regulatory state par excellence'*.³⁶

The issue of the legitimation of regulatory agencies is a particularly contested topic. While Majone argues that as long as those agencies created Pareto efficient outcomes they were justified³⁷ even if they do not increase their procedural transparency.³⁸ Other researchers have questioned the Pareto efficient outputs of regulatory agencies.³⁹ Due to the limited scope of this thesis, this debate will not be discussed any further as part of this thesis.

In order to understand the concept of regulatory power Europe, it is important to give a short overview of the institutional background before explaining the concept as such. Since the foundation of the European Union in the 1990s, a gradual increase in the involvement of the EU institutions in the legislation and regulation process of Member States can be observed. Namely, the Council of the European Union (Council), the European Commission (EC), the European Parliament (EP), as well as the European Court of Justice (ECJ) are the main actors in this process.⁴⁰

From a regulatory perspective, the most relevant players are the EC and the ECJ. The EC as the executive body of the EU possesses the agenda-setting power since it can propose legislative acts on its own. Furthermore, the EC is responsible for the implementation as well as the enforcement of EU legislation and treaties. In case of non-compliance of a Member State with regulations or EU law, the EC is in charge to bring the case before the ECJ. The European Court of Justice has the competences of enforcing European laws and regulations. Additionally, the ECJ also holds the role of interpreting the treaties which in some instances led to

³⁶ Levi-Faur, David (2006): Europe and the New Global Order of Regulatory Capitalism. In: From, Johan and Nick Sitter (2006): Europe's Nascent State?. Public Policy in the European Union, Gyldendal Akademisk, Oslo, p. 1.

³⁷ Majone (1994), pp. 83-90.

³⁸ See e.g. Majone, Giandomenico (1999): The Regulatory State and its Legitimacy Problems, in: West European Politics, vol. 22(1).

³⁹ See e.g. Carrubba, Clifford J. (2003): The European Court of Justice, Democracy, and Enlargement, in: European Union Politics, vol. 4(1), and Hix, Simon, et al. (2006): Dimensions of Politics in the European Parliament, in: American Journal of Political Science, vol. 50(2).

⁴⁰ Bradford (2020), p. 7 f.

more far-reaching competencies than originally were inherent in the treaties themselves.⁴¹

The entire concept of regulatory power is closely linked to the European wish for an internal single market. In order for the internal market to be functional, there has to be the same product, environmental as well as data standards across all market members. Otherwise, companies would have different production standards in every country, which would have led to irregular terms of competition. For this reason, it was extremely important to have harmonized production standards across all Member States. Because of this, regulations always have a dual purpose. First, regulations set guidelines in specific areas such as environmental protection or workers' rights and second, it advances the single market and therefore ensures the free movement of goods and services across the Union.⁴²

Even though the focus of this thesis is the external effect of EU regulations it is essential to understand that most of those regulations are steaming from the EU's internal harmonization processes. Often a group or as a matter of fact sole Member States become active in policy areas where the EU is absent and push for deeper regulations, e.g. Denmark and Sweden initiated regulations on antibiotics in animal food⁴³. Also the Nordics, the Netherlands and Germany were frontrunners in the introduction of environmental regulations.⁴⁴ Germany and France were leading the agenda setters in terms of privacy regulations before it became an EU-level issue.⁴⁵ Following the national legislation in these issue areas, the EU adopted many of those regulations to harmonize the internal market and to avoid fragmentation between the Member States. It is noteworthy that these harmonization trends typically run upwards not downwards. This prevented a race to the bottom which would have set the lowest level of regulation as a common

⁴¹ Bradford (2020), p. 9.

⁴² *Ibid.*, 9 f.

⁴³ Vogel, David (2012): *The Politics of Precaution. Regulation Health, Safety, and Environmental Risks in Europe and the United States*, Princeton University Press, p. 244.

⁴⁴ Selin, Henrik and Stacy VanDeveer (2006): *Raising Global Standards. Hazardous Substances and E-Waste Management in the European Union*, in: *Environmental Science and Policy for Sustainable Development*, vol. 48(10), p. 10 f.

⁴⁵ See, e.g. Newman, Abraham L. (2008): *Protectors of Privacy. Regulating Personal Data in the Global Economy*, Cornell University Press, Ithaca.

standard for every Member State.⁴⁶ To achieve approval from the EU's Member States for a deeper economic liberalization of the internal market, the ongoing integration was accompanied by a set of values such as environmental protection, food safety and data privacy.⁴⁷

As a result of the upward harmonization, corporations from Member States with higher regulations tend to welcome the harmonization on the EU-level since it evens out the differences in the internal single market. This is one of the rare occasions when businesses go side by side with environmental non-governmental organizations (NGO) and labour rights unions to form powerful pro-regulation coalitions.⁴⁸ The incentive for businesses to lobby for regulations is even stronger when it comes to regulatory changes outside the internal market. In 1993 a coalition between environmental interest groups and EU corporations was created to lobby for the EU's Eco-Management and Auditing Scheme (EMAS). The coalition lobbied for the implementation of the same standards as those already in place in the EU for Asian and U.S. corporations. In the end, the European regulation was adopted by the International Organization for Standardization (ISO) as a global standard.⁴⁹ These phenomena led to the so-called *Brussels Effect* which will be discussed in the next chapter.

3.2 The Brussels Effect

The Brussels Effect describes the EU's externalization of its jurisdictional standards outside of its single market. This externalization of EU regulations has according to Bradford five underlying elements – '*market size, regulatory capacity, stringent standards, inelastic targets and non-divisibility*'.⁵⁰ With this classification, Bradford introduces a different perspective on the regulatory power

⁴⁶ Bradford (2020), p. 10 f.

⁴⁷ *Ibid.*, p. 11.

⁴⁸ Vogel, David (1995): *Trading Up. Consumer and Environmental Regulation in a Global Economy*, Harvard University Press, Cambridge, p. 67.

⁴⁹ Mattli, Walter and Ngaire Woods (2009): *In Whose Benefit? Explaining Regulatory Change in Global Politics*, p. 35.

⁵⁰ Bradford (2020), p. 25.

EU which is more extensive than the focus on market forces alone, which has been the main emphasis over the last decade.⁵¹ Even though a substantial market size is the most important requirement to exercise regulatory power over foreign states or companies, the other components are also needed to explain the dynamic of the Brussels Effect. This becomes clear as a similar effect from the U.S. or Chinese markets cannot be observed.⁵² In the following section, Bradford's classification will be elucidated in order to get a comprehensive understanding of what the Brussels Effect stands for.

Market Size – the general argument is that large markets lead to the result that producers increase their standards to the level of the respective market, in this case, the EU's single market.⁵³ The EU's single market is the reason why the EU can externalize its regulatory power to the rest of the world.⁵⁴ This effect is one of the explanations of why the EU is also called 'Market Power Europe'.⁵⁵ Kagan is describing this effect as follows '*the larger the market, the more likely that companies will adjust to the standards of the importing jurisdiction*'.⁵⁶ A market's power is stronger if corporations see a high value in joining the respective market. The companies have to deliberate the compliance costs, i.e. rising production costs or to abide by the environmental standards, to the potential benefits of entering the market.⁵⁷ Despite the fact that the EU only has the second-largest economy, its internal market has become the most significant one in regard to import. This explains why so many producers are adjusting their production standards to fulfil the EU's single market regulations in order to be able to import their products and services into the EU's single market.⁵⁸ Even in areas that are not connected to the market such as human rights, the EU uses its regulatory

⁵¹ See Drezner, Daniel (2005): Globalization, Harmonization, and Competition. The Different Pathway to Policy Convergence, in: Journal of European Public Policy, vol. 12(5), p. 847 and Wirth, David A. (2007): The EU's Impact on American Environmental Regulation, in: The Fletcher Forum of World Affairs, vol. 31(2), p. 96.

⁵² Bradford (2020), p. 25.

⁵³ See e.g. Drezner, Daniel (2008) All Politics is Global. Explaining International Regulatory Regimes.

⁵⁴ Damro, Chad (2012): Market power Europe, in: Journal of European Public Policy, vol. 19(5), p. 682f.

⁵⁵ Ibid., p. 687.

⁵⁶ Kagan, Robert A. and David Vogel (2004): Dynamics of Regulatory Change. How Globalization affects National Regulatory Policies, University of California Press, p. 13.

⁵⁷ Young, Alasdair R. (2003): Political Transfer and 'Treading UP'? Transatlantic Trade in Genetically Modified Food and U.S. Politics, in: World Politics, vol. 55, p. 459.

⁵⁸ Bradford (2020), p. 28.

power to tie e.g. issues of human rights in trade agreements with third countries.⁵⁹ Naturally, there are aspects where the EU's market power fails, for example, if the costs for adapting to the market are too high or if the EU's single market is not relevant for the import of a specific good or service.⁶⁰

Regulatory Capacity—regulatory capacity contains the ability of states to declare and enforce regulations, this requires a large amount of expertise and resources for the institutions that are in charge of the regulatory processes. Authorities must be capable of imposing sanctions on market entrants in case of non-compliance.⁶¹ It is not accidental that the EU's rise as a regulatory power goes concurrently with the development of its institutional build-up, which led to a substantial increase in its regulatory capacity.⁶² In the EU's case, the regulatory build-up was completed in order to achieve a functioning single market, which relies heavily on regulations and the enforcement of sanctions in case some participant acted against the market rules.⁶³ The penalties can range from high fines for companies to the denial of market access for specific products or services⁶⁴. The Commission is the driving force behind the institutional setup of the European Regulatory Agencies (ERAs), which are providing the Commission with more expertise, financial means and information to grow its regulatory capacity further.⁶⁵ The EU's regulatory capacity is different depending on the particular policy area. Based on the EU's exclusive competences in specific areas such as competition law, some policy areas are stronger regulated than others. All areas regarding the single market are rigorously regulated because of the EU's strict competition law. In other areas in which Member States did not transfer competences to the EU such as taxation or education, the EU is very limited in its regulatory reach.⁶⁶

⁵⁹ Zielonka (2008), p. 471 and Hafner-Burton, Emilie (2005): Trading Human Rights. How Preferential Trade Agreements Influence Government Repression, in *International Organization*, vol. 59(3), p. 593.

⁶⁰ Bradford (2020), p. 30.

⁶¹ Bach, David and Abraham L. Newman (2007): The European Regulatory State and Global Public Policy. Micro-Institutions, Macro-Influence, in: *Journal of European Public Policy*, vol. 14(6), p. 832.

⁶² Majone, Giandomenico (1998): The Rise of the Regulatory State in Europe, in: Baldwin, Robert, Colin Scott and Christopher Hood (Eds.): *A Reader on Regulation*, Oxford University Press, p. 77.

⁶³ Bach (2007), p. 831.

⁶⁴ Regulation (EU) 679/16, art. 83, 2016 O.J. (L119), p. 1.

⁶⁵ Rittberger, Berthold and Arndt Wonka (2011): Agency Governance in the European Union, in *Journal of European Public Policy*, vol. 18(6), p. 780f.

⁶⁶ Bradford (2020), p. 36f.

Stringent Regulations – a large market and regulatory capacities alone are not sufficient to become a regulatory powerhouse if the regulations are not stringent themselves. For example, regulations in the field of environmental or consumer protection needs to be stringent otherwise those regulations are not convincing enough for companies to adopt too. Strong regulations in these specific areas additionally reflect the EU's view that the market will not autonomously deliver the desired outcome on its own; therefore the Commission has to interfere.⁶⁷ Those stringent regulations also fulfil the goal to pursue a broader principle which is not necessarily connected to economic or market benefits, e.g. human rights.⁶⁸ If the EU does not develop stringent regulations in an issue area, for example in the field of online gambling or taxation, its external regulatory power is non-existent. Another limitation can be encountered if foreign trading partners have higher or more stringent regulations themselves on the same product but in a different area of manufacturing. This led to the case that some corporations have higher standards in their fabrication process than a single EU regulation requires them to have.⁶⁹ Because of this effect, it is important to have the most stringent regulations on the global market if the regulator wants to set the guidelines for corporations and third states.

Inelastic Targets – describes the target audience of products or services providers, if a company wants to export e.g. food to the EU customers⁷⁰ they have to adjust to EU regulations or will not get market access. This is called inelastic targets because the targeted consumers cannot be moved to a different place with fewer regulatory standards. Therefore, companies have to comply with the existing standards if they wish to sell in the EU's single market.⁷¹ The subject of inelastic targets is also closely linked with the assumption that strong regulations would lead to a race to the bottom. This theory argues that regulatory standards are harmonized downwards to avoid a spill of capital into the Member States with

⁶⁷ Bradford (2020), p. 46.

⁶⁸ Ibid., p. 38.

⁶⁹ Ibid., p. 47.

⁷⁰ Bradford, Anu (2015): Exporting Standards. The Externalization of the EU's Regulatory Power via Markets, in *International Review of Law and Economics*, vol. 42, p. 163.

⁷¹ Bradford (2020), p. 49.

lower standards.⁷² Subsequent research, however, suggests quite the opposite effect, one characteristic globalization is producing is a race to the top⁷³ to maintain the ‘first-mover advantage’⁷⁴. In this field of research, there is a whole discussion going on about the subject of elastic targets e.g. stock markets or capital as such. This discussion will be factored out since it is not relevant for the aim of this specific thesis and therefore would lead in the wrong direction.

Non-divisibility – the term non-divisibility means that international corporations are not only changing the production standards for the European market but in contrast fulfil with the EU’s regulations even outside the EU’s single market. Corporations do so to standardize their production in line with the highest standards to cut customization costs.⁷⁵ Another reason for companies to comply with the EU regulations even outside the EU’s jurisdiction is to keep their standard similar in every state. They do so to have the same product standards everywhere and therefore protect the quality of their brand and build an international reputation.⁷⁶

All five elements have to be satisfied in order for the Brussels Effect to work. Nonetheless, the first three elements, market size, regulatory capacity and stringent regulations, are the most significant ones to explain the adoption of regulations outside the EU’s single market. The interplay between those five elements led to a unilateral regulatory globalization that has been emerged during the last two decades. Indisputably, those elements can fluctuate in their strength and importance across different policy areas, depending on the fact if a specific area is simple or complicated to regulate and what competences the EU possesses in a given area.⁷⁷

This thesis will fill into this exact question of how the EU’s regulatory power varies between policy areas. This topic is acknowledged in Bradford’s as well as Lavenex’s papers. However, none of them has made a direct comparison between

⁷² Drezner, Daniel (2001): Globalization and Policy Convergence, in: International Studies Review, vol. 3(1), p. 57f.

⁷³ Kagan (2004), p. 53.

⁷⁴ See e.g. Nehrt, Chad (1998): Maintainability of First Mover Advantages When Environmental Regulations Differ between Countries, in: The Academy of Management Review, vol. 23(1).

⁷⁵ Bradford (2020), p. 54.

⁷⁶ Vogel (2012), p. 16.

⁷⁷ Bradford (2020), p. 64.

policy areas so far.⁷⁸ In order to understand the EU's exertion of power on policy areas outside its own jurisdiction, it seems highly relevant to not only to distinguish how the EU is achieving its goal but also how it differs between those policy areas. Following the initial research question, if there is a difference between policy areas, the why question also becomes relevant for the general interpretation of the EU'S regulatory impact in the region.

3.3 The European Economic Area

The role of the European Economic Area (EEA) is crucial to understand the EU's regulatory impact in the High North. The EEA Agreement is consolidating the distinct relationship between the EU and the Member States of the European Free Trade Association (EFTA).⁷⁹ The EFTA Agreement includes Norway, Iceland, Liechtenstein and Switzerland, all those countries are geographically close to the EU and share a common history and the same values with the other EU Member States.⁸⁰ The EEA is structured as a two-pillar set up to guarantee the autonomy of the EU's legal jurisdiction and decision-making capabilities, on the one hand, but also allow the EFTA states to keep their sovereignty towards the EU, on the other hand.⁸¹

The goal of the EEA Agreement is to foster the trade and economic relations between the EU and the EFTA⁸² states. To ensure equal conditions for the competition in the EU's single market, the same set of rules apply in the EU and the EFTA Member States. This led to the creation of a homogenous EEA⁸³, in which non-EU states have to ratify the same legislative acts that have been passed in the EU. EEA Member States have to comply with EU regulations if they are concerning the four fundamental freedoms, which are the free movement of

⁷⁸ See e.g. Lavenex (2014) and Bradford (2020).

⁷⁹ See e.g. Lazowski, Adam (2006): EEA Countries (Iceland, Liechtenstein and Norway), in: Blockmans, S. and Adam Lazowski (eds.): *The European Union and Its Neighbours*, Cambridge University Press, Cambridge.

⁸⁰ Agreement on the European Economic Area (Oporto, 2 May 1992), preamble § 2.

⁸¹ Lazowski (2006), p. 108f.

⁸² Convention Establishing the European Free Trade Association (Geneva, 4 January 1960).

⁸³ *Ibid.*, article 1.

goods, services, capital and people.⁸⁴ In the area of the internal market, all members of the EEA Agreement have to fully harmonize their legislation similar to the other EU Member States.⁸⁵

Environmental protection has not been part of the original four freedoms; nevertheless, it has been included in several different areas of the EU's internal market.⁸⁶ Nowadays environmental provisions are adopted in the EU's legislative body under the Treaty on the Functioning of the European Union (TFEU)⁸⁷ art. 115 and 352. The development of the EEA Agreement allows the implementation of new EU legislation nearly simultaneous to the EU's decision-making process.⁸⁸ Most of the EU's environmental policies are considered relevant for the harmonization of the internal market therefore they also have to be implemented in the EEA Member States.⁸⁹

The question of whether a novel EU regulation is relevant for the EEA area or not is determined by the EEA Committee. The EEA Committee also takes the ruling on how to adopt the EU's legal act inside the EEA framework.⁹⁰ In order for an EU legal act to be considered EEA applicable, it has to fulfil both geographical and functional requirements.⁹¹ For some legal acts, it gets quite complicated to classify if they are EEA relevant or not. The reason for this is due to the fact that the EU legislation is becoming more and more cross-sectoral and therefore the grey area is constantly growing over the last two decades.⁹² If a regulation is covered by the scope of the EEA Agreement two scenarios can occur. The first option is that the new legal act is adopted under article 114 TFEU, which was introduced to reduce trade barriers as well as the legal basis for the implementation of environmental measures.⁹³ Article 114 entails the provision

⁸⁴ Convention Establishing the European Free Trade Association (Geneva, 4 January 1960), article 1.

⁸⁵ Egeberg, Morten and Jarle Trondal (1999): Differentiated Integration in Europe. The Case of EEA Country, Norway. In: *Journal of Common Market Studies*, Vol. 37(1), p. 134.

⁸⁶ Kramer, Ludwig (2016): *EU Environmental Law*, Sweet & Maxwell, London, p. 4f.

⁸⁷ Consolidated Version of the Treaty on the Functioning of the European Union (Lisbon, December 2007)

⁸⁸ Johansen, Elise (2018): The EU Influence on Norwegian Domestic Legislation for the Protection of the Arctic Marine Environment, in: *The International Journal of Marine and Coastal Law*, vol. 33, p. 5f.

⁸⁹ *Ibid.*, p. 6.

⁹⁰ Fredriksen, Halvard Haukeland and Christian Franklin (2015): Of Pragmatism and Principles. The EEA Agreement 20 Year on, in: *Common Market Law Review*, vol. 52, p. 652.

⁹¹ Johansen (2018), p. 7.

⁹² Fredriksen (2015), p. 654.

⁹³ See e.g. Barnad, Catherine (2016): *The Substantive Law of the EU*, Oxford University Press, Oxford. And Kramer (2015), p. 129f.

which is called environmental guarantee that allows the Member States to reject new laws under article 114 if they would lead to a decrease of already existing environmental protection measures.⁹⁴ If article 114 is not applicable, the new legislation has to be assessed on several other factors.⁹⁵ The factors are whether the legal act has obligations on the internal market, even environmental regulations that have only a marginal impact on the market count as EEA relevant.⁹⁶ Furthermore, the EU's legal act has to deal with the specified fields mentioned in Article 78 of the EEA Agreement and the protocols as well as annexes.⁹⁷ Through the EEA Agreement, the EU is able to invoke its regulations outside its territorial jurisdiction.

The next chapter of this thesis will illustrate the research design, the case selection criteria, the operationalization of the method used to answer the research question as well as building several hypotheses. Finally, there will be an elaboration of the limitations this study is facing.

⁹⁴ See e.g. Barnad (2016).

⁹⁵ Meld, St. (2012–2013): Report to the Storting (White Paper). The EEA Agreement and Norway's other agreements with the EU, section 5.3.1.

⁹⁶ Johansen (2018), p. 9.

⁹⁷ See e.g. Kramer (2015), pp. 130–135 and Johansen (2018), p. 9f.

4 Methodology

This chapter will discuss the methodological part of this study and is divided into the discussion on the chosen research design, the explanation on the case selection and the operationalization of Bradford's Brussels Effect model as well as the question which issue areas this paper will cover. In the end, there will be a section on the limitations of this thesis.

4.1 Research Design

The overarching research design of this thesis will be a comparative study⁹⁸ that utilizes a mixed-method approach to examine the policy areas in the High North. The mixed-method approach this study is conducting will use a literature review⁹⁹ to qualitatively scrutinize the Arctic regulations that have been legislated so far. Two specifically selected regulations will be used to give a more in-depth perspective on the EU's strengths and weaknesses. The quantitative part will provide an overall analysis of all of the EU's regulations that are affecting the High North. The benefit of choosing a mixed-method approach is that it allows us to *'gather both quantitative (closed-ended) and qualitative (open-ended) data, integrate the two, and then draw interpretation based on the combined strengths of both sets of data to understand research problems'*.¹⁰⁰ This thesis utilizes an *explanatory sequential design* which means that this study will first gather

⁹⁸ See e.g. Lijphart, Arend (1975): The Comparable Cases Strategy in Comparative Research, in: Comparative Political Studies 8 (July), pp. 158–177.

⁹⁹ Gerring, John (2007): Case Study Research. Principles and Practices, Cambridge University Press, Cambridge, p. 26.

¹⁰⁰ Creswell, John W. (2015): A concise introduction to mixed methods research, University of Nebraska-Lincoln, p. 2.

quantitative data and then use a qualitative method to illustrate and clarify the quantitative outcomes in a more in-depth way.¹⁰¹

The quantitative analysis of regulations derives from the official study on how the EU's competencies are affecting the Arctic¹⁰² as well as more recent academic literature up until 2020. The method of a literature review, in this case, describes the '*attempt to integrate the results of individual studies into a qualitative analysis, pooling individual cases drawn from each study into a single analysis*'.¹⁰³ The aim is the same as the examination of single case studies only that a series of studies will be treated as a single case instead. The assessed literature will consist of exemplary regulations from all policy areas that had Arctic relevance. Furthermore, two specifically selected regulations are utilized to show the strength and weaknesses of the EU's regulatory capability in the Arctic.

The benefit of choosing a literature review of already existing academic research in the field of regulatory power exertion in the Arctic is that the impact of the two analysed regulations can be observed and Bradford's toolkit can be applied onto them. This way this thesis will be able to scrutinize the two regulations more in-depth. Next to the literature review, the quantitative data of the official EU study will be examined and used to get a more general overview of the EU's regulatory activity. Therefore, a comparison of the EU's regulatory impact across different policy areas will be made instead of describing only individual regulations. This will allow us a better perception of the total distribution of EU regulations. The application of qualitative and quantitative analytical methods will then lead to a holistic understanding of the EU's Arctic involvement. As already mentioned, it is assumed that the EU's impact varies between different policy areas hence a single case study would not be able to answer our research question. In the next part, the case selection criteria and they were chosen will be discussed.

¹⁰¹ Creswell (2015), p. 2.

¹⁰² Koivurova, Timo; Kai Kokko; Sebastien Duyck; Nikolas Sellheim and Adam Stepien (2010): EU Competencies Affecting the Arctic, EP/EXPO/B/AFET/FWC/2009-01/LOT2/04, online available at: [https://www.europarl.europa.eu/RegData/etudes/etudes/join/2010/433793/EXPO-AFET_ET\(2010\)433793_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/etudes/join/2010/433793/EXPO-AFET_ET(2010)433793_EN.pdf).

¹⁰³ Gerring (2007), p. 26.

4.2 Case Selection

For the case selection of the regulations, directives and decisions this thesis will mainly utilize a study¹⁰⁴ which was contracted by the European Parliament in 2010. This paper gives a comprehensive overview of the EU's regulatory impact on different policy sectors in the Arctic. This study will be supplemented by additional academic journals covering the EU's newer legislation up until the year 2020. Combined this paper will scrutinize 100 regulations, directions and decisions¹⁰⁵ which are relevant in the Arctic. If this paper is not referring to a specific regulation, directive or decision, regulations are used as an umbrella term which includes any of the three different forms of EU legislation.

In most cases, the EU's legislation in the Arctic is policy area overarching, which means regulations have an impact on more than one of the examined policy areas. The overlapping policy areas regarding a single EU regulation will be kept in mind when it comes to the analysis part of this thesis. Since the EU's actual regulatory competences in the Arctic are relatively limited, there is not a large number of possible cases to choose from. Therefore, deeper insights into two groundbreaking regulations, which illustrate the specific weaknesses and strengths of the EU's regulatory regime in the Arctic, will be given. These two cases are regulation No. 1007/2009/EC on the trade of seal products and Directive 2013/30/EU on the safety of offshore oil and gas operations. Both of the cases were firmly impactful and show different aspects of the EU's Arctic regulatory power. This breakdown will be done as part of the analysis part to obtain a more in-depth understanding of the EU's regulatory power potential.

The next section will contain the operationalization of policy areas we are evaluating as well as building hypotheses from the theory on regulatory power Europe.

¹⁰⁴ Koivurova et al (2010).

4.3 Operationalization

In order to apply Bradford's model of the Brussels Effect on the arctic case studies, adjustments need to be made to some extent, since not all requirements are expedient to answer the research question of this thesis. Furthermore, the goal of this study is not to analyse if there is a Brussels Effect in the Arctic instead it tries to show how the EU's regulatory impact differs between issue areas. Even though this study will not specifically look at the Brussels Effect, Bradford's model can provide a very valuable understanding of regulatory criteria to evaluate the impact of regulations on the region.

Regarding Bradfords five elements of the Brussels Effect namely *market size*, *regulatory capacity*, *stringent regulations*, *inelastic targets* and *non-divisibility*¹⁰⁶ it becomes clear that some of those elements are more important than others. The first three elements seem to be very useful to explain why an external actor outside the EU's jurisdiction is adopting to EU regulations. During the analysis, the remaining two elements are kept in mind as well, but the main focus will be on the first three.

The outcome of the regulations does not have to be perceived positively by the adapting player to fulfil the criteria of the regulatory impact of EU jurisdiction in the respective issue area. On the contrary, if an external actor is adopting the EU regulations, even if it has a negative impact on them, it shows the potency of the EU jurisdiction in the respective policy area.

The policy areas that are relevant for the analysis will be defined as *economic*, *environmental*, *political* and *societal*. Those areas are built by condensing the already existing typologies of the EU Arctic involvement into the four overarching policy areas.¹⁰⁷ This will make a comparison between the regulatory impact on the four policy areas achievable. The regulations this thesis will be examining fall into the four policy areas above and are in many incidents interconnected. To decide which regulations fall into the respective policy areas we will use the EU's

¹⁰⁵ See appendix 1.

¹⁰⁶ Bradford (2020), p. 25.

¹⁰⁷ Koivurova et. al. (2010).

comprehensive overview as a guideline.¹⁰⁸ Newer cases will be classified in a way that they fit the EU's existing classifications. Therefore, the policy areas will be clarified more specifically in the following part.

Economic – this area is arguable the most important one to explain the EU's regulatory impact on external actors. On the one side, the Arctic has an enormous economic potential, which lies in its oil and gas deposits, rare earth as well as the opening of new ice-free shipping routes.¹⁰⁹ On the other side, the EU's single market is the second-largest market with over 600 million consumers. The economic incentives in the Arctic are overshadowing the remaining domains since some Arctic actors subordinate the remaining issues to economic growth.¹¹⁰ Furthermore, the EU's regulatory jurisdiction is most extensive in the economic field or is at least linked to it. The same goes for the EEA Agreement which is primarily based on the harmonization of the EU's single market and the four freedoms.

Environmental – environmental aspects are due to the ramifications of climate change a highly present issue in Arctic affairs.¹¹¹ The EU also declared climate change and the protection of the environment as one of its three priority areas in the Arctic.¹¹² This area becomes important if we look at the EU's regulations on production guidelines and environmental standards and how they impact the Arctic regulatory regime. Furthermore, most of the regulations in the environmental sector are applicable to the EEA members since they concern the functioning of the internal single market.

Political – the political arena in the Arctic is categorized to a large extent by cooperation between the Arctic states and non-Arctic states. However, the institutional setup in the region, which is represented by the Arctic Council (AC) has very few competences. This weakness lies in the informal character of the AC and the circumstance that military matters are excluded from the discussions in the AC

¹⁰⁸ Koivurova et. al. (2010).

¹⁰⁹ Rowe, Elana (2014): Arctic Hierarchies? Norway, status and the high north, in: Polar Record, vol. 50(1), p. 72f.

¹¹⁰ Staun, Jörgen (2015): Russias Strategy in the Arctic, Royak Denish Defence College, Copenhagen, p. 7.

¹¹¹ See e.g. McDorman, Ted (2009): Canada-United States Bilateral Ocean Law Relation in the Arctic, in: Southwestern Journal of International Law, vol. 15.

¹¹² Joint Communication to the European Parliament and the Council. An integrated European Union policy for the Arctic (2016), last visited 02.06.2020, Online available at: http://eeas.europa.eu/archives/docs/arctic_region/docs/160427_joint-communication-an-integrated-european-union-policy-for-the-arctic_en.pdf.

at all.¹¹³ The EU has a complicated relationship with the AC since it is only represented through some of its Member States after its observer status was denied by Canada.¹¹⁴ For that reason, the EU is heavily relying on its regulations if they want to influence the Arctic region.

Societal – the societal policy area comprises around topics such as the rights of indigenous communities and human rights. Most of the Arctic littoral states have declared special freedoms and protective measures to protect the native communities as well as to conduct structural development of these isolated regions.¹¹⁵ Since the EU tries to promote their norms, such as human rights, though their regulatory jurisdiction¹¹⁶ this policy area can show how successful this method is in the Arctic environment.

Following this part, there will be a discussion on how the criteria for a regulatory impact is determined for the analysis section of this study.

The question on how to measure the EU's regulatory impact on the Arctic this thesis will follow a two-level approach. First, there will be a general overview of EU regulations that have EEA relevance in the Arctic and their distribution regarding the observed policy areas. In this context, it is also important to keep in mind that most of the regulations have a cross-sector impact nonetheless categorizing them into one of the designated policy areas is inevitable. As a result, this study will show the interconnection between the different policy areas and the regulatory dynamic between them. In a second step, this thesis will take a closer look at unique regulations that have been particularly impactful or sparked controversy in order to understand the EU's regulatory potential and its limits. The evaluation of the specific regulations and directives also allows us to possibly go beyond the scope of the EEA Agreement and take a look at third states as well as corporations.

¹¹³ Bergman-Rosamond (2011), p. 24.

¹¹⁴ Alcaide-Fernández, Joaquín (2018): The European Union, the Arctic, and International Law, in: The International Journal of Marine and Coastal Law, vol. 33, p. 7.

¹¹⁵ Canada's Northern Strategy. Our North, Our Heritage, Our Future (2009), Ottawa, last visited 26.05.2020, online available at: <http://www.aadnc-aandc.gc.ca/>, p. 6.

¹¹⁶ Bradford (2020), p. 38.

In addition to the research question of this thesis, four hypotheses will be derived from the theory. This will be useful to discuss the findings in the analysis part and validate the results in the light of the theoretical discourse on the topic of regulatory power Europe.

H₁: The most significant impact of EU regulations in the Arctic is assumed to be in the economic area and access to the EU's single market.

Several arguments in the academic debate lead to this hypothesis. The first and most important one is that the EU Regulatory power stems from its relationship with the internal single market.¹¹⁷ Second, specifically looking at the issue area of the High North, the economic incentives are pronounced clearly by the littoral states as well as non-Arctic states. This also plays into Bradford's claim about the nature of the Brussels Effect especially the market size element as stated above.¹¹⁸ Thereby, an economic dimension as a fundamental requirement for any more far-reaching regulatory impact can be assumed.

H₂: The environmental area will be closely linked with the economic area and therefore also be strongly affected by EU Arctic regulations.

This hypothesis builds a nexus between the environmental and economic area. The environmental area is directly related to the exploitation of economic resources such as oil and gas or rare piles of earth.¹¹⁹ The environmental area is also, according to Bradford, one of the fields where the Commission has to interfere since the market will not regulate itself sufficiently to accomplish a desirable outcome.¹²⁰ In this area, it is additionally very likely that the EU can achieve issue linkage between

¹¹⁷ See e.g. Vogel (2012), p. 244. And Damro (2012), p. 687.

¹¹⁸ Kagen (2004), p. 13.

¹¹⁹ Statement on Canada's Arctic Foreign Policy. Exercising Sovereignty and Promoting Canada's Northern Strategy Abroad, online available: http://www.international.gc.ca/polar-polaire/canada_arctic_foreign_policy_bookletla_politique_etrangere_du_canada_pour_arctique_livret.aspx?lang=eng&view=d, last viewed 03.05.2020, p. 4f.

¹²⁰ Bradford (2020), p. 46.

economic and environmental concerns to ensure stringent regulations as already mentioned by Bradford.¹²¹

H₃: The social and political dimension is assumed to be subordinated in the EU's arctic regulations compared to the economic and environmental areas.

Both areas have been pronounced as priority areas for the EU's arctic strategy,¹²² but they are also hard to influence via regulatory measures. The only real option for the EU to achieve its goals in these areas is through the linkage to economic deals and regulations.¹²³ This is particularly problematic in the social area since it entails long grown issues between indigenous people and economic interests in the region.¹²⁴ Furthermore, both areas are more focused on non-binding cooperation between states instead of fixed legislation.

H₄: Most regulations will be EEA relevant since they concern the four freedoms or environmental issues connected to them.

The close link between the EU and EEA member states will assumingly lead to the result that most of the EU's regulations, especially in the economic and environmental area will be EEA relevant.¹²⁵ Through the EEA Agreement, the EU will be able to apply its regulations outside its jurisdiction and therefore influence non-EU Member states.¹²⁶ This becomes important since together with the EEA members the EU's regulations have a direct impact on five out of the eight Arctic states.

The next section will discuss the limitations this study has to work with.

¹²¹ Bradford (2020), p. 38.

¹²² Joint Communication to the European Parliament and the Council. An integrated European Union policy for the Arctic (2016).

¹²³ Bradford (2020), p. 38.

¹²⁴ Cameron, Emilie (2011): Securing Indigenous politics. A critique of the vulnerability and adaptation approach to the human dimensions of climate change in the Canadian Arctic, in: Global Environmental Change. Ottawa, p. 11.

¹²⁵ Kramer (2016), p. 4f. And Johansen (2018), p. 5f.

¹²⁶ Convention Establishing the European Free Trade Association (Geneva, 4 January 1960), Article 1.

4.4 Limitations

Regarding the available data and the interpretation of the regulations analysed, this thesis faces some limitations. Two main difficulties have appeared during the case selection process. The first problem involves the accessible number of cases that have a distinct Arctic relevance. Overall there are only a few regulations that apply to the Arctic compared to other geographical areas. This aggravating circumstance already creates a better understanding of the region studied but also makes the research more challenging. Additionally, there is no complete list of all the EU regulations regarding this specific area which leads to the issue that a complete list of all regulations affecting the Arctic cannot be provided.

Another problem this study is facing is the long implementation period of regulations into the national jurisdiction. This is particularly salient if we look at directives and decisions. Furthermore, even if the new legislation is applied it takes possibly years until a relevant scientific impact at the region can be proven. Therefore, this thesis can only scrutinize regulations that already have been in place for several years, which leads to the consequence that the cases this study is examining at are not newly legislated.

In the next chapter, this thesis will approach the EU's role in the Arctic and introduce the four Arctic policy areas that we are going to analyse.

5 The High North

This chapter will give first an introduction of the EU's involvement in the High North and the inherent problems of the Arctic's international and regional governance frameworks. Following the discussion on the EU's role in the arctic, the policy areas and the cases will be presented and elaborated on.

5.1 The EU in the Arctic

The EU has an infamous complicated relationship with the High North and its littoral states. The difficulties the EU is facing in the region stem from multiple issues. The first and foremost problem is that the EU is not an arctic player by itself and therefore it has to rely on the Arctic Member States or members of the Economic Area (EEA) such as Norway and Iceland.¹²⁷ The five Arctic littoral states namely Norway, Denmark, Russia, Canada and the United States, are cautious to preserve their own sovereignty towards foreign interests in this geographical area.¹²⁸ The reason behind this protective bearing can be situated in the undiscovered resources that are suspected to be present in the Arctic. It is assumed that over 10% of the remaining oil and even more gas is uncovered in the High North.¹²⁹ With the constant melting of sea ice, two new shipping routes will open up during the summer months. The Northern Sea Route (NSR) which is located between China and Russia as well as the North West Passage (NWP)

¹²⁷ Stępień, Adam and Timo Koivurova (2017): Formulating a Cross-cutting Policy. Challenges and Opportunities for Effective EU Arctic Policy making, in: Nengye, Liu, Elizabeth Krik and Tore Henriksen (ed.) *The European Union and the Arctic*, p. 19.

¹²⁸ Jakobson, Linda (2010): China Prepares for an Ice-Free Arctic, in: SIPRI Peace and Security, vol. 2, p. 7.

¹²⁹ See e.g. U.S. Geological Survey (2008), online available at: <http://pubs.usgs.gov/fs/2008/3049/fs2008-3049.pdf>, last viewed: 24.06.2020.

which opens up a sea route between the Atlantic and the Pacific.¹³⁰ Both sea routes offer novel economic opportunities for the coastal states since they cut the travel time of cargo ships by thousands of nautical miles. Those areas fall in most cases under the jurisdiction of the littoral states or are situated at the high seas. At the high seas, several international frameworks are in place to regulate shipping, fishing and environmental issues.

The legal framework at the High North is institutionalized by the United Nations Convention on the Law of the Sea (UNCLOS), in which the EU is a contracting party member of.¹³¹ UNCLOS is the framework that regulates the Arctic sea areas and the Exclusive Economic Zone (EEZ) of littoral states. In these 12 nautical miles, Arctic states have full rights over shipping, fishing and resources. The EEZ can be extended up to 200 nautical miles when states can prove that it is a continuance of their coastal sea shelf.¹³² Since the EU has exclusive competences in the area of fisheries, becoming a member of UNCLOS was inevitable for regulating the EEC member states.¹³³ The EU's exclusive competences regarding UNCLOS cover the areas of prevention of pollution, maritime transport and safety of shipping. The EU also declared that the scope of these competencies can be widened if necessary.¹³⁴ The EU uses UNCLOS as a legal framework for regulations and sanctions against third parties that fall under the exclusive competences, such as fisheries.¹³⁵ Generally speaking, the United Nations (UN) bodies are the main source of shipping regulation in high seas which in many cases gets inherited by the EU.

Besides UNCLOS as a UN body, the other international organization that endorses non-binding global standards on shipping vessels is the International Maritime Organization (IMO).¹³⁶ The EU is not a member of the IMO therefore the EU's influence is very limited regarding shipping standards outside its own

¹³⁰ Arctic Council (2009) Arctic Marine Shipping Assessment 2009 Report, Tromso, online available at: https://www.pmel.noaa.gov/arctic-zone/detect/documents/AMSA_2009_Report_2nd_print.pdf, last viewed: 24.06.2020.

¹³¹ Paasivirta, Esa (2015): The European Union and the United Nations Convention on the Law of the Sea, in: *Fordham International Law Journal*, vol. 38(4), p. 1046.

¹³² See e.g. Byers, Michael and James Baker (2013): *International Law and the Arctic*, Cambridge University Press.

¹³³ Paasivirta (2015), p. 1048.

¹³⁴ *Ibid.*, p. 1050.

¹³⁵ See e.g. Commissions Implementing Regulation, 793/2013, [2013] OJ L 223, at 1.

jurisdiction. That is one of the main reasons why the EU is in favour of a broader and tougher legally binding framework in the context of Arctic shipping as well as governance structures. Among the Arctic littoral states, on the other hand, there is a wide consensus against a stricter framework. They want to keep the current system of IMO and the Arctic Council (AC) since a more far-reaching scope could jeopardize their sovereignty in the High North.¹³⁷

The Arctic Council is the main cooperative body in which Arctic states can discuss Arctic policies and issues with each other. The AC is primarily a communication forum that develops guidelines, recommendations and assessments without the competence to implement or enforce them in any given way. The AC consists of the Arctic Eight¹³⁸ and six indigenous representation organizations which have an active participation status in all meetings. Furthermore, non-Arctic states, intergovernmental, non-governmental, regional and global organizations can apply for observer status.¹³⁹ The EU's application of an observer status has formally not been granted yet, since there is an ongoing conflict between the EU and Canada regarding the EU's ban on seal products.¹⁴⁰

This is the environment in which the EU has to operate in the High North, a barely regulated area with strong Unitarian actors that want to protect their sovereignty and remain very hesitant to let outsider participate in the governmental setup. This setup led to the EU's position which is heavily relying on Arctic Member States and non-Member States to comply with EU regulations in order to have any considerable impact in this region. In the next section of this thesis, we will unroll several cases of the EU's regulatory impact on the Arctic and divide them into the four different policy areas as already discussed above.

¹³⁶ Molenaar, Erik and Robert Corell (2009): Arctic Shipping, Universiteit Utrecht, p. 5.

¹³⁷ Airoldi, Adele (2008): The European Union and the Arctic. Policies and Actions, Copenhagen. Nordic Council of Ministers, p. 65.

¹³⁸ U.S., Canada, Russia, Norway, Iceland, Denmark, Sweden, Finland.

¹³⁹ See Arctic Council Website, available at <https://arctic-council.org/en/>.

¹⁴⁰ See e.g. Sellheim, Nikolas (2015): The goals of the EU seal products trade regulation. From effectiveness to consequence, in: Polar Record, vol. 51(3).

5.2 EU Regulations in the Arctic

This chapter will introduce a range of EU directives, decisions and regulations and discuss their possible impact on Arctic non-EU states. First, there will be an overview of the EU's directive and regulations in the four policy areas economic, environmental, societal and political, that we already defined earlier.¹⁴¹ After a general outline of the area. The objective is to scrutinize the EU's regulatory impact in the respective policy areas. The differentiation between the distinct policy areas might become blurry since some of the regulations and directives can be applicable to several policy areas.

5.2.1 Economic Area

The economic area comprises the sectors of transportation policy, common fisheries policy, common energy market and EU external energy policy and tourism. This area contains the most sectors of EU involvement which was to be expected from the theory part already.¹⁴²

Transportation regulations cover all transportation by road, rail or waterways in the European Arctic but more important also with some exceptions in the EEA countries Iceland and Norway as well as partially in Greenland and the Faroe Islands.¹⁴³ The transportation sector additionally basically falls into the economic area as well as the environmental area since it covers issues from both areas, nevertheless, the main objective of this sector is economical therefore it is classified in the economic area. The interconnection becomes visible if looked at the 'Marco Polo' programme, which discusses the improvement of the environmental performance of land and sea freight transportation¹⁴⁴ or guidelines on the transportation of hazardous goods.¹⁴⁵ The intersection between the transportation sector and environmental issues can be linked to

¹⁴¹ See chapter 4.3.

¹⁴² Damro (2012), p. 687.

¹⁴³ Koivurova et al. (2010), p. 21.

¹⁴⁴ Regulation No. 1692/2006.

Directive 2005/33/EC, which covers Arctic transport and the composition of ship fuel which contains sulphur. Furthermore, the transportation sector compromises the extent of allowed emissions from shipping traffic in the Arctic.¹⁴⁶ The Council also made a decision on the development of a pan-European transportation network which extends into the EEA area and thereby affecting Norway and Iceland.¹⁴⁷ The EU also regulates the freedom to provide maritime transportation services in the whole EEA area as part of its competition law.¹⁴⁸ Next to the EU's own legislation in this area, there is also the IMO Polar Code, which regulates polar shipping safety and the prevention of environmental damages from shipping. The EU is not an IMO member since only states can join but there is a constant exchange of regulation. The EU extended the scope of the IMO's Polar Code by making it mandatory to operate in the EU's and EEA Arctic area.¹⁴⁹

If we take a look at the EU's Common Fisheries Policy, it becomes evident that this policy area is linked with the environmental area as well. All issues regarding fishing in- and outside the Arctic are included in the Regulation No. 1380/2013/EU on the Common Fisheries Policy. In 2002 the EU introduced a regulation on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy.¹⁵⁰ The EU's fishery regulations are for the most parts based on UNCLOS which is transferred into EU law.¹⁵¹ The Common Fisheries Policy covers the control and management of community vessels as well as third-country vessels entering the EEA member's fishing grounds.¹⁵² The EU has established fishing regulations concerning quotas in cooperation with its arctic neighbours Norway¹⁵³, the Faroe Islands¹⁵⁴ and Iceland¹⁵⁵. Furthermore, any trade-related issue regarding fisheries falls under the shared competences¹⁵⁶ and thereby apply for the whole EEA area. The EU deployed regulations to settle

¹⁴⁵ Directive 2008/68/EC.

¹⁴⁶ Directive 2001/81/EC, 2016/802/EC and Regulation No. 2015/757/EU

¹⁴⁷ Decision 1692/96/EC.

¹⁴⁸ Regulation No. 1/2003/EC.

¹⁴⁹ European Parliament (2010), p. 23.

¹⁵⁰ Regulation No. 2371/2002/EC.

¹⁵¹ Regulation No. 861/2009/EC.

¹⁵² Regulation No. 1006/2008/EC.

¹⁵³ Regulation No. 2214/80/EEC.

¹⁵⁴ Ibid.

¹⁵⁵ Regulation No. 1737/93/EEC.

¹⁵⁶ Art. 4(a) TFEU, Art. 38–44 TFEU; Chapter 2 EEA Agreement.

disputes concerning fisheries both with Norway and the Faroe Islands by reducing their quotas until they gave in.

Even in the field of the Common Energy Market & EU External Energy Policy, there is a clear nexus between environmental and economic aspects. The EU adopted Directive 2001/77/EC on the promotion of electricity produced from renewable energy sources in the internal electricity market as well as also fostering the use of renewable energy.¹⁵⁷ These regulations apply to the EU's single market, thus any energy import from third countries also has to adapt to these regulations. That led to conflicts especially with Russia as one of the EU's main energy exporters for natural gas.¹⁵⁸ The field of energy policy is regulated by the rules of the free movement of goods and is thereby applicable to all EEA parties.

The field of Arctic tourism is also one which has several overlapping's into different policy areas such as the environmental area. Directive 2005/35/EC on ship-source pollution and on the introduction of penalties for the infringements of this regulation as well as a follow-up decision to enforce fines in case of non-compliance¹⁵⁹ is located in the middle ground between economic and environmental issues. Another area that is considered part of the tourism sector is the question of liability in the event of accidents in the Arctic, it is specifically regulated who is accountable in the event of a disaster in the High North.¹⁶⁰ All regulations in the field of tourism fall under the EEA agreement since they are concerning the four freedoms.

5.2.2 Environmental Area

The environmental area comprises the sectors of climate change, environmental policy and animal welfare. The environmental area is special since

¹⁵⁷ Directive 2009/28/EC.

¹⁵⁸ See e.g. Romanova, Tatiana (2014): Russian energy in the EU market. Bosltered institutions and their effects, in: Energy Policy, vol. 74.

¹⁵⁹ Decision 2005/667/JHA.

¹⁶⁰ Regulation No. 2027/97/EC and No. 889/2002/EC.

it is influencing most other areas in the Arctic. Furthermore, it is one of the main priorities of the EU arctic strategy that was released in 2016.¹⁶¹

The environmental area is focused on biodiversity¹⁶² and the monitoring of environmental impacts in the Arctic region. Directive 2001/42/EC is on Strategic Environmental Assessment of Arctic territories inside the EEA.¹⁶³ The Directive 2007/51/EC is on the restriction on the marketing of mercury, as well as a moratorium of mercury exports.¹⁶⁴ This applies to all products that contain mercury and are imported and exported from or into the EEA area. As a member of the Stockholm Convention, the EU also legislated regulations on Persistent Organic Pollutants and banned the in- and export of dangerous chemicals.¹⁶⁵ The same goes for the control of hazardous substances in case of major accidents in the High North.¹⁶⁶ The EU additionally developed a framework of community action in the area of marine environmental policy which set up prevention and protection measures in the EEA countries.¹⁶⁷ As part of OSPAR (Oslo, Paris) the EU has issued several directives¹⁶⁸ and regulations¹⁶⁹ concerning the water quality and the preservation of the marine environment of the North Atlantic which also affects Arctic waters.

The topic of tackling climate change is also present in the EU's Arctic regulatory involvement and falls under shared competence with the Member States. Since most directives and regulations fall under the environmental policy, they are for the most part EEA applicable. In order to fight climate change, the EU launched the EU Emission Trading System (ETS) which was put in place with Directive 2003/87/EC as well as many aviation regulations.¹⁷⁰ Furthermore, the EU also introduced competences for the storage and capture of carbon.¹⁷¹ The

¹⁶¹ See e.g. Joint Communication to the European Parliament and the Council. An integrated European Union policy for the Arctic (2016).

¹⁶² Directive 2009/147/EC.

¹⁶³ See also Directives 85/337/EEC, 97/11/EC and 2003/35/EC.

¹⁶⁴ Regulation No. 1102/2008/EC, Directive 2012/33/EU and [2012] OJ L327/1.

¹⁶⁵ Regulation No. 304/2003/EC and 850/2004/EC.

¹⁶⁶ Directive 2012/18/EU.

¹⁶⁷ Directive 2008/56/EC.

¹⁶⁸ Directive 91/676/EEC, 91/271/EEC, 2000/60/EEC and 2008/56/EC.

¹⁶⁹ Regulation No. 1907/2006/EP.

¹⁷⁰ Regulation No. 82/2010/EC and 1016/1199/EU, Directive 2008/101/EC, Decision 2009/450/EC.

¹⁷¹ Directive 2009/31/EC.

most notable directive is on the safety of offshore oil and gas operations¹⁷² which was partly rejected by some Arctic states even though it has a clear EEA relevance.¹⁷³ This directive had several implications first, it urges Member States that are also part of the AC to promote the highest safety standards regarding the extraction of oil and gas in the High North.¹⁷⁴ Through paragraph 52 the EU bypasses the problem of not being part of the AC by using its Member States Finland, Sweden and Denmark to endorse the EU regulations at the AC meetings. Second, the directive also held private service providers of offshore oil and gas operations, which are located in the EU, accountable for accidents outside the EU's jurisdiction.¹⁷⁵ This led to the case that companies that are based inside the EU are also bound by the direction even if operating outside the EU's jurisdiction. Interestingly, the Paris Agreement on climate is not much represented in the EU's actual Arctic climate policies.¹⁷⁶ The absence of the Paris Agreement in the EU's regulatory output in the Arctic so far is remarkable when reconsidering that the Arctic is severely impacted and threatened by rising temperatures.

When it comes to animal welfare regulations in the Arctic, the EU has a history of highly controversial regulations. Since animal welfare falls into the area of environmental and agriculture policies, the EU has shared competences with the Member States. By far the most problematic regulation in this area is the Regulation No. 1007/2009/EC on the trade in seal products and its implementation.¹⁷⁷ With this regulation, the EU put a ban on the import of all seal products apart from those originating from subsistence hunt by indigenous communities. This regulation led to a long story of controversies both with Canada as well as several Inuit communities for different reasons.¹⁷⁸ For the indigenous communities, the ban was an insection in their traditional everyday life and their classical economic model. Canada and Norway pointed out that the

¹⁷² Directive 2013/30/EU.

¹⁷³ Dobson, Natalie and Seline Trevisanut (2018): Climate Change and Energy in the Arctic – The Role of the European Union, in: *The International Journal of Marine and Coastal Law*, vol. 33, p. 396.

¹⁷⁴ Directive 2013/30/EU, § 52.

¹⁷⁵ *Ibid.*, § 20 and § 39.

¹⁷⁶ Dobson (2018), p. 401.

¹⁷⁷ Regulation No. 737/2012/EC.

¹⁷⁸ See e.g. Sellheim, Nikolas (2016): *Legislating the blind spot. The EU seal regime and the Newfoundland seal hunt*, Lapland University Press, Rovaniemi.

regulation is a ‘violation of the EU’s trade obligations’.¹⁷⁹ As a consequence of this regulation, Canada is still blocking the EU’s observer status at the AC.¹⁸⁰ Similar to the seal product ban was the regulation prohibiting the use of leg hold traps which was also criticized harshly by indigenous communities.¹⁸¹ The topic of whaling in EEA areas is mostly covered by regulations on the protection of marine environmental policies¹⁸² and the preservation of habitats¹⁸³ as well as the Regulation 338/97/EC on the ban of products from endangered whale species. Only Iceland is not part of the Convention on the Conservation of Migratory Species of Wild Animals and therefore proceeds whale fishing.¹⁸⁴

5.2.3 Societal Area

The societal area focuses on the role of indigenous people. Looking at the EU’s involvement on the rights of indigenous communities, the ban on seal products¹⁸⁵ which was already discussed above needs to be mentioned. It not only affected the indigenous people negatively, but it also provides them with special permission at the same time. The major problem was that it was too complicated for indigenous sealers to acquire the required certificates.¹⁸⁶ The importance of this regulation is situated in the fact that it has a lasting impact outside the EU’s jurisdiction. Moreover, it shows the ambiguity of EU regulations regarding conflicting policy areas, as in this case, animal protection and the rights of indigenous communities. Sellheim argues that the ban on seal products runs fundamentally contrary to the goals of the 7 + 1 documents, which guarantees the support of indigenous communities, this document was also signed by the EU.¹⁸⁷ This case will not be discussed any further in this place. The EU is also regulating the whaling quotas

¹⁷⁹ See e.g. Phillips, Leigh (2009): Arctic Council rejects EU’s observer status, in: EUobserver, online available at: <http://euobserver.com/885/28043>.

¹⁸⁰ See e.g. Phillips (2009).

¹⁸¹ Regulation No. 3254/91/EEC.

¹⁸² Directive 2008/56/EC and 92/43/EEC.

¹⁸³ Regulation 338/97/EC.

¹⁸⁴ Bonn Convention/CMS, 1979.

¹⁸⁵ Regulation No. 1007/2009/EC.

¹⁸⁶ Koivurova et. al. (2012), p. 9.

¹⁸⁷ Sellheim (2015), p. 286.

for indigenous communities which are part of their traditional subsistence.¹⁸⁸ Besides the seal and whaling cases, the EU impacts the living situation of indigenous communities, such as the *Sápmi* through its distribution of structural funds.¹⁸⁹ This regulation is also applicable to Greenland and the Faroe Islands. Most cooperation between the EU and the indigenous communities such as education and development is not regulated in the form of directives or regulations. The main reason for this absence of regulations in the field is that social policy is not relevant for the single market and the EEA member states.¹⁹⁰

5.2.4 Political Area

The political area focuses on regional policies. The EU wants to promote local growth in northernmost low populated density areas, which is a direct reference to the Arctic region. The EU mainly fosters regional development through the European Regional Development Fund as well as the European Social Fund and the Cohesion Fund.¹⁹¹ Looking at the Arctic, these instruments are used even from non-EU members such as Greenland, Iceland, the Faroe Islands and Norway. The development aid also goes into the structural improvement of the living conditions of indigenous people in the states named above.¹⁹² The EU has enacted several decisions and regulations to settle the relationship between Greenland and the EU. Most important is the Decision 2013/755/EU on the association of the overseas countries and territories with the European Union. In addition, the EU conducted partnership agreements on fisheries¹⁹³ and the overall relationship between the EU and Greenland (Denmark).¹⁹⁴

The next chapter of this thesis will be an analysis of the EU's regulatory impact across the different policy areas recently discussed in this study. Furthermore, an in-depth look at two of the regulations and directives will be

¹⁸⁸ Decision 9818/2008/EC and 7149/09/EC.

¹⁸⁹ Regulation No. 1083/2006/EC.

¹⁹⁰ Koivurova et al (2010), p. 38.

¹⁹¹ Regulation No. 1083/2006/EC.

¹⁹² Koivurova et al (2010), p. 42.

¹⁹³ Regulation No. 753/2007.

¹⁹⁴ Decision 2014/137/EU.

taken to assess their impact outside the EU along with getting a grasp of the EU's regulatory power potential. Finally, the hypothesis built earlier as well as the initial research question will be reviewed.

6 Analysis

This chapter will revolve around the question of how the EU's regulatory power differs between the policy areas discussed above. Hence in the first part, an analysis of the differences between the single areas will be given. Conclusions about the allocation of the EU's regulations and directives in the distinct policy areas can be drawn. In the second part, this chapter will present a more in-depth understanding of two of the most impactful regulations in order to gain insight into the EU's regulatory potential. Finally, the hypothesis built in the method part, as well as findings for this thesis research question, will be answered.

6.1 Distinctions between Policy Areas

If we contrast the four distinct policy areas with each other, it becomes quite noticeable that there are substantial differences between them. Those differences not only appear in the total number of regulations each sector possess but also on how they have impacted other sectors. Before comparing the results with each other, a short summary of the single sectors will be presented.

The economic area takes up a huge proportion of the EU's regulations that are relevant to the EEA area. This outcome was already expected because to be applicable to the EEA Agreement regulations had to be interfering with the four freedoms.¹⁹⁵ This result was also reflected in the theory part; therefore the given distribution is not massively surprising.¹⁹⁶ The big salient trend we can observe in the economic area is that nearly all regulations and directives have a very strong

¹⁹⁵ See e.g. Convention Establishing the European Free Trade Association (Geneva, 4 January 1960).

¹⁹⁶ Koivurova et al (2010), p. 21.

environmental component.¹⁹⁷ All of the mentioned regulations and directives are located in classic economic sectors nevertheless they are concerning mostly environmental issues that have a substantial impact on the EU's single market. The EU appears most protective in the fields of the Common Fisheries Policy¹⁹⁸ since it is a sensitive matter for a number of Member States. Therefore, it is not surprising that the EU was issuing several regulations to build up common fishing quotas with Norway, Iceland and the Faroe Islands.¹⁹⁹ The Faroe Islands also have been the target of a few sanctions regarding overfishing in EU territories. Nevertheless, most of the EU Regulations in this area are of cooperative nature and focused on reducing the EU's environmental impact in the field of economic operations.

The field of environmental policy was unexpectedly the most potent policy area if we look at the total numbers of regulations concerning environmental issues. This trend becomes even more evident if we take a look at regulations that are related to environmental issues in other policy areas. Most noteworthy is that despite the EU's strong regulations in the field of the environment there is a discrepancy between its proclaimed role of a forerunner on the subject of climate change and the actual regulations tackling the topic, at least in the Arctic.²⁰⁰ The environmental area is also the arena of the most controversial EU legislation e.g. the regulation on the ban of seal products²⁰¹ as well as the directive on the safety of offshore oil and gas operations²⁰². The implications of both legislative acts for the EU's regulatory perception will be discussed more in-depth in the next section of this chapter. Generally speaking, environmental protection is one of the driving factors for the EU's regulatory involvement in the Arctic. The EEA Agreement and its relation to the single market is used to spread the EU's environmental regulations outside the EU's territorial jurisdiction.

In the area of societal policy, one could observe a contradictory endeavour to, on the one hand, improve the living conditions of indigenous communities in the

¹⁹⁷ See e.g. Regulations No 1692/2006, 2015/757, 2214/80, 889/2002 and Directives 2008/68/EC, 2005/33/EC, 2016/802/EC, 2001/81/EC, 2001/77/EC, 2005/35/EC.

¹⁹⁸ Regulation No. 1380/2013/EU.

¹⁹⁹ Regulation No. 2214/80 and 1006/2008.

²⁰⁰ See e.g. Dobson et al. (2018), p. 401.

²⁰¹ Regulation No. 1007/2009.

High North.²⁰³ On the other hand, the EU has legislated several regulations regarding animal welfare that has hit indigenous people and their traditional way of living out of proportion. The ban on seal products²⁰⁴ as well as broad limitations on whaling²⁰⁵ has sparked strong controversies with the local communities in the Arctic. The compromise of approving quota for the specific indigenous communities are in most cases too bureaucratic to be effective.²⁰⁶ Besides the ambiguous regulations in the societal area, it is clear that the EU does not have any particular interest to regulate this specific policy area more than necessary.

Similar to the societal area the political area is underrepresented if we look at the EU's total number of regulations in the Arctic. Most of the regulations in this policy area are focused on agreements with overseas territories such as Greenland and the Faroe Islands.²⁰⁷ As well as the regional development for structurally weak and remote territories.²⁰⁸ The EU is suffering from the lack of regional institutional frameworks to become involved in. Furthermore, even in the few existing governance institutions such as the AC the EU has only a non-official observer status to work with. Same goes for its participation in the IMO framework, which is only available for nation states therefore the EU needs to relay on its Member States if it wants to archive any changes.

While considering the different policy areas, we can assess a clear discrepancy in regard to the number of regulations concerning the single areas. This outcome was anticipated already from the theory, but the vividness of it is still striking. Comparing the economic with the environmental area it gets quite obvious that environmental protection is the main driver for the EU as a regulator in the Arctic. Both the societal as well as the political area are both only from marginal regulatory interest for the EU. This becomes even more evident if looked at the

²⁰² Directive 2013/30/EU.

²⁰³ Regulation No. 1083/2006.

²⁰⁴ Regulation No. 1007/2009/EC.

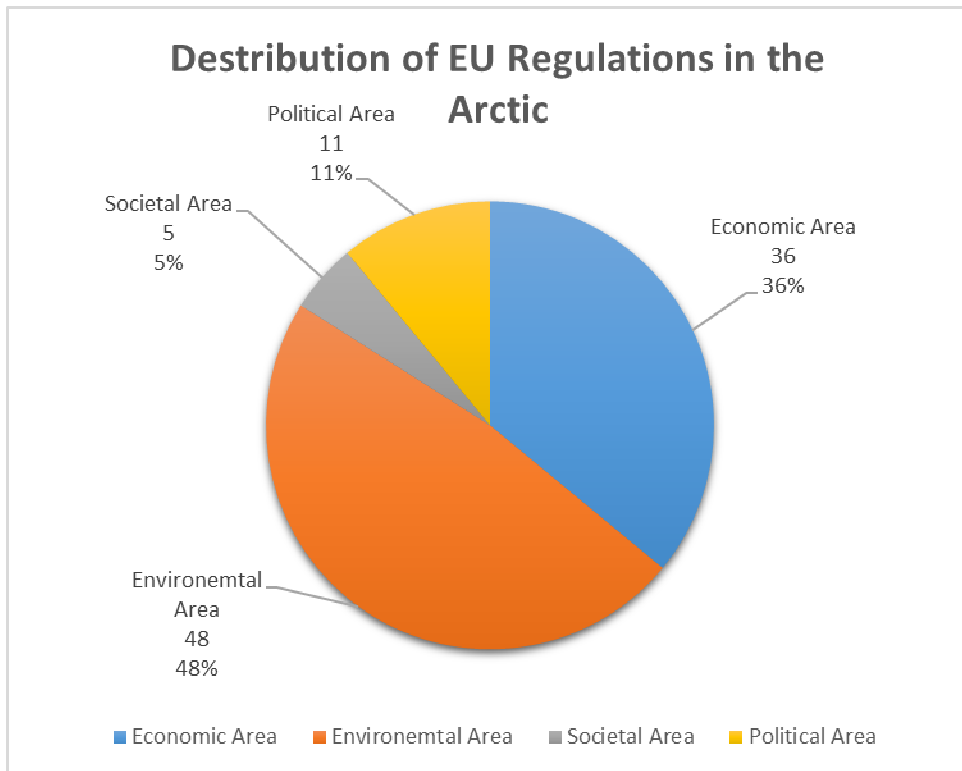
²⁰⁵ Decision 9818/2008/EC and 7149/09/EC.

²⁰⁶ Koivurova et. al. (2012), p. 9.

²⁰⁷ Decision 2013/755.

²⁰⁸ Regulation No. 1083/2006/EC.

overall distribution of the EU's regulations in all areas. In total, 100 regulations²⁰⁹ that the EU legislated until today with an Arctic impact were reviewed.



Nearly half of them were located in the environmental area. If regulations from other areas that had environmental implication were included, then the outcome would have been even more in favour of the environmental sector. With some exceptions, most of the regulations were applicable to the EEA area. As a result of this, it can definitely be argued that the EU uses the EEA Agreement to implement its regulatory framework outside its territorial jurisdiction in the Arctic whenever possible. If the EU does this to solely harmonize its internal market or to push a more normative agenda in the Arctic cannot be stated clearly.

In the next sector, two regulations from the environmental area which had a substantial impact on the region and beyond will be looked at. This can help to understand the EU's regulatory power potential on a more comprehensive level and therefore to develop some useful generalizations.

²⁰⁹ Appendix 1.

6.2 Exceptional Cases of EU Regulation

Looking at the EU's regulatory impact in the Arctic, there are two regulations and their ramifications stand out compared to the rest. The regulations are No. 1007/2009/EC on the trade of seal products and Directive 2013/30/EU on the safety of offshore oil and gas operations. Both regulations were covered already, so no further details will be given at this point, the focus will be on the implications that both regulations had for a general understanding of the EU as a regulator in the High North.

The EU's regulation on the trade of seal products²¹⁰ is the prime example where the EU tried to enforce a regulation, which falls into the environmental area through means of the internal market. This linkage between environmental and economic area illustrates the potential regulatory impact the EU can have if they link issue areas to the access of the single market. Bradford described this effect already in her model of the Brussels Effect under the term *stringent regulations*. This regulation showcases how potent the EU's regulatory capacity can be if it links normative issues, in this case, animal welfare to the internal market. Nevertheless, the international perception of the EU regulation is stunningly negative, even Denmark distanced itself from the regulation.²¹¹ This regulation can be seen as the main reason why the EU has not been accepted officially as an observer in the AC. Norway, as well as Canada, have questioned the EU's disposition to promote cooperation in the High North because of this specific legislation act.²¹²

Besides showcasing the EU's regulatory capacity, this regulation draws attention to the cohesion problems that the EU is facing in the Arctic. The regulation on the trade of seal products illustrates the conflict between different policy areas. On the one hand, there are concerns about animal welfare which tries to reduce cruelty against wildlife. On the other hand, the regulation does have a

²¹⁰ Regulation No. 1007/2009.

²¹¹ Dijkstra, Hylke (2011): The European Union as an Actor in Arctic Governance, in: European Foreign Affairs Review, vol. 16(2), p. 10.

²¹² See e.g. Phillips (2009).

drastic impact on the traditional economical basis of indigenous communities.²¹³ Even though the trade ban was intended to prevent commercial seal hunting and animal cruelties, it also had a substantial impact on the foundation of existence for indigenous communities. The EU tried to amend the regulation in the way that it gives indigenous people the possibility to hunt for their traditional subsistence.²¹⁴ In the end, this had to be considered overly complex to be an effective measure. The main reason for the EU to legislate this regulation was to shut down the Canadian commercial seal trade. This goal, however, was never achieved with the means of this regulation since Canada is just trading its seal products at the Asian market nowadays. Instead, the regulations damage the traditional way of living of indigenous communities.²¹⁵ The example of this showcases the inconsistency between different policy areas, and also a general lack of knowledge on Arctic subjects itself.²¹⁶ The EU feels obliged to support indigenous communities and tries to protect their way of living but at the same time, the EU is legislating regulations that run contradictory to their own aspirations while fostering another area. This effect can be observed within the implementation of several regulations that run contradictory to existing policies and already pronounced objects.

Directive 2013/30/EU on the safety of offshore oil and gas operations showed a different dimension on the effectiveness of EU regulations in the area of environmental policies. This directive is the EU's attempt to add its own legislation in the field of oil and gas safety onto already existing policies of international conventions such as IMO and UNCLOS.²¹⁷ This specific regulation was one of the consequences, the EU has reasoned out of the Deepwater Horizon disaster in 2008;²¹⁸ therefore it was drafted to not only apply to nation states but to international corporations as well. The directive directly states that '*Member*

²¹³ See e.g. Sellheim (2014).

²¹⁴ Koivurova et. al. (2012), p. 9.

²¹⁵ Sellheim (2014), p. 286.

²¹⁶ Ibid.

²¹⁷ Nengye, Liu (2015): The European Unions Potential Contribution to Enhanced Governance of Offshore Oil and Gas Operations in the Arctic, in: Review of European Community & International Environmental Law, vol. 24(2), p. 224.

²¹⁸ Vinogradov, Sergei (2013): The impact of the Deepwater Horizon. The Evolving International Legal Regime of Offshore Accidental Pollution Prevention, Preparedness, and Response, in: Ocean Development & International Law, vol. 44(4), p. 350.

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'.²¹⁹ This article makes corporations based in the Union accountable for their actions outside the EU's jurisdiction. In fact, it forces international corporations registered in any EU Member State to act according to the directive even if they operate outside the EU's jurisdiction. Since Shell and, before Brexit, BP were both located in the EU, they had to implement this directive while operating in Arctic territories. This case shows how powerful the EU legislation can be towards controlling international corporations and preventing them from dangerous operations.²²⁰ This can be seen as one of the few cases of a de facto Brussels Effect in the Arctic. Both third country states, as well as corporations, have to comply with this regulation if they want to operate within the EU or import oil and gas to the single market.

Both of the discussed regulations have exposed the strengths and weaknesses of the EU's Arctic regulations. On the one hand, the power potential of stringent environmental regulations and a possible way for the EU to exert power beyond its jurisdiction is certain. On the other hand, it became clear that the EU is missing a general understanding of some subject of the region, which led to tensions and contrary policies in different areas. Since the publication of its Arctic Strategy in 2016, the EU has a pronounced goal in the direction of environmental protection in the High North. Nevertheless, the legislative output in the field of climate change has been marginal during the last years in the Arctic area. Instead, the EU is relying to a bigger extent on bilateral cooperation with the littoral states. In the next section, this thesis will revisit the hypotheses and finally answer the initial research question.

²¹⁹ Directive 2013/30/EU, Article 20.1.

²²⁰ Nengye (2015), p. 228.

6.3 Findings

This chapter will first return to the hypotheses build earlier and afterwards answering the research question posed in the beginning. The hypotheses that were deduced from the theory part were constructed from general assumptions of the regulatory power Europe concept and the broad understanding of the EEA Agreement. After scrutinizing a very specific geographical area, it will be intriguing to see how those general assumptions actually match or fail the Arctic reality.

The first hypothesis was H₁: *‘The most significant impact of EU regulations in the Arctic is assumed to be in the economic area and the access to the EU’s single market.’* After analysing one hundred regulations, directives and decisions with arctic relevance the first part of the hypothesis which assumes that the economic area will be the most impactful one, both quantitative as well as qualitative, can be dismissed. Nevertheless, the economic area played a huge role in the distribution of Arctic regulations. The second part of the hypothesis which emphasized on the access of the EU’s single market, on the other hand, can be endorsed. Most of the regulations had EEA applicability since they concerned the four freedoms of the single market. Furthermore, both of the cases that were looked at profoundly had significance because they have prevented or put requirements on the market access. It can be assumed that this form of regulatory impact that is focused on market access will become more common in the Arctic. Especially, since it can provide regulatory influence outside the EU jurisdiction. It is actually surprising that there are not as many cases utilizing this method in the High North compared to other regions of the world.

The second hypothesis was that H₂: *‘The environmental area will be closely linked with the economic area and therefore also be strongly affected by EU Arctic regulations’.* This hypothesis can be confirmed and is even more far-reaching since the close connection between the environmental area and economic area is conspicuous in favour of environmental issues. Indeed, the access to the internal single market is a powerful basis of negotiation but while examining the regulations more in-depth it becomes clear that many of the regulations in the economic area are dealing with are to a large extent environmental issues.

Another aspect observed is that environmental policies in the EU have high importance and therefore radiate into other policy areas. As Bradford assumed, we could see a lot of issue linkage in the area of environmental and economic policies. Interestingly tackling climate change as one of the main priorities in the EU's Arctic Strategy remains marginal in the representation of the EU's regulatory legislation up until today. The reason for this is probably rooted in the fact that fighting climate change is not an issue which affects the internal market to the same extent as additional environmental issues such as the oil and gas operation guidelines. This might change in the future with measures like a carbon tax or similar legislation that have a more significant impact on the single market.

The third hypothesis posed in the beginning was that H₃: *'The social and political dimension is assumed to be subordinated in the EU's arctic regulations compared to the economic and environmental areas.'* This third hypothesis can entirely be approved regarding both the political and the societal areas where underrepresented in the total number of regulations. Additionally, it could be proven that some of the EU's principles concerning indigenous communities are conflicting with regulations in the field of environmental issues which appeared way more potent than the social area. In the field of the political area, the EU is suffering from the existing governance framework in the High North which is not particularly inclusive. Furthermore, the EU still has to deal with the consequences of the ban on seal products which prevents them from being granted official observer status in the AC. Even though we anticipated that the political and societal areas to be weaker than the environmental and economic area, the final results are more substantial than predicted. Only 16 out of the 100 regulations are located in the political and societal area. The main reason for this distribution is most likely linked to the fact that cooperation in those areas is more focused on non-legal agreements than regulatory legislation.

The last hypothesis was H₄: *'Most regulations will be EEA relevant since they concern the four freedoms or environmental issues connected to them.'* After looking at regulations that are applicable to EEA members this hypothesis for the environmental and economic area can be approved too. Most of the EU's regulations in both of those areas needed to be implemented through the EEA Agreement since they had implications for the single market and the four freedoms. For the reason that environmental issues are also applicable to the EEA

Agreement, the vast majority of the EU's legislation in the Arctic are affecting Norway and Iceland as well.

Looking at all hypotheses that were built of the understanding of the theoretical discourse three out of four could be approved and the first could be confirmed partially. That shows that even though the Arctic is a very specific environment most of the assumptions of the regulatory power Europe approach still apply to it. In the final part, the answers to the research question will be presented.

The research question posed in the beginning, was *'how does the EU's regulatory impact differ between policy areas in the High North?'* After discussing the theoretical background of the regulatory power Europe concept as well as analysing the empirical data of EU legislation in the Arctic, this question can be advanced distinctly. To answer this question two steps, towards how the EU's regulatory impact does differ between policy areas and as a second step how those regulations are impacting non-EU actors in the Arctic, needs to be taken.

The EU's regulatory impact between policy areas was discussed above as part of the hypotheses thereby there shall only be a short summary. A substantial alteration between the distribution of regulations in the distinct policy areas could be observed. This was already assumed from Bradford's Brussels Effect model, and details previously have been discussed as part of the hypotheses. Recapitulating the insights, it can be pinpointed that the environmental area was unexpectedly dominant if we look at the total number of regulations as well as the impact of individual cases. The economic area was the second most represented and because of the EU's single market still highly relevant and linked to most other areas. Both the societal along with the political area suffered from the complicated institutional setup in the Arctic. Furthermore, regulations from the environmental area had a negative impact on these outcast areas.

This leads to the second part of the question which is the scope of the EU's regulatory impact. The EU's Arctic regulations impact the EU's Member States in the High North, this includes the EEC of those states. Through the EEA Agreement, the EU can also develop regulatory competencies in Iceland and Norway and therefore extend its regulatory scope outside its legal jurisdiction. Together with the EEA members, the EU's regulations are in some areas

applicable in five out of eight Arctic states. Looking beyond the scope of the EEA Agreement, some regulations such as the regulation on oil and gas operations were observed to expand their scope far beyond the EU's territories. Even though there are only a few regulations that go beyond the EEA Agreement so far, this could change in the future and massively increase the EU's Arctic power potential. To sum up it was shown how the regulatory impact of the EU varied between the different policy areas in the High North. Noteworthy is the significant role of the environmental area, which is the main driver of the EU's Arctic legislation. Furthermore, the EU's power potential as a regulatory powerhouse was strongly evident.

To put those results into a more general perception of the EU's regulatory impact some specific characteristics in the High North, which differ from other areas of EU involvement, could be observed. Reasons for this specific nature of the EU in the Arctic stem from the remoteness of the area, the governmental setup as well as the power structure of the Arctic littoral states. On the one hand, this makes it more complicated to compare this region to other fields of applications, since it is a very unique composition of particularities that lead to the present situation. On the other hand, the results of the analysis tell some distinct traits about the EU's role as a regulator per se. The chance that those results might change between different regions is given but some of the weaknesses, as well as strengths, seems to be consistent on a global scale. Both, the power potential that the EU can hypothetically leverage because of its single market as well as the internal incongruity concerning diverging interests can be applied to the global level.

7 Conclusion

The objective of this thesis was to analyse if there is an impact of the EU's regulations on policy areas in the Arctic and if so how does it differ between the specific areas. To answer this question, this thesis used a comparative study that utilized a mix-method approach of a qualitative literature review examination of impactful EU regulations with Arctic relevance as well as looking quantitative on the total number of regulations that are concerning each policy area.

As a theoretical background, this study deployed the regulatory power Europe concept and introduced Bradford's version of the Brussels Effect as a theoretical framework. Additionally, the scope was extended by not only observing EU Member States but also the contractor of the EEA Agreement. This provided a way to show the EU's regulatory impact even outside its own jurisdiction.

This thesis could prove that there is a substantial difference between the policy areas that were scrutinized. As part of the analysis, this study looked at 100 regulations that had Arctic implications. Over 80% of the regulations were located in the economic or environmental area, while less than 20% could be associated with the political and societal areas. Most of the examined regulations had EEA relevance, which exposed one instrument the EU possess to influence third party actors outside its jurisdiction, at least in the High North.

While analysing each area, it was illustrated that the environmental area not only had quantitative the most regulations but also that it was the most important area in qualitative terms. The reason for this result is that even regulations in other areas had in many cases a strong environmental component. This finding was conspicuous in the economic area, which was strongly connected with the environmental area. This outcome was not anticipated in the beginning and shown how substantial environmental issues are preserved in the High North.

It became clear that the EU's sharpest regulatory tool even in the High North is its access to the single market. Beyond all policy areas, a high number of regulations are targeted to grant or deny entry to the market or rather impose

sanctions in the event of non-compliance. It can be assumed that this tool will be used more extensively in the future if the EU wants to extend its regulatory influence on non-Member States.

The political and societal areas play only a marginal role in the EU's regulatory presence in the Arctic. It was demonstrated that this is substantiated in the complicated governmental framework in the region as well as in the fact that the EU is more focused on the environmental and economic area. This leads to contradicting regulation at the expense of the weaker areas.

What is coming next? As a consequence of the slow implementation of the regulatory processes into the national legislation, the upcoming years will show how impactful the official EU Arctic policy of 2016 has been. So far, the strong focus on tackling climate change as part of the EU's Arctic strategy has not been transferred into tangible regulations. If the EU hopes to be a leader on this issue, the Arctic has to be at the forefront of fighting this global crisis.

Besides tackling climate change, the EU has to adapt to the rising interests in the region, especially from global actors like China. Regulatory measures for safety and environmental standards can be a valuable tool for the EU to advocate its political convictions towards third states that want to interact with the single market or operate in EU and EEA territory. With a rise in the EU's regulatory framework in the Arctic, the EU might be able to leverage the Brussels Effect even at such remote places as the High North.

To proceed on this path, it seems elemental that the EU is significantly increasing its knowledge of the region to prevent undermining its stringent regulations as happened in the past. Fundamental the EU has to decide what kind of regulator it wants to be in the Arctic. Keeping its focus mainly on the economic and environmental sector or pursuing a more holistic approach by bolstering the political and societal areas as well. The future will show what strategy the EU will choose on.

8 References

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8.1 Appendix 1 List of Regulations

Economic:	Environment:	Political:	Societal:
Regulation (EC) No 392/2009	Directive 2009/33/EC	Regulation no 800/2008	Regulation 1007/2009
Regulation (EC) No 391/2009	Directive 2001/81/EC	Regulation (EC) no 1906/2006	Decision 7146/09
Directive 2009/21/EC	Regulation (EC) No 2037/2000	Decision No 1982/2006/EC	Decision 9818/2008
Directive 2009/20/EC	Directive 2000/59/EC	Decision of 19 December 2006	Regulation (EC) no 1083/2006
Directive 2009/18/EC	Directive 1999/32	2006/C 54/08	
Directive 2009/15/EC	Directive 94/63/EC	Regulation (EC) no 1083/2006	
Directive 2008/68/EC	Directive 2009/147/EC	Regulation (EC) No 1260/1999	
Regulation (EC) No 1370/2007	Regulation (EC) No 1272/2008	Decision 2013/755/EU	
Decision 2007/431/EC	Directive 2008/56/EC	Decision 2014/137/EU	
Regulation (EC) No 1692/2006	Directive 2008/1/EC	Regulation No. 1083/2006/EC	
Directive 2005/35/EC	Directive 2007/51/EC	Regulation No. 753/2007	
Decision 2005/667/JHA	Regulation No. 1907/2006		
Regulation (EC) No 417/2002	Regulation (EC) No 850/2004		
Directive 2002/59/EC	Directive 2003/35/EC		
Directive 2000/59/EC	Regulation (EC) No. 304/2003		
Directive 1999/62/EC	Directive 2001/42/EC		
Directive 1999/63/EC	Directive 2000/60/EC		
Directive 96/98/EC	Council Decision 98/249/EC		
Regulation (EC) No 1177/2002	Council Directive 97/11/EC		
Regulation (EEC) No 4056/86	Council Directive 96/61/EC		
Regulation (EEC) No 4055/86	Directive 96/59/EC		
Regulation (EC) No 1006/2008	Directive 92/43/EEC		
Regulation (EC) No 861/2006	Directive 85/337/EEC		
Regulation (EC) No 2371/2002	Directive 91/676/EEC		
Directive 2009/28/EC	Directive 91/271/EEC		
Directive 2004/8/EC	Regulation (EU) No 737/2010		
Directive 2002/91/EC	Regulation 1007/2009		
Directive 2001/77/EC	Regulation (EC) No 1/2005		
Regulation (EC) No 2964/95	Regulation (EC) No 2371/2002		
Regulation (EC) No. 889/2002	Regulation No 338/97/EC		
Regulation (EC) No. 2027/97	Directive 92/43/EEC		
Directive 95/57/EC	Directive 2008/56/EC		
Decision 2005/667/JHA	Directive 83/129/EEC		
Directive 90/314/EEC	Decision 82/72/EEC		
Regulation No. 2015/757/EU	Regulation (EU) No 82/2010		
Regulation No. 1380/2013/EU	Decision 2009/450/EC		
	Decision 2009/339/EC		
	Decision 2007/589/EC		
	Directive 2009/147/EC		
	Directive 2009/28/EC		
	Regulation (EC) No 2152/2003		
	Directive 2000/60/EC		
	Council Directive 92/43/EEC		
	Directive 2012/33/EU		
	[2012] OJ L327/1		
	Directive 2012/18/EU	59	
	Directive 2013/30/EU.		
	Regulation No. 737/2012/EC		