

Consultation on International Ocean Governance

1 Context

Oceans are a key source of nutritious food, medicine, minerals and renewable energy. They are also home to a rich, fragile, and largely unknown biodiversity which provides a variety of ecosystem services, including producing half of the oxygen in the earth's atmosphere, absorbing 30% or more of CO₂ emissions and playing a key role in climate regulation. Oceans are already amongst the drivers of the world's economy and offer further significant opportunities for business. The potential for "blue growth" is enormous. WWF puts the overall value of ocean "gross marine product" at US\$ 24 trillion¹.

Today, population growth, global competition for raw materials, food, water, maritime security threats, climate change, marine pollution and technical capabilities increase the level of use of ocean resources, particularly in hitherto difficult to access areas and reduce the oceans' ability to sustain the delivery of the benefits upon which human society depends.

International Ocean Governance

At the same time, seas and oceans are a resource which is shared even in areas which are under the responsibility or jurisdiction of national states, for instance by shipping or through access to fishing grounds. Beyond this, 60% of the oceans are outside the borders of national jurisdiction and are therefore "by definition" a shared resource.

These fundamental characteristics have led to the development of a framework of rules and institutions that strive to organise the way in which humans use the oceans, both within national jurisdictions and in areas beyond national jurisdiction. Non-State actors play an important role in this context, both as stakeholders and as "multipliers". Stakeholders participate in many of the official fora and institutional processes, as "implementers" whose responsibility it is to put into practice what is set out within frameworks, rules and regulations whereas "multipliers" make sure that issues affecting international ocean governance are disseminated and shared².

There is no internationally recognised definition of "international ocean governance". The term 'ocean governance' includes rules, institutions, processes, agreements, arrangements and activities carried out to manage the use of oceans and seas in an international context.

Today's international ocean governance framework is based on an overarching legal framework (the "Law of the Sea"³) under which a combination of jurisdictional rights, institutions, and specific frameworks have been set up.

A significant number of global actors are making the case⁴ that the current international ocean governance framework is not effective enough in ensuring the sustainable use of oceans and their resources for the future, and have announced initiatives to improve this.

¹ WWF Value of the oceans report http://wwf.panda.org/wwf_news/?244770/Ocean-wealth-valued-at-US24-trillion-but-sinking-fast

² A couple of more technical references to oceans governance are linked here:

http://www.un.org/depts/los/nippon/unnff_programme_home/fellows_pages/fellows_papers/repetto_0506_peru.pdf pp. 9 ff;

http://www.un.org/depts/los/convention_agreements/convention_20years/presentation_ocean_governance_frbailet.pdf

³ United Nations Convention on the Law of the Sea (UNCLOS)

The post-2015 framework for sustainable development is currently being finalised at the United Nations. It aims to include a number of Sustainable Development Goals, aimed directly or indirectly at the conservation and sustainable use of the oceans, seas and marine resources for sustainable development⁵. The Post-2015 framework will therefore also impact on the future governance framework of the oceans.

The case of the European Union

Oceans are also a core asset for the EU. The EU's maritime economy alone employs more than 3.6 million people, creates a gross added value of just under €500 billion per year⁶, with a high potential for further growth. Europe is and will be increasingly dependent on oceans for the provision of fish protein, minerals and renewable energy. The EU's single market is the largest market for fisheries products in the world. 90% of the EU's external trade and 40% of internal trade is carried on sea routes. With more than 20 million km², the EU's Member States collectively have jurisdiction over the largest exclusive economic zone in the world.

Internally, the EU has worked on bolstering its ocean governance processes for the past 10 years and has developed a long term Blue Growth strategy to support sustainable growth in the marine and maritime sectors. It brings together economic growth and the protection and conservation of nature through ecosystem-based management, as two sides of the same coin. The importance for the European Union of an effective framework for international ocean governance is very timely on account of:

- Growing pressure on oceans and seas, which put the marine environment and ecosystems at risk, often eroding the natural capital that constitutes the growth base of sustainable blue business on which Europe's Maritime Economy depends.
- The EU and its Member States have now accumulated significant experience in the development of coherent and integrated maritime policies⁷ that lead to more effective ocean governance.
- The EU and its Member States are already active players in relevant international fora and negotiations at regional and global levels.
- EU development policy as well as other EU policies, which contribute actively to improved governance in developing countries, in line with the principle of Policy Coherence for Development⁸.

⁴ See: Global Oceans Commission (<http://www.globaloceancommission.org/proposal-2-governing-the-high-seas/>), Economist World Ocean Summit conferences <http://www.economistinsights.com/sustainability-resources/event/world-ocean-summit-2014/tab/2>), US State Department Oceans Conference (<http://www.state.gov/r/pa/prs/ps/2014/06/227797.htm>)

⁵ Most notably SDG no. 14: <https://sustainabledevelopment.un.org/sdgsproposal#goal14>

⁶ Based on data from the Blue Growth Study 'Scenarios and drivers for sustainable growth from the oceans, seas and coasts', ECORYS, 2012. <https://webgate.ec.europa.eu/maritimeforum/content/2946>

⁷ The European Commission first laid down its vision on international ocean governance in the 2009 Communication on 'Developing the international dimension of the Integrated Maritime Policy (IMP) of the EU' (COM(2009)536)⁷, and, at sea basin level in the Communication 'Towards an Integrated Maritime Policy for better governance in the Mediterranean' (COM(2009)466). In combination with the EU Biodiversity Strategy to 2020 and the 7th Environment Action Programme, the Marine Strategy Framework (MSFD - 2008/56/EC) and the Maritime Spatial Planning Directives (2014/89/EU) have created a new, comprehensive and solid legal framework within the EU aiming for good ocean governance and implementation of international commitments. The Communication (COM(2012) 662) provides an analysis on the contribution of the MSFD to the current international ocean governance structures.

⁸ Article 208 (1), Treaty on the Functioning of the European Union: "...The Union shall take account of the objectives of development cooperation in the policies that it implements which are likely to affect developing countries".

In his mission letter from European Commission President Jean-Claude Juncker, European Commissioner for Environment, Maritime Affairs and Fisheries, Karmenu Vella, was mandated to engage in shaping international ocean governance in the UN, in other multilateral fora and bilaterally with key global partners.

The aim of this consultation is to gather input from all stakeholders, private and public, as well as international governmental and non-governmental organisations on how the EU could contribute to achieving better international governance of oceans and seas to the benefit of sustainable blue growth. On the basis of the results and other sources of data and information, the European Commission will consider how best to develop a more coherent, comprehensive and effective EU policy on improving the international ocean governance framework.

2 General problem definition

Recent discussions and initiatives⁹ conclude that the current framework for international ocean governance is not effective enough in ensuring the sustainable management of oceans and their resources.

An example of this is the continuing problem of Illegal, Unregulated and Unreported (IUU) fishing, or the lack of implementation of relevant rules or ratification of relevant agreements¹⁰ that put sustainable management of fish stocks at risk.

Also, the sheer number of oceans-relevant international institutions and sector-specific agreements and rules complicates or even hampers implementation¹¹.

- ***Do you agree or disagree with this general problem definition? Please explain why?***

3 Specific problem definition: what causes the overall problem?

The causes of ineffective international ocean governance could be explained by:

- Gaps in the existing international ocean governance framework
 - Inefficient use and implementation of the existing international ocean governance framework, or insufficient coordination among its components
 - A lack of knowledge about the oceans
- ***Do you agree with the list of specific problems? If not, please explain.***
 - ***Which specific problems would you add?***
 - ***If you were to rank the list of specific problems by priority, which one would come first?***

⁹ See above

¹⁰ For example, the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing was concluded in 2009, needs 25 ratifications for entry into effect, and currently counts only 12, including the EU. The IMO's Ballast Water Convention was adopted in 2004 and is still not in force.

¹¹ See below

3.1 The existing international Ocean Governance Framework

The existing international Ocean Governance Framework is composed of many institutions, rules, processes, agreements and arrangements.

Some institutions operate at a global level¹², others at regional¹³, national¹⁴ or sub-national level. Some have a general mandate relating to the oceans¹⁵, the competence of others is limited to certain sectors¹⁶ or issues¹⁷. Some agreements create legally binding obligations to the parties of that convention¹⁸, others are non-binding¹⁹.

The existing international Ocean Governance Framework is often not effective for the reason that agreed rules and policies are not ratified²⁰, complied with or implemented or due to an overlap or a lack of coordination between existing institutions and processes.

For example, lack of transparency or coherence of rules and differences in standards between regions, or the absence of rules in other areas can be an obstacle for operators, either because they distort the market at the global level, or due to the absence of rules which favours those who work on the basis of lower and environmentally more harmful standards. This in turn discourages innovation and technological progress and potentially harms high-quality operators including those from the EU. This may be even more of an issue when considering that many highly innovative companies are SMEs.

Another gap is the management of marine resources by area. Whereas there are a large number of fisheries management organisations covering a significant proportion of the world's oceans, these organisations only cover fisheries management issues. Regional Seas Conventions deal with the environmental issues in their own geographical areas – which are often different from those covered by e.g. fisheries organisations. There is no 100% coverage of the world's oceans by these organisations, and whilst they cooperate in a number of cases²¹, such cooperation is neither systematic, nor comprehensive.

Even though discussions on the launch of negotiations for an implementing agreement on biodiversity in areas beyond national jurisdiction are far advanced in the UN, in its absence, there are no rules or mechanisms for cross-cutting area-based management of human uses, or Maritime Spatial Planning, in international waters.

The set of international organisations dealing (in some cases partially or indirectly²²) with oceans and their governance is broad, but there is no overarching body at UN level with the

¹² E.g. Convention on Biodiversity (CBD), International Maritime Organisation (IMO), International Labour Organisation (ILO), etc.

¹³ E.g., Regional Fisheries bodies including Regional Fisheries Management Organisations (RFMOs), Regional Seas Programmes or Conventions (RSCs)

¹⁴ Maritime Administrations, Ministries of Transport, Ministries of Environment in individual countries

¹⁵ E.g. International Maritime Organisations

¹⁶ E.g. Regional Fisheries Management Organisations, International Seabed Authority

¹⁷ E.g. Convention on Biological Diversity

¹⁸ E.g. International Commission for the Conservation of Atlantic Tunas

¹⁹ E.g. Sargasso Sea Convention

²⁰ E.g. PSMA agreement – see above

²¹ E.g. MoU between OSPAR and NEAFC

²² E.g. World Bank, World Trade Organisation

mandate to coordinate their action in the context of oceans, leading to potential conflicts or overlaps²³.

- ***What is missing to close the gaps in the existing international ocean governance framework (e.g. new institutions, new rules, new agreements, new arrangements)? What would you want to change?***
- ***Which areas or issues of international ocean governance are inadequately covered and could benefit the most from filling gaps in the current framework, or from more efficient organisation of the international ocean governance framework? How would they benefit?***
- ***Which geographic areas could benefit the most from more effective organisation, or from filling of gaps in the institutional framework; and how would they benefit?***
- ***Which sectors of the economy could benefit the most from a more effective international ocean governance framework or from filling gaps in the existing set-up and how would they benefit?***
- ***Where is the greatest added value for the EU to address this specific problem?***
- ***Which principles or objectives should guide potential action?***
- ***How would you go about measuring progress in this area?***

3.2 Lack of knowledge

Innovative technological capabilities (e.g. in marine biotechnology or renewable energies) alongside more traditional economic activities need a much better understanding of seas and oceans to sustainably realise their economic potential. At the same time, seas and oceans around us are changing, also due to pressure from human activities, including climate change, ocean acidification and fishing, and the overall health of the marine environment is a growing concern.

In some cases, we may not understand the oceans sufficiently to take appropriate decisions²⁴, or gaps in surveillance systems or assets and capabilities for example can be a major obstacle to the development and application of rules to manage activities or even correctly enforce Marine Protected Areas. Lack of knowledge about positive or negative impacts of activities²⁵ may lead to suboptimal results or even missing growth opportunities provided by making use of ecosystems as economic service providers as is the case for tourism.

The marine knowledge base is already being strengthened at international and EU level. Major efforts are being undertaken in projects funded by the EU's Framework programmes for research, joint programming, international and national programmes. This includes for example, the mapping and assessment of ecosystems and their services, the work under the Convention on Biological Diversity on ecologically and or biologically significant marine areas, the initiative on "The Economics of Ecosystems and Biodiversity", the UN World Ocean Assessment, potential forthcoming work by the Intergovernmental Platform on Biodiversity and Ecosystem Services. The Commission's "Marine Knowledge 2020" initiative quantified the benefits of sharing knowledge and data across national and sectoral

²³ This is notably the case for environmental agreements or bodies (MEAs) vs. sectoral bodies

²⁴ We only learned recently about the real importance of plankton as oxygen generator
<http://www.reuters.com/article/2015/05/22/us-science-plankton-idUSKBN0062G120150522>

²⁵ Fixed sea structures providing habitats

boundaries²⁶. Marine research cooperation is high on the agenda in some areas (e.g. North Atlantic).

While much research is taking place to obtain more data and information about our seas, a lot of it is still in its early stages, carried out in piecemeal fashion, limited in time or scope or simply not shared enough. A good example is the collection of data in the context of environmental assessment for specific projects which is often done multiple times for different projects, leading to duplication, or held by individual organisations and not made available to others who might benefit from the same data.

- ***Which areas of international ocean governance could benefit the most from better availability of maritime knowledge?***
- ***Where do you see the most obvious gaps in knowledge about our seas and oceans?***
- ***How could knowledge about our seas and oceans be better shared among scientists and users (business, policy-makers...)?***
- ***What could be done to improve coordination in maritime research?***
- ***Which economic activities and sectoral policies could benefit the most from better availability of maritime knowledge?***
- ***How would you go about measuring progress in this area?***

²⁶ Commission staff working document Marine Knowledge 2020: roadmap Accompanying the document Communication from the Commission on Innovation in the Blue Economy realising the potential of our seas and oceans for jobs and growth <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52014SC0149&from=EN>