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Introduction

The United Nations Convention on the Law of the Sea (LOSC) codifies and develops the rules of international law pertaining to the use of ocean space and maritime activities. The comprehensive nature of the LOSC, which is made up of 320 articles and nine annexes, covering nearly all aspects of ocean space including navigation rights, maritime boundaries, economic and resource-related activities, environmental protection, scientific research and the settlement of disputes, serves the European Union (EU) and its Member States well. The utility of the LOSC has been a steady and progressive development on the international and European legal landscape over the past three decades. Most significantly, the LOSC is considered today to be an integral part of the European legal order and it thus forms the principal framework for ensuring the peaceful use of maritime space both within and beyond the EU. In this context, understanding the various factors and considerations that influence developments in EU law concerning this important international treaty is vital to our understanding of how the LOSC acts today as the overarching normative structure for the integrated and sustainable management of all maritime activities in the EU and how it advances new normative approaches to resource management such as an ecosystem-based management approach.

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to marine environmental protection under the EU’s Marine Strategy Framework Directive and Integrated Maritime Policy.4

Accordingly, the purpose of this paper is to outline several factors that have contributed to the pre-eminent standing of the LOSC within the European legal order, namely: (I.) the flexible nature of the LOSC that addresses the divergent law of the sea interests of the Member States in a comprehensive and balanced manner; (II.) the sterling work undertaken by a specialist expert body within the European institutions, the recondite Working Party on the Law of the Sea (COMAR), in coordinating EU policy on many of the intractable and contentious issues that frequently permeate the law of the sea; (III.) the sophisticated approach to dispute settlement advanced by the LOSC and its relationship with the EU’s own system of dispute settlement; (IV.) the manner in which the LOSC provides a solid normative basis that promotes a holistic approach to ocean governance underpinned by the ecosystem approach; and finally (V.) the LOSC as a plinth for future EU maritime leadership at global and regional levels.

First, however, it may be appropriate to commence by making a few brief remarks on the history and overall position of the LOSC in the hierarchy of sources of European law and to highlight its influence on some contemporary developments in the treaty and legislative architecture of the EU.