



HOW DOES THE EU CONTRIBUTE TO THE DEVELOPMENT OF ENVIRONMENTAL STANDARDS ON OFFSHORE HYDROCARBON EXTRACTION?



**INTRALAW – INTERNATIONAL AND
TRANSNATIONAL TENDENCIES IN LAW**
DEPARTMENT OF LAW
AARHUS UNIVERSITY

ELLEN MARGRETHE BASSE
PROFESSOR.

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THE EU'S ARCTIC POLICY & THE ARCTIC STATES

Canada

Russian Federation

USA

Denmark – EU Member

State/Greenland - it is an Overseas Country and Territory (OCT)

Norway – EEA/EFTA Member State
(Svalbard is not included in the membership)

Sweden (EU), **Finland** (EU) and
Iceland (EEA/EFTA)

THE EU'S EXTERNAL RELATIONS AND EXCLUSIVE COMPETENCES – TREATY OF LISBON

- ▶ **TEU:** Legal personality of the EU
- ▶ One of the aims is to promote its values globally supporting its role **as a normative global power.**
- ▶ respecting the principles, which have inspired its own creation, including the principle of sustainability,
- ▶ The principle of loyalty
- ▶ **TFEU:** Doctrine of parallelism - Once the Council has concluded a multilateral agreement its Member States are bound.
- ▶ **Member States have no right to enter** into international or other commitments, which might affect or alter the scope of 'internal' EU rules – **this is also the case in respect to IMO** (incl. the Polar Code)
- ▶ The EU is implementing the international obligations by regulations and directives

THE AGREEMENT ON THE EUROPEAN ECONOMIC AREA (EEA)

- ▶ Harmonization of market conditions
- ▶ The Environment is included
- ▶ The depth of integration is less far-reaching than the Treaty of Lisbon - scope and objective go beyond a regional convention
- ▶ The EFTA Surveillance Authority (ESA) and the EFTA Court shall follow old ECJ case law, and they shall take due account of new ECJ case law
- ▶ ECJ and EFTA Court have ensured uniform legal order

THE EU'S LEGAL APPROACH AND DESIGN

Holistic ecosystem-approach

Environmental principles

- Integration
- Precaution
- Polluter pays etc.

Vertical harmonisation, (incl. IMO's Port State Control and MARPOL 73/78)

Habitats and Wild Birds Directives

Marine Strategic Framework Directive

Framework Directive for Maritime Spatial Planning

Offshore Safety Directive

Environmental Liability Directive

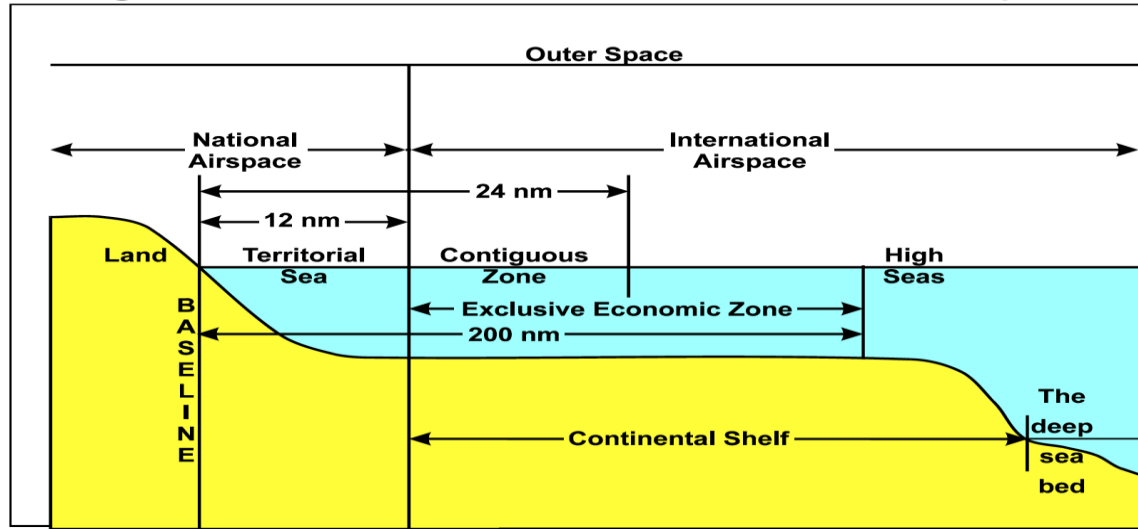
EIA Directive and SEA Directive

THE EU'S DIRECTIVE ON OFFSHORE SAFETY

- ▶ EEA relevance – accepted by two of the three EEA/EFTA members. Norway is the only member that does not accept it
- ▶ ESA has followed the ECJ approach
- ▶ Control supported by the European Marine Safety Agency and its CleanSeaNet
- ▶ Ecosystem approach
- ▶ Emergency response plans, risk assessment, reporting
- ▶ Involvement of stakeholders
- ▶ Public participation
- ▶ Strict liability
- ▶ Disposal of installations

THE ECJ HAS BY ITS JUDGMENTS ENSURED THE APPLICATION IN THE EEZ AND ON THE CONTINENTAL SHELF

Legal Boundaries of the Oceans and Airspace



DENMARK/GREENLAND

- ▶ The **Constitution** puts limits on delegation of powers to Greenland
- ▶ The Danish **Act on Greenlandic Self-Government** – the competence to offshore extraction has been taken over, and the **Greenlandic Mineral Resources Act** now regulates such activities by (prospecting, exploration and production licenses as well as EIA, SSA and IBAs) – it does not cover the protection of the marine environment

PROTECTION OF THE MARINE ENVIRONMENT AND SAR-OBLIGATIONS

- ▶ The protection of the marine areas outside 3 nautical miles is not taken over: the **Danish Marine Environmental Act** (Royal Decision of 22 October 2004) is the relevant legislation. Non of the EU's supra mentioned directives are included
- ▶ The responsibility for **Search And Rescue (SAR)** rest with the Danish authorities

DENMARK'S DISCRETIONARY POWER IN ISSUES OF RELEVANCE FOR EU'S INTERNATIONAL RELATIONS

- ▶ **Denmark has the power to** use its legal competences/responsibilities on the protection of Greenlandic interests - **without harming the interest of the EU**
- ▶ **2015-Joint Declaration on partnership between the EU and Greenland/Denmark:** (1) education and capacity building; (2) natural resources, incl. ram materials; (3) energy, climate change, environment and biodiversity; (d) Arctic issues; (e) social sector and mobility etc. (f) research and innovation - **& specific Fisheries Partnership Agreement**