



# Governing the Oceans Beyond National Jurisdiction: Multistakeholder Policy Analyses and Policy Dialogues for Improved Ocean Governance

A Project of the Global Forum on Oceans, Coasts, and Islands and the Gerard J. Mangone Center for Marine Policy, University of Delaware, with principal funding from the Nippon Foundation, Japan, and additional support from the Ministry of Foreign Affairs, Singapore, Department of Fisheries and Oceans, Canada, and UNESCO

## BACKGROUND

### The Problem of Governance of Marine Areas Beyond National Jurisdiction

Almost two thirds of the world's oceans are found more than 200 miles from the coast of any nation, and therefore, in principle beyond the limits of national jurisdiction. While in the past the ocean's capacity to resist or recover from human impacts was thought to be limitless, it is becoming increasingly apparent that humans are impacting all aspects of the ocean system. Key issues in areas beyond national jurisdiction include illegal, unreported and unregulated (IUU) fishing, overfishing, destructive fishing practices, extraction of marine genetic resources, pollution (including ocean acidification), and climate change, among others. To date there is no consensus on the various legal and policy issues surrounding marine areas beyond national jurisdiction, and there are many different options being elaborated and discussed about how these issues should be resolved.

## PURPOSE

This project of the Global Forum on Oceans, Coasts, and Islands and the Gerard J. Mangone Center for Marine Policy will carry out policy analyses and multistakeholder policy dialogues to facilitate international dialogue on issues relating to the governance of marine areas beyond national jurisdiction. This project builds on work carried out in connection with the *Third Global Conference on Oceans, Coasts, and Islands: Moving the Global Oceans Agenda Forward* (organized by the Global Forum on Oceans, Coasts, and Islands) in January 2006 at UNESCO, Paris, France (see the Working Group Co-chairs Report from the Third Global Conference at <http://globaloceans.org/highseas/pdf/HighSeasReport-Paris.pdf>).

## MAJOR PROJECT ELEMENTS

### Examine the Status of Information on Governance of Areas Beyond National Jurisdiction

*August 2007-January 2008*

The project will assemble existing information on governance of areas beyond national jurisdiction. A database with annotated summaries of information will be developed and placed online on the Global Forum and Nippon Foundation websites.

### Strategic Scoping and Planning

*September 2007-February 2008*

The project will organize a Strategic Planning Workshop on *Global Oceans Issues in Marine Areas Beyond National Jurisdiction in the Context of Climate Change* involving high-level officials from all sectors, on January 23-25, 2008, in Nice, France, to consider the challenges and

opportunities in improving the governance of marine areas beyond national jurisdiction and envisioning what activities could be feasible and beneficial to carry out in this area in the next ten years.

### Policy Analyses and Multistakeholder Policy Dialogues on Governance of Areas Beyond National Jurisdiction: Ecosystems and Uses

*Policy Analyses: January-May 2008,*

*Workshop: April 5, 2008, Hanoi, Vietnam*

This work will examine the patterns of use as well as the extent of knowledge on the status, vulnerability, and monitoring of ocean ecosystems beyond national jurisdiction.

Topics to be addressed include:

—*Consideration of syntheses of the scientific knowledge of ecosystems, their status, and vulnerabilities* (including consideration of, inter alia, ongoing work by the Convention on Biological Diversity (CBD) on addressing gaps in scientific knowledge relating to ecosystems, their status and vulnerabilities, as well as the January 2007 workshop by Mexico, Australia and IOC-UNESCO on the scientific aspects of marine protected areas beyond national jurisdiction).

—*Patterns of human uses of ocean areas beyond national jurisdiction*—including fishing, shipping, mining, marine scientific research, marine biotechnology, other.

—*Economic value of human uses, stakeholder perspectives on the needs, constraints, and opportunities facing each use.*

—*The nature and level of interest in marine biodiversity beyond national jurisdiction* (i.e., level of commercial interest in marine biotechnology).

—*The role and operation of public-private partnerships for marine biotechnology.*

—*Consideration of environmental impacts of human activities* (including IUU fishing, bottom trawling, shipping, noise pollution, marine scientific research, other activities), as well as the nature of actions taken by states to address and mitigate these impacts.

### Policy Analyses and Multistakeholder Policy Dialogues on Governance of Areas Beyond National Jurisdiction: Management Issues and Policy Options

*Policy Analyses: June-November 2008*

*Workshop: November 12-14, 2008 (tentative), Singapore Botanic Gardens, Singapore*

Analyses under this theme will be organized into the following categories and will consider: applicable principles, management approaches,



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capacity building requirements, options for benefit sharing, and interface with intellectual property rights obligations under international law.

- 1) Conservation and sustainable use of marine biodiversity
- 2) Marine scientific research in areas beyond national jurisdiction and marine biotechnology
- 3) High seas fisheries management
- 4) Environmental impacts of shipping
- 5) Marine surveillance and enforcement in the high seas
- 6) New and emerging uses
- 7) Marine protected areas beyond national jurisdiction
- 8) The interface among the issues above

### ***Applicable Principles***

There are differences in opinion regarding what principles should guide the discussions regarding biodiversity in areas beyond national jurisdiction particularly with regard to marine genetic resources of the deep seabed (e.g., freedom of use versus common heritage of mankind). Analysis will consider the extent of application of international principles in areas beyond national jurisdiction and will identify where there is common agreement and where there are differences of perspectives among nations and stakeholders, with the intent of identifying possible avenues for moving toward greater consensus.

### ***Management Approaches to be Considered***

Although there is not yet international consensus on ways forward, possible approaches to address the issues related to governance of marine areas beyond national jurisdiction may include, among others:

- 1) Enhanced implementation of existing international instruments and their coverage
- 2) A voluntary code or codes of conduct
- 3) A new implementing agreement to the United Nations Convention on Law of the Sea (UNCLOS) to implement new provisions relating to areas beyond national jurisdiction
- 4) An amendment to UNCLOS
- 5) A joint protocol between the CBD and UNCLOS
- 6) A new Global Programme of Action on biodiversity beyond national jurisdiction
- 7) Amending or extending mandates of existing institutions such as Regional Fishery Management Organizations (RFMOs) and Regional Seas programs
- 8) Forming new regional institutions as required
- 9) Other possible approaches to be determined

### ***Capacity Building Requirements***

Consider the development of targeted training for developing countries, small island developing States, and economies in transition, on key topics such as: i) implementation and enforcement of existing and any new regulations; ii) principles for governance and management; iii) marine scientific research; iv) intellectual property rights and patent issues; v) socio-economic and environmental impacts of the industries (e.g., fishing, marine biotechnology); vi) other related legal and scientific aspects.

### ***Options for Benefit Sharing***

Consider the development of options for benefit sharing, including monetary as well as non-monetary arrangements, such as exchange of information on research programs and outcomes of research efforts, as well as increased participation in joint ventures and partnerships. Also consider technology transfer and capacity development as forms of benefit sharing.

### ***Options for Improving Coherence***

Consider the development of options for improving the coherence and compatibility of management actions within, among, and between global and regional organizations and states.

### ***Intellectual Property Rights (IPR)***

Consider the convergence and applicability of IPR obligations to marine scientific research and their relation to other principles regarding marine areas beyond national jurisdiction, reflected in UNCLOS and in other relevant instruments.

## **PROJECT ORGANIZATION**

The project will be coordinated at the Gerard J. Mangone Center for Marine Policy, University of Delaware, USA, where the Secretariat of the Global Forum on Oceans, Coasts, and Islands is based. The work will be carried out by Center staff and a diverse International Working Group with approximately 80 experts from both developed and developing nations, reflecting a broad range of sectors including national governments, UN agencies, intergovernmental organizations, nongovernmental organizations, industry, and academia, with the guidance of a Steering Committee.

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