

The New EU Marine Environment Directive (2008/56/EC) and the EU's International and Regional Agreements

SATO, Chie

In European Waters there is a complicated legal system in place to protect the marine environment: the national law of each Member State of the European Union, regional sea agreements and the UN Convention on the Law of the Sea (UNCLOS). The EU did not establish a comprehensive policy in the field of marine environmental protection, but rather relied upon the existing international and regional regimes. As a result, the EU (or the EC) and its Member States concluded jointly the UNCLOS and various regional sea agreements. The implementation of these agreements within the EU should be examined in the context of the EU's specific legal structure and the relation between the EU and its Member States. The EU and its Member States share competence in the field of the protection of the marine environment. However, the extent of the competence of the EU and division of the competence with the Member States is not static and may be subject to future change as the EU declared at the time of accession of the UNCLOS. Moreover, the EU's action for the protection of the marine environment has been firmly opposed by its Member States and they have been striving to preserve their autonomous role at the international and regional level. However, with the development of the European integration, the Member States have transferred some of their jurisdiction to the EU in many areas covered by the UNCLOS and regional sea agreements. As a result, the Member States are required to cooperate under the framework of EU law. The most recent Directive 2008/56/EC establishing a framework for community action in the field of marine environmental protection tries to set up a transparent and coherent legislative framework in order to achieve good environmental status in the EU's marine environment. This could be confronted with the existing different regional sea

agreements in which some of the EU Member States are participating and the EU as a contracting party is not very active. This article describes the existing international and regional legal frameworks in order to protect the marine environment and the possible problems by implementing the new Directive 2008/56/EC.