

# The European Union and an Enhanced Governance of Offshore Oil and Gas Operations in the Changing Arctic

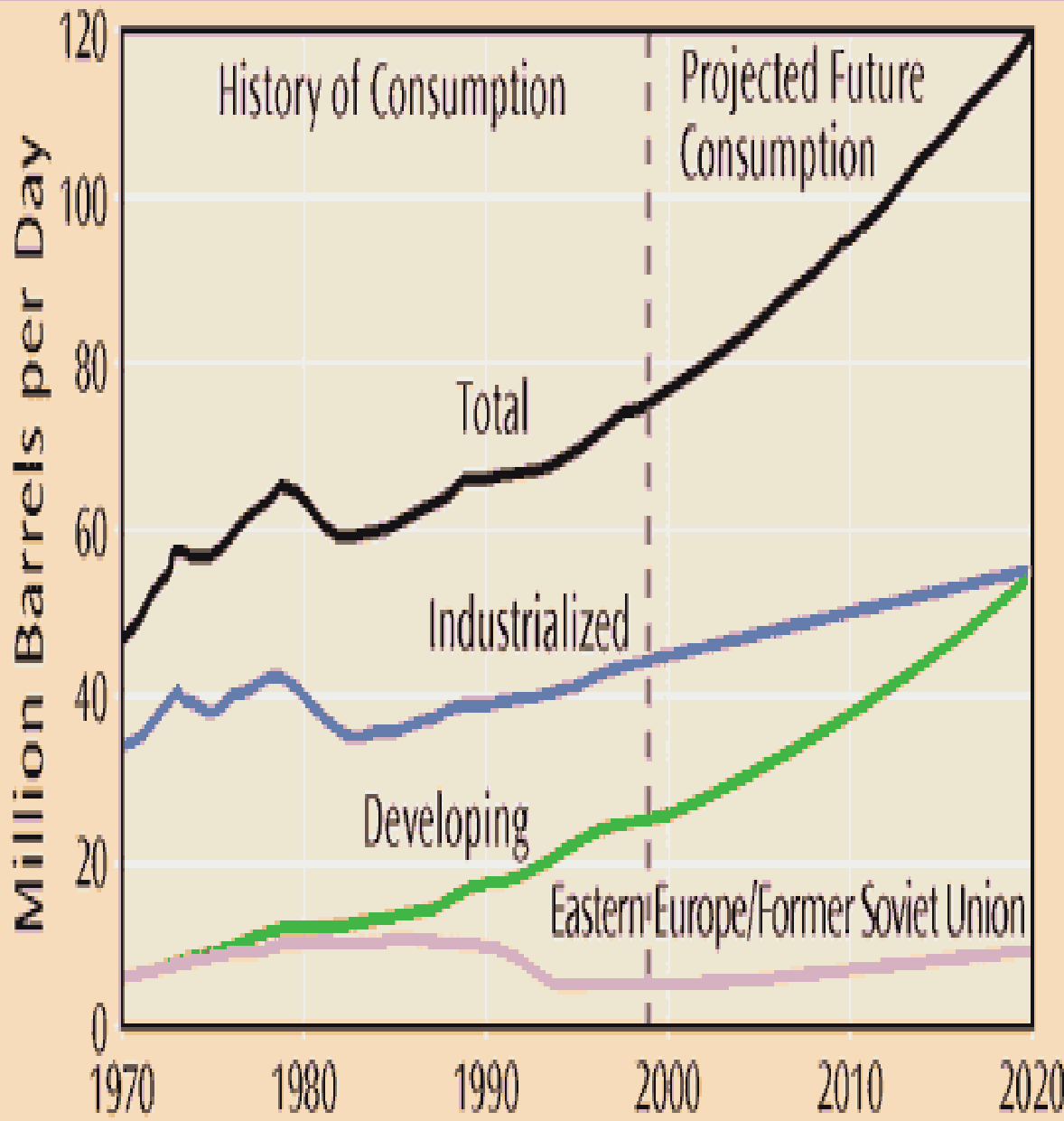
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Arctic Energy Law Conference, 25 - 26 September 2014,  
Tromsø, Norway

- › Let's go, but.....
- › International legal regime?
- › The EU's potential contribution

- › Some parts of the Arctic waters are becoming more accessible due to improved technologies and changes in sea ice related to climate change
- › Greenpeace parodies Shell with 'Arctic Ready' adverts – in pictures

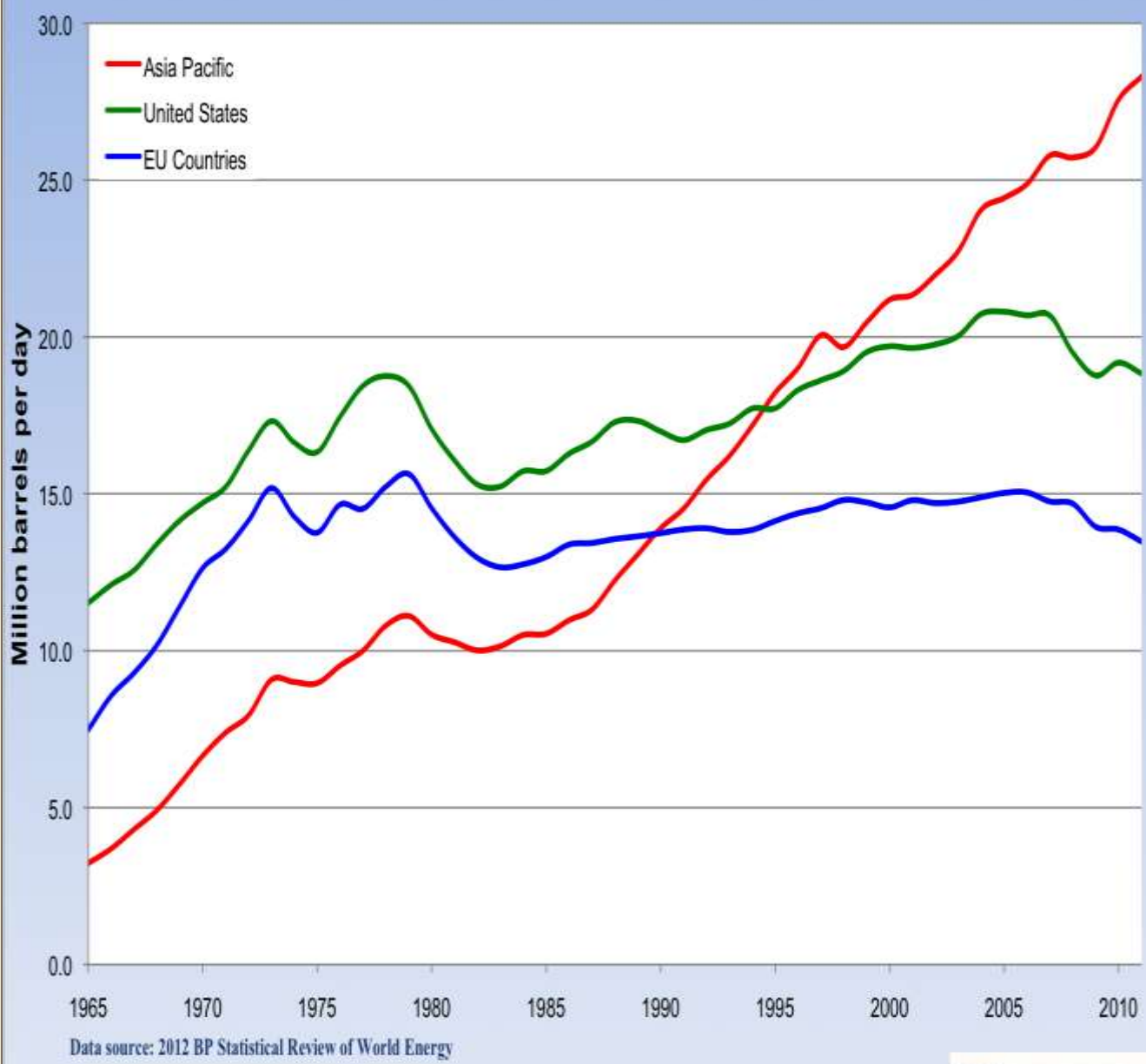


# WORLD OIL CONSUMPTION BY REGION 1970 – 2020



Source: Association for the Study of Peak Oil, [www.asponews.org](http://www.asponews.org)

# Oil Consumption 1965-2011



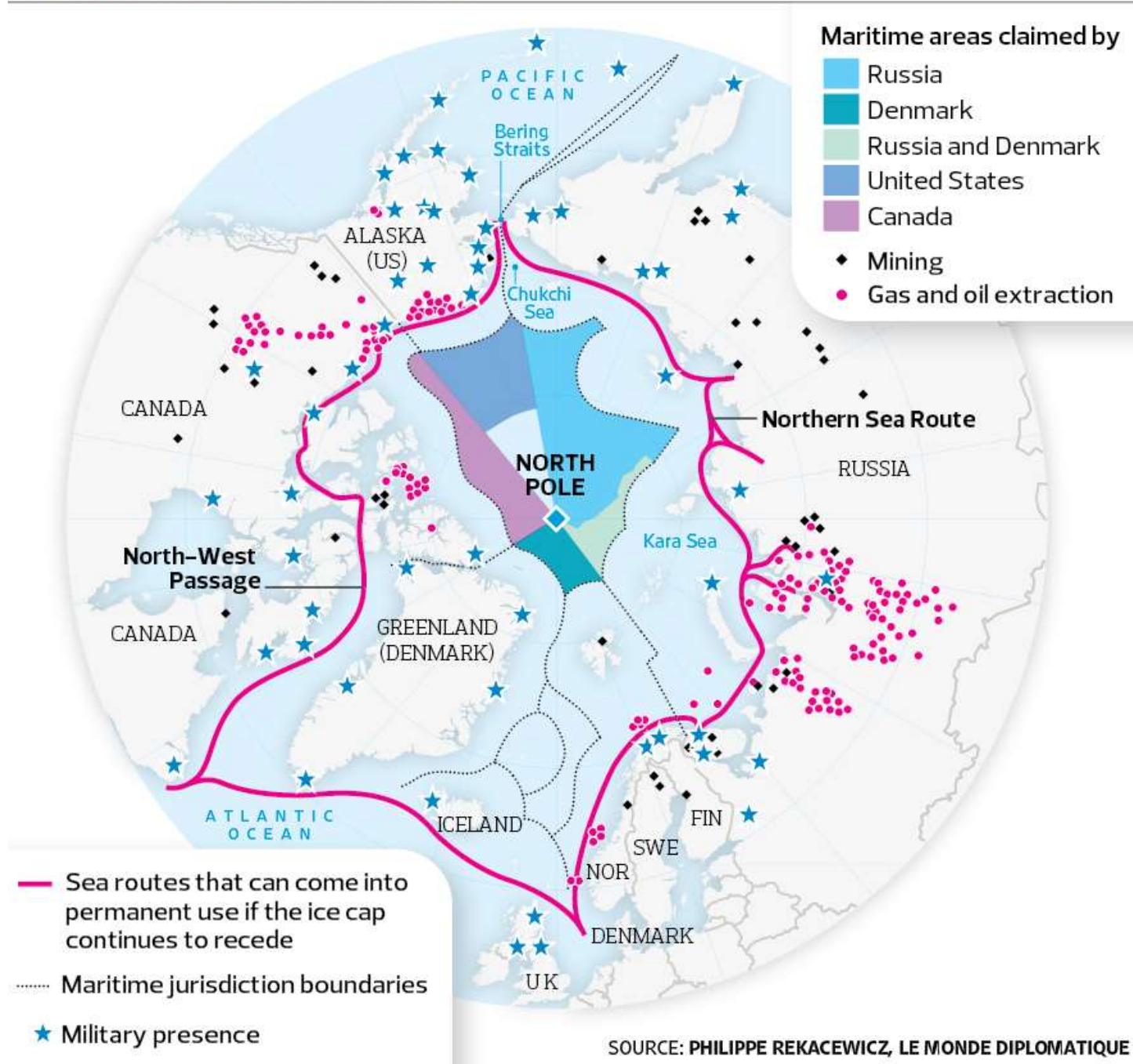
Data source: 2012 BP Statistical Review of World Energy

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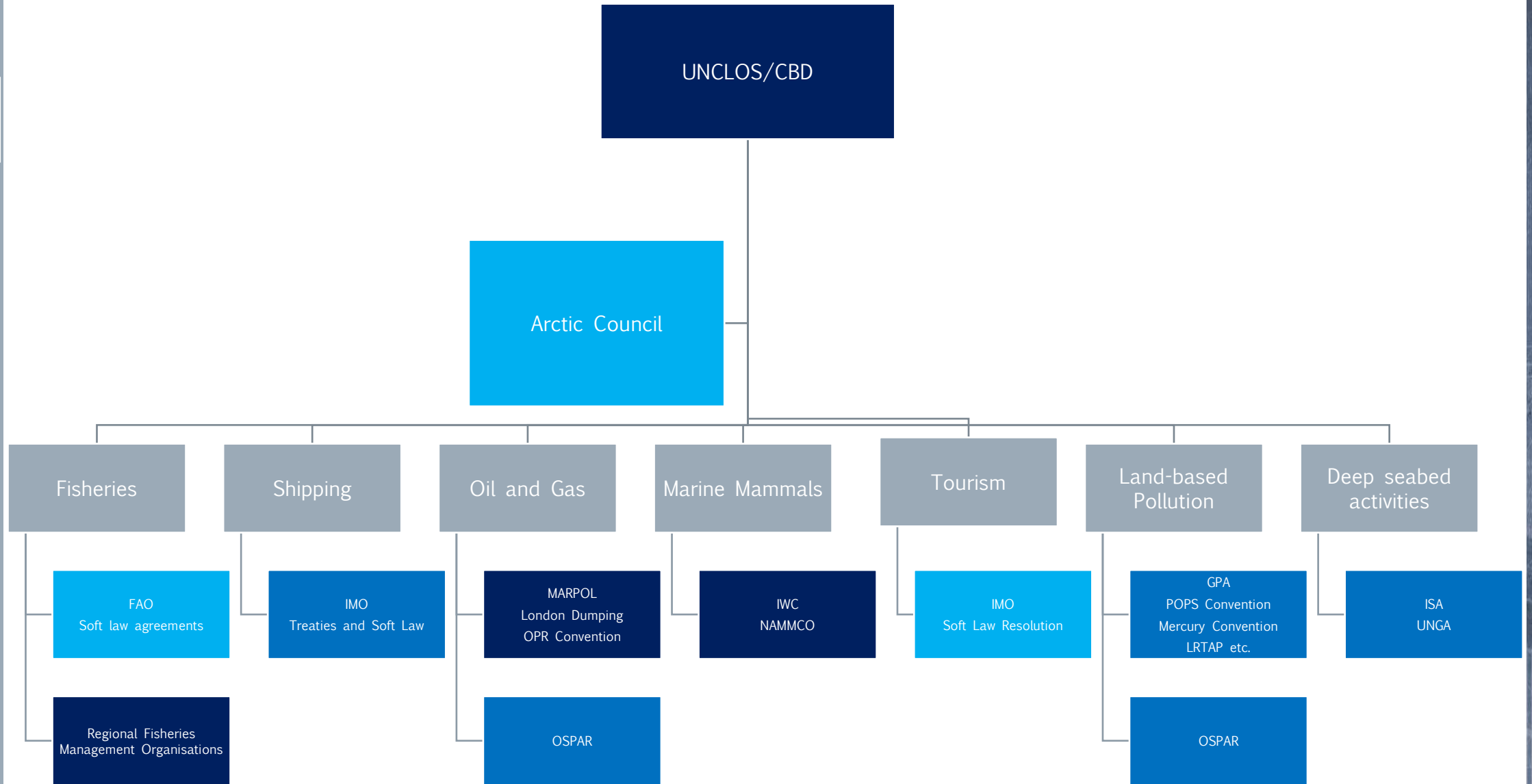




# OPENING UP THE FAR NORTH



- › Offshore oil and gas drilling in the changing Arctic seems to be unavoidable if the world economy is still based on fossil fuels
- › To achieve a **balance** between economic benefits and environmental protection (Koivurova and Hossain 2012)
- › How?



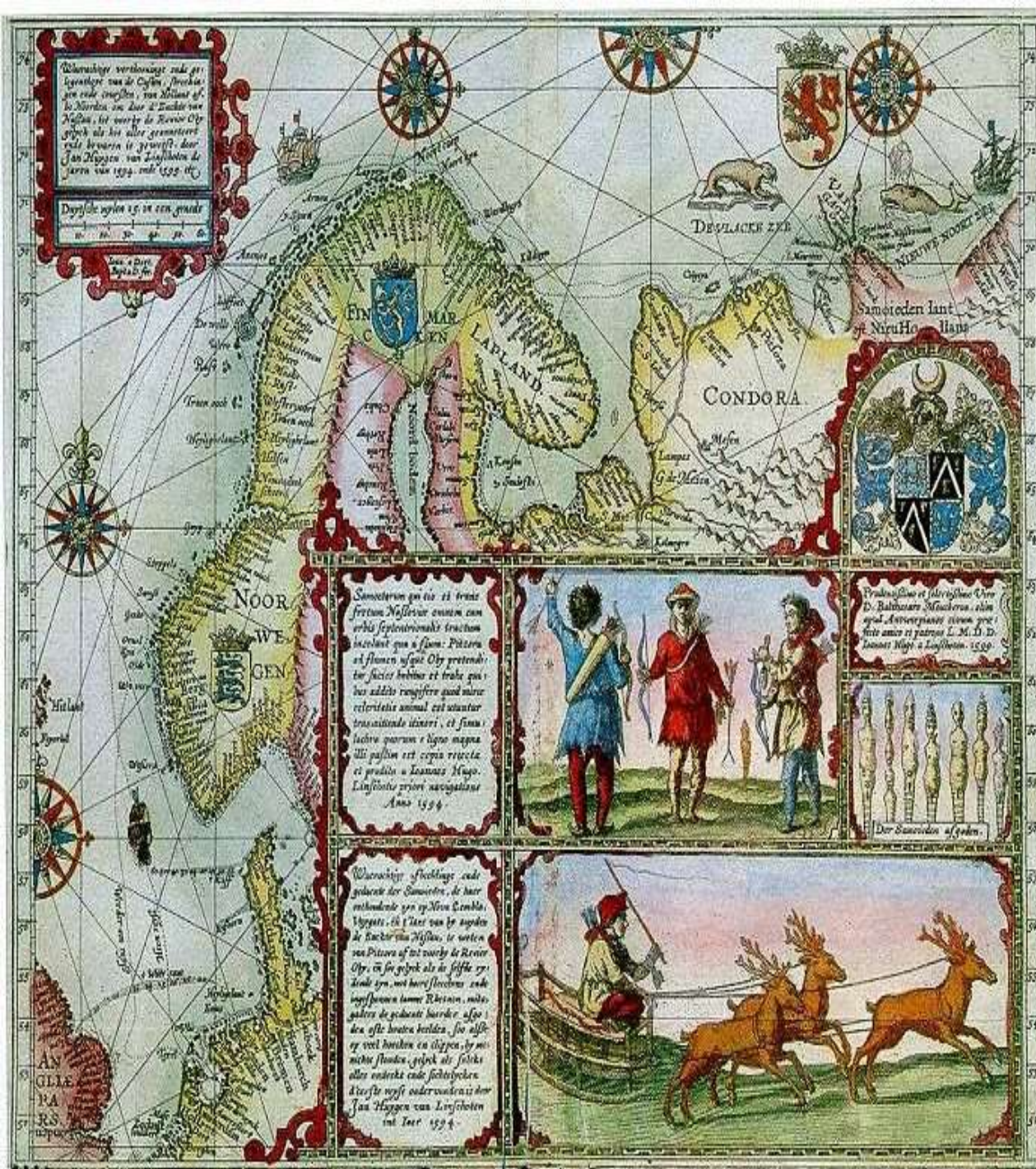
# International Legal Regime?

- › UNCLOS
- › OPRC
- › MARPOL
- › London Dumping Convention
- › The Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR): Annex III
- › Arctic Council Protection of the Arctic Marine Environment Working Group, Arctic Offshore Oil and Gas Guidelines



- › Fragmented
- › Weak
- › Gaps
- › Opportunities and responsibilities for the EU to take actions/initiatives







# The EU and the Arctic: Policy Objectives

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

# The EU as an Arctic Player

- › Oran Young: the EU is the most dramatic case a non-Arctic organization that asserts claims to be treated as a legitimate stakeholder with regard to Arctic issues (2010)
- › The EU is not a coastal state in the Arctic
- › Finland, Sweden and Denmark are Arctic States
- › Norway and Iceland link to the EU through European Economic Area (EEA)
- › UK, Germany, France, Italy, Spain, Poland, Netherlands are observers of the Arctic Council
- › The EU as well in the near future

# Competence: Global Mandate

- › There is no need for an Arctic-specific mandate
- › Consolidated Versions of the Treaty on the European Union, [2010] OJ C83/13, Article 21 (2) (f): The Union shall define and pursue common policies and actions, and shall work for a high degree of cooperation in all fields of international relations, in order to help develop international measures to preserve and improve the quality of the environment and the sustainable management of global natural resources, in order to ensure sustainable development



# Shared Competence

- › Consolidated Versions of the Treaty on the Functioning of the European Union, [2010] OJ C83/47, Article 4 (2): Shared competence between the Union and the Member States applies in the following principal areas, such as: (d) agriculture and fisheries, excluding the conservation of marine biological resources; (e) environment; (g) transport; (i) **energy**
- › The Lisbon Treaty explicitly conferred a shared competence in the sphere of energy to the EU (Art.194, TFEU)

# Internal action: reporting accidents

- › Directive 2013/30/EU on safety of offshore oil and gas operations and amending Directive 2004/35/EC, Article 20 (1): Member 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 operations to report to them, on request, the circumstances of any major accident in which they have been involved
  
- › Political pressure after “Deepwater Horizon”
- › 1<sup>st</sup> step Common reporting standards
- › 2<sup>nd</sup> step, what if failure/unwilling to report?

# Internal action: prevention of operational pollution



- › Major pollution from shipping
- › Towards an EU-wide common standards (CDEM) for offshore oil and gas in European waters?
- › Developing by DG Energy and DG Enterprise at the moment
- › Not a bad idea for the industry

# Internal Actions: the teeth

European Maritime Safety Agency could be enhanced

- › Art. 10 of Directive 2013/30/EU, task of the EMSA: **assist** the Commission and affected Member States, **on its request**, assessing external emergency plan.....
- › Regulation No 11/2013 amending Regulation No 1406/2002 establishing a European Maritime Safety Agency, Art. 3: Visit to Member States and inspections

# Internal or External? EU & Norway

- › After the EEA Agreement entered into force, new EU acts, usually regulations and directives, are technically made part of the EEA Agreement when the EEA Joint Committee takes individual decisions in line with Art.7 EEA Agreement
- › Theoretically, via EEA Agreement, the Directive 2013/30/EU could possibly be implemented in the Norwegian and Icelandic part of the Arctic as well
- › **Better together: export standards** more important than oil&gas



# External Actions

- › Art. 33 of the Directive 2013/30: coordinated approach towards the safety offshore oil and gas operation at international level
- › Art. 33 (3): the Commission shall promote high safety standards for offshore oil and gas operations at international level in relevant global and regional fora, including those relating to Arctic waters

# External Action

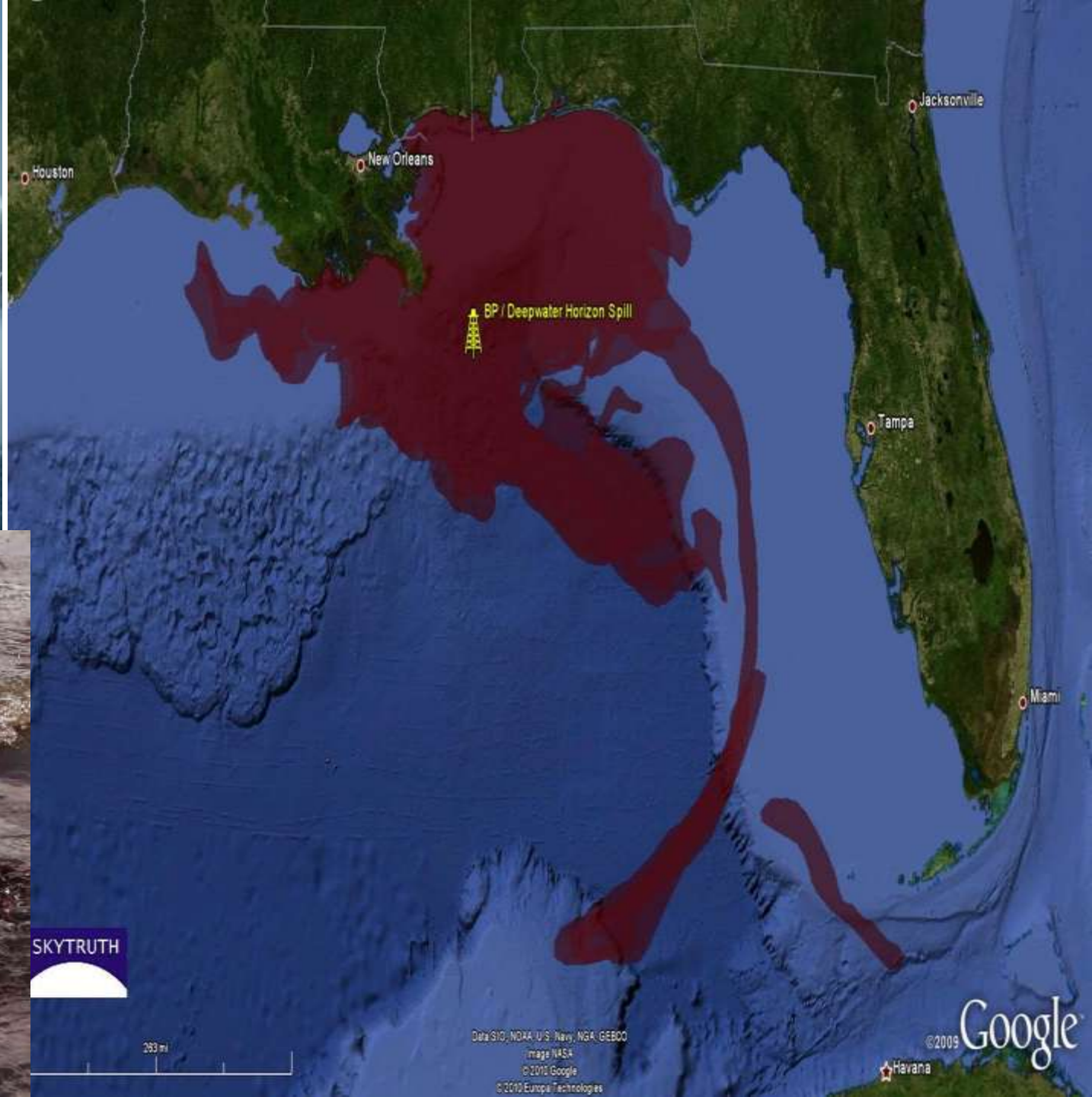
- › Promote Arctic-specific legally binding regional agreement for prevention, reduction and control of pollution from offshore oil and gas operations
- A political intrusion to Arctic States?
- Why not? As an economic power (The EU imports over 60% of its gas and over 80% of its oil); a strong technology provider; and an Arctic player
- › Support global initiative, such as Indonesian proposal after Montara oil spill (2009)

# Concluding Remarks

- › The EU is an important player in the Arctic
- › Concrete competences
- › Concrete measures can be taken by the EU for a better regulation of offshore oil and gas operations in the changing Arctic









Thank you for your  
attention