Law of the Sea, the European Union Arctic Policy and Corporate Ocean Responsibility

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Introduction

New opportunities and challenges in the Arctic Ocean do not stop at the Arctic borders. They are mostly associated with natural resources potentially becoming major reserves and new transport routes for Europe. Arctic hydrocarbon resources, in particular, will be of paramount importance to the European Union (EU) for years to come, so access to the Arctic Ocean’s hydrocarbon resources has become an important security issue. Energy security is indeed a driving force behind the EU’s increasing role in the Arctic, and is inextricably linked with the main concern of protection of the Arctic marine environment. The existence of a Euro-Arctic geographical space has been brought about by the EU to attribute to itself a natural legitimacy as a player in the Arctic as a result of a unique combination of history, geography, and economic and scientific achievements.1

The principal features and constraints of EU legal competences are concerned not only with the geopolitical factor that EU borders overlap the Arctic’s southernmost area, but also largely with the normative aspects that deal with the choice of legal basis for policy decisions in the Arctic with a view to stronger involvement by the EU in Arctic Ocean governance based on its powers in line with the Lisbon Treaty.2 Currently, the EU is laying the groundwork for a process of defining and developing an Arctic Policy based on full compliance with international law and principles in line with the law of the sea, despite not having coastline in the Arctic Ocean.

The United Nations Convention on the Law of the Sea (UNCLOS), to which the EU is party since 1998, essentially codifies the principles and customary norms of the law of the sea, which is applicable to the Arctic Ocean. Over the past few years, the EU has been strengthening its role as a leading global actor in maritime affairs, thus further enhancing the development of a cooperative ocean governance system based on UNCLOS, while implementing its strategic initiatives, including the 2007 Integrated Maritime Policy (IMP).

It is against this background that the EU’s Arctic Policy has indeed become a major challenge for the IMP, with the primary focus on the protection and preservation of the Arctic marine environment. However, at first glance the interplay between the formulation of EU Arctic Policy within the context of

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3 The EU has replaced the European Community in line with Article 1(3) TEU and Article 217 TFEU.