Four Models on Interaction between Global and Regional Legal Frameworks on Environmental Protection against Marine Pollution: The Case of the Marine Arctic

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Introduction

Under the 1982 United Nations Convention on the Law of the Sea (LOS Convention),1 marine pollution is regulated according to sources of harmful substances. Specifically, the Convention identifies six sources of marine pollution: (1) pollution from land-based sources, (2) pollution from seabed activities subject to national jurisdiction, (3) pollution from activities in the Area, (4) pollution by dumping, (5) pollution from vessels, and (6) pollution from or through the atmosphere. This can be called the source-specific approach. Under this approach, however, the relationship between global and regional legal frameworks remains less clear. International law governing marine environmental protection is a complex of multiple global and regional treaties, and the effective protection of the marine environment can be said to rely on a combination of global and regional legal frameworks. Hence, the interplay between the two frameworks should be an important issue in the international law of marine environmental protection.2

On this issue, Alan Boyle, in his article published in 2000, presented two models within the global framework: the restrictive model and liberal model

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2 The interaction between globalism and regionalism can be at issue in the international law of the sea in general. On this subject, see A.M. Smolinska, Le droit de la mer entre universalisme et régionalisme (Brussels: Bruylant, 2014).
of regionalism.\(^3\) According to Boyle, the restrictive model is exemplified by the LOS Convention provisions on dumping and vessel-source marine pollution, while the liberal model is found in the LOS Convention articles on land-based (including airborne) sources of pollution.\(^4\) Yet, the two models do not explain the proliferation of international and regional treaties and the increasingly complex interaction between those treaties. For example, the prevention of transboundary air pollution and ocean acidification cannot be adequately addressed by the two models alone. Thus, there is a need to explore new models for considering the reconciliation between global and regional legal frameworks in the international law of marine environmental protection. As an attempt, this contribution seeks to present four models on this matter (see Table 13.1).

**Table 13.1 Four models on environmental protection against marine pollution**

<table>
<thead>
<tr>
<th>I. The Regional Model</th>
<th>II. The Global-Single Regional Model</th>
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<tbody>
<tr>
<td>• Land-based marine pollution</td>
<td>• Vessel-source marine pollution</td>
</tr>
<tr>
<td>• Pollution from seabed activities subject to national jurisdiction</td>
<td>• Dumping</td>
</tr>
<tr>
<td>III. The Global-Multiple Regional Model</td>
<td>IV. The Global Model</td>
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<tr>
<td>• Marine pollution from transboundary air pollution</td>
<td>• Adverse impact of climate change on the oceans (ocean acidification)</td>
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<tr>
<td>• Pollution from seabed activities beyond national jurisdiction (the Area)</td>
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**Model I: The Regional Model.** Under this model, the role of the global treaty is very limited and marine pollution is to be regulated primarily by regional treaties. As will be discussed, this model can apply to the prevention of land-based marine pollution and pollution from seabed activities subject to national jurisdiction.

**Model II: The Global-Single Regional Model.** Under this model, while marine pollution is primarily regulated by global treaties, additional measures must

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