Securing Energy Supply through developing Offshore Energy Infrastructure: The Nord Stream Pipeline

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Presentation Outline

›Jurisdiction over Pipeline Development

›Offshore Cross-Border Pipeline Development

›Inter-State Agreement

›Nord Stream Jurisdiction: UNCLOS & ESPOO Convention, Jurisdictional Issues

›Role of Security of Supply

›Future agreement?

Jurisdiction over Pipelines

› Jurisdiction: Legislative, Enforcement, Adjudicative, etc.

› Legislative Jurisdiction in relation to various matters (e.g. construction, operation, taxation, etc.)

› Jurisdiction of ‘Host-State’ generally

(Offshore) Cross-Border Pipeline

› Complicated jurisdiction

› Multiple States

› (Extent of States' jurisdiction may be unclear: Stems from content of international law)

› Potential for overlapping jurisdiction and conflict

Inter-State Agreements

› Management mechanism

› Treaty or non-treaty form

› Defines jurisdiction of States

› Negotiated balance of interests

Nord Stream

› Maritime Areas of five States: RUS, FIN, SWE, DNK, DEU

› Place of Incorporation: CHE

› Complicated jurisdiction

› No Inter-State Agreement

› Why?

UNCLOS

- Territorial Sea: Coastal State sovereign jurisdiction
- **EEZ / Continental Shelf: Freedom of other States**
- **EEZ / Continental Shelf: Coastal State 'limited' jurisdiction**
- *Route selection and environmental protection and preservation/pollution from pipeline*

Espoo Convention

› 5 ‘Parties of Origin’

› Contracting parties “under whose jurisdiction a proposed activity is envisaged to take place”

› Requirement for consideration of no-action alternative

› Requirement for consultation with Affected States

Jurisdictional Issues

› Was there potential for refusal by a 'Party of Origin'?

› What is the appropriate scope of environmental conditions?

› Switzerland as party of origin? Relationship between UNCLOS and ESPOO?

Security of Supply

› Perhaps concern of securing energy supply diminishes significance of jurisdictional issues?

› Russian security of supply

› German/European security of supply

Future Agreement?

› In future: jurisdictional issues?

› e.g. Pipeline Control Room based in Switzerland

› Future inter-State agreement?

Thank you for your attention