



GUIDANCE IAS 011-45586829
more than a coaching... 9718793363
Office: 111, 1st Floor, A-B, Grover Chamber, Pusa Road,
Pillar No. 109, Karol Bagh Metro Station, New Delhi-5 website: www.guidanceias.com

provides the general obligation of states to protect and preserve the marine environment. This Part also explicitly stated that all activities in the sea should be conducted with due regard not to cause damage to other states and their environment. Moreover, it is also an obligation under Art. 123 of UNCLOS that states bordering an enclosed or semi-enclosed sea should coordinate the implementation of their rights and duties with respect to the protection and preservation of the marine environment.

The MOX Plant case and Land Reclamation case are both concerned with interpretation and application of UNCLOS Part XII. In the MOX Plant case, Ireland argued that the United Kingdom failed to take the necessary measures to prevent, reduce and control pollution in the marine environment of the Irish Sea from intended discharges and radioactive wastes from the MOX Plant. The Irish Sea is a semi-enclosed sea separating Ireland from the UK, and it has great importance for fishing and other economic activities for both states. The Tribunal ruled that the two parties shall exchange further information with regard to possible consequences for the Irish Sea arising out of the commissioning of the MOX plant; monitor risks or the effects of the operation of the MOX plant for the Irish Sea; and devise, as appropriate, measures to prevent pollution of the marine environment which might result from the operation of the MOX plant.

In the Land Reclamation case, Malaysia complained that the reclamation works conducted by Singapore was causing pollution and other significant effects to the marine environment including excessive sedimentation, bed level changes and coastal erosion in and around the Straits of Johor that separates Singapore and Malaysia. The Tribunal ruled that both countries should exchange, on a regular basis, information on the risks and effects of Singapore's land reclamation works, and that Singapore should not conduct its land reclamation in ways that might cause irreparable or serious harm to the marine environment.

The language in UNCLOS Part XII "not to cause damage to areas within and beyond a state's jurisdiction and control" implies that this is an overarching obligation which has no geographic boundaries. As shown in the MOX Plant and Land Reclamation cases, a state's obligation to protect and preserve the marine environment should apply regardless of location and in all circumstances where irreversible environmental damage is possible. The ruling of the Tribunal in both of these cases also reinforced the need to cooperate with other states with regard to activities that may impact on the marine environment.

The obligation to act with prudence and caution and take preventive measures to ensure that the conduct of activities and exercise of rights in the use of the oceans do not adversely impact the marine environment certainly requires self-restraint. In the case of the South China Sea, however, regardless of who has the right to construct artificial islands, the massive reclamation activities that are apparently being undertaken at the expense of the marine environment represents an abuse of rights and a failure to fulfil this critical obligation under UNCLOS Part XII.

Environment protection as an indispensable dimension of sustainable development

Protection of the environment is also one of the dimensions of sustainable development. The proposed stand-alone Sustainable Development Goal to "Conserve and sustainably use the oceans, seas and marine resources for sustainable development" is one of the goals that are being considered in the on-going intergovernmental negotiations on the post-2015 development agenda that will build on the Millennium Development Goal. This further highlighted the role of healthy marine ecosystems in economic growth and social development, which gives renewed emphasis to the relevance of the full implementation of international law, as reflected in UNCLOS, as the legal framework that should guide all activities in the oceans and seas.

The destruction of reefs as a consequence of the construction of artificial islands runs counter to the idea of a healthy and productive ocean that is important for the marine economy of many coastal states surrounding the South China Sea, a concern that has been raised by marine scientists. In 2012, the Food and Agriculture