

ISSUE BRIEF

No. 4954 | APRIL 25, 2019

Why the U.S. Should Oppose Observer Status for the European Union in the Arctic Council

Luke Coffey and Daniel Kochis

On May 7, the 11th Arctic Council Ministerial Meeting will take place in Rovaniemi, Finland. At this meeting, the applications of countries and organizations seeking observer status in the Arctic Council will be considered, among other issues. Among the applicants is the European Union Commission. Since the EU Commission is a supranational body and not an intergovernmental organization, it does not meet the criteria established by the Arctic Council to acquire observer status.¹ The U.S. should vote against the EU Commission's application to become an observer in the Arctic Council.

The Arctic Council

The Arctic Council is the world's primary multilateral forum concerned with the Arctic region, and focuses on all Arctic policy issues other than defense and security. It was established in 1996 with the Declaration of Establishment of the Arctic Council, also known as the Ottawa Declaration, as a way for the eight Arctic countries² to coordinate and work together on mutually important issues in the region. The chairmanship rotates every two years. The current chair, Finland, will hand over leadership to Iceland in May.

Reflecting the fact that there are many countries, organizations, and indigenous groups that have

legitimate interests in the Arctic region, the Arctic Council has three categories of membership:

- 1. Member states.** This category consists of the eight countries that have territory in the Arctic: Canada, Denmark, Finland, Iceland, Norway, Russia, Sweden, and the United States. Only member states have decision-making power in the Arctic Council.
- 2. Permanent participants.** This category is reserved for the six organizations representing indigenous groups that live above the Arctic Circle and often across national boundaries. These groups include the Aleut International Association, the Arctic Athabaskan Council, the Gwich'in Council International, the Inuit Circumpolar Council, the Russian Association of Indigenous Peoples of the North, and the Saami Council.³
- 3. Observers.** Due to the possibility of new shipping lanes opening, some non-Arctic countries may also have a stake in the region. For example, China, Singapore, and South Korea have observer status in the Arctic Council. This category is open to non-Arctic states, intergovernmental and inter-parliamentary organizations, and global and regional nongovernmental organizations. There are currently 38 observers.⁴ Observers are allowed to attend meetings, make oral statements, present written statements, submit relevant documents, participate in and fund working groups (less than 50 percent of the working group's budget), and provide views on the issues under discussion.

This paper, in its entirety, can be found at <http://report.heritage.org/ib4954>

The Heritage Foundation
214 Massachusetts Avenue, NE
Washington, DC 20002
(202) 546-4400 | heritage.org

Nothing written here is to be construed as necessarily reflecting the views of The Heritage Foundation or as an attempt to aid or hinder the passage of any bill before Congress.

The EU Commission Does Not Qualify

As part of the process of constantly expanding its policy remit, the EU Commission has long sought a bigger role in Arctic issues. However, when it comes to the Arctic Council, Canada (because of the EU's position against the seal trade) and Russia (because of European economic sanctions over Russia's aggression against Ukraine) have traditionally been opposed to EU membership of the Arctic Council in any form—including as an observer.

The EU's application for observer status was first rejected in 2009 when Canada blocked it over the EU's import ban on seal products. At the 2013 Kiruna Ministerial Meeting, the Arctic Council deferred a final decision on the EU's observer status "until such time as Ministers of the Arctic States may reach a final decision."⁵ Even though the EU's application has been placed in a state of limbo, it is still allowed to "observe" council proceedings, but it is not allowed to participate like an official observer.

There are three reasons why the U.S. should block the EU from becoming an observer:

1. The EU Commission is a supranational organization, meaning that in some areas its authority and policymaking transcends the national governments of the EU member states. According to the Arctic Council, "Observer status in the Arctic Council is open to: non-arctic states, inter-governmental and inter-parliamentary organizations, global and regional non-governmental organizations."⁶ As a supranational organization the EU clearly does not qualify.
2. Making an exception for the EU could set a precedent to make other exceptions for China's role in the Arctic Council. While China already enjoys observer status in the Arctic Council, it is continually trying to increase its role in the region. Beijing will naturally ask: If the rules can be bent for the EU, why not for China?

3. Europe's interests are already well represented in the Arctic Council. Three EU members are permanent members of the Arctic Council: Finland, Sweden, and Denmark. Another two European, but non-EU, states are also permanent members: Norway and Iceland. Another eight EU and non-EU European countries are observers: France, Germany, Italy, the Netherlands, Poland, Spain, Switzerland, and the U.K.

Defend National Sovereignty

National sovereignty should be the cornerstone of U.S. Arctic policy. In the Arctic, sovereignty equals security and stability. Thus, the U.S. should always pursue policies in the Arctic that enhance national sovereignty.

Granting the EU Commission observer status would set a dangerous precedent of allowing supranational organizations to be represented in the Arctic Council. This would erode the importance of state sovereignty in the Arctic. As an observer in the Arctic Council, the EU commissioners would be able to participate in all meetings and working groups, thus allowing a forum for airing a viewpoint on many issues that could run counter to the positions of sovereign nation-states in the Arctic Council.

The U.S. should ensure that largely unaccountable and supranational organizations and institutions, such as the EU Commission, do not receive an undeserved voice on Arctic issues when any legitimate concerns the EU may have on Arctic issues can be addressed by the European countries already in the Arctic Council. Therefore, the U.S. should:

- **Block the EU Commission's application.** Nowhere in the criteria for observer status issued by the Arctic Council does it state that supranational organizations can be an observer. The United States should oppose the EU Commission's application for observer status in the Arctic Council and convince the other permanent members to do the same.

1. Arctic Council, "Observers," April 4, 2019, <https://arctic-council.org/index.php/en/about-us/arctic-council/observers> (accessed April 23, 2019).
2. Canada, Denmark (because of Greenland and Faroe Islands), Finland, Iceland, Norway, Russia, Sweden, and the United States.
3. Arctic Council, "Arctic Council: A Backgrounder," September 13, 2018, <https://arctic-council.org/index.php/en/about-us> (accessed April 24, 2019).
4. Arctic Council, "Observers."
5. European Parliament, "Parliamentary Questions," Ref. No. E-005644/2016, September 26, 2016, http://www.europarl.europa.eu/doceo/document/E-8-2016-005644-ASW_GA.html?redirect (accessed April 24, 2019).
6. Arctic Council, "Observers."

- **Show a willingness to work with Europeans in the Arctic.** The Trump Administration should make it clear that its decision to block the EU from becoming an observer does not mean it fails to see the importance of Europe’s role in the Arctic. The Trump Administration should engage more with European Arctic countries, whether EU members or not, to advance U.S. interests in the region.
- **Question the current unofficial “observer” role that the EU has in the Arctic Council.** While the EU waits for a final determination of its application to become an observer, it is allowed to “observe” council proceedings. There is no good reason for this to be the case, and there is no provision in the Arctic Council’s regulations that allow the EU to have this special status. The U.S. should insist that this practice end when the EU’s observer application is finally vetoed.

Rules Are Rules

The EU Commission has no business applying for, much less becoming, an observer in the Arctic Council. This was the case in 2009, when the Arctic Council rejected the EU’s application, and it is still true today. The Arctic Council’s own criteria make it clear that the EU does not qualify to join as an observer. Until the Arctic Council changes its own rules, the EU should not be allowed to become an observer. Supporting the EU Commission’s application for observer status is not in the interest of the U.S.—nor of the other members of the council—as it erodes state sovereignty in the Arctic.

—*Luke Coffey is Director of the Douglas and Sarah Allison Center for Foreign Policy, of the Kathryn and Shelby Cullom Davis Institute for National Security and Foreign Policy, at The Heritage Foundation. Daniel Kochis is Policy Analyst in European Affairs in the Margaret Thatcher Center for Freedom, of the Davis Institute.*