
Japanese Measures against Marine Pollution under UNCLOS and the IMO Treaties

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The purpose of this paper is to clarify the present state and problems of Japanese measures against the protection and preservation of the marine environment from the perspective of international law and Japanese domestic laws and regulations. The analysis is divided into three sections. Firstly, the relationship between Part XII of UNCLOS and the IMO marine environmental treaties will be addressed in brief. Secondly, Japanese implementation of the IMO treaties will be addressed in the context of the regulations regarding both dumping waste into the sea from vessels and marine pollution from vessels. Finally, this paper will clarify the problems regarding the Japanese implementation of marine environmental treaties.

Keywords

Marine Environment, UNCLOS, IMO, Japan Coast Guard, London Protocol

I. The Relationship between UNCLOS and the IMO Marine Environmental Treaties

Part XII of the United Nations Convention on the Law of the Sea ("UNCLOS")¹ stipulates the adoption and enforcement of domestic laws and regulations for the prevention, reduction and control of pollution of the marine environment, such as pollution from land-based sources, pollution from seabed activities, pollution from

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¹ UN Doc.A/CONF.62/122. UNCLOS came into force in 1994 and was ratified by Japan in 1996.

dumping, pollution from vessels and pollution from or through the atmosphere etc.² However, these articles do not set any absolute standards to prevent marine pollution, but instead adopt an form of international minimum harmonization standard based on an obligation of result.³ Absolute standards to prevent marine pollution can be found in detailed treaties related to the marine environment to be adopted by the International Maritime Organization (“IMO”).

One of the contented issues regarding the enforcement of laws and regulations against foreign vessels is the interpretation of the “laws and regulations adopted in accordance with this Convention” and the “applicable international rules and standards established through the competent international organization or general diplomatic conference” as mentioned in Part XII of UNCLOS. For example, Article 210 of UNCLOS addresses pollution by dumping, and stipulates that domestic laws and regulations “shall be no less effective in preventing, reducing and controlling such pollution than the global rules and standards.” It further requires States to establish goals and regional rules, standards and recommended practices and procedures “especially through competent international organizations or diplomatic conference.” The IMO is generally regarded as a good example of a “competent international organization.” The rules and standards adopted by the IMO are as follows: the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter of 1972 (“London Convention of 1972”);⁴ the 1996 Protocol on the London Convention of 1972 with regard to dumping into the sea (“London Protocol of 1996”);⁵ the International Convention for the Prevention of Pollution from Ships of 1973 (“1973 MARPOL”);⁶ the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships of 1973 (“MARPOL 73/78”)⁷ and the Protocol of 1997 to amend the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (“Protocol of 1997”).⁸

² UNCLOS, arts. 207-211.

³ Catherine Redgwell, *From Permission to Prohibition: The 1982 Convention on the Law of the Sea and Protection of the Marine Environment*, THE LAW OF THE SEA: PROGRESS AND PROSPECTS 188-189 (David Freestone, Richard Barnes & David M. Ong eds., 2006).

⁴ Entered into force in 1975; Japan acceded in 1980.

⁵ Entered into force in 2006; Japan acceded in 2007.

⁶ Not yet entered into force.

⁷ Entered into force in 1983; Japan acceded in 1983.

⁸ Entered into force in 2005; Japan acceded in 2005.