

*European Union-Greenland relations after 2015 – a partnership
beyond fisheries*

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The introduction of a new, enhanced autonomy for Greenland within the Danish Realm¹ on 21 June 2009, after the referendum of 25 November 2008, brought about a new chapter in the history of the emancipation of Greenland from Copenhagen.² In comparison with its previous status, in force since 1979,³ the competences of the home-rule government in Nuuk were broadened, especially in the domains of jurisprudence, public order and management of natural reserves. It was recognised that the Greenlandic nation was a subject of international law with an inherent right to declare independence, which in turn should be respected by Denmark. Financial subsidies from Denmark were to be reduced, and the economic dependence of Greenland on the Danish budget –

¹ 'Lov om Grønlands Selvstyre' of 12 June 2009, no. 473. For that status, the notion of "self-rule" is usually applied, as opposed to the model of autonomy granted in 1979, so called "home rule".

² On the history of connections between Greenland and Denmark, and in particular on the status of Greenland in the Danish Realm, see e.g.: Jørgen Albæk Jensen, 'The Position of Greenland and the Faroe Islands within the Danish Realm', *European Public Law*, 2003, vol. 9 no. 2; Jens Hartig Danielsen, 'Self-Government and the Constitution: Greenland within the Danish State', *European Public Law*, 2013, vol. 19 no. 4.

³ 'Lov om Grønlands Hjemmestyre' of 29 November 1978, no. 577.

diminished. All these novelties introduced new possibilities for Greenlanders to shape the political and economic future of their island.

As well, as climate change and global warming emerged at the beginning of the century as important issues on the international agenda, it became clear that the biggest island in the Arctic would increasingly fall within the remit of the enhanced interest of global actors. In particular, the rise in temperatures in the Arctic area was supposed to create new possibilities for Greenland's economy, opening easier access to extraction of minerals, as well as for fisheries and for improving nutritional self-sufficiency of the island.

Both the new competences of the self-government in Nuuk and enhanced interest in the Arctic worldwide caused a rise in the attractiveness and visibility of Greenland in international relations. One of the important international actors interested in intensifying contacts with the island was the European Union, which, since 2008, has made considerable efforts towards improving its visibility in the Arctic and increasing its stake in Arctic issues.

The purpose of this manuscript is to set out the reasons, means and methods of the process of deepening relations between the European Union and Greenland, set against the background of the interests and activities of other international actors. In parallel, several processes of a more general nature will become visible as the analysis proceeds.

First, it will become evident how a dependent territory as Greenland, which maintains special relations with the European Union under the Overseas Countries and Territories Association (OCTA), is becoming slowly entangled in the broader scope of various EU policies while it emancipates itself from the metropole. This goes hand in hand with an inevitable shift as regards the centre of gravity for the norms and interests for its population, politics and economy.

Another process can be called the "internationalisation" of an emancipating OCT territory, stemming from the fact that there is no simple substitution of the roles played by a metropole by those of the European Union. Rather, an OCT becomes exposed to

various forms of pressure from many layers of international relations, including influences from the global level, state level - especially from states dominating in the region - and finally, from various sub-state and inter-state levels. In this process, the European Union is an important, perhaps, but by no means a dominant actor. The term “a hesitant power” could perhaps help visualise the European Union’s attitude in such circumstances.

The third major issue appears here, and even though it goes a little beyond the scope of the present study, it still may be worth exploring at some stage. It concerns the ways in which a metropole, such as Denmark, reacts to the growing interest of European Union institutions in an OCT territory, and how the practical (and potentially sensitive) issues arising between a metropole, an OCT and Brussels are resolved.

Greenland at a crossroads, between the EU and external influences

There are several conceptual frameworks which may prove useful for an analysis of the European Union’s growing relations with Greenland. Namely, it would be particularly relevant to address this process considering that Greenland is 1) an OCT; 2) Arctic; 3) a globally relevant territory.

To begin with, it is worthwhile to see the EU-Greenland relations through the prism of a more general analysis of the OCTA model and its development in recent years. While the OCTA concept has been analysed so far mainly from a legal point of view, some recent “postcolonial” narratives seem particularly useful as they shed more light on the OCTs as *sui generis* remnants of the colonial era, with all the consequences for their political, economic and cultural development on one side, and for an interesting interplay between the European Union institutions and the metropole EU member state on the other.⁴ Greenland can be seen as a specific case in point, with the caveat that this territory is particularly specific among an already untypical OCT group, being comparatively affluent, so not “ODA eligible”, geopolitically close to Europe and increasingly active on

⁴ Cf. Rebecca Adler-Nissen, Ulrik Pram Gad (eds.), *European Integration and Postcolonial Sovereignty Games. The EU Overseas Countries and Territories*, London-New York 2013; See also for further reading: Peo Stefan Jonsson Hansen, *Eurafrica: The Untold History of European Integration and Colonialism*, (London-New York 2014).

the international scene, and in particular in various Northern cooperation formats. Such characteristics make Greenland a useful case to study, because one gets a chance to observe a comparatively well-off and politically stable OCT, striving resolutely for more independence but at the same time hampered by objective systemic difficulties.⁵ The case of Greenland clearly shows also the limitations as to the extent to which the European Union can substitute a sovereign state and all its instruments of power and influence in terms of providing a point of reference to an OCT, including political patronage, economic and regulatory support and protection from external pressure.

Secondly, Greenland's status as the only OCT in the Arctic brings us to the issue of expansion of the European Union's interests and actions in the Northern region, which in turn opens up the question of how Greenland can be placed in the new European Union strategy for the Arctic. The EU role in the Arctic has been subject to major discussions in recent times, at least since the first European Commission Arctic Communication was published in 2008, but Greenland, as will be shown below, has not been particularly visible in these considerations. This might seem surprising, because in the presently functioning regional Arctic governance system, dominated by the great powers, the growing influence of the Nuuk representation (and, for that matter, the Inuit representation) may serve potentially as a useful factor for the European Union. And vice versa, Greenland may perceive the European Union as an interesting ally in its game both with Copenhagen and with other actors operating in the Arctic. The emergence of Greenland as an Arctic player, still relatively weak but irremovably present in the system, could thus potentially shift the regional scene in the direction of the European Union's interests as the EU looks to loosen the domination (one could also say the hegemonic stability) wielded by the powers in the Arctic.⁶

⁵ Cf. e.g. Steven Blockmans, 'Between the Devil and the Deep Blue Sea? Conflicts in External Action Pursued by OCTs and the European Union', in: Dimitry Kochenov (ed.), *EU Law of the Overseas: Outermost Regions, Associated Overseas Countries and Territories, Territories Sui Generis* (New York: Kluwer Law Intl 2011), p. 314.

⁶ Cf. e.g. Mario Telò (ed.), *The European Union and the New Regionalism. Regional Actors and the Global Governance in the Post-Hegemonic Era*, (Aldershot, Hampshire, England: Ashgate 2007), p. XIV.

Thirdly, Greenland's role is potentially interesting from the perspective of its participation in discussions about global agenda items, in the first place as concerns fighting climate change, global environmental challenges, and especially the future of primordial areas. With some caveats, Greenland may be usefully placed, at least in the foreseeable future, in the group of increasingly influential "small-state actors" in the global governance in the mentioned fields,⁷ especially when one realises that its "governmental" potential is visibly enriched with an important "non-state" tool of influence – the representation of the Inuit. Needless to say, as the European Union tries to improve its position on the global arena, support for or at least cooperation with such entities can be of growing importance.

Evolution of relations between Greenland and the European Union before 2006

EEC/EU-Greenland relations before 2006 show a great degree of stability based on an initial decision to flexibly adapt the OCTA model to an atypical, Arctic territory. After a short period of membership in the European Communities, as part of the territory of Denmark, and after a consultative referendum organised on 23 February 1982, Greenland gained special legal status in the relations with the European Economic Community. This was based on the so-called "Greenland Treaty" of 30 March 1984,⁸ drafted much along the proposals put forward by the Danish Government in the memorandum of 19 May 1982.⁹ In legal terms, the Greenland Treaty was simply a revision treaty to the Treaties Establishing the European Communities. Its most important provision was the exclusion of Greenland from the European Coal and Steel Community and the EUROATOM Treaties. In return, a provision on Greenland was inserted in the part IV of the EEC Treaty dealing with the relations of the Community with Overseas Countries and Territories. This way Greenland was to be now associated with the Community on a similar basis as

⁷ Cf. Jessica Beyer, Christine Ingebritsen, Sieglinde Gstöhl, Iver B. Neumann (eds.), *Small States in International Relations* (Washington: University of Washington Press 2006), p.16.

⁸ 'Treaty amending, with regard to Greenland, the Treaties Establishing the European Communities', with a 'Protocol on special arrangements for Greenland', *Official Journal of the European Communities* (below quoted as OJ) L 29, 1.2.85.

⁹ Cf. 'Status of Greenland, Commission opinion, Commission communication presented to the Council on 2 February 1983', *Bulletin of the European Communities, Supplement 1/83*, p. 6.

other overseas territories, governed by the appropriate OCT legislation (at that time, the OCT Decision of 1980).¹⁰

The preference for OCT status stemmed actually from the Greenlandic side. In the resolution passed by the Greenland parliament on 26 March 1982, the Danish government was asked to negotiate a transition with the EEC to an association model under the OCT. This request was fulfilled in the memorandum of the Danish government of 19 May 1982, mentioned above. The European Commission accepted this view in principle and EEC member states proceeded accordingly, even though it was evident that a big part of the OCT model “cannot be regarded as consonant with the territory’s special features”,¹¹ to quote the Commission.

Falling within the OCT regulations meant that Greenland was essentially free to regulate important areas of its economy according to Home Rule laws, and no longer obliged to follow the EEC standards and procedures. Whereas this was considered a political asset and a part of the programmes of the leading political forces in Greenland, it entailed also the necessity to regulate foreign trade anew, which was crucial for a territory so heavily dependent on imports from the EEC, mostly from Denmark and also from Sweden (then a party to the European Free Trade Agreement), as well as to organise the fishing trade anew with the EEC.¹² For Greenland, leaving the EEC meant the necessity of leaving the customs union as well, but the OCT status enabled Greenland to be exempt, in principle, from EEC duties and quotas on selling its products to the Communities’ market.¹³ In practical terms, at the beginning of the eighties, this possibility had no other application but Greenland’s fishing production, and in that respect, the Greenland Treaty specifically allowed for free access of fishing products originating from Greenland to the EEC common market without the necessity to participate in the EEC common fisheries policy, but on condition of “complying with the mechanisms of the internal market organisation” and granting firms originating from the EEC/EFTA free

¹⁰ ‘Council Decision of 16 December 1980 on the association of the overseas countries and territories with the European Economic Community’, 80/1186/EEC, OJ L 361, 31.12.80.

¹¹ ‘Status of Greenland...’, supra note 9, p. 11.

¹² Cf. e.g. Lise Lyck, Jørgen Taagholt, ‘Greenland – Its Economy And Resources’, *Arctic*, vol. 40 no. 1, March 1987, p. 56.

¹³ Cf. ‘Council Decision of 16 December 1980...’, supra note 10, art. 4.

access to the Greenlandic exclusive economic zone.¹⁴ This compliance with “the internal market organisation” on fisheries was ensured by means of special agreements called fisheries protocols, the first of which was signed in 1985.¹⁵ Greenland also retained the right, along with other OCTs, to impose limitations on imports of goods from the European single market “in conformity with the level of its development”,¹⁶ but this right has never been exercised. Moreover, in return for access to the maritime resources of Greenland for EEC/EFTA companies, a special fund was created in the EEC budget, from which a financial compensation was paid to Greenland. As Greenland did not qualify for EEC development assistance disbursed via the European Development Fund because of too high a level of per capita income, and as it lost rights to use the Communities’ structural funds after leaving the EEC, this compensation was, in fact, the only payment received by Greenland from the Communities. This EEC subsidy, called “fish for cash”, paid between 1985 and 2006 from the general budget of the EEC and later of the European Union, was meant to be, in principle, maintained on the level of the funds made available to Greenland from the EEC structural funds before 1984.

After Greenland acquired OCT status, the role of the EEC for this territory throughout the rest of the eighties and the nineties boiled down, generally, to maintaining the status quo on trade and exploitation of maritime resources. The legal basis of these relations was ensured by the consecutive signing of several annexes to the fisheries protocol, which each time slightly elevated the amount of the Greenland subsidy, adjusting it to the market prices of maritime products and inflation. For example, the subsidy between 1985 and 1989 was set at 26.5 million ecu per year, and between 1990 and 1994 – at 34.25 million ecu.¹⁷

¹⁴ Both provisions in the ‘Treaty amending...’, supra note 8, art. 1 of ‘the Protocol...’.

¹⁵ ‘Council Regulation (EEC) No 224/85 of 29 January 1985 on the conclusion of the Protocol on the conditions relating to fishing between the European Economic Community, on the one hand, and the Government of Denmark and the local Government of Greenland, on the other’, with ‘Protocol on the conditions relating to fishing between the European Economic Community, on the one hand, and the Government of Denmark and the local Government of Greenland, on the other’, OJ L 029, 1.2.85.

¹⁶ Cf. ‘Council Decision of 16 December 1980...’, supra note 10, art. 6.

¹⁷ ‘Commission of the European Communities, Directorate-General Audiovisual, Information, Communication, Culture, The European Community and the Overseas Countries and Territories’, *Europe Information*, DE 76, Brussels, October 1993, p. 9.

On the way to the Kayak Agreement of 2006 and after

This relatively low-profile state of relations continued through all subsequent stages of the political development of the European integration in the nineties and at the turn of the century, and started to change only in 2006, when a new, extended political document called “A Joint Declaration on partnership between the European Union, Denmark and Greenland” was signed, as the first political EU document on Greenland beyond fisheries since the times of the Greenland Treaty.¹⁸ It would be worthwhile to consider possible reasons for such a substantive step forward made in 2006.

The most important reason on the side of Greenland must be attributed primarily to new ambitions of the home-rule government in Nuuk, which strove, at the beginning of the century, for more political and economic independence from Copenhagen. This process was strengthened by changes on the political scene of Greenland at that time. In particular, the longstanding domination of the social-democratic party Siumut was brought to an end in 2002 and a leftist, independence-oriented party called Inuit Ataqatigiit entered the government coalition. Even prior to those changes, in 1999, the home-rule government in Nuuk established a special committee on autonomy, whose report, produced already under the new coalition in 2003, recommended, among others, that Nuuk should take over full competences related to management of economy and resources. The joint Danish-Greenland Committee on Autonomy was established in 2004 to help these ambitions materialise.¹⁹

Work on broadened autonomy for Greenland were therefore well advanced when the prime minister of Greenland Hans Enoksen signed the Joint Declaration of 2006. In parallel, the coalition government of Siumut-Innuvit Ataqatigiit intensified the search for other, alternative partners to Copenhagen on the international arena, including the United States, with whom a new agreement was sought.

¹⁸ Cf. ‘Joint Declaration by the European Community, on the one hand, and the Home Rule Government of Greenland and the Government of Denmark, on the other, on partnership between the European Community and Greenland’, point 3, tiret 2, OJ L 208, 29.7.2006.

¹⁹ E.g. Nikolaj Petersen, ‘The Arctic as a New Arena for Danish Foreign Policy: The Ilulissat Initiative and its implications’, *Danish Foreign Policy Yearbook*, (Copenhagen: Danish Institute for International Studies, 2009), p. 37.

The second reason for signing the 2006 Joint Declaration as seen from the Greenland side stemmed basically from the realisation that the arrangements in force about the EU compensation for fishing rights in Greenland's economic zone were no longer tenable. A new deal had to be found to encompass this problem.²⁰

As concerns the European Union, even though the idea to broaden the existing partnership with Greenland had received a positive assessment and the support of the EU for some time already, the beginning of these deliberations was, in reality, strictly connected with the issue of the future of the fisheries arrangements. The need to enhance the partnership with Greenland was mentioned by the European Commission already in 2002 in connection with a mid-term review of the fourth fisheries protocol.²¹ In this context, the report of the EU Court of Auditors about the functioning of the fisheries agreements was frequently quoted, showing that the low quantities of fish available in Greenland's waters led to a situation in which the EU "paid for fish which potentially did not exist".²² A political debate followed, mostly in the European Parliament, which resulted in a decision to the effect that the financial support disbursed by the European Commission to Greenland should be partially decoupled from fishing quotas, and relations with Greenland should be brought further, beyond fisheries.²³ In February 2003, special Council Conclusions were adopted along these lines, in which the Council agreed "the necessity to enhance future relations between the European Union and Greenland" and expressed an intention that they should be "based on a comprehensive partnership for sustainable development".²⁴ On that basis, the home-rule government in Nuuk was

²⁰ Cf. Fiona Murray, *The European Union and Member State Territories: A New Legal Framework Under the EU Treaties*, (The Hague: T.M.C. Asser Press 2012), p. 98.

²¹ 'Communication from the Commission to the Council and the European Parliament, Mid-term Review of the Fourth Fisheries Protocol between the EU and Greenland', COM (2002) 697, Brussels, 3.12.2002.

²² 'Court of Auditors, Special Report No 3/2001 concerning the Commission's management of the international fisheries agreements, together with the Commission's replies', OJ C 210, 27.7.2001. Cf. also *supra* note 21, p. 5.

²³ Cf. 'European Parliament resolution on a communication from the Commission to the Council and the European Parliament on mid-term review of the fourth fisheries protocol between the EU and Greenland (COM(2002) 697 - 2003/2035(INI))'.

²⁴ 'Draft Council Conclusions on the Midterm Review of the Fourth Fisheries Protocol Between the EC, the Government of Denmark and the Home Rule Government of Greenland', doc. 6575/03 of 20 February 2003, adopted as "A" point during the General Affairs and Foreign Relations Council on 24 February 2003 r. Cf. 'List of "A" Items, 2487th meeting of the Council of the European Union (General Affairs and External Relations)', doc. 6458/03, Brussels, 24 February 2003.

invited to concretise its postulates towards the European Union, which it fulfilled in a note transferred to the European Commission on 18 February 2005. In that note, the Nuuk government indicated some extra sectors of potential cooperation with the European Union extending beyond the fisheries sector, including education and training, mineral resources, energy, tourism, culture, research and development. It also called for maintaining the level of EU support for Greenland and keeping the principle of free access of goods manufactured in Greenland to the EU market. In response, the European Commission set up a special task force with the aim of working out a draft document sketching a new partnership between Greenland and the European Union. The results were used by the European Commission to prepare a special communication published in April 2006 which reflected in principle all postulates of the home rule government.²⁵ Also some novelties as to the nomenclature of the relations with Greenland were used: namely, Greenland was called “a privileged neighbour” of the European Union, whose significance was no longer based on standard relations in the framework of the OCTs, but which now became important also in the context of “EU efforts to combat climate change”, “promoting alternative sources of energy” and “common research and development of Northern sea routes”.²⁶ This change of tone was ambitious considering that these declarations were made towards a dependent territory.

The final text of the “double partnership”, dubbed also “The Kayak Agreement”, was signed in Luxembourg on 27 June 2006. Its contents more or less reflected the European Commission’s proposals presented in the Communication. Greenland was consistently named “a privileged neighbour”, and the new cooperation areas were kept. Furthermore, it was decided that the indicative level of EU support for Greenland in 2001-6, that is 42.8 million euro per year, should be maintained, but this amount was now to be divided in two parts, namely, 25 million euro should be appropriated for financing the

²⁵ ‘Commission of the European Communities, Communication from the Commission: A new comprehensive partnership with Greenland in the form of a joint declaration and a Council Decision based on Article 187 of the EC Treaty, and proposal for a Council Decision on the relations between the European Community on the one hand, and Greenland and the Kingdom of Denmark on the other’, COM (2006) 142, Brussels, 4 April 2006.

²⁶ *Ibid.*, p. 2.

additional sectors, and the remaining part should be used as the traditional compensation for access to Greenlandic fishing zones.

The Joint Declaration of 2006 was reinforced with a new protocol on fisheries of June 2007²⁷ and a financing decision of the Council for 2007-13,²⁸ which opened the way for European Commission services to start programming a new period of development cooperation with Greenland in conformity with the political aims. The multiannual programming document prepared by the Directorate-General Development Cooperation (DG DEVCO) in 2007 pointed in principle to only one dominating field of cooperation, and that was education and training.²⁹ This selective choice was, in fact, a result of strategic decisions made earlier by the DG DEVCO to streamline its programmes and to make them more efficient and visible, but in this particular case the European Commission argued that such strict concentration on education firstly conformed to the ambitions of the home-rule government in Nuuk to build a more independent economy based on the private sector, and secondly, corresponded with its own assessments of what was needed to boost economy in Greenland. The Commission pointed out in particular that the situation in which the absolute majority of Greenland's labour force, namely 87 percent, was made up of unqualified workers, was unacceptable and posed a major obstacle to the economic development of the island.

Cooperation on mineral resources – back to the old hopes

One of the areas of cooperation mentioned in the 2006 Joint Declaration which promised to be especially attractive and profitable for both sides was that on mineral resources. So it is worthwhile discussing it briefly. It must be remembered, in the first place, that the interest in "Greenland as new Klondike" due to its natural richness in raw materials had begun already in the 19th century and the island has since then had a

²⁷ 'Council Regulation 753/2007 of 28 June 2007 on the conclusion of the Fisheries Partnership Agreement between the European Community on the one hand, and the Government of Denmark and the Home Rule Government of Greenland, on the other hand', OJ L 172, 30.6.2007.

²⁸ 'Council Decision of 17 July 2006 on relations between the European Community on the one hand, and Greenland and the Kingdom of Denmark on the other', 2006/526/EC, OJ L 208, 29.7.2006.

²⁹ Cf. 'Programming Document for the Sustainable Development of Greenland', The European Commission, DG DEVCO, 1 January 2007.

considerable history of attempts to excavate minerals on an industrial scale, but the harsh climate rendered most of the Greenlandic resources untapped.³⁰ In the first decade of the present century, it was expected that this situation was about to be ameliorated due to global warming. In parallel, the European Commission showed a renewed interest in a stable and foreseeable market of minerals, and its services responsible for economic policy started to look more attentively at the Northern territories including Greenland. This was, in turn, reflected, among others, in a mid-term review of the “EU Strategy on raw materials” presented in the European Commission’s Communication of February 2011, in which it was specifically proposed that the European Union should play a more intensive role in the global management of the raw materials market, also by means of “raw materials diplomacy” with key producers.³¹ Greenland was mentioned in this context as an especially promising player: the possible share of Greenland in the global raw materials market was estimated in 2010 to be around 3.44 percent, Greenland being the only territory rich in rare earths so closely connected with the European Union in a market dominated chiefly by Far East players, Brazil and some former Soviet countries.³² It was further observed in Brussels that the self-rule government in Nuuk, after taking over powers concerning natural resources management from Copenhagen, devoted lots of energy to attract foreign firms to begin searching for minerals in Greenland, to the point of adopting special legislation in the field of mineral resources.³³ Moreover, as between 2009 and 2012 more than half the relevant permits were obtained by American businesses, whereas companies originating from the European Union received only about 15 percent of such permits, the European Commission felt it appropriate at least to try to regain a European initiative in that regard.

³⁰ Cf. e.g. Bent Ole Gram Mortensen, ‘The Quest for Resources – the Case of Greenland’, *Journal of Military and Strategic Studies*, 2013, vol. 15 issue 2.

³¹ ‘Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Tackling the challenges in commodity markets and on raw materials’, COM (2011) 25, Brussels, 2 February 2011.

³² ‘European Commission, Memo: Greenland’s raw materials potential and the EU strategic needs’, Brussels, 13 June 2012.

³³ See ‘Greenland Parliament Act of 7 December 2009 on mineral resources and mineral resource activities, (the Mineral Resources Act)’, ‘Greenland’s oil and mineral strategy 2014-2018’, 8 February 2014.

This renewed interest was reflected in the “Letter of Intent on cooperation on raw materials”³⁴ signed between the European Commission and the self-rule government of Greenland on 13 June 2012 in Nuuk. Greenland promised to continue to apply transparent and free-market regulations concerning future access to its mineral resources, especially in the area of the rare earths, and the European Union was to assist Greenland on various technical aspects of management of mineral resources, in particular to help transfer relevant know-how on technology, infrastructure analysis, investment needs, to help create impact assessments of potential exploitation of the environment and society, as well as train the staff responsible for management of resources.

The real pace of development of the EU-Greenland cooperation on raw minerals, in spite of its significant potential, has been, according to many observers, quite slow to date.³⁵ Only in 2013 did the European Commission order a feasibility study on cooperation in the areas indicated by the 2012 “Letter of Intent”. The level of interest among European businesses for potential exploration has remained low as well, even though some companies originating specifically from Denmark, Great Britain, Germany, and the Czech Republic did start activities on the spot. Certain political turbulences in Greenland, leading to repeated elections to the local parliament in 2013 and 2014, were also not helpful.

An issue which remained especially sensitive was the potential exploitation of uranium. The discovery of large deposits of uranium in Greenland in the ‘fifties placed the island between sixth and tenth place in the global ranking.³⁶ As the attitude of the Danish authorities towards developing nuclear energy during the late years of the Cold War was consistently negative, to the point that in 1985 Copenhagen declared a ban on the construction of nuclear plants, any possibility of making use of the Greenlandic deposits was out of the question.³⁷ But as Nuuk took over competences on raw materials in 2009, the uranium question was brought back into the political debate. In 2010, the Nuuk self-rule government entered into a political agreement called *The Qoornoq*

³⁴ Cf. ‘European Commission, Press Release: European Commission signs today agreement of cooperation with Greenland on raw materials’, Brussels, 13 June 2012.

³⁵ Cf. Adele Airoidi, *The European Union and the Arctic: Developments and Perspectives*, (Copenhagen: Nordic Council of Ministers, 2014), p. 27.

³⁶ Ibid, p. 28-29.

³⁷ Cf. e.g. B. Mortensen, *supra* note 30, p. 108.

Agreement, to the effect that the policy of non-exploitation of uranium should be revised in the near future. Subsequently, in 2013 the parliament of Greenland passed a law allowing the issue of the first permits for excavation of uranium. This alteration of policy caused, however, big controversies between various political forces in Greenland, in particular between the main coalition party Siumut, supporting abolition of the uranium ban, and the second largest party Inuit Ataqatigiit, pleading for the opposite. The new approach of Greenland to uranium also caused unrest in Danish political circles. It also turned out that the government in Copenhagen was not quite sure what international consequences would stem from the decision to grant Nuuk a free hand in exploitation of resources. In 2014, Nuuk and Copenhagen started a consultation process on Greenlandic uranium, as agreed between prime ministers Hammond of Greenland and Thorning-Schmidt of Denmark, and this process still remains to be concluded.

At least two difficult issues became evident on the background of the Greenlandic uranium issue. First, in spite of the fact that Greenland took over competences connected with exploitation of resources from Denmark, it became obvious that all international agreements binding Denmark in respect of exports control of special use materials remain in force also on the territory of Greenland. That meant that even though Copenhagen could not, under the existing division of competences between the government of Denmark and the self-rule government in Nuuk, influence decisions as to whether uranium can be exploited in Greenland, it could still, in conformity with its international obligations, impose a domestic regime applying also to Greenland and concerning controlling exports of raw uranium to third countries. Second, the European Union, which theoretically would be a very suitable actor to be engaged in giving advice to the Greenlandic authorities on the creation of a security system connected with exploiting and exporting of uranium, seemed to be quite reluctant on that topic. Obviously, the issue would be very delicate and would involve, as it seems, an agreement both on the side of Nuuk and of Copenhagen. The fact that the nuclear energy issues have not been formally included in the format of the relations of the European Union with OCTs, and the

Greenland Treaty explicitly excluded Greenland from the provisions of the Treaty on EURATOM, did not help in solving the issue.³⁸

The new partnership after 2015 – beyond fisheries

The functioning of the “Kayak Agreement” of 2006 has been assessed by most observers in positive terms. On the other hand, this partnership evidently had a technical and thus quite a limited character. The ambitious spectrum of political goals set forth in 2006 have not been fully realised, and most of the credit for its effective implementation has to go to the European Commission for the way it carried out its part of the programme, that is, development cooperation. It would appear from tentative assessments of the support programme for Greenland’s education and schooling system, in place since 2007, that amounts transferred to the budget of Greenland may have brought about the first positive results (with the caveat that these estimates came from the European Commission itself). Namely, the Greenland Education Programme, co-financed by the European Commission, led to an increase in the schooling ratio on the post-elementary level between the years 2005 and 2012 by 53 percent. Moreover, the number of graduates at post-elementary schools rose by 64 percent and some new professional higher-level educational institutions were opened.³⁹ A persistent problem which endured and was hard to eliminate was the high percentage of students leaving schools in the middle of an educational cycle. In general, a positive course of change has been set, even though it was obvious that it would take years before the elementary goal of building a well-educated society in Greenland and limiting the unacceptably low level of post-elementary educated Greenlanders could be completed.

The need to start a new cycle of partnership between the European Union and Greenland beyond 2014 was caused, primarily, by a necessity to begin programming a new EU budget cycle and, consequently, a new period of development cooperation. It

³⁸ Cf. e.g. Cindy Vestergaard, ‘The European Union, Its Overseas Territories and Non-Proliferation: The Case of Arctic Yellowcake’, *Non-Proliferation Papers*, EU Non-Proliferation Consortium, no. 25, January 2013.

³⁹ ‘Programming Document for the Sustainable Development of Greenland 2014-2020’, 2014/137/EU, Brussels, 28 October 2014 r., p. 29; Cf. also: ‘European Commission, Web Release: New financial support for the sustainable development of Greenland’, Brussels, 19 March 2015.

must be observed, however, that after the bilateral partnership was signed in 2006, many changes occurred both in Greenland and in the Arctic region, which needed to be reflected in contractual relations between Greenland and the European Union. Specifically, apart from the issues connected with gradual emancipation of the self-rule government in Nuuk from Copenhagen, including the strivings of the Greenland authorities to gain true independence from Danish subsidies, the autonomous status of 2009 opened up new potential horizons of cooperation in multilateral issues for Greenland and the European Union. In particular, management of the Arctic was becoming more and more an issue of common concern, the more so as the European Union was, after 2008, attempting to create its own, consistent Arctic policy.⁴⁰

Also before 2009, Greenland was gradually able to gain enhanced possibilities to participate in the management of Arctic issues, which the Danish government facilitated. D. Degeorges rightly points out that Greenland was at that time gradually becoming “an emerging actor” inside the inner circle of players determining the future of the Arctic.⁴¹ To give an example, the Danish government, after the creation of the Arctic Council, regularly gave to representatives of the Nuuk government a seat and the right to speak during sessions of the Council – in parallel to a similar gesture made to the Faroe Islands. The growing self-confidence of the Nuuk authorities in Arctic issues reached a symbolic culmination in 2013, when prime minister Aleqa Hammond refused to participate in the 8th Ministerial Meeting of the Arctic Council in Kiruna according to traditional custom, that is, as a member of the Danish delegation, and called for a separate place for Greenland’s representation.⁴²

Analysts of the European Commission and the European External Action Service no doubt saw rising independence and the new ambitions of the Nuuk authorities, which extended as well to a more independent stance on the management of the Arctic. It would seem, however, that there was no sufficient critical mass on the side of the Brussels

⁴⁰ ‘Communication from the Commission to the European Parliament and the Council, The European Union and the Arctic Region’, COM (2008) 763, Brussels, 20.11.2008.

⁴¹ Damien Degeorges, ‘The Role of Greenland in the Arctic’, *Laboratoire de l’IRSEM 2012*, no. 7, Institut de Recherche Stratégique de l’Ecole Militaire, April 2012.

⁴² Cf. ‘Greenland ends boycott, returns to the Arctic Council’, *Nunatsiaq News*, August 19, 2013.

institutions to fully utilise the ambitions of Greenland in order to adopt it as an ally of the European Union in its attempts to play more significant role in the Arctic. Consideration for an EU member state – Denmark – may have played a role here. The preparation for a new stage of relations between the European Union and Greenland were thus marked with significant caution; evolution, not revolution, was its motto.

The programming of cooperation between the European Union and Greenland after 2013 begun, strictly speaking, with technical questions, that is, the future of development cooperation. In a draft package of external assistance instruments presented in the European Commission Communication “Global Europe” of December 2011,⁴³ the European Commission foresaw enriching the partnership with Greenland with some new areas of cooperation. A new Council Decision setting forth this partnership was adopted in March 2014,⁴⁴ largely as proposed in the annex to the “Global Europe” Communication. As concerns new potential areas of cooperation with Greenland, the 2014 Council Decision did not differ much from the previous one, perhaps except for more room given to possible partnerships in regional, multilateral and global questions, in parallel to bilateral ones.⁴⁵ In financial matters, despite some earlier announcements,⁴⁶ the European Commission ultimately did not decide (quite rightly from the legal point of view) to propose establishing a typical instrument of external assistance, based on title III part V of the Treaty on the Functioning of the European Union (TFEU), for Greenland.⁴⁷ Instead, it expressed a readiness to continue the financial cooperation with Greenland according to the previous legal basis, that is, the cooperation with OCTs as described in part IV of the TFEU, and in particular article 203 of it.⁴⁸ It was further decided that the indicated amount allocated to support the partnership with Greenland should be augmented to a level of 217 million euro between 2014 and 2020, which was a slight growth compared to previous levels. The sums were further broken down so as to start

⁴³ ‘Joint Communication to the European Parliament and the Council, Global Europe: A new approach to financing EU external action’, COM (2011) 865, Brussels, 7 December 2011.

⁴⁴ ‘Council Decision 2014/137/EU of 14 March 2014 on relations between the European Union on the one hand, and Greenland and the Kingdom of Denmark on the other’, OJ L 76, 14.3.2014.

⁴⁵ *Ibidem*, par. 12 of the preamble, art. 2.1 and 2.2.

⁴⁶ Cf. ‘European Commission, Memo: The Multiannual Financial Framework: The External Action Financing Instruments’, Brussels, 11 December 2013.

⁴⁷ Cf. Treaty on Functioning of the European Union, title III chapter V, and especially art. 209, 212.

⁴⁸ ‘Proposal for a Council Decision on relations between the European Union on the one hand, and Greenland and the Kingdom of Denmark on the other’, COM (2011) 846, 7 December 2011.

with the amount of 24.5 million euro in 2014 and go up to 33.2 million euro in 2020.⁴⁹ To this, the traditional payment of compensation for fishing rights had to be added. As to the scope of the cooperation, in spite of the inclusion of a broad range of potential fields of the European Union's intervention in the 2014 Council Decision, it was simply decided that the programme of support for education and schooling in Greenland, initiated in 2007, should be prolonged for another seven years. This step, quite characteristic to the methods of operation of the DG DEVCO, responsible for the programming of the EU's development cooperation, was justified with a need to concentrate the "limited resources available" on the most promising sector.

But only on 19 March 2015, that is, in the reverse order to what could have been expected, was another political declaration signed between the European Union, Denmark and Greenland.⁵⁰ Its contents proved, generally, that the priorities of cooperation were perceived by the three sides as stable, and any broadening of areas and mechanisms of cooperation was to be admitted only slowly and carefully. A small shift of accent was visible in the preamble, namely, from fisheries to more strategic questions like the necessity to build strong ties in the Arctic and global issues. A dialogue on climate change was introduced as a new topic, together with another one concerning raw materials. Continuation of assistance in education and administrative capacity building was promised "for a better formulation and application of national policies". Generally, the notion of "a dialogue", visible already in the Council Decision of 2014, became characteristic also for the new 2015 Declaration, appearing in some key places in the document: apart from the paragraph on climate change, it was inserted also in the context of "raw materials including minerals", and, at the end, in the phrase about "consultations and political dialogue concerning all issues of common interest [...] in the framework of the present declaration".⁵¹

The use of such formulas, perhaps purposeful, instead of the previous notion of "cooperation", might lead to the conclusion that the European Union was beginning to

⁴⁹ 'Programming Document...', supra note 39, p. 38-39.

⁵⁰ 'Joint Declaration by the European Union, on the one hand, and the Government of Greenland and the Government of Denmark, on the other, on relations between the European Union and Greenland'.

⁵¹ Ibid., p. 4.

admit the possibility of initiating a certain form of sector dialogue, or dialogues, with the Greenlandic side, exceeding purely technical issues and including not only fisheries or preservation of resources, but also touching upon multilateral issues, like management of the Arctic or combating climate change. If that was really the intention of the authors of the 2015 Declaration, it is to be regretted that no decision was taken about any further formalisation of the relations between the European Union and Greenland, even in the form of light political dialogue in extra-sectoral issues. And the main institutional intermediary between both partners still remains the representation of Greenland at the European Union in Brussels, in place since 1992.

The European Union and other potential partners of Greenland

It would be worthwhile supplementing the picture of the European Union's relations with Greenland with a quick glance at other actors who are also looking at this territory with renewed interest, and vice versa, whose enhanced presence the Greenlandic authorities are counting on in their striving for greater political and economic independence from Copenhagen. It is perhaps evident at first sight that the two partners already present in close proximity are the United States and Canada, with a third potential partner aspiring for a renewed presence, namely China.

For the United States, Greenland has been traditionally important for security reasons, first of all as a place where a military base can be conveniently placed to carry out activities in the Arctic. The physical presence of American armed forces, dating back to the times of the Second World War, was primarily sanctioned by the American-Danish agreement of 1941.⁵² In 1946 the United States were even ready to purchase Greenland from the Danish government. In 1951, another agreement between Washington and Copenhagen was forged on the defence of Greenland,⁵³ and enriched in 2004 with two separate trilateral declarations about cooperation with the United States on economic,

⁵² Cf. e.g. Nikolaj Petersen, 'Negotiating the 1951 Greenland Defense Agreement: Theoretical and Empirical Aspects', *Scandinavian Political Studies*, 1998, vol. 21, issue 1; by the same author: 'SAC at Thule, Greenland in the US Polar Strategy', *Journal of Cold War Studies*, 2011, vol. 13, no. 2.

⁵³ 'Defense of Greenland: Agreement Between the United States and the Kingdom of Denmark', April 27, 1951.

technical and environmental matters (the so called “Igaliku Agreements”).⁵⁴ This cooperation bore fruit, for example, in the famous report of 2007⁵⁵ published by the American Geological Service about the discovery of new potential mineral resources in North-Eastern Greenland.

The self-rule government in Greenland perceived American presence on its territory as an important economic and political asset. This perception was strengthened after Greenland was granted new self-government status in 2009. The government in Nuuk was explicit in its hope that the United States would become a key partner of Greenland in its efforts to gain more economic independence from Copenhagen, first of all through more engagement in exploiting the natural resources of the island. This conviction was expressed specifically by the prime minister of the autonomy, Aleqa Hammond, during her visit to the United States in 2014.⁵⁶ This visit served also as an occasion to open a representation of Greenland in Washington (under the auspices of the Danish Embassy). It would seem, however, that for the United States, the economic potential of Greenland has still to be rediscovered. To give an example, in the recent “National Strategy for the Arctic Region” of 2013, published by the White House, Greenland is mentioned only once, and only in the context of the melting of Arctic ice.⁵⁷

Canada, due to its geographical and cultural proximity, has traditionally had special ambitions concerning Greenland, and the legal basis for cooperation on issues such as environment, scientific research and climate is already quite ambitious (however, these agreements have mostly been concluded with Denmark). Since the Inuit inhabiting Northern Canada and Greenland are related, new autonomous competences granted to

⁵⁴ ‘Joint Declaration by The Government of the United States of America and The Government of the Kingdom of Denmark, including the Home Rule Government of Greenland, on Economic and Technical Cooperation’, Igaliku, August 6, 2004; and ‘Joint Declaration by The Government of the United States of America and The Government of the Kingdom of Denmark, including the Home Rule Government of Greenland, on Cooperation on the Environment in Greenland’, Igaliku, August 6, 2004. The texts of agreements are available at the website of the US Embassy in Copenhagen.

⁵⁵ D.L. Gautier, ‘Assessment of undiscovered oil and gas resources of the East Greenland Rift Basins Province’, *U.S. Geological Survey Fact Sheet*, 2007-3077.

⁵⁶ Cf. Philip Stevens, ‘Greenland building closer US relations, prime minister says’, *Financial Times*, March 6, 2014.

⁵⁷ ‘National Strategy for the Arctic Region’, The White House, Washington, 10 May 2013, p. 5.

Nunavut by Ottawa in 1999 translated very easily into enhanced cooperation between the two autonomies. This resulted already, for example, in the memorandum of understanding on cultural cooperation signed in 2000.⁵⁸ And in parallel to the expectations towards the United States, Nuuk would like to see more economic engagement of Canadian business on the island.

A big absentee from Greenlandic affairs so far, at least in the economic sense, is the Russian Federation. The rising ambitions of this country in the Arctic have been recently reflected, among others, in its increased focus on political and economic presence in the region, and, of late, even in declarations about bigger military visibility in the polar areas.⁵⁹ Greenland's claim for independence must be observed with interest in Moscow, as it is evident that a gradual withdrawal of the Danish government from Greenland and creating, in the future, a Greenlandic state of some sort would lead potentially to interesting shifts of power in the Arctic, which could play off positively for Russia. On the other hand, Russia basically respects the present model of Arctic governance based on UNCLOS and on the dominant position of the sovereign states belonging to the Arctic Five. And it is, of course, remembered in Moscow that Greenland is a NATO territory, belonging geographically to the Western Hemisphere.⁶⁰ One potentially difficult area where Danish/Greenlandic and Russian interests may be at odds nowadays in the Arctic is delimiting the continental shelf around the North Pole. But so far, the Danish government has been quite successful in handling this sensitive issue in a discreet manner with Russia, and Nuuk played virtually no visible role in this process. In particular, the parallel applications on delimitation of the North Pole shelf which Russia and Denmark submitted to the Commission on the Limits of the Continental Shelf (CLCS) in New York

⁵⁸ 'Memorandum of Understanding on Cooperation between The Government of Nunavut and The Greenland Self Rule', Nuuk, 12 October 2000.

⁵⁹ Cf. e.g. Ekaterina Klimenko, 'Russia's Evolving Arctic Strategy, Drivers, Challenges and New Opportunities', *SIPRI Policy Paper*, no. 42, September 2014.

⁶⁰ From a legal point of view, Greenland as a territory belonging to the Western Hemisphere continues to be protected also by the Inter-American Treaty of Reciprocal Assistance (the Rio Treaty) of 1947. Even though Denmark (or Greenland) is not a party to this treaty, art. 4 defines its geographical application as covering the whole of the Western Hemisphere starting from the North Pole downwards and including, among others, Greenland. Cf. 'Inter-American Treaty of Reciprocal Assistance' Rio de Janeiro, 2 September 1947, art. 4; also e.g.: *Encyclopedia of Public International Law, Published Under the Auspices of the Max Planck Institute for Comparative Public Law and International Law Under the Direction of Rudolf Bernhardt*, vol. 6: *Regional Cooperation, Organizations and Problems*, (Amsterdam: North-Holland, 1983), p. 218.

in 2014 and which is still under consideration, were discussed at the same time between both countries via diplomatic channels, to the effect that possible recommendations by the CLCS would be without prejudice to a possible bilateral agreement.⁶¹

Another obvious direction of interest for the self-rule government in Nuuk has been the Asiatic states, first of all China, perceived as a huge potential investor in the area of minerals. An exchange of governmental visits took place between 2011 and 2012 between Nuuk and Beijing, which caused some unrest in Danish political circles about the possible effects of Chinese investments both for the economy of Greenland – the fear was that China would flood Greenland with a cheap labour force – and, more strategically, for the political balance in the Arctic. But even though five years of endeavours of Greenland's self-government to attract Chinese investment have resulted in several contracts, whose purpose was to search for possibilities to start extraction of raw materials, the level of interest of the Chinese has been generally perceived as leaving room for more engagement.⁶²

Horizons for future cooperation of Greenland and the European Union

It has been evident from the facts mentioned above that the European Union has taken, thus far, a cautious and technical approach to its partnership with Greenland. This could be a reflection of the similarly delicate approach of the EU to the Arctic as a whole. The programming of relations with Greenland has been done almost exclusively on the executive level. Especially striking has been the practical absence of greater involvement of the EU member states other than the Nordic countries in the issue. In spite of several EU Council decisions, there has never been a separate political debate on these relations organised on the level of the Council (the practical reason of that was the fact that Greenland still remained a dependent territory of one of the EU member states), so the

⁶¹ Cf. 'Commission on the Limits of the Continental Shelf (CLCS), Outer limits of the continental shelf beyond 200 nautical miles from the baselines: Submissions to the Commission: Submission by the Kingdom of Denmark', New York, 15 December 2014.

⁶² Cf. Tim Boersma, Kevin Foley, 'The Greenland Gold Rush. Promise and Pitfalls of Greenland's Energy and Mineral Resources', The Brookings Institution, Washington, September 2014, p. 45.

handling of this issue was somehow scattered between various fora debating on issues like OCTs, EU Arctic policy, fisheries policy and energy/raw materials. The interest of the European Parliament in Greenland has also been quite limited to date.⁶³ It would seem that Greenland has been still largely perceived in Brussels as an OCT territory, which must be treated with due diligence but at the same time very delicately, because of legal and political considerations for the role of Denmark.

Specifically, broader Arctic management issues have been so far noticeably absent from the EU-Greenland dialogue. This may be all the more surprising, given that the European Union has no problems with entering into a dialogue with representations of “indigenous peoples” living above the Arctic circle in any case of common concern. And it must be borne in mind that Greenland is a rising actor in formal regional cooperation formats, such as, along with the Arctic Council, where Greenland sits together with Denmark, also the Nordic Council, the Nordic Council of Ministers and the West-Nordic Council, where Nuuk is represented in its own capacity as a dependent territory. The relevance of all these bodies for the European Union, which tries, with mixed successes, to enter the Arctic governance system on its own rights, cannot be doubted.

On the other hand, the European Union *per se* is, at present, still hardly able to offer Greenland what it values most, that is, a perspective of concrete investment to help building a sustainable economy which may lay the foundations for independent statehood in the future. And paradoxically, the level of attractiveness of Greenland for the European Union will largely depend on the speed of emancipation of this territory from Denmark. Since it is difficult to realistically expect a rapid move of Greenland towards independence in the coming years, Greenland will remain for the European Union first of all a “potentially interesting partner to keep an eye on”. This cautious approach of the European Union is visible in the three principal domains of cooperation: the developmental, the economic, and the political.

As concerns development cooperation, the European Union has just entered the ninth year of the cooperation with Greenland and remains, after the Danish government,

⁶³ See, however, an analysis prepared by the services of the European Parliament: Fernando Garces de Los Fayos, ‘Greenland: The challenge of managing a key geostrategic territory’, *In-Depth Analysis*, European Parliament, Directorate General for External Policies, Policy Department, 2014, accessible at the website of the European Parliament.

the second biggest donor for Nuuk. The choice of education and schooling for this cooperation has to be attributed to the needs of the population, but perhaps, in parallel, also to the instinct of Brussels to promote, where possible, the more open character of Greenlandic society.

In the economic area, in spite of all the declarations and efforts to launch a new, “post-fisheries” phase of relations between the European Union and Greenland, the fisheries market remains by far the most important, and one could also say the only significant, field of economic cooperation between the two partners, exceeding, between 2011-2014, 90% of exports of Greenland to the European Union.⁶⁴ For the new areas, the European Union institutions have taken a “wait and see” approach, especially concerning the domain of the raw materials hailed as the most promising among new areas of cooperation with Greenland.⁶⁵ The European Union seems only to look to it that the raw material market in Greenland remains maximally open for external access. And even though Greenland is not legally bound to follow the EU *acquis* on public procurement and competitiveness, it must be admitted that the rules set down by the self-rule government have not so far been questioned by the European Union or any other external partner.

To sum up, for the reasons mentioned above, Greenland may in the medium-term perspective evolve to become a more and more interesting partner for the European Union, which can be read already from, among others, the Joint Declaration of 2015 and relevant EU Council conclusions on the Arctic. It would also seem to be in the interest of emerging Arctic actors like Greenland to challenge the present domination of the “great powers” in the governance of the Arctic, and to direct the future management of the region into more multilateral and network mechanisms, and this is precisely where the European Union with all its specificities can contribute.

⁶⁴ Cf. ‘European Union, Trade in Goods with Greenland’, European Commission, Directorate-General for Trade, 20-10-2015.

⁶⁵ Among recent studies cf. in particular: ‘Study on EU Needs with Regard to Co-operation with Greenland’, Final Report, Contract No 30-CE-0604902/00-84 – SI2.666954, June 2015.