

INTERNATIONAL SEMINAR PRINCIPALITY OF MONACO – OCEANOGRAPHIC MUSEUM – MARCH 20-21, 2008

# Towards a new governance of high seas biodiversity

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and International Relations**  
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**G**overned since the 17th century on the basis of Grotius's principle of the freedom of the seas, the high seas remain the least known and least explored area on earth. As a global public good par excellence, the high seas are in need of internationally coordinated management within a global framework of effective environmental governance. Even so, today the high seas and their resources appear under increasing threat from the intensity and variety of human pressures exerted on them.

The exponential growth of international maritime traffic over recent decades has increased the risk of damage to ecosystems (fuel pollution, transport of dangerous goods, etc.) and disturbance of species (sound pollution, collisions with vessels, etc.). Also, the over-exploitation of fishery resources is gradually depleting available stocks, while new fishing techniques are altering deep-water habitats (deep-sea trawling, etc.). Illegal, unreported and unregulated fishing – a poorly quantified phenomenon that is nevertheless considered to be a major cause of the collapse of stocks – undermines the sustainable management of fisheries and is also implicated in the degradation of marine biodiversity. Furthermore, scientific and technological progress is leading to an increase in the use of marine resources for industrial purposes, particularly oil and gas extraction and bioprospecting. Finally, in spite of being far away from continents, the high seas are affected by land-based human activities (effluent discharges, atmospheric deposition, etc.). The high seas are therefore subject to multiple pressures that threaten their exceptional biodiversity, which is only just beginning to be explored (discovery of hydrothermal vents, seamounts, cold-water coral reefs, gas hydrates, etc.) by the scientific community.

However, the current international framework seems incapable of providing a satisfactory response to the threats weighing on the particularly rich and vulnerable resources of the high seas, which represent 64% of the total surface of seas and oceans. A debate on establishing an international system of environmental governance is mounting, and it will be essential to define an appropriate political, legal and institutional framework for the sustainable use and exploitation of marine biodiversity in areas beyond national jurisdiction.

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## MAIN ISSUES

The peaceful and rational use of the oceans was given a global legal framework when the United Nations Convention on the Law of the Sea (UNCLOS) entered into force in 1994. UNCLOS was the result of lengthy negotiations launched in the early 1970s at a time when scientific knowledge of marine biodiversity was still limited. Although UNCLOS includes a generic principle of marine environmental protection, it has governed the high seas in a rather fragmentary manner: while the mineral resources on or under the seabed have been declared the common heritage of mankind, the components of marine biodiversity have retained *res nullius* status and can therefore be freely appropriated.

Nevertheless, initiatives are being taken to preserve the multiple resources found beyond national jurisdiction. International and regional fisheries organisations are endeavouring to prevent the over-exploitation of fishery resources through stock assessment and catch restriction programmes. However, the effectiveness of such organisations is often proving limited due to their restricted mandates, which frequently cover only specific species or geographical areas, as well as to the non-binding nature of their decisions. The 1992 United Nations Convention on Biological Diversity (CBD) provides for the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of benefits arising from the use of genetic resources. However, the CBD sees marine biodiversity only as a component of global biodiversity, and its field of application at sea remains restricted to areas under sovereignty or jurisdiction.

High seas biodiversity conservation has therefore become a particularly critical issue. The rational management of the areas beyond national jurisdiction is hampered by the contradiction between the legal-political approach to defining marine areas and the demands of an ecosystem approach, as well as by the different legal status of the high seas and that of their resources. Furthermore, high seas management suffers from the same shortcomings as international environmental governance in general. The most obvious examples are the dispersal of marine environment

issues between several international organisations, difficulties integrating the scientific community's recommendations into the decision-making process, and the poor links between regional agreements on marine biodiversity and fisheries agreements.

Aware of the urgency of the situation, the international community is therefore gradually mobilizing and debating the issue of high seas governance within different forums – whether intergovernmental (UN Secretariat, UNEP, FAO, UNESCO, IMO, CBD Secretariat, etc.) or not (IUCN, WWF, the Deep Sea Conservation Coalition, etc.) – and through different processes (Joint group of experts on the scientific aspects of marine environmental protection, informal consultation process on oceans and the law of the sea, informal working group on the preservation and sustainable use of marine biodiversity in areas beyond national jurisdiction, the Countdown 2010 initiative, etc.).

## OBJECTIVES AND EXPECTED RESULTS

The recent debate on high-seas governance has raised critical scientific, legal, institutional or economic issues that must now be dealt with as a matter of urgency for the sake of biodiversity conservation. Stepping back from the various initiatives underway, the seminar aims to foster interaction between the different disciplines involved and bring together high-level international experts with a view to informing the current debate, examining the issues that raise the greatest difficulties, and considering new approaches to the sustainable management of high-seas resources. The seminar will address, among others, the question of whether the international tools and mechanisms set up since the mid-20th century remain appropriate for dealing with the threats currently facing marine biodiversity, or if it is now necessary to develop new instruments. The work carried out during this meeting should serve as a reference study – clearly examining potential approaches for improving governance of areas beyond national jurisdiction – that can be used by stakeholders involved in international negotiations on the high seas, biodiversity and fishery resources. With this in mind, a summary of

debates and proposals discussed during the seminar will be provided immediately after the event as a contribution to debates planned for upcoming international discussions (Global Forum on Oceans, Meeting of the ad hoc open-ended informal working group to study issues relating to conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction, Conference of the Parties to the Convention on Biological Diversity, IUCN World Congress, etc.). More detailed proceedings will also be published in 2008.

### Target audience

Participation in the seminar is by invitation only. Around 100 experts from governments, research centres, non-governmental organisations and international organisations are expected.

### Working arrangements

The seminar is, above all, part of an assessment process independent from the various negotiations underway. Hence, participants are invited in a personal capacity rather than as representatives of the institutions to which they belong.

# Thursday 20 March

## Opening session

- 08:30 **Welcome and participant registration.**
- 09:00 **Welcome speech.**  
**Jean-Louis Etienne**, General Director, Albert I Prince of Monaco Foundation  
**Robert Calcagno**, Government Advisor For Equipment, Environment and Urbanisation, Principality of Monaco  
**Bernard Fautrier**, Chief Executive Officer, Prince Albert II of Monaco Foundation
- 09:20 **Opening remarks.**  
**Christophe Du Castel**, Project Manager, International Waters, Forests and Desertification, French Global Environmental Facility
- 09:30 **Introduction and presentation of the Seminar**  
**Laurence Tubiana**, Director, Institute for Sustainable Development and International Relations (IDDRI), (France)
- 09:45 **Protecting marine biodiversity in areas beyond national jurisdiction: processes underway and main deadlines.**  
**Kristina Gjerde**, High Seas Policy Advisor, IUCN
- 10:05 **Main findings of the Strategic planning workshop on global oceans issues in marine areas beyond national jurisdiction (Nice, January 23-25, 2008).**  
**Biliana Cicin-Sain**, Director, Gerard J. Mangone Centre for Marine Policy, University of Delaware (United States)
- 10:15 **Coffee break**

10:30 **WORKSHOP 1. How can high seas biodiversity be assessed in order to inform decision-making?**

CHAIR: **Harold Mooney**, Professor, Department of Biological Sciences, Stanford University (United States)

Knowledge of the physical, biological and chemical mechanisms governing high seas ecosystems is a necessary condition for establishing appropriate management measures. However, although the scientific community is currently involved in this marine biodiversity assessment process, it remains to be seen to what extent the opinions expressed will help to inform the decision-making process and how they can effectively be translated by international organisations in their conservation policies. Furthermore, in view of the increasing threats facing deep-sea ecosystems, there is no choice but to act now even though our knowledge is incomplete and uncertainties will only be removed in the very long term. Biodiversity assessment thus appears to be a particularly critical issue within the framework of high seas governance.

10:45 **Assessing high seas fishery resources and political guidelines for sustainable fisheries management: how can they work together?**

**Adi Kellermann**, Head, Science Programme, International Council for the Exploration of the Sea (ICES)

11:05 **Is the lack of scientific data on deep-sea ecosystems a limiting factor for decision-making?**

**Kim Juniper**, Professor, BC Leadership Chair in Ocean Ecosystems and Global Change, School of Earth & Ocean Sciences and Department of Biology, University of Victoria (Canada)

11:25 **DISCUSSION Different views on the marine biodiversity assessment processes.**

**Sophie Arnaud-Haond**, Researcher, French Research Institute for Exploitation of the Sea (IFREMER)

**Patricio Bernal**, Executive Secretary, Intergovernmental Oceanographic Commission (IOC), United Nations Educational, Scientific and Cultural Organisation (UNESCO)

**Jake Rice**, Senior National Advisor, Ecosystem Sciences, Fisheries and Oceans (Canada)

12:30 Lunch

14:00 **WORKSHOP 2. Prospects for the sustainable management of fishery resources in areas beyond national jurisdiction.**

CHAIR: **Ussif Rashid Sumaila**, Associate Professor, Director of the Fisheries Economics Research Unit, Fisheries Centre, University of British Columbia (Canada)

The international scientific community is currently witnessing an unprecedented depletion of fishery resources. In the high seas, international and regional fisheries organisations' attempts to restrict catches are coming up against the long-standing acceptance of the principle of the freedom of the seas, and thus remain largely dependent on the good will of participating States. Furthermore, even though fishing in areas beyond national jurisdiction yields only limited economic benefit, the impact on marine species and habitats is considerable. Today, the entire global fisheries management system is being questioned.

14:15 **International fisheries governance and the threats facing high seas biodiversity: an appraisal.**

**Jacqueline Alder**, Research Associate, Fisheries Centre, University of British Columbia (Canada)

14:45 **Do fisheries organizations and agreements provide an appropriate framework for the sustainable management of deep-sea fisheries in the high seas?**

**Tullio Treves**, Professor, University of Milan (Italy) / Judge, International Tribunal for the Law of the Sea (ITLOS)

15:15 **Subsidies for fisheries activities and the sustainable management of high seas resources.**

**Anthony Cox**, Senior Analyst, Fisheries Division, Organisation for Economic Co-operation and Development (OECD)

15:45 **Building sustainable fisheries through certification processes: issues and perspectives.**

**Rosemary Rayfuse**, Professor, University of New South Wales (Australia)

16:15 Coffee break

16:45 **DISCUSSION What are the options for ensuring the sustainable management of high seas fishery resources?**

**Robin Allen**, Executive Secretary, South Pacific Regional Fisheries Management Organisation Interim Secretariat

**Gudmundur Eiriksson**, Former Director, International Law and Human Rights Studies, University for Peace (Costa Rica) / Chair, Legal Working Group, Ministerially-led Task Force on illegal, unreported and unregulated fishing on the high seas

**Lisa Speer**, Director, Water and Oceans Programme, Natural Resources Defense Council / Deep Sea Conservation Coalition (DSCC)

19:00 Cocktail

*“In the high seas, the ambition to restrict catches is coming up against the long-standing acceptance of the principle of the freedom of the seas.”*

# Friday 21 March

09:00 **WORKSHOP 3. Strengthening the protection of marine biodiversity in areas beyond national jurisdiction.**

CHAIR: **Biliana Cicin-Sain**, Director, Gerard J. Mangone Centre for Marine Policy, University of Delaware (United States)

Initially governed on the basis of the “free seas” principle established at a time when the marine environment was still a vast, unexplored desert, the high seas are gradually being subjected to regulation through international navigation rules and fisheries agreements. However, the grip of the law on activities taking place in areas beyond national jurisdiction remains largely fragmentary and fails to ensure the sustainable management of the various elements of marine biodiversity. Furthermore, recent research has revealed exceptional sources of biodiversity within deep-sea ecosystems. As a result, the high seas have become the focus of new challenges, such as the exploitation of marine genetic resources, which are not covered by the legal instruments in force. Hence, what is lacking today is the implementation of an integrated system for the management of marine ecosystems beyond national jurisdiction.

09:15 **What can be done to manage international navigation in sensitive ecosystems found in areas beyond national jurisdiction?**

**Tullio Scovazzi**, Professor, University of Milan-Bicocca (Italy)

09:45 **Should the international regime on access and sharing of high seas resources be redefined?**

**Jean-Pierre Beurier**, Professor, Maritime and Oceanic Law Centre, University of Nantes (France) and **Gwenaëlle Proutière-Maulion**, Senior Lecturer, Director, Maritime and Oceanic Law Centre, University of Nantes (France)

10:15 **Content of a possible UNCLOS Implementing Agreement on the conservation of high seas biodiversity.**

**Serge Beslier**, Former Head of Unit, International Policy and Law of the Sea, Directorate-General for Fisheries and Maritime Affairs, European Commission

10:45 **What role for the International Seabed Authority in a future governance of biodiversity in the high seas?**

**Gwenaëlle Le Gurun**, Legal Officer, International Seabed Authority (ISA)

11:15 **Coffee break**

11:45 **DISCUSSION The regional level: alternative or complement to a global approach to the protection of high seas biodiversity?**

**Jim Barnes**, Executive Director, Antarctic and Southern Ocean Coalition (ASOC)

**Denis Etienne**, Technical Advisor Marine Environment, Marine Protected Areas Network, Indian Ocean Commission (IOC)

**Michael I. Jeffery**, Director, Centre for Environmental Law, Macquarie University (Australia)

**Habib Slim**, Professor, Tunis University (Tunisia) / Governance of the Mediterranean Programme, IUCN Centre for Mediterranean Cooperation

12:30 **Lunch**

## 14:00 Closing session

### What are the options for an effective governance of marine biodiversity in areas beyond national jurisdiction?

CHAIR: **Jean-Louis Bissuel**, Director of Maritime Affairs, Principality of Monaco

The use and conservation of marine biodiversity in areas beyond national jurisdiction now fall within a dispersed legal framework, made up of several global conventions and multiple regional agreements. Current negotiations on the future of the high seas and their resources are organized within different processes, themselves conducted under the aegis of several international authorities. This closing session will be the opportunity to examine the means of coordinating these different initiatives with a view to achieving a better governance of high seas resources.

### 14:15 What international coordination is possible for the governance of marine biodiversity in areas beyond national jurisdiction?

**Annick De Marffy-Mantuano**, Former Director, Division for Ocean Affairs and the Law of the Sea, Office of Legal Affairs, United Nations Secretariat / Vice-President, Institut du droit économique de la mer (INDEMER), (Monaco)

### 14:45 **DISCUSSION** How can the high seas be included in debates on international environmental governance?

**Lucien Chabason**, Advisor for Marine Affairs, Institute for Sustainable Development and International Relations (IDDRI), (France)

**Paul Holthus**, Executive Director, World Ocean Council

**Ibrahim Thiaw**, Director, Division of Environmental Policy Implementation, United Nations Environment Programme (UNEP)

**Jacob Werksman**, Programme Director, Institutions and Governance Programme, World Resources Institute

### 16:15 Closing address.

in the presence of H.S.H **Prince Albert II of Monaco**

**Laurence Tubiana**, Director, Institute for Sustainable Development and International Relations (IDDRI), (France)

### 16:30 End of Seminar.

“*The future of high seas incites to rethink principles of international environmental governance.*”

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