

EBCD Position Paper

Targeted consultation on International Ocean Governance

I. Introduction

Oceans are facing unprecedented threats as a result of human activity. These threats not only impact the oceans environmentally but also endanger the lives of everyone depending on them. Overfishing is threatening the stability of fish stocks, climate change is damaging biodiversity, while increased pollution (including from land sources) is affecting entire ecosystems including our health. In order to address these threats, more robust solutions are needed. Up until now, ocean action has been extremely fragmented, something that has significantly halted noteworthy results. It is therefore evident that **only through holistic and interdisciplinary efforts can effective ocean action be taken**. This view is in line with the priorities set in the European Green Deal, which calls for comprehensive actions that increase cohesive action through policies that are developed after close cooperation and affect the entire spectrum of our daily lives. Inter-institutional, cross-sectoral and multi-level dialogue is thus needed to orchestrate and enhance collaboration among existing organizations.

II. A dialogue-driven International Ocean Governance

According to the International Union for the Conservation of Nature (IUCN), the majority of countries 'still lack effective cross-sectorial dialogue and coordination mechanisms', leaving the national agencies, as well as the international and regional organisations responsible for governing the oceans working in silos.¹ This phenomenon is also true on a horizontal level; there is a lack of inter-institutional cooperation between the different UN bodies - FAO, UNEP, IMO, ILO, UNODC - resulting in fragmented policies and efforts. However, in order to achieve the Sustainable Development Goals (SDGs) and to sustainably use, protect and monitor the oceans, it is imperative that cooperation exists and synergies between different agencies, governance levels and sectors are established.

Within this context, we outline below some key areas in which efforts toward this direction could be further strengthened.

¹IUCN, 'The Slow but Steady Progress in the Implementation of the Biodiversity Agenda' (2020), available at <<https://www.iucn.org/news/world-commission-environmental-law/202007/slow-steady-progress-implementation-biodiversity-agenda>>.

A. Illegal, Unreported and Unregulated (IUU) fishing

A good example of this fragmentation can be observed in the area of **illegal, unreported and unregulated (IUU) fishing**. Illegal fishing generally refers to 'fishing in violation of (foreign) national, regional (RFMO), or international laws'.² Unreported fishing refers to 'failing to report or misreporting catches in contravention of national or regional (RFMO) rules',³ while unregulated fishing generally has to do with activities conducted by vessels under flags of convenience and jeopardise the health of fish stocks. Throughout the years, significant efforts have been made in response to this issue in the international, European and regional levels, such as the adoption of the Port State Measures Agreement (PSMA), which aims to prevent, deter and eliminate IUU fishing by preventing vessels engaged in this activity from using ports and landing their catches. However, there is still a lot of work to be done.

IUU fishing harms sustainability as a whole, as it endangers the viability of fish stocks, negatively affects the global economy by incurring losses of approximately 23.5 billion dollars annually⁴ and is also often conducted in contravention of human rights.⁵ More specifically, illegal fishing vessels have been linked to numerous other maritime crimes and there have been countless reports of human trafficking, smuggling of migrants, trafficking in narcotics and other illegal substances, piracy, transfer of arms, environmental crime, flag hopping and many other crimes in the fishing sector.⁶ In order to truly eradicate this practice, states must prioritise interdiction and prosecution of individuals engaged in IUU fishing and increase efforts to uncover related crimes. In turn, this will only take place via stepping up the collection of intelligence on fishing vessels and increasing maritime domain awareness.⁷

However, increased monitoring incurs increased financial costs, which can prove challenging for developing countries. Other hurdles include lack of technology, human capacity, and port control. Indeed, national fisheries agencies usually lack the resources to effectively monitor their waters, while agencies that have this capability, such as navies, usually lack the mandate

² 2001 International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing para 3.1, available at <<http://www.fao.org/3/a-y1224e.pdf>>.

³ Ibid para 3.2.

⁴ Pew Charitable Trusts, 'How to End Illegal Fishing' Issue Brief (12 December 2017), available at <<http://www.pewtrusts.org/en/research-and-analysis/issue-briefs/2017/12/how-to-end-illegal-fishing#0-overview>>.

⁵ Eva van der Marel, 'Problems and Progress in Combating IUU Fishing' in Richard Caddell and Erik J Molenaar (eds) *Strengthening International Fisheries Law in an Era of Changing Oceans* (Hart Publishing, 2019) 291–318, 291.

⁶ United Nations Office on Drugs and Crime, 'Transnational Organised Crime in the Fishing Industry' (2011), available at <https://www.unodc.org/documents/human-trafficking/Issue_Paper_-_TOC_in_the_Fishing_Industry.pdf>; United Nations Office on Drugs and Crime, "Combating Transnational Organized Crime Committed at Sea," Issue Paper (March 2013), available at <https://www.unodc.org/documents/organized-crime/GPTOC/Issue_Paper_-_TOC_at_Sea.pdf>; Environmental Justice Foundation, 'Pirates and Slaves: How Overfishing in Thailand Fuels Human Trafficking and the Plundering of Our Oceans' (2015), available at <https://ejfoundation.org/resources/downloads/EJF_Pirates_and_Slaves_2015_0.pdf>.

⁷ Secure Fisheries, 'Catching Maritime Criminals: A Whole-of-Government Approach (2018), available at <https://securefisheries.org/sites/default/files/catching%20maritime%20criminals_web.pdf>.

to focus their efforts on IUU fishing and, as such, lack jurisdiction to proceed in arrests. This reinforces the need for inter-agency cooperation so that resources, knowledge and experience on IUU can be combined.

There are several pathways that can be followed in order to improve this collaboration. The first is the use of Information Fusion Centres, which are mandated with collecting information on maritime activity and sharing it with relevant stakeholders. Examples of such centres include the Regional Maritime Information Fusion Center (RMIFC),⁸ the Information Fusion Centre (IFC)⁹ and the Regional Coordination Operations Center (RCOC).¹⁰ By using information provided by such centres, states can enhance their maritime domain awareness to gain control of their waters. Further, there are several low-cost marine domain awareness technologies that can be utilised for this purpose, such as [Vulcan](#), [Trygg Mat Tracking](#), [Global Fishing Watch](#), and [SeaVision](#).

Finally, training on IUU fishing practices must be performed to the relevant agencies operating in the maritime space, such as navies and coastguards, in order to ensure that systematic and detailed information is collected and used as intelligence.¹¹ In this way, fisheries inspectors can cooperate with the maritime law enforcement officers and combine their expertise to adopt a targeted approach that is tailored to the case at hand.

B. Conservation and Sustainable Use of Marine Biodiversity

Another example worth mentioning is the lack of effective collaboration between the **sustainable use and conservation** communities. Conservation and sustainable use are different measures that require different approaches; often, this was translated in the creation of institutions with different mandates and in the development of policies involving different stakeholders. When it comes to the marine environment, such a trend can be seen (1) at international level, with the Convention on Biological Diversity (CBD) and the Food and Agriculture Organization (FAO), (2) at regional level, with Regional Fisheries Management Organizations and Regional Seas Convention, and (3) at sectoral-level, with different actors being consulted in silos for the development of conservation and sustainable use policies.

At the international level, dialogue needs to be increased between CBD and FAO, two institutions that have different mandates yet affect each other's work. Further collaboration

⁸ Regional Maritime Information Fusion Center <<http://crfimmadagascar.org/en/>>.

⁹ The Information Fusion Centre: Challenges and Perspectives (2011), available at <https://www.mindef.gov.sg/oms/content/imindef/publications/pointer/supplements/IFC/jcr_content/imindefPars/0006/file.res/MINDEF_Pointer%20IFC%20Supplement%20FINAL.pdf>.

¹⁰ Regional Coordination Operations Center (@RCOC_Center), Twitter, <https://twitter.com/rcoc_center?lang=en>.

¹¹ Secure Fisheries, 'Who's in Your Backyard? Strengthening Maritime Domain Awareness in the Indian Ocean' (2019), available at <<https://securefisheries.org/sites/default/files/maritime-domain-awareness-indian-ocean.pdf>>.

mechanisms need to be established if the effective conservation and sustainable use of marine biodiversity are to be implemented. CBD has as its primary objectives both conservation and sustainable use. Yet, sustainable use within CBD has been talked about very differently than in the context of FAO, which is also mandated to ensure the effective and sustainable management of marine resources. This was also highlighted by FAO throughout the negotiations on the Post-2020 Global Biodiversity Framework, in which sustainable use is always portrayed as a threat to biodiversity. Moreover, with regards to conservation, CBD Parties tend to favor it over sustainable use, while FAO strongly advocates that management is the best conservation measure, as stated in the [2020 Report on the State of the World Fisheries and Aquaculture](#). Such a divergence in narratives around sustainable use and conservation comes at the cost of effective ocean governance with conflicting policies and management measures. This is also caused by the fact that different ministries represent the respective governments in the two institutions. Yet, positive trends exist and should be strengthened such as the Ministries of Environments consulting their Fisheries counterparts in the Post-2020 negotiations within CBD.

CBD and FAO have tried to overcome these conflicts at regional level too. An important example is the [Sustainable Ocean Initiative \(SOI\) Global Dialogue](#), led by CBD, to discuss cross-sectoral approaches and enhance collaboration between Regional Fisheries Management Organizations and Regional Seas Convention as well as between the United Nations Environment Programme (UNEP) and FAO. Such practices need to be reinforced and scaled up, as they foster the development of coherent measures, thus enabling a robust international ocean governance.

Finally, the development of conservation and sustainable use policies should include all relevant non-state actors and sectors, especially those impacting and depending on marine biodiversity. Economic sectors such as fisheries or shipping need to be involved since the very beginning of the discussions over conservation objectives, thus enabling their successful contribution to biodiversity conservation while reducing conflicts over maritime space. With regards to sustainable use, it is essential to involve the sectors concerned but also communicate the positive outcomes that effective management has reached over the years to those actors not conventionally interested in looking at the benefits of management. Furthermore, two main dominating narratives are currently competing on the issue: while some stakeholders advocate to have strict conservation paired with intensive use, others believe that 100% of sustainable use will be an effective solution ([more details here](#)). It is to be noted that, while roughly a third of all world's fish stocks are overexploited, these correspond to stocks that are not managed properly, or not at all. This implies that the problem is not management, but the lack thereof. This polarization of views needs to be overcome: sustainable use and conservation are not mutually exclusive and can benefit one another. Dialogue is here to be sought in tangible solutions: for example, Other Effective area-based Conservation Measures have the potential to effectively link sectors and actors by integrating conservation and sustainable use objectives.

Conflicts among institutions and sectors hamper the effective coordination of the fragmented reality that currently characterizes International Ocean Governance. Tackling fragmentation

therefore requires not only cooperation mechanisms among institutions and governance levels, but also effective dialogue and integrated solutions that can successfully encourage participation of all stakeholders. Positive examples outlined above could be further strengthened and novel, emerging solutions should be identified and scaled up.

C. Climate and Biodiversity

The **climate and biodiversity** agenda urgently require an integrated approach. In fact, these are challenges that not only influence one another, but also simultaneously affect the marine environment and economic sectors that rely on it. Such an intrinsic interdependence makes it necessary to approach climate and biodiversity through common lenses. This approach must include the challenges posed by the effects of global warming on the ocean environment, already under pressure from human activity. But it must also consider the role of the oceans in providing sustainable food in a wider context.

Yet, the institutional landscape is also here extremely fragmented, especially when it comes to the climate-ocean nexus. From a climate perspective, the United Nations Framework Convention on Climate Change (UNFCCC) has recently launched the [Ocean and Climate Change Dialogue](#) to consider how to strengthen adaptation and mitigation action in the oceans. This is an important step towards mainstreaming climate change in the oceans; however, for it to be inclusive and effective it needs to involve a wide range of stakeholders that are currently integrating climate consideration in their functioning and operations. Inter-institutional dialogue is thus needed to fully assess and understand the role of institutions that deal with marine-related issues, including FAO, CBD and RFMOs, among others.

Within institutions dealing with ocean matters, climate change considerations are being increasingly integrated in their functioning and policies. In CBD, great attention is now being paid in relation to the Post-2020 Global Biodiversity Framework. This is also due to a major focus on the identification of synergetic solutions that work for both the climate, the marine environment and the people who depend on it, such as Nature-based Solutions.

In the EU context, a critical role is played by the DG-MARE Advisory Councils, which voice the views of the fisheries sector and Other Interest Groups (IOGs). These are important fora that can signal developments in relation to climate adaptation and mitigation in EU waters and beyond. The ongoing efforts of the Advisory Councils to provide inputs on climate change could be used to inform adaptation and mitigation measures in the ocean. However, the dialogue between DG MARE, DG ENV and DG CLIMA on this matter can be strengthened with the aim to share relevant information coming from the Advisory Councils and scale up efforts on climate change mitigation and adaptation in the oceans. Indeed, the [2018 Report on the Implementation of the EU Strategy on Adaptation to Climate Change](#) states that the EU Adaptation Strategy could deliver more in the area of maritime and fishery policy. This is an opportunity that should not be missed and more cooperation between different DGs on the matter is needed.

III. Conclusions

The world's oceans must be seen as a space providing for food, economic resources and leisure just as much as an area of high biodiversity that must be preserved as much as possible. And all under the pressure of climate change and the need to find new ways to manage our changing oceans. For that to happen it is imperative that the different actors develop tools for cooperative and coordinated action, since the different, uncoordinated and often contradictory initiatives only dissipate the efforts of the international community to tackle these challenges.