

# Ocean Options for Climate Change Mitigation: the International Legal Framework

José Juste-Ruiz

Professor of International Law

University of Valencia

# The International Legal Framework for Dumping at Sea

- UNCLOS 1982: Part XII (arts.192, 194, 195, 196, 210.5)
- 1972 London Convention and 1996 Protocol
  - definition of dumping as “any deliberate disposal into the sea” (Art. 1.4)
  - prohibition of all dumping (art. 4) except for a small list of wastes specified in Annex 1
  - prohibition of export for dumping at sea (Art. 6)
  - rules applicable in all marine waters (other than internal waters) the seabed and its subsoil (Art. 1,7)
- New ocean technologies to capture GHGs: CCS & OF/GE

# LP amendments to allow CO2 sequestration (CCS) and export

- Discrepancy among the Contracting Parties.
- 2006 amendment to Annex 1 to permit CCS operations subject to three false conditions. Adopted by 12 votes in favor and 5 abstentions. In force since 10 February 2007 under Art. 22 LP.
- 2009 amendment to Art. 6 to permit export for CCS (to Parties and non Parties to LP) under an “agreement or arrangement” among the countries concerned. Adopted by 10 votes in favor, 1 against and 6 abstentions. Not yet in force under Art. 21 LP.

# LP action to allow ocean fertilization and geoengineering

- Discrepancy among the CP. Reverse effect of the 2007 (Galapagos) and 2012 (Canada) incidents.
- 2008 resolution to define and permit ocean fertilization as “placement” for legitimate research activities + 2010 Assessment Framework. In force but not binding.
- 2013 amendments to the Protocol setting up a complex legal structure to permit broader ocean fertilization and geoengineering operations. Not yet in force under Art. 21 of the LP.

# Conclusions

- Hasty action of the CP despite gaps in scientific knowledge as to the potential unintended impacts of CCS and GE operations.
- Departure from the strong precautionary approach of the original LP: a case of legal regression.
- Disincentive for further efforts to reduce GHG emissions at source.
- Doubts as to the compatibility of the amendments with UNCLOS parts VII, XI and XII, and other Conventions.
- Need to review the legal and ethical bases of the ocean options for climate change mitigation in a more representative global forum.