International Law and Ocean Dumping: Steering a Precautionary Course Aboard the 1996 London Protocol, but Still an Unfinished Voyage*

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Introduction

The oceans cover some 70 per cent of this planet. We are increasingly coming to understand their value and their vulnerability – and our vulnerability if we fail to maintain them in a reasonable condition.¹ This contribution examines a global treaty designed to protect the oceans from one source of marine pollution and assesses its contribution to protect our oceans’ health.

* This contribution attempts to be accurate regarding law and policy developments up to 1 December 2007.

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¹ For a recent description of the challenges facing the oceans, see the Report of the Secretary General, Oceans and the Law of the Sea, A/62/66, 12 March 2007. At paragraph 361, he states: “Also as noted in the present report, despite heightened efforts at the global level, coastal and marine ecosystems continue to deteriorate as a result of pressures from human development. Consequently, priority needs to be given to the management of human activities that adversely impact marine ecosystems in order to ensure conservation, sustainable use and development of ocean resources in the interests of present and future generations.”
Industrialization in the 1800s and 1900s contributed greatly to the pollution of oceans, and as one author has put it: “The perception of the sea as a convenient and limitless waste dump persists even today amongst many sectors of the global community.”² Dredging in the early 20th century, increasing use mid-century of the oceans to dump waste, especially military waste after World War II, and rapid industrialization through to the 1970s led to substantial increases in ocean dumping. This involved increased sewage sludge from rapidly growing cities, increasing amounts of dredged material as ports were expanded, toxic industrial wastes, and radioactive wastes from an expanding nuclear industry. During the 1960s a specialized industry grew up focused on the loading of wastes on ships for purposes of dumping at sea.³ Dredges were eventually designed so that they could both dredge and directly dump the dredged material at sea. Again in the 1960s specialized ships “were designed and built for the specific purpose of incinerating… these highly toxic materials at sea.”⁴

Although only 10 per cent of ocean pollution is estimated to come from ocean dumping,⁵ the deliberate disposal of wastes into the oceans still remains an ongoing management challenge. Large amounts of waste continue to be deposited into marine waters with about 80 to 90 per cent of the material resulting from dredging.⁶ Some 100 to 150 million tonnes of dredged materials are dumped annually into internal waters of States, and between 150 and 400 million tonnes are dumped in marine areas beyond internal waters.⁷ In 2004, China reported issuing permits authorizing disposal of 190,593,000 tonnes of dredged material in East Asian Seas.⁸

³ Ibid., pp. 1–2.
⁴ Ibid., p. 2.
⁷ “Dumping at Sea,” supra note 5.