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Outline of Presentation

• Introduction
  ✓ What is ocean governance?
  ✓ Legal/policy framework
  ✓ Institutional framework
  ✓ Levels of implementation

• International legal framework for oceans under UNCLOS and related instruments

• Focus on potential OETS Sectors
Elements of ocean governance

There is no agreed definition, but the elements can be broadly grouped into three categories:

- Legal framework
  - Hard (law)
  - Soft (policy)
- Institutional framework
- Levels of Implementation
  - Global, regional, national, local
  - Sectoral/integrated and ecosystem-based
The 3 elements of Ocean Governance

Scales
- Multilateral
- National
- Regional
- Local

Frameworks
- Political
- Diplomatic
- Legal
- Policy
- Institutional
- Operational

Sectors
- Fisheries
- Shipping
- Oil & Gas
- Science
UNCLOS
– A “constitution for the oceans”
– Legal framework for all activities in the oceans and sea
UNCLOS is a legal framework for the Oceans

It is an umbrella under which all ocean activities are regulated
Legal/Policy Framework (Global)

-UNCLOS
  - Safety of navigation
  - Environmental protection
  - Rights of workers at sea
  - Migration & refugees
  - Maritime warfare
  - Energy
  - Fisheries
<table>
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<tr>
<th>Maritime Space/Zones</th>
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<tbody>
<tr>
<td>• Internal Waters</td>
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<td>• Archipelagic Waters</td>
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<tr>
<td>• Territorial Sea</td>
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<tr>
<td>• Contiguous Zone</td>
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<td>• Exclusive Economic Zone</td>
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<td>• Continental Shelf</td>
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<td>• High Seas</td>
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<td>• International Seabed Area</td>
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Baselines
Internal waters

- Inside of baselines, including some bays, ports, rivers
- Sovereignty of the coastal State
- Port State measures
Territorial Sea

• Sovereignty of the Coastal State
• Up to 12 nautical miles from baselines
• Right of innocent passage
  – “Passage is innocent so long as it is not prejudicial to the peace, good order or security of the coastal State.”
  – The coastal State can adopt certain laws and regulations relating to innocent passage
Contiguous zone

• **Breadth**: 24 nautical miles

• **Rights and duties**:  
  – The coastal State may exercise the control necessary to prevent and punish infringement of its customs, fiscal, immigration or sanitary laws and regulations within its territory or territorial sea  
  – Jurisdiction over archaeological and historical objects found at sea  
  – Other States enjoy high seas freedoms where consistent
Exclusive Economic Zone

- **Breadth**: up to 200 nautical miles, measured from the baselines.
- **Sovereign rights** for the purpose of exploring and exploiting, conserving and managing natural resources (living or non-living) and with regard to other economic activities (e.g.: production of energy from water, currents and winds);
- **Jurisdiction** with regard to:
  - (i) establishment and use of artificial islands, installations and structures;
  - (ii) marine scientific research; and
  - (iii) protection and preservation of marine environment; and
The high seas

• All parts of the sea that are not included in the exclusive economic zone, in the territorial sea or in the internal waters of a State, or in the archipelagic waters of an archipelagic State.

• Open to all States, whether coastal or land-locked.

• Freedom(s) of the high seas

• Exclusive flag State jurisdiction
Illustrative map of areas beyond national jurisdiction
# Status of the Maritime Zones

<table>
<thead>
<tr>
<th>Coastal State: Sovereignty</th>
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<th>Areas beyond national jurisdiction: rights and obligations of States as members of the international community</th>
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**Internal waters** are the waters that are enclosed by the coastline of a coastal State. **Contiguous zone** is an area that extends up to 12 nautical miles from the coastline. **High Seas** are the sea outside the contiguous zone. **Archipelagic waters** are the waters outside the territorial sea of an archipelagic State. **Exclusive economic zone** is the area where a coastal State has special rights over the natural resources. **The Area** is the area where archipelagic States have special rights. **Territorial sea** is the area where a coastal State has exclusive rights. **Continental shelf** is the area between the territorial sea and the outer limits of the continental shelf.
UNITED NATIONS CONVENTION ON THE LAW OF THE SEA
VARIOUS PARTS

MARITIME ZONES

TERRITORIAL SEA AND CONTIGUOUS ZONE - PART II
EXCLUSIVE ECONOMIC ZONE - PART V
CONTINENTAL SHELF - PART VI
HIGH SEAS - PART VII
INTERNATIONAL SEABED AREA - PART XI

STATES WITH SPECIAL GEOGRAPHICAL CHARACTERISTICS

ARCHIPELAGIC STATES- PART IV
ISLANDS- PART VIII
LAND-LOCKED STATES- PART X

SPECIAL AREAS NEEDING COOPERATION

STRAITS USED FOR INTERNATIONAL NAVIGATION - PART III
ENCLOSED OR SEMI-ENCLOSED SEAS - PART IX

CROSS-CUTTING ISSUES

MARINE ENVIRONMENT- PART XII
MARINE SCIENCE - PART XIII
MARINE TECHNOLOGY- PART XIV

RESOLUTION OF CONFLICTS

SETTLEMENT OF DISPUTES - PART XV

PROCEDURAL/ORGANIZATIONAL ISSUES

INTRODUCTION- PART I
GENERAL PROVISIONS - PART XVI
FINAL PROVISIONS - PART XVII
Legal and Institutional Framework (Global)

UN bodies and organizations involved in ocean issues
Focus on specific sectors
UNCLOS and the United Nations Fish Stocks Agreement

- UNCLOS = overarching legal regime for sustainable fisheries under international law
- United Nations Fish Stocks Agreement = detailed legal regime for straddling fish stocks and highly migratory fish stocks
- Complemented by other international rules
Maritime zones under UNCLOS

- **Baseline**
- **24 M** Contiguous Zone
- **12 M** Territorial Sea
- **200 M** Exclusive Economic Zone
- **Legal continental shelf**
- **Abyssal plain**

1% Sediment thickness or 60 M from the foot of the slope, but <100 M from the 2500 m isobath or < 350 M from the baselines
Utilization and conservation

Coastal State has duty to conserve and manage marine living resources to promote “optimum utilization”

- Coastal State must determine the “total allowable catch” to maintain “maximum sustainable yield” (MSY)
- Requires scientific knowledge and technical expertise to effectively implement
Access by other States

- Other States can access the surplus of the total allowable catch
  - Conditions set by coastal State (licences)

- Particular regard given to rights of landlocked States and geographically disadvantaged States, especially developing States
Laws and regulations

Coastal State can adopt laws and regulations on:

- licensing of fishermen, fishing vessels and equipment
- determining the species which may be caught, fixing quotas of catch
- regulating seasons and areas of fishing, the types, sizes and amount of gear
- fixing the age and size of fish that may be caught
- specifying information required of fishing vessels
- requiring, under the authorization and control of the coastal State, the conduct of specified fisheries research programmes and regulating the conduct of such research
- placing of observers or trainees on board such vessels by the coastal State
- landing of all or any part of the catch by such vessels in the ports of the coastal State
- terms and conditions relating to joint ventures or other cooperative arrangements
- requirements for training of personnel and transfer of fisheries technology
- enforcement procedures
Enforcement in the EEZ

- Foreign ships must comply with coastal State laws and regulations
- The coastal State can enforce against violators
- Penalties may not include imprisonment unless an agreement exists, and no corporal punishment
- Prompt release required
Legal regime in UNCLOS – High Seas

- Qualified freedom to fish
- Duty to cooperate in conservation and management of high seas stocks
- Duty to adopt measures for conservation of high seas marine living resources
1995 UN Fish Stocks Agreement

• Legal framework for the conservation and management of straddling fish stocks and highly migratory fish stocks on the high seas areas

• Builds on provisions in UNCLOS

• 89 States Parties

• Voluntary trust fund to assist developing States Parties
Legal regime in UNCLOS - EEZ

• Special provisions for specific types of stocks that are of interest to more than one State
Legal/Policy Framework (Global) Fisheries

- UN Fish Stocks Agreement
- FAO Compliance Agreement
- FAO Code of Conduct on Responsible Fisheries
- FAO International Plans of Action
- International Guidelines for the Management of Deep-sea Fisheries in the High Seas
- FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing
- Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries
PROTECTION AND PRESERVATION OF THE MARINE ENVIRONMENT

• General obligation (art. 194) to take all measures consistent with UNCLOS that are necessary to prevent, reduce and control pollution of the marine environment from any source, using for this purpose the best practicable means at their disposal and in accordance with their capabilities.

• Duty to avoid transboundary pollution (art. 194(2))

• Duty to conduct environmental impact assessments (art. 206) - “substantial pollution of or significant and harmful changes to the marine environment”
PROTECTION AND PRESERVATION OF THE MARINE ENVIRONMENT

- Measures to protect and preserve rare or fragile ecosystems as well as the habitat of depleted, threatened or endangered species and other forms of marine life.
Specific sources of pollution

• Pollution from Vessels – Articles 211, 217-220
• Pollution from Dumping – Articles 210 & 216
• Pollution from Seabed Activities Subject to National Jurisdiction – Articles 208 & 214
• Pollution from Land-Based Sources – Articles 207 & 213
• Pollution from or through the Atmosphere – Articles 212 & 222
Other relevant instruments

- General Assembly resolutions
- FAO (e.g. technical guidelines on aquaculture development)
- IMO
- UNEP
- Biodiversity
- Sustainable development
- Others
Thank you!