MARINE SPATIAL PLANNING: RECONCILING CONFLICTING INTERSTS IN SOUTH AFRICAN WATERS VIA DUE DILIGENCE

*Tajudeen Sanni\* (LLD)[[1]](#footnote-1) and Dennig N Metuge\*\* (LLD)[[2]](#footnote-2)*

**Abstract**

The preamble to the 1982 United Nations Convention on the Law of the Sea (UNCLOS) highlights the fact that “the problems of ocean space are closely interrelated and need to be considered as a whole”. Marine Spatial Planning (MSP) has emerged as a tool to manage the various uses of the ocean the emerging problems thereof, holistically. In terms of the UNESCO-Intergovernmental Oceanography Commission(IOC), MSP refers to the process of allocating the spatial and temporal distribution of human activities in marine areas to achieve ecological, economic, and social objectives that typically have been specified through a political process. Marine governance was essentially single sector based, undermining the capacity to identify and manage conflicts between sectors.MSP not only provides a means to identify potential conflicts based on geo-spatial, but also provides a comprehensive governance framework for the various sectors and relevant stakeholders. This paper examines the regulation of MSP at the global level, looking primarily at UNCLOS as well as the UNESCO-IOC guide, **“Marine spatial planning: A step-by-step approach toward ecosystem-based management”; at** the regional level, it looks at the African Union 2050 Africa’s Integrated Maritime Strategy (2050 AIM Strategy) and; at the domestic level, the focus is on South Africa’s Marine Spatial Act, 2018. The underlying theme throughout this paper is due diligence as an obligation to achieve the goals of MSP, especially with regard to the inextricable link between due diligence and the achievement of the goal of sustainability in the MSP process.

Finally, in answering the question: how can the law contribute to the sustainable use of the ocean and strike a balance between competing interests at sea, this paper provides a succinct presentation of relevant policy developments leading to the publication of South Africa’s MSPA and a discussion on the relevant provisions of the MSPA, aimed at reconciling competing interests within the Republic’s territorial waters.

Key words: Marine Spatial Planning, Due Diligence, Sustainability, Marine Conflicts

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**Tajudeen Sanni**

Dr. Tajudeen Sanni has his LLD/PhD in Public Law at Nelson Mandela University, Port Elizabeth, South Africa. Sanni is a Research Fellow, Department of Public Law, Nelson Mandela University, and Port Elizabeth, South Africa. Dr Sanni specializes in Public International Law, Law of the Sea and Marine Spatial Planning. He has taught course units such as Public International Law, Law of the Sea, Humanitarian and Refugee Law and Policy, Jurisprudence, Equity and Trust as well as Electronic Transactions among others at Kampala International University, Uganda as a Senior Lecturer and Islamic University in Uganda. He has keen interest in justice advocacy and research as exemplified by the founding of *Academics against Injustice* and *Environmental Law and Action Initiative*. Dr Sanni has academic publications to his credit and belongs to a number of professional associations such as Association of Environmental Law Lecturers in Africa, International Law Association, Society of International Economic Law and Society of Legal Scholars, UK.

1. † Post-doctoral researcher, Department of Public Law, Faculty of Law, Nelson Mandela University, South Africa. The author researches under the auspices of the Incumbent, Chair of Law of the Sea and Development in Africa, Nelson Mandela University.

   †† LLB LLM LLD Post-doc Fellow: Nelson Mandela University, South African Research Chair in the Law of the Sea and Development in Africa. [↑](#footnote-ref-1)
2. [↑](#footnote-ref-2)