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Research Article

**THE PRINCIPLE OF PROTECTION AND PRESERVATION OF  
MARINE ENVIRONMENT, AS THE BASIS FOR ENSURING  
THE PROTECTION OF THE OCEANS FROM POLLUTION****Ksenia Borisovna Valiullina\*, Damir Hamitovich Valeev**

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**Abstract:**

*International maritime law is a set of principles and norms, governing relations between States on the use of waters and resources of the World Ocean. Generally recognized principles of international law of the sea form the basis of international relations in the region. The latter agreements, concluded between the States, first of all, are evaluated from the point of view of their conformity with the main international legal principles. The principles not only define and specify basic rights and duties of States in their interaction, but, above all, have a significant impact on their activity in the formation of legal norms.*

*Compliance with the fundamental international legal principles is vital, in order to ensure effective international legal regulation of protection and conservation of the oceans. They, because of their imperative cannot be changed by agreement of subjects of international law, apply to all participants of international legal relations should be considered because of their complex nature.*

*The principle of protection and preservation of marine environment is one of the main principles of international maritime law. It establishes the rules of behavior, depends on the state of the oceans, and humanity as a whole. Primarily, this is due to the fact, that the damage, caused in the territory of one state, for a short time can cover a huge space. The assertion, existed for many years, that the waters of the seas and oceans are capable of self-purification, today is unlikely to be applicable. Every day the oceans are polluted with a number of toxic substances: chemical, biological, radioactive. Their main feature is that they usually are synthetic. As a result, the smallest algae, which are involved in the cleansing of the oceans, are unable to recycle them and destroyed themselves. As a result, these substances either settle on the bottom, or cover the surface of the oceans with thick film, preventing the penetration of oxygen, necessary for life.*

*The article indicated the need of protection and preservation of marine environment, in order to ensure favorable living conditions for present and future generations. The key gaps in this area were highlighted and the possible ways of increasing the level of cooperation of States, in relation to the protection of the oceans, were formulated.*

**Keywords:** *oceans, protection and preservation, principles, cooperation of States, prevention of pollution, marine environment.*

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**INTRODUCTION:**

World Ocean is the shell of the Earth, separated by the continents. It is a closed reservoir, where tons of poisonous substances come from various sources continuously: chemical, radioactive, biological; oil and oil products, raw sewage, products of industrial facilities processing, ballast water, which are the source of the spread of pathogenic alien microorganisms. Some components of these substances are processed or decomposed, but everything else densely covers the surface of the seas and oceans, preventing the penetration of sunlight and oxygen, or gravitates to the bottom, poisoning fish and other sea animals. To date, there are almost no rivers and lakes, whose waters are suitable for drinking; the existence of some of them is due only to their replenishment with contaminated sewage. All these poisonous wastes and poisonous substances are able to move to the seas and oceans and spread to vast areas in a short time [1].

Taking into account the intensity of use of water and resources of the World Ocean at present, the problem of ensuring its protection and conservation is a priority area of international maritime law. The importance of this problem lies, first of all, in the fact, that the World Ocean is an integral system, which directly affects not only the climate, flora and fauna of our planet, but also the life and welfare of all mankind.

Nevertheless, despite the increased attention to the problem of ensuring the protection of the World Ocean from pollution on the part of international community, the intensive development of international shipping, dumping of all kinds of wastes at the seabed and ocean floor, the discharge of toxic agents from the shore, as well as pollution from the atmosphere, caused problems with a pronounced global character. Increased pressure on the natural environment, in particular the marine environment, is clearly demonstrated by major accidents, which have occurred in recent years.

Thus, more than 100,000 seabirds die as a result of oil release at the coast of Great Britain [2]; as a result of pollution by chemicals, organic life is completely absent from the depths of 125 m to the bottom in the Baltic Sea. In January 1971, in San Francisco Bay, two tankers "Oregon Standard" and "Arizona Standard" fell aboard, as a result 100-kilometer stretch of the famous Golden Beach was polluted with oil, tens of thousands of seals, birds, and large fish died [3]. As a result of the accident in the Gulf of Mexico, the daily release of oil was around 12,000-25,000 barrels; and according to results of the largest breakdown in the last decade on the oil platform Deepwater Horizon (also known as Macondo/MC 125), 779,000 cubic meters of crude oil discharged

into the waters of the World Ocean, only 16% of which were extracted [4].

To date, the concernment of the entire world community is caused by the violation of balance of the entire ecosystem of the World Ocean. The States, even the participants of international conventions, often ignore most of the norms and principles, including the use of "convenient" flags on ships, in order to evade observance of the basic principles of international maritime law, in particular, the principle of protection and preservation of the marine environment. [5]

**METHODS:**

As a methodological basis of the study, the method of system-structural analysis was used, helping to reveal the importance of ensuring the protection of the World Ocean from pollution. With the purpose of modern interpretation of convention norms, the most promising methodology is the combination of methods of historical and political science, international legal analysis. To solve the tasks of the study, in addition to general scientific methods, specific scientific methods were used, namely: formal-logical, comparative law, legal modeling, and logical methods, such as induction and deduction, generalization and comparison.

**RESULTS AND DISCUSSIONS:**

In the system of modern international law, the principles are the fundamental norms, determining the whole foundation of international legal relations. The principles of modern international law, by virtue of their universality and imperative, determine the legitimacy of all norms of international law. They, as rightly emphasizes professor K.A. Bekyashev, are universally binding norms of international law, which correspond to the legitimate processes of development of modern international relations, and due to their contribution to ensuring the interests of all mankind, they are protected by the most stringent coercive measures [6]. According to the professor R.M. Valeev, the observance of the fundamental principles of international law is of fundamental importance for ensuring effective international legal regulation of environmental protection [7].

All internationally recognized principles of international law, as enshrined in the United Nations Charter of 1945, [8], in the Declaration on the Principles of International Law, in the field of Friendly Relations and Co-operation among States of 1970 [9] and other acts are fully applicable to the international maritime law. Such principles, in particular, are: the principle of non-use of force or threat of force; the principle of sovereign equality of all states; the principle of non-interference in the

internal affairs of another state; the principle of respect for state sovereignty; the principle of peaceful settlement of international disputes and some others.

Meanwhile, it is necessary to single out a number of branch principles, inherent directly to the international maritime law, since they rightfully own the establishment of basic forms of state behavior in order to ensure the rational use and protection of the World Ocean. These include: the principle of freedom of the high seas; the principle of protection and preservation of marine environment; the principle of peaceful use of the World Ocean; the principle of non-admission of radioactive contamination of the surrounding, including the marine environment, and some others.

Having analyzed all the above principles, it can be concluded, that all of them are aimed at protection of the World Ocean, in order to preserve it for the benefit of present and future generations. One of the key field principles is the principle of protection and preservation of the marine environment. Thus, chapter 17 of Agenda 21, adopted at the United Nations Conference on Environment and Development in Rio de Janeiro in 1992, identifies the main activities of States in protection the oceans and all kinds of seas, including enclosed and semi-enclosed seas, as well as coastal areas, rational use and development of their living resources [10]. It was noted, that States, carrying out activities on the high seas, as well as in coastal areas, should take into account the interests of other States and take all possible measures to preserve and to maintain the waters and resources of the World Ocean under control. These provisions are also enshrined in the 1982 United Nations Convention on the Law of the Sea, binding states-parties to cooperate on a worldwide and regional basis in the development (independently or with the assistance of international organizations) of the relevant Convention norms, standards and procedures for the protection of the marine environment from pollution from all sources [11]. Part XII of the Convention "Protection and preservation of marine environment" establishes the principles of states cooperation in the matter of preclusion and, above all, prevention of marine environment pollution, thereby creating a legal basis for ensuring coordinated activities of states in protecting the World Ocean from pollution [12].

Nevertheless, despite the efforts of individual states and international organizations, the deterioration in the condition of marine environment continues. In this regard, in 2001, at the 56th session of the UN General Assembly, the concern was expressed over

the rapid growth in the degradation of marine environment, both as a result of land activities, and as a result of pollution from ships, discharges and disposal of oil and other harmful and dangerous wastes: chemical, biological, radioactive. In this connection, the UNGA adopted a resolution, calling on states, which are not the parties to the 1982 United Nations Convention on the Law of the Sea, to accede to it, and to coordinate regional legislation with its provisions [13]. To date, the Convention has been ratified by virtually all developed countries, except the United States. As the largest naval power, the United States not only refused to sign the Convention, but also refused to join a number of international treaties, relating to the protection of the world's oceans and seas. A quarter of the states-parties to the Convention act in a similar manner, that significantly changes the regime, established by it.

Despite the fact that more than thirty years have passed since the adoption of the UN Convention on the Law of the Sea in 1982, a number of issues remain unresolved. Thus, there are still disputes, regarding the interpretation of certain provisions of the articles. As a result, the most of the participating States either interpret a number of provisions in their own way or completely violate the basic convention provisions in their own interests. This is explained, in our opinion, by the opportunity to circumvent the existing legislation without violating its basic provisions. Such a possibility has arisen because there are no clear definitions and prohibitions on the implementation of activities in the World Ocean in a number of articles, there is no decipherment of certain terms and concepts. Specialized institutions, provided for by the Convention for the settlement of disputes and conflicts, such as the International Court of Justice, the International Tribunal for the Law of the Sea and Arbitration, only in rare cases carry out control over the implementation of conventional norms.

Regime, formed by both the 1982 Convention and other international instruments on the issues of protection and preservation of marine environment, is mostly fragmentary. Due to this, the repeated violations of the conventions and the practice of their broad interpretation are occurred. Many concepts, which are extremely important for the correct interpretation of established norms are still missing, such as: "the World Ocean", "marine environment", "environmental security", and there is still no clear definition of what exactly is meant by the term "significant harm" in relation to marine environment.

It is assumed, that the main task of the States in the matter of protection of the World Ocean is not to protect it from pollution, not to eliminate the consequences, not to compensate the harm, but, first of all, to prevent the possibility of harming its waters and resources. It is preventive actions that can stop the process of its further degradation. This is connected with the complexity of determining the severity of damage, since it is possible to eliminate extremely visible consequences. For example, as a result of the accident in the Gulf of Mexico, despite the active efforts of specialists in eliminating the consequences, more than 600 sea turtles, 100 dolphins, more than 600 seabirds were killed, in the following years, the mortality of whales and dolphins increased 50 times. Oil seeped into the waters of coastal reserves and bogs; influenced the process of reproduction of reef-building corals. In addition, the average temperature of water in the Gulf of Mexico increased by 10 degrees, which, according to many researchers, significantly influenced the lowering of temperature of the climate-forming underwater current - the Gulf Stream [14].

#### DEDUCTIONS

Marine environment, which unites all the seas and oceans, as well as the coastal areas, represents a single, indivisible whole, which in turn is an essential component of the global life-support system for our planet, and acts as a determining factor for sustainable development.

To successfully implement the principle of protection and preservation of marine environment, it is necessary to increase the awareness of the entire world community about the importance of ensuring the protection of the world's oceans and seas. It is necessary to develop such methods of protection, which will ensure the protection of marine environment even before the pursuit of activities, that could lead to its pollution, as well as to monitor the compliance of this activity with existing legal norms.

1. The events of recent years clearly evidence, that the World Ocean, providing the growing needs of modern society, is rapidly losing its ability to self-purification. In order to minimize damage, it seems necessary to move the world community to the path of sustainable development, where environmental security will be implemented along with the economic and social spheres of activity. Only in the formation of such a model of behavior, where the impact on the environment will be moderate, sparing, the process of pollution of the World Ocean, as the main component of the biosphere of our planet, can be slowed down.

2. The specific feature of marine environment pollution is the fact, that appearing on the territory of one state, it quickly spreads over vast areas. Consequently, the countries, participating in international agreements, and first of all the 1982 UN Convention on the Law of the Sea, are interested in raising the level of information exchange on offshore activities, and in stimulating the development of environmentally safe production in the process of exploitation of the World Ocean waters and resources.

3. Regional cooperation is an important element of the global process to protect the marine environment from pollution. Covering only a certain group of participants, regional agreements, nevertheless, help the states to make decisions, which will be relevant to them, taking into account the community of the territory and the attitude to this problem.

4. In order to ensure the protection of the world's oceans and seas from pollution, the main focus is made not on creating new international standards, but on the qualitative implementation of existing ones. Taking into account the duration of the process of adopting a new international agreement in this area, its development is not appropriate. So, almost 10 years were required for the preparation of the text and the adoption of the 1982 United Nations Convention on the Law of the Sea. Therefore, it is necessary to make some amendments to Part XII of the Convention, concerning the protection and preservation of marine environment, where all issues, related to the protection of the World Ocean will be considered taking into account the requirements of modern society, the rapid growth of technological capabilities of developed countries.

5. Rapid pollution of the World Ocean has revealed the need for rational use of its waters and resources. Nevertheless, most of the international legal norms, governing these issues, are the most often of recommendatory nature. It seems necessary not only to consolidate in the international agreements the responsibility for the rational use of marine environment, which will be mandatory, but toughening of sanctions, which will follow the failure to fulfill obligations.

6. Intensification of international shipping has led to the fact, that the World Ocean has almost lost the ability to self-purification. Major accidents, which occurred in the last decades, clearly demonstrate the increased pressure on the marine environment. Consequently, there is a growing need to increase the number of special services for timely preventing possible emergencies, as well as to expand the management system for emergency notification and information on natural disasters and emergencies.

**CONCLUSION:**

The problem of the improvement, protection and preservation of the World Ocean from pollution, based on old thinking, which assumes the concept of inexhaustibility of its resources, the unlimited capacity for self-purification, the assumption that the Ocean will withstand everything, etc. can hardly be solved now.

Protection of marine environment is extremely multifaceted, complex problem, which can be solved only with the support of scientific research in various fields: geography and physics, chemistry and ecology, oceanography and geology, etc. At the same time, it must be admitted, that only within the framework of international law, in the process of observing the fundamental principles, it is possible to regulate the necessary actions of the States-Parties to the international Conventions, in order to ensure the protection and conservation of maritime environment and to provide international standards, mandatory for all States.

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