

Policy - Informing Brief (PIB) 2015\_001

## International Ocean Governance

*European Commission public consultation (June 2015)*



# Flanders Marine Institute VLIZ

## Policy - Informing Brief

### Introduction note

The Flanders Marine Institute (VLIZ) participates in public consultations of the European Commission on specific marine policy issues. Such consultations help the European Commission to collect and use the views of a broad range of stakeholders in shaping its discussions, in generating new policies, and in improving existing ones. VLIZ provides summaries of its responses to these consultations in the form of policy-informing briefs (PIBs).

The content of VLIZ policy-informing briefs combines expert scientific opinion with objective data and information. For this purpose, VLIZ draws on the expertise of coastal and marine scientists within its national and international network of marine research groups.

Policy-informing briefs reflect the impartial and objective position of VLIZ and are motivated by the basic principles of sustainable development and an ecosystem based approach, as endorsed by the European Integrated Maritime Policy and the principles of integrated coastal zone management.

More information about the core business, principles and terms of reference of the VLIZ: <http://www.vliz.be/en/mission>.

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## INTERNATIONAL OCEAN GOVERNANCE - GENERAL CONTEXT

*(This is the context as it was described in the consultation on the website of the European Commission's Directorate General for Maritime Affairs and Fisheries: [http://ec.europa.eu/dgs/maritimeaffairs\\_fisheries/consultations/ocean-governance/doc/consultation-document\\_en.pdf](http://ec.europa.eu/dgs/maritimeaffairs_fisheries/consultations/ocean-governance/doc/consultation-document_en.pdf))*

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 CO<sub>2</sub> 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 trillion.

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 shared.

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") under which a combination of jurisdictional rights, institutions, and specific frameworks have been set up.

A significant number of global actors are making the case 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.

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 development. 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 year, 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 km<sup>2</sup>, 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 policies 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 Development.

In the 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 the EU 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.

The response of VLIZ was validated by members of the Scientific Committee of VLIZ and is summarized below.

(A summary of the responses of all stakeholders on the consultation is available on the website of the European Commission's Directorate General for Maritime Affairs and Fisheries:

[http://ec.europa.eu/dgs/maritimeaffairs\\_fisheries/consultations/ocean-governance](http://ec.europa.eu/dgs/maritimeaffairs_fisheries/consultations/ocean-governance)).

## GENERAL PROBLEM DEFINITION

VLIZ agrees with the general problem definition stating that the current framework for international ocean governance is not effective enough in ensuring the sustainable management of oceans and their resources. VLIZ further explains that there is a general appreciation that increased attention and sense of urgency is needed in the implementation – including the implementation, monitoring, enforcement and evaluation – of existing agreements and instruments.

## SPECIFIC PROBLEM DEFINITION: WHAT CAUSES THE OVERALL PROBLEM?

### A NEED FOR BETTER IMPLEMENTATION AND BETTER COORDINATION

VLIZ agrees that 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.

VLIZ also recognises that there is a general appreciation that the existing capacities, knowledge, instruments and frameworks are sub-utilized and/or can be further optimised.

Although oceans are still largely unknown, the potential of currently existing data and information (D&I) is sub-optimal. Related to this issue and in order of priority, VLIZ added specific problems contributing to ineffective international ocean governance as well as points of action for improvement:

1) more & sustained efforts need to be invested in interoperability of D&I systems globally. In absence of interoperable standards, metadata, and technical agreements that allow exchange, D&I is at risk of (permanent) loss. Considerable time lag must be taken into account (rules and standards must be agreed at onset of D&I collecting);

2) lack of enforcement to establish access (in case of D&I in the public domain paid by tax-payers money) or lack of positive encouragements for D&I providers/owners to make D&I accessible (e.g. academia, private companies and industry);

3) in parallel with above, technical and human capacities must be implemented (i.e. capacity building, training and the necessary attention to structures for training and capacity building) to manage this data and support information

flow. D&I collection cannot be efficiently implemented in absence of a governance structure that sets priorities and establishes mechanisms for exchange (information brokerage). At global level IOC-UNESCO (IODE Project office) is mandated to coordinate this exchange and capacity building. At EU level, great progress is achieved with establishment of EMODnet Project Office (European Marine Observation and Data Network) and Thematic Consortia and Regional checkpoints;

4) coordination in the (shared) use of and access to research infrastructures. This includes hardware (research stations, vessels), but also collections and databases. Increased and sustained efforts are needed to achieve objectives.

5) in spite of the increased attention to concepts of inter- (and multi) disciplinarity and integrated approaches, important progress is still needed for their practical implementation;

6) the generated data often do not reach targets in an appropriate way and format. To use to its full potential, effective interfaces and knowledge transfer pathways need to be in place.

## THE EXISTING INTERNATIONAL OCEAN GOVERNANCE FRAMEWORK – GENERAL CONTEXT

*(This is the context as it was described in the consultation on the website of the European Commission's Directorate General for Maritime Affairs and Fisheries: [http://ec.europa.eu/dgs/maritimeaffairs\\_fisheries/consultations/ocean-governance/doc/consultation-document\\_en.pdf](http://ec.europa.eu/dgs/maritimeaffairs_fisheries/consultations/ocean-governance/doc/consultation-document_en.pdf))*

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

Some institutions operate at a global level[1], others at regional[2], national[3] or sub-national level. Some have a general mandate relating to the oceans[4], the competence of others is limited to certain sectors[5] or issues[6]. Some agreements create legally binding obligations to the parties of that convention [7], others are non-binding [8].

The existing international Ocean Governance Framework is often not effective for the reason that agreed rules and policies are not ratified [9], 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 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 cases [10], 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 indirectly [11]) with oceans and their governance is broad, but there is no overarching body at UN level with the mandate to coordinate their action in the context of oceans, leading to potential conflicts or overlaps[12].

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

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

[3] Maritime Administrations, Ministries of Transport, Ministries of Environment in individual countries

[4] E.g. International Maritime Organisations

[5] E.g. Regional Fisheries Management Organisations, International Seabed Authority

[6] E.g. Convention on Biological Diversity

[7] E.g. International Commission for the Conservation of Atlantic Tunas

[8] E.g. Sargasso Sea Convention

[9] E.g. PSMA agreement – see above

[10] E.g. MoU between OSPAR and NEAFC

[11] E.g. World Bank, World Trade Organisation

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

#### FILLING THE LEGAL GAPS

In order to close the gaps in the existing governance framework (e.g. new institutions, new rules, new agreements, new arrangements) VLIZ suggests:

- the establishment of legally-binding rules and procedures in the context of the (already existing) agreements and frameworks for ocean governance (see also above), in particular in relation to monitoring, data sharing, reporting, evaluation, enforcement, etc. Also in particular for international waters and Areas Beyond National Jurisdiction (ABNJ).
- the implementation of the recently adopted agreement on the development of a legally-binding instrument under the United Nations Convention on Law of Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction", including the use of genetic resources.
- the definition of Global 'Ocean Governance' and Global Ocean Governance strategic priorities.

VLIZ states that the agreement to common standards and procedures (where relevant and as appropriate) for data collecting, monitoring, surveillance, reporting, evaluating, of international agreements, and exchange of data and information on these matters (e.g. compliance,..) in support of science and knowledge-based decision making is an area of international governance that is inadequately covered.

According to VLIZ, the benefit of this agreement would be the effective coordination and implementation of rules and procedures for monitoring, surveillance and enforcement, between Regional Seas and their Conventions and implementing agencies, including outside of the EU waters (e.g. Cartagena Convention in the Caribbean Sea), and in particular within regional seas with non-EU bordering states (e.g. Bucharest and Barcelona Conventions).

As to geographical areas, VLIZ is of the opinion that the Arctic, Antarctic and the ABNJ (and deep-sea in general) could benefit the most from more effective organization or from filling of gaps in the institutional framework. With regards to the economic sectors, VLIZ believes that all sectors could benefit, but that there is a particular sense of urgency for the deep-sea mining and fisheries sectors.

The greatest benefit for the EU in addressing the specific problem lies within:

- the implementation of an ecosystem-based approach in the Blue Economy;
- the creation of conditions for transparency in procedures, providing a legal basis for planning and permits, stimulating partnerships and conditions for long-term planning and management. In EU waters, within regional seas shared with non-EU countries, and in particular in ABNJ.

VLIZ proposed following principles that could guide potential action:

- legal liability
- ecosystem-based management, including the inherent Precautionary Principle and other principles implicit in the EBM ('Consider Ecosystem Connections, Appropriate Spatial & Temporal Scales, Adaptive Management, Use of Scientific Knowledge, Integrated Management, Stakeholder Involvement, Account for Dynamic Nature of Ecosystems, Ecological Integrity & Biodiversity, Sustainability, Recognise Coupled Social-Ecological Systems, Decisions reflect Societal Choice, Distinct Boundaries, Interdisciplinarity, Appropriate Monitoring, and Acknowledge Uncertainty;' also equitable use, public access to environmental data and information, subsidiarity, etc..).

To measure progress in the above mentioned area, VLIZ recommends the effective implementation of existing instruments for measuring progress (e.g. instruments for monitoring, surveillance, and reporting such as through IPBES, WOA, etc.). An indicator for success would be the decrease in number of (unresolved) international disputes and conflict situations in marine-maritime environment.

## LACK OF OCEAN KNOWLEDGE – CONTEXT

*(This is the context as it was described in the consultation on the website of the European Commission's Directorate General for Maritime Affairs and Fisheries: [http://ec.europa.eu/dgs/maritimeaffairs\\_fisheries/consultations/ocean-governance/doc/consultation-document\\_en.pdf](http://ec.europa.eu/dgs/maritimeaffairs_fisheries/consultations/ocean-governance/doc/consultation-document_en.pdf))*

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 decisions [1], 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 activities [2] 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 boundaries [3]. 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.

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[1] We only learned recently about the real importance of plankton as oxygen generator <http://www.reuters.com/article/2015/05/22/us-science-plankton-idUSKBN0O62G120150522>

[2] Fixed sea structures providing habitats

[3] 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>

#### AREAS WHERE BETTER AVAILABILITY OF KNOWLEDGE IS NEEDED

VLIZ is of the opinion that all areas of international ocean governance would benefit from better availability of marine and maritime knowledge, with in particular the geographical areas ABNJ, deep seas and Arctic Ocean and initiatives addressing governance in the domain of extractive activities both non-living and living resources (in particular ecosystem baselines: habitats, species, genetic resources and their relations).

#### KNOWLEDGE GAPS

The most obvious gaps in knowledge about our seas and ocean according to VLIZ are summarized above (on p. 6 and p.11).

## **BETTER SHARING OF KNOWLEDGE**

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In order to improve knowledge sharing among scientists and users, VLIZ proposes the implementation and enforcement of 'Open Source' wherever feasible and mandatory (e.g. public domain-projects and programmes paid by or generated through taxpayers money). VLIZ elaborates that this will require strengthening of the governance structures for management of knowledge. In addition, VLIZ further suggests strengthening Science-Policy and Science-Industry interfaces, stimulating and strengthening existing Ocean Literacy initiatives (e.g. EMSEA) and science-sharing as a practice to implement cooperation with developing countries.

## **IMPROVING COORDINATION AND SHARING DATA**

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VLIZ recommends following actions for the improvement of coordination in marine and maritime research:

- strengthen communication and coordination between existing structures for Ocean Science, in particular coordination between existing bodies and (regional sea) conventions (e.g. BONUS, JPI-Oceans, Transatlantic Ocean Research Alliance ...);
- strengthen integration of existing governance structures on thematic research areas (fisheries, biodiversity, climate change,...);
- enforce and coordinate a coherent approach related to research (e.g. Joint planning Initiative JPI Oceans, IOC Ocean Science, cooperation among MS in the context of article 185 mechanism), and in particular to monitoring and reporting related to activities that are subject to permit and license.

According to VLIZ, all economic activities and sectoral policies could benefit from better availability of marine and maritime knowledge, in particular those activities and policies in thematic and geographical areas with limited knowledge, those with high ecological value, those of high economic-social-cultural relevance (both for current and future generations).

To measure progress in the area, VLIZ advises to use common assessments based on agreed approaches and standards.

## REFERENCES

[http://ec.europa.eu/dgs/maritimeaffairs\\_fisheries/consultations/ocean-governance/doc/consultation-document\\_en.pdf](http://ec.europa.eu/dgs/maritimeaffairs_fisheries/consultations/ocean-governance/doc/consultation-document_en.pdf)

Consulted websites:

[http://ec.europa.eu/dgs/maritimeaffairs\\_fisheries/consultations/ocean-governance](http://ec.europa.eu/dgs/maritimeaffairs_fisheries/consultations/ocean-governance)).

<http://www.emodnet.eu/>

<http://www.iode.org/>

<http://www.jpi-oceans.eu/>