

Marine Protected Areas in areas beyond national jurisdiction

Abstract

This thesis focuses on marine protected areas as an instrument that is crucial for the protection of the world ocean and analyses their utilization in areas beyond national jurisdiction in light of recent legislation. It presents examples of current use of this area-based management tool under various regional and sectoral initiatives and addresses the newly adopted Agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ Agreement) which provides legal basis for the establishment of marine protected areas on high seas on a global level and by doing so fills a gap in the law of the sea.

The first part of this thesis provides explanation of terms essential for the subject area and explores the differences in marine protected area establishment process across individual maritime zones according to the United Nations Convention on the Law of the Sea (UNCLOS), highlighting the conflicting nature of the coastal states' interest to protect the marine environment from harm caused by human activity and the rights belonging to other states.

The second part introduces selected regional and sectoral entities, including the OSPAR Commission for the Protection of the Marine Environment of the North-East Atlantic and the Commission for the Conservation of Antarctic Marine Living Resources, their ability to establish marine protected areas on high seas, and shows the difficulties arising during the process, as demonstrated by specific examples. The conclusion of this part evaluates the effectiveness of these instruments.

The third and last part of this thesis offers a closer look at the newly adopted legally binding instrument under UNCLOS, the BBNJ Agreement, which deals with the subject of area-based management tools, including marine protected areas, in relation to conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction. It sums up the discussion prior to its adoption, describes the purpose of future marine protected areas and the institutional and procedural aspects concerning their establishment under the agreement, including the circumstances under which the opt-out provision may be invoked. The thesis further focuses on the possibilities of monitoring the fulfillment of the obligations imposed on contracting parties and considers the impact of the agreement once in force.

Keywords: marine protected area, areas beyond national jurisdiction, BBNJ Agreement