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(of UNESCO)

INFORMATION DOCUMENT

**IOC AND UNCLOS:
PROGRESS REPORT BY THE SECRETARIAT
ON THE LAW OF THE SEA (2007-2008)**

This information document reports the activities conducted by the IOC Secretariat during year 2007 and part of 2008 in support of the implementation of UNCLOS. This year the work of the IOC Advisory Body of Experts on the Law of the Sea (IOC/ABE-LOS) was focused in the working sub-group on the "IOC Legal Framework within the context of UNCLOS which is applicable to the collection of oceanographic data". In addition, the Secretariat, benefiting from contributions from the European Commission through Actions: SI2. 455289 and SI2. 455302, released two publications: (i) "Procedure for the Application of Article 247 of UNCLOS by IOC"; and (ii) "National Ocean Policy: Basic texts from (...)". It also created a Data-base on Technology Transfer and promoted the "Criteria and Guidelines on Transfer of Marine Technology" in several International Fora and the World Wide Web.

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A. PART VI OF UNCLOS: CONTINENTAL SHELF

Capacity Building activities

NEPAD, the UNESCO/IOC and UNEP/GRID-Arendal are working together to play an important advocacy role to promote awareness among African countries of Article 76 of UNCLOS dealing with the delineation of the outer limits of the continental shelf. In this regard, the three agencies are working together in assisting African Countries in preparing submissions on the outer limits of the continental shelf beyond 200 nautical miles before the deadline of May 2009. Awareness on the delineation of the outer limits of the continental shelf is currently the key input from the agencies and is targeted to the appropriate decision makers at the national level.

The Agencies have developed a paper on capacity-development for Delineation of the Outer Limits of the Continental Shelves of Africa Coastal states, which has the purpose of outlining a Strategy that will result in the timely submission by a MS of a desk-top study to the Commission on Limits of Continental Shelf (CLCS) supporting their claims for extension. In the document, it is emphasised that the quality of the desk-top study must be high enough to warrant serious scrutiny by the Commission in determining the next steps that a claimant has to take, if any. The Strategy calls for tasks for the UN agencies as well as for the MS

The aim of attending the VIII meeting of the AU Summit was to sensitize the coastal states of Africa attending the Summit African Union about the UNCLOS provision on delineation of the extended continental shelf and the urgent need for them to make their submissions to the UN Commission on the Limits of the Continental Shelf (CLCS) by May 2009.

Several informal meetings have been held with several Permanent Delegations of African states to UNESCO and on 17 March 2008, the IOC Executive Secretary addressed the meeting of the African Group. It is expected that a special session of the African Group on the Extension of the Legal Continental Shelf will be held on 18 April.

IOC will actively participate in the organization of the training courses held by GRID-DOALOS on the delimitation of the Legal limits of the Continental Shelf in the coming future.

B. PART XII OF UNCLOS: PROTECTION AND PRESERVATION OF THE MARINE ENVIRONMENT

IOC Technical Series, 75. Law of the Sea Dossier 1: Intergovernmental Oceanographic Commission. National Ocean Policy. The Basic Texts from: Australia, Brazil, Canada, China, Colombia, Japan, Norway, Portugal, Russian Federation, United States of America. Paris, UNESCO, 2007.

IOC has inaugurated a new “IOC Technical Series” on the Law of the Sea by publishing Dossier 1. Under Action: S12. 455302 of the European Commission, the Intergovernmental Oceanographic Commission of UNESCO received financing by the European Union to publish a compilation of the Main National Ocean Policies presently in force.

As stated in the Introduction of this document: “The IOC has been involved in the promotion of Chapter 17 of Agenda 21 and of the integrated management standards since 1993, through its active participation in the work of the UN-ACC Sub-Committee on Ocean and Coastal Zones and through its program on Integrated Coastal Area Management (ICAM). Today through the Law of the Sea Programme of IOC and with the generous support of a grant from the European Commission (S12.455302) we are very proud to make available to the wider community of practitioners in coastal and ocean management, to the managers and policy makers, this set of National Ocean Policies. By publishing them we expect they will become an effective vehicle of communicating these experiences, showing the different approaches followed in different latitudes to attack a similar problem”

Recent measures to address activities and pressures on marine biological diversity

The “Workshop on Biogeographic Classification Systems in Open Ocean and Deep Seabed Areas beyond National Jurisdiction” was held in Mexico City in January 2007. Bringing together the contribution of Experts, it produced a report containing the state-of-the-art of bioregionalization of open and deep ocean areas. This report will be presented to the 13th meeting of the Subsidiary Body on Scientific, Technical and Technological Advice (SBSTA) of the Convention on Biological Diversity (CBD), the 2nd meeting of the UN Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction. The Mexico City workshop was co-sponsored by UNESCO, the Intergovernmental Oceanographic Commission (IOC), The World Conservation Union (IUCN), Australia, Canada, Mexico and the J.M. Kaplan Fund and coordinated by the Autonomous National University of Mexico (UNAM), the National Commission for the Study and Utilization of Biodiversity (CONABIO) and the Institute of Marine Sciences and Limnology, of UNAM.

Genetic resources

The United Nations Educational, Scientific and Cultural Organization (UNESCO), in cooperation with the United Nations University Institute of Advanced Studies, has continued compiling relevant knowledge and identifying related gaps on the nature and level of scientific and commercial interest in marine genetic resources, including in areas beyond national jurisdiction. A UNESCO/UNU-IAS report on “An Update on Marine Genetic Resources: Scientific Research, Commercial Uses and a Database on Marine Bioprospecting” was presented to the Eight Meeting of the United Nations Informal Consultative Process on Oceans and the Law of the Sea (ICP) in June 2007, as information to delegates and other participants attending the meeting.

“Assessment of Assessments” of the Regular process for the global reporting and assessment of the state of the marine environment, including socio-economic aspects

The “Assessment of Assessments” (AoA) is being undertaken as part of the START-UP PHASE OF THE REGULAR PROCESS (In accordance with paragraph 64 (a) of UNGA resolution 58/240, March 2004). It was requested for by governments in order to serve as one of the main foundations for the development of a regular process for the global reporting and assessment of the state of the marine environment, including socio-economic aspects. It builds on the work done by other international forums and, either directly or indirectly through those forums, by national authorities concerned with the marine environment. The AoA organization has been agreed (UNGA resolution 60/30) to consist of an Ad Hoc Steering Group (AHSG) composed of Member States to oversee the execution, a Group of Experts (GoE) to carry out the assessment of assessments and produce a peer reviewed report and a summary for decision makers, proposing options and a framework for establishing the Regular Process. The AoA is supported by UNEP and IOC/UNESCO who co-lead and facilitate the process.

The Secretariat has provided a functional on-line virtual office to facilitate the exchange of documents among the GoE members, and is developing a website (www.unga-regular-process.org) to inform Member States on the progress of this project. Moreover, an interactive on-line data base (www.unep-wcmc.org/GRAMED) has been developed in cooperation with UNEP-WCMC, to allow users to search through the assessments and activities related to the marine environment.

So far, two meetings of the Ad Hoc Steering Committee have been held in June 2006 and 2007, and three meetings of the Group of Experts have been organized in March 2007, November 2007 and in March 2008. Three additional meetings of the GoE are scheduled in 2008 and 2009. After internal and external peer review, a final report will be submitted to the 64th session of UNGA in 2009. The report should contain an introduction (Part 0), to establish the context of AoA; Part I: The state of the assessment landscape for oceans and coast, containing a regional overview and assessment of existing oceans and coastal areas assessments; Part II: Evaluations of assessments that should analyse the current assessment landscape through a lens of five major criteria groups in order to distil elements of best practice; Part III, Framework and options for a regular process for the global reporting and assessment of the state of the marine environment, including socio-economic aspects, presenting a proposed approach to including a framework and options for the regular process. The report will also contain a summary for decision makers.

Science for Sustainable Oceans: IOC’s contribution through GESAMP

The IMO/FAO/UNESCO-IOC/WMO/IAEA/UN/UNEP Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection (GESAMP) established in 1969 as a mechanism for coordination and collaboration, advises the United Nations system on the scientific aspects of marine environmental protection. At present, it is jointly sponsored by eight United Nations organizations with responsibilities relating to the marine environment. Its functions are to conduct and support marine environmental assessments, to undertake in-depth studies, analyses, and reviews of specific topics, and to identify emerging issues regarding the state of the marine environment. GESAMP consists of 25 to 30 experts, drawn from a wide range of relevant disciplines, including biodiversity related disciplines, who act in an independent individual capacity. Studies and assessments are usually carried out by dedicated working groups. The GESAMP work programme includes providing, upon request: integrated and synthesized results of regional and thematic assessments and scientific studies to support global assessments of the marine environment; scientific and technical guidance on the design and execution of marine environmental assessments; scientific reviews, analyses, and advice on specific topics relevant to the condition of the marine environment, its investigation, protection, and/or management.

GESAMP has undergone an extensive revitalization process, following an independent, in-depth review of GESAMP in 2001, and a substantial financial support from Sida (Swedish International Development Cooperation Agency). GESAMP Sessions have been reinstated on an annual basis, with IOC/UNESCO hosting the 2007 session. A GESAMP Office, currently hosted by IMO, provides an Administrative Secretariat which is presently responsible for general administration on behalf of all the Sponsoring Organizations. GESAMP is fully participating in the Assessment of Assessments (co-led by IOC and UNEP) as the initial step to establishing a regular process on , The new GESAMP mechanism is framed through an updated Memorandum of Understanding and Rules of Procedures amongst the co-sponsors, contained in the above-mentioned documentation, and which is subject to the approval of each sponsoring organization.

Whilst other UN agencies such as IMO or FAO use GESAMP as a part of their scientific advisory mechanism, IOC is currently not leading any GESAMP Working Groups. With the New GESAMP, the Joint Group of Expert is clearly evolving towards a more independent body acting with little supervision or guidance from the sponsoring organizations, especially on policy and governance issues.

C. PART XIII OF UNCLOS: MARINE SCIENTIFIC RESEARCH

Working Group on the “IOC Legal Framework for the collection of Oceanographic Data within the context of UNCLOS”

On 22 February 2007, the IOC Secretariat distributed Professor Hakapää’s revised Draft based on the comments of Member States under the title: “Draft [Practical] Guidelines of IOC, within the context of UNCLOS, for the collection of Oceanographic Data by Specific Means” (document IOC/ABE-LOS VII/7) together with Circular 11. The document reflects the progress made through the discussions and comments provided by Member States.

The Seventh session of the Advisory Body of Experts made important progress in the discussions that were reported to the XIV Assembly of IOC.

On 21 November 2007, Circular 13 issued by the Coordinator of the Sub-group, Professor Kari Hakapää, in which the results of the informal consultations on this subject held in Easton, US from 23-25 October 2007 were included, was circulated to the member of IOC/ABE-LOS by the IOC Secretariat. Twelve responses were received as inputs for the new draft which will be a working document for the VIII session of IOC/ABE-LOS.

On 14 March 2008, the English version of Circular 14 of the Coordinator was distributed as working document of the VIII session of IOC/ABE-LOS (Document IOC/ABE-LOS VIII/6).

Working Group on the Practices of Member States on MSR and TMT

The Fifth Session of the IOC Body of Experts on the Law of the Sea (ABE-LOS) agreed to pursue Member State responses to Questionnaire No. 3 (Q3) concerning national practice and policies in the field of marine scientific research and the transfer of marine technology. This recommendation was endorsed by IOC Assembly Resolution XXIII-8 in June 2005 and was later relayed to Member States via IOC Circular Letter 2216bis dated 1 February 2006. As stated in Document IOC/ABE-LOS VIII/8 by Elizabeth Tirpak, Coordinator of this Working Group : “Since ABE-LOS V and as of March 2008, 12 additional Member States submitted Q3 for the first time, while four (4) IOC Member States resubmitted Q3 with revisions and/or updates”. She further states that “the raw data regarding centres of expertise for marine science and technology transfer, if highlighted by the IOC Secretariat, could serve to facilitate international collaboration and exchanges of expertise”.

Following Circular Letter 2216, the IOC Secretariat and Elisabeth Tirpak, Coordinator of the IOC/ABE-LOS sub-group on Practice of Member States on Marine Scientific Research and Transfer of Marine Technology have been contacting the focal points of the Member States that did not respond to Questionnaire n.3 to do so.

Up to now, 75 countries¹ have responded to Questionnaire n.3, of which 4 countries have provided more than one answer to the formulary. All responses have been posted in the IOC/LOS web site.

Publication of the “Procedure for the Application of Article 247 of UNCLOS by IOC”

¹ Algeria - Argentina - Australia - Belgium - Benin - Brazil - Bulgaria - Cameroon - Canada Colombia - Colombia² - Republic of Congo - Cook Islands - Costa Rica - Chile - China - Denmark- Dominican Republic - Ecuador - Egypt - El Salvador - Finland - France - Gabon - Germany - Ghana - Guinea - Haiti - Iceland - Indonesia - Ivory Coast - Jamaica - Japan - Kenya - Korea - Kuwait - Lithuania - Madagascar - Malaysia - Maroc - Mauritania - Mauritius - Mexico - Monaco - Myanmar -Namibia - (The) Netherlands - New Zealand - Nicaragua -Nigeria - Norway - Oman - Pakistan - Peru - Philippines - Poland - Portugal - Romania - Russian Federation - Saint Lucia - Senegal - Seychelles - Slovenia - Slovenia 2 - Spain - Sri Lanka - Sudan - Sweden - Switzerland - Tanzania - Thailand - Togo -Tunisia - Turkey - United Kingdom - USA- Vietnam

The 21st session of the IOC Assembly endorsed in 2001 the Recommendations delivered at the First session of IOC/ABE-LOS:

“... that IOC considers “establishing appropriate internal procedures related to an effective and appropriate use of Article 247 of UNCLOS on marine scientific research projects under-taken by or under the auspices of international organizations. To this end, an open-ended Sub-Group of ABE-LOS should be established”

In 2005, at the Fifth meeting of IOC/ABE-LOS, after some discussions, the Advisory Body approved the Procedure and recommended the IOC Executive Secretary to “actively explores the possibility to implement “the Procedure for the application of article 247 of UNCLOS by the IOC” for appropriate scientific programmes and systems which the IOC coordinates or sponsors”.

In the same year, the Twenty-third session of the IOC Assembly adopted the Procedure and urged the Member States to use the Procedure in the implementation of IOC programmes whenever possible and to explore the potential benefits of such application for the facilitation of operational oceanography.

The UN General Assembly Resolution 60/30 paragraph 88 welcomed the adoption by the Assembly of the Intergovernmental Oceanographic Commission of the procedure for the application of article 247 of the Convention by the Intergovernmental Oceanographic Commission.

Following these mandates, the IOC Secretariat with the financial support of the European Commission (Action: SI2. 455302) published “the Procedure for the application of article 247 of UNCLOS by the IOC” together with the UN/OLA/DOALOS document “Marine Scientific Research: A Guide to the Implementation of the Relevant Provisions of UNCLOS”. In addition, Professor Alfred Soons provided an historical view of the negotiation of article 247 within UNCLOS and the Secretariat provided an historical view of the negotiations of the procedure within IOC. The publication also includes as an Annex the relevant Articles of UNCLOS relating to Marine Scientific Research.

UNESCO/ IOC/LAW OF THE SEA web-site (<http://ioc3.unesco.org/abelos/index>)

Since April 2006, the IOC/ABE-LOS website has been up and running. The Secretariat has been working to develop a website that meets the specific needs of Member States, the IOC and the Law of the Sea community. The web is currently an important source of information in the field of marine scientific research and transfer of marine technology respecting Law of the Sea.

A new section defining the set of activities of the Intergovernmental Oceanographic Commission on Law of the Sea has been created, stating the importance of the Advisory Body of Experts on the Law of the Sea as the main issue of this activity.

During the intersessional period, the IOC Secretariat has improved the web by:

- Creating a Data Base on transfer of Marine Technology:

All the IOC Member States’ Institutions of the Intergovernmental Oceanographic Commission are invited through the UNESCO/IOC/Law of the Sea website to be part of a global exchange system promoting capacity building in ocean and coastal related issues through international cooperation.

Since the approval of the CGTMT at the twenty-second session of the Intergovernmental Oceanographic Commission, the website has been conceived to promote and facilitate transfer of marine technology by assisting interested Member States - in particular, developing countries - by defining a request for the transfer of marine technology, seeking a matching technology provider or alternatively requesting for the necessary funding.

- Updating the Sections of: IOC Main Documents; Meetings, Experts, Marine Scientific Research; Questionnaire n.3 and Papers with new information.

- Creation of the National Ocean Policy section²

- Improving the National Legislations section:

Among other items the web contains a compilation of National Legislations on Marine Scientific Research (MSR) and Transfer of Marine Technology (TMT). Following Recommendation V-1.(a) of ABE-LOS endorsed by Resolution IOC-XXIII.8, the Secretariat is still collecting this information, in close cooperation with UN/OLA/DOALOS, but more collaboration from Member States Experts is needed.

To date, there are 36 legislations on Marine Scientific Research available on the web.

² For more information please see Section B of this document

D. PART XIV OF UNCLOS: TRANSFER OF MARINE TECHNOLOGY³

Data Base on transfer of Marine Technology

The IOC Secretariat has created a section dedicated to compile all the National Ocean Policies from IOC Member States. It is expected in the future to increase the number of National Ocean Policy received but at the moment only the UK has offered a new text to the compilation.

The Basic texts posted on line have been the following: Australia, Brazil, Canada, China, Colombia, Japan, Norway, Portugal, Russian Federation, United Kingdom and United States of America.

The IOC Criteria and Guidelines on Transfer of Marine Technology

The IOC has been promoting, disseminating and providing assistance to Member States in the implementation of the Criteria and Guidelines on Transfer of Marine Technology (Part XIV of UNCLOS).

As in past years, the CGTMT have been promoted and disseminated in several International fora such as:

- ICAM meetings, such as the meetings of the Working Group on the integrated Areas Management
- Regional IOC Meetings
- Third Meeting of the Working Group of experts designated by the Contracting Parties on the Draft Protocol on Integrated Coastal Zone Management (ICZM) in the Mediterranean Loutraki, Greece, 12-15 February 2007. Copies were distributed and the CGTMT were promoted through personal contacts
- European Conference on “Future Maritime Policy of the UE: A European Vision for Oceans and Seas” Bremen, 2-4 May 2007
- ICG/NEAMTWS, Lisbon 20–23 November 2007
- 24th Session of the IOC Assembly (UNESCO Headquarters, Paris June 2007)
- 93rd session of the IMO legal Committee (Panama City, Panama, October 2007)
- United Nations Convention on Climate Change, Bali, December 2007.

IOC Contribution to the UN Secretary-General's annual report on Oceans and the Law of the Sea (2007)

³ For the topic of Practice of MS on TMT, please see Section C of this document

E. PART XVI OF UNCLOS: GENERAL PROVISIONS

UN Secretary-General's annual report on Oceans and the Law of the Sea (2007): IOC Contribution on MARITIME SECURITY AND SAFETY

During 2007, the Intergovernmental Oceanographic Commission (IOC) has continued to develop its ocean products with regard to providing up-to-date, timely and relevant information to customers in member states. The basis for this information is the data from the Global Ocean Observing System (GOOS). Data standards, operational data transfer and product dissemination is organized by the Joint Commission on Oceanography and Marine Meteorology (JCOMM) of IOC and WMO. Besides the routine description and forecast of ocean conditions in particular areas, these products are used by an increasing community for warning and alerting purposes of extreme conditions in coastal and regional areas. For the maritime transport industry and its coastal infrastructure these products are also disseminated in co-operation with IMO and WMO using the Global Marine Distress and Safety System (GMDSS) under the International Convention for the Safety of Life at Sea (SOLAS).

Relevant products are still being developed or introduced at operational quality. For the safety requirements of the maritime industry they range from leisure yachting, offshore industry and installations to port facilities of the transport and the fishing industry. They also vary from information or warnings of hurricanes, tropical cyclones, storm surge heights and arrival times, to coastal inundation information, pollution, including harmful algal blooms, prevention and mitigation, through abnormal current conditions in harbour approaches and roads to forecasts of tsunami-related[1] arrival times and sea level heights at specific locations or areas.

As these services are finding a larger clientele and cross national boundaries and agency responsibilities the UN system is increasingly asked to provide the co-ordination mechanisms, to set standards and enhance the capacity of member states to share the production and use of these services. Both IOC and WMO, also through their JCOMM, and in co-operation with IMO and IHO are strengthening their service capacities.

As part of its effort on tsunami warning and mitigation systems, IOC has initiated a dialogue with IMO to address the effects of tsunamis on coastal and harbour operations and propose adequate remedial action. New guidance instruments may be required to assist Member States in developing strategies for addressing tsunami-related evacuation measures for harbours.

F. ANNEX VIII OF UNCLOS: SPECIAL ARBITRATION

Experts on Marine Scientific Research for use in Special Arbitration

IOC has updated the List of Experts (according to Art. 2,2 of the Annex) in the field of Marine Scientific Research and Transfer of Marine Technology for the purpose of constituting the special arbitral tribunal in case a party agrees to proceed under Annex VIII of UNCLOS.

The Experts (up to two per country) in the list were directly nominated by States Parties among experts of recognized expertise in the field, who enjoy the highest reputation for fairness and integrity.

The list was updated as of 21 January 2008 and posted at the IOC/ABE-LOS web site <http://ioc3.unesco.org/abelos/index>. The List has been sent to the International Tribunal for the Law of the Sea (ITLOS) and the UN Division for Oceans Affairs and Law of the Sea (UN/OLA/DOALOS).

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