



INSTITUT PAUL RICARD
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DOSSIER

THE SEA COVERS TWO THIRDS OF THE EARTH...

WHAT GOVERNANCE *for the Ocean?*

N°16 - 2018



Governance for the Ocean: a crucial issue for humanity

1945 - The President of the United States, Harry Truman, unilaterally declared that the seabed of the continental shelf extending from a country's coast belonged to it as of right. It was a thunderbolt which marked a real break with maritime tradition. Was the sea no longer an area of freedom?

But governing does not mean revoking freedom, it is also a responsibility to share and protect.

Technological development has enabled human beings to forge ever further ahead into remote and deep areas of the sea. So now, how can we organise the spatial distribution of uses, how can the maritime areas and their resources be shared equitably between all the nations?

Despite the plethora of conventions and stakeholders involved in ocean governance, fish stocks are rapidly declining, drilling is spreading, the seas are polluted even in the most remote areas, the waters are warming and becoming acidified. Marine life has never been more threatened.

What model of governance should be adopted to reconcile economic activity and the preservation of the environment? How might governance take into account the flora and fauna?

The 1982 Montego Bay Convention – the reference for international maritime law – is to be completed by a new international treaty on the conservation and the sustainable utilisation of the biodiversity in the high seas area, that is beyond the maritime areas that are under national jurisdiction (*BBNJ: Biodiversity Beyond National Jurisdiction*). The marine biodiversity will be the key issue in the negotiations at the UN, from 4th to 17th September, 2018.

The preservation of the flora and fauna is a major geopolitical issue. The links between ocean, climate and biodiversity are now known, whence the importance of perceiving the Ocean as a common good of humanity.

Science must be at the service of ocean governance, and the diffusion of scientific knowledge is essential. It is for this reason that the Institute is publishing this Newsletter with the aim of offering a forum to those whose commitment and competences enable us 'To know, to make known and to protect the sea'.

I invite you to read this remarkable dossier devoted to Ocean Governance, and I would like to express my warmest gratitude to the outstanding contributors and to the editorial team.

Patricia Ricard

President of the Institut océanographique Paul Ricard



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What Governance for the Ocean?



INTERVIEW WITH H.S.H. PRINCE ALBERT II OF MONACO

H.S.H. Prince Albert II received Patricia Ricard, President of the *Institut océanographique Paul Ricard*, at the Palace, in Monaco. An interview that was both serious and cordial, and which showed the commitment of a Sovereign in phase with his times, who takes part in the major UN and international conferences. He thus occupies a privileged position as an observer and is extremely well informed to defend the cause of the oceans with all the powers at his disposal.

“The Marine Protected Areas are one of the most effective means to ensure the survival of the oceans, and, in particular, that of certain species.”

THE HIGH SEAS AS A PRIORITY ISSUE

INTERVIEW WITH SERGE SÉGURA French Ambassador for the Oceans

We met Serge Segura, at the Ministry of Europe and Foreign Affairs in Paris. The discourse of this career diplomat is precise and straightforward, while he has on his international agenda a series of important engagements, in particular the opening of negotiations on an international treaty for the protection of the biodiversity in the high seas.



“To ensure the existing agreements are respected, to complete and adapt the current framework.”



INTERVIEW WITH JULIEN ROCHETTE

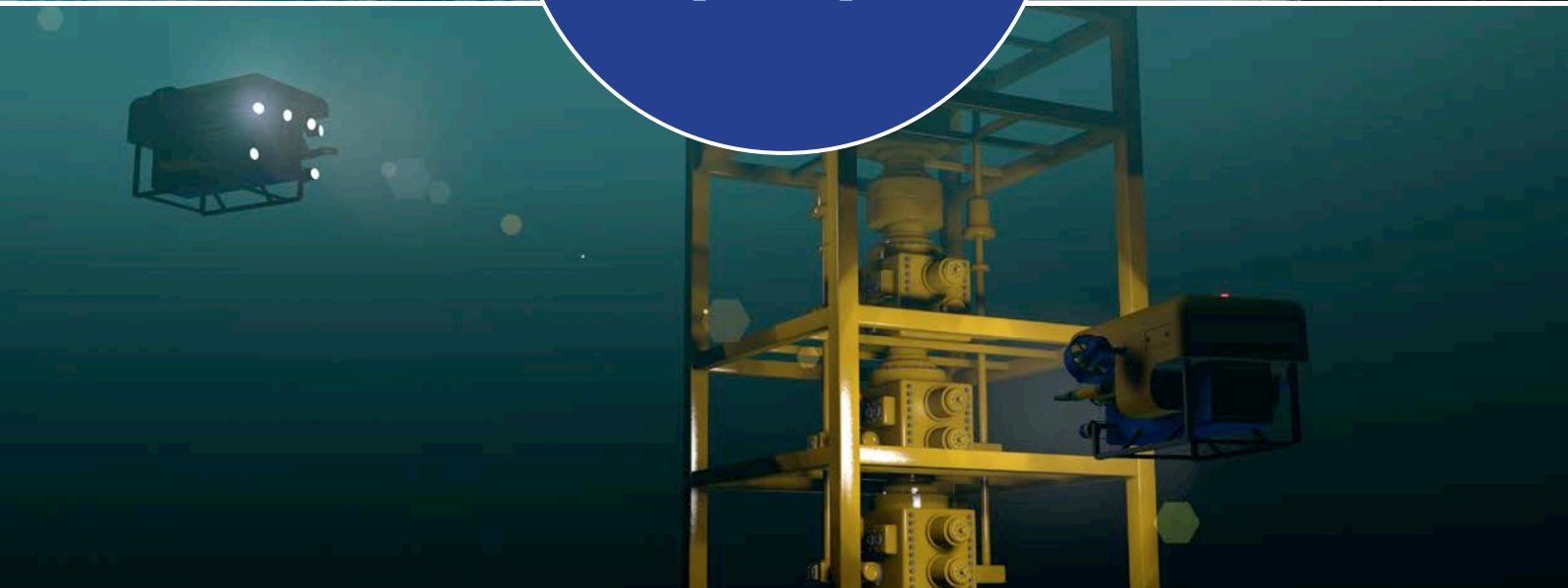
Director of the Ocean Programme at the *Institut du Développement Durable et des Relations Internationales* (Iddri - Institute of Sustainable Development and International Relations)

“To enlighten public decision-making, highlighting environmental priorities.”

At Iddri in Paris, Julien Rochette explained to us the technical and legal assistance required to enhance the governance of the oceans, whether at regional or international level. He explains the place and the role of the new stakeholders involved in this governance.



*“ The total impact
is often greater than
the sum of the
component parts. ”*



De gr. À dr., et de haut en bas : Ph. Fotolia/R. Carey, Image Source, EvrenKalinbacak, UN Photo/Kibae Park, pixone 3d, Wlad61_61.

A SPACE THAT IS FRAGILE AND UNDER THREAT, COVETED AND SHARED BY THE STATES



Ph. UNIM. Perret

The world ocean covers almost 71% of the surface of the Earth. Certain areas are still untouched by any human presence, the depths of the ocean remain 95% unexplored.

The ocean is essential to life, as it is the source of the oxygen we breathe and the water we drink. It is also the source of proteins and renewable energies.

Its strategic, economic and environmental importance, related to its rather unique status, make it an area that is intensely coveted, disputed and shared by the States. And the result ? Threats and destruction: the practice of non-sustainable fishing; pollution of various kinds; the destruction of habitats and of the biodiversity; the introduction of invasive species; exploitation by mining, the extraction of oil and gas, piracy, and so on. Added to that, there is climate change, with the acidification and the warming of the waters, and the alteration of the ocean currents.

According to Marie Vierros, of the United Nations University (UNU) Institute of Advanced Studies: *“The total impact is often greater than the sum of the component parts (...) The multiple pressures exerted on the oceans have a real impact on the level of effectiveness of the governance”*.

So is the United Nations Convention on the Law of the Sea, known as the Montego Bay convention, still relevant ? Does it adequately protect the maritime areas ? Should the current governance be updated and enhanced in order to conserve the oceans and exploit them in a sustainable way ? And if so, according to what rules and with which stakeholders ?

A head of state, a diplomat and a lawyer tackle these questions, which are among the major environmental and economic issues of the 21st century.



Ph. Gaetan Luci / Palais Princier
Ph. Fotolia/uncesam



INTERVIEW WITH
H.S.H. PRINCE ALBERT II OF MONACO

“The Marine Protected Areas are one of the most effective means to guarantee the survival of the oceans, and in particular that of certain species.”



Ph. Gaetan Luci
Palais Princier

➔ YOUR SERENE HIGHNESS, THE PRINCIPALITY OF MONACO HAS ALWAYS BEEN TURNED TOWARDS THE SEA, AND ITS PRINCES HAVE ALWAYS WORKED FOR THE BENEFIT OF THE OCEAN. IN LINE WITH THIS TRADITION, WHAT IS TODAY THE ROLE OF THE PRINCIPALITY, WHAT PART DO YOU PLAY AS HEAD OF STATE TO ENCOURAGE THE INTERNATIONAL GOVERNANCE OF THE OCEANS?

For the Principality, knowledge of the marine ecosystems does not date from yesterday, indeed, as several of my ancestors were visionaries in the matter, especially Prince Albert I. Proof of this is of course the creation of the *Institut océanographique* in Paris, and the oceanography museum at Monaco.

The extraordinary thirst for adventure of my great-great-grandfather, and also for discoveries and for contributing to what was at the time the emerging science of oceanography, has been a guide, a marvellous inspiration, not only for me, but also with regard to the commitment of the Principality. The commitment of my father too, who devoted a great deal of effort to various initiatives concerning the Mediterranean in particular.



Known as 'The Prince of the Seas', Albert 1st, seen here on board the second *Hironde* (1912), was responsible for launching some of the most important oceanographical surveys of his time.



In 2018, the Sovereign on board the *Yersin*, an Explorations de Monaco oceanographical survey vessel, in the Marine Protected Area of Malpelo, Colombia.



The Sovereign diving with the biologist Sandra Bessudo and the free diver Pierre Frolla to tag sharks at Malpelo, listed as a UNESCO World Heritage site.

In line with this tradition, the Principality continues to concern itself, not only with the Mediterranean, but also with the world Ocean, which is seriously threatened: on the basis of the various conventions which we are signatories to, and the organisations of which we are members.

The Principality of Monaco is home to several international bodies, such as the CIESM [Mediterranean Science Commission - *Commission Internationale pour l'Exploration Scientifique de la Méditerranée* - Ed.]. It is host since 2002 to the permanent secretariat of ACCOBAMS [Agreement on the Conservation of Cetaceans in the Black Sea, Mediterranean Sea and Contiguous Atlantic Area - Ed.], the permanent Secretariat of the Pelagos Agreement and the RAMOGE Agreement relative to the monitoring of coastal pollution in the Mediterranean, in the area between Genoa and Saint-Raphaël, including of course the Principality of Monaco.



H.S.H. Prince Albert II of Monaco has perpetuated the commitment of his great-great-grandfather, Albert 1st, and of his father, Prince Rainier III, to the protection of the environment of the planet. With a team of scientists, he observes in the field the threats facing the planet, here at Spitzberg in 2005.

“**The Principality concerns itself, not only with the Mediterranean, but also with the world Ocean, which is seriously threatened.**”

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A Head of State recognised for his commitment, Prince Albert II of Monaco brings the major environmental issues to the attention of fellow heads of state, here speaking at the UN.



In 2017, the Prince with Antonio Guterres, Secretary General of the United Nations.

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We have also been host since 1961 to the environmental laboratories of the AIEA [International Atomic Energy Agency - Ed.] and the International Hydrographical Organisation.

Our commitment also involves working on a day-to-day basis within several bodies, such as the International Whaling Commission (IWC) and the conferences of the United Nations Organisation (UN): at present, our attention is in particular focused on the future BBNJ treaty [Biodiversity Beyond National Jurisdiction - Ed.], that is to say the conservation and sustainable use of the marine biodiversity of areas situated beyond the national jurisdictions. It is a matter of giving the high seas a legal framework and making sure that they are taken into account in the work that is being done to extend the protected marine areas.

Finally, I will mention the actions of the Foundation which I created, dedicated to the environment. The ocean, sea and marine biodiversity part has of course pride of place [see Prince Albert II of Monaco Foundation, below].

“It’s a matter of giving the high seas a legal framework.”



THE PRINCE ALBERT II OF MONACO FOUNDATION

“To give all my support to the outstanding men and women who enlist in the cause of saving our planet”

H.S.H. Prince Albert II of Monaco

This Foundation, of international outreach, plays an active role in the protection of the environment and the promotion of sustainable development at global scale. It was set up in 2006 by H.S.H. the Sovereign Prince, following an expedition he had undertaken in the Arctic, the purpose of which was to measure the impact of climate warming on the pack ice.

The Prince Albert II of Monaco Foundation supports the initiatives of public and private sector organisations in the fields of research, technological innovation and good practices.



The projects mainly concern the Mediterranean basin, the polar regions and the less developed countries - defined according to the official United Nations list - and are focused on three priority issues:

- limiting the impact of climate changes and promoting renewable energies;
- preserving the biodiversity [see Seahorse and Fan Mussel, page 9];
- managing the water resources and combating desertification.

Since its creation, the Foundation has initiated or supported 420 projects (*), for a total overall sum of 51 million euros.

Each year, the Prince Albert II Foundation rewards outstanding personalities and initiatives that have benefited the protection of the environment. During the prize giving ceremony in 2017, the Climate Change Prize was awarded to the Quebec Inuit activist Sheila Watt-Cloutier (see photo); the French film director, Luc Jacquet and the former United States Secretary of State John Kerry, were awarded a special prize.

Source : fpa2.org

() From the development of responsible aquaculture to the protection of the Siberian tiger, a water supply and sanitation programme in Guatemala, the promotion of responsible forestry in Kenya, the conservation of ice cores for scientific purposes, the attenuation of the impact of climate change for farmers in Bangladesh: the range of issues has become increasingly diverse and is based on current priorities.*

➔ YOUR SERENE HIGHNESS, YOU ARE A HEAD OF STATE WHO IS ACTIVELY INVOLVED IN ENVIRONMENTAL ISSUES, AND THE OCEANS IN PARTICULAR. YOU TAKE PART IN ALL THE MAJOR UNITED NATIONS AND INTERNATIONAL CONFERENCES. WHAT ARE YOUR RECOMMENDATIONS FOR THE GOVERNANCE OF THE OCEANS, IN THE LIGHT OF CURRENT ISSUES?

I believe that the threats have been clearly identified and are well known.

It is of course the issue of climate change and its impact, with in particular the phenomenon of acidification of the oceans, which is extremely worrying ⁽¹⁾.

I am happy that the Principality was behind the development of better knowledge and understanding of this issue by organising in 2008 a conference during which the Monaco Declaration on the Acidification of the Oceans was signed by 150 scientists representing 26 countries.

This idea that the ocean is an extremely important regulator for climate change, but that it too suffers from the impact, is still a concern.

There are new studies on this phenomenon coming out every day. It is an absolutely vital element, as is the fact that we were able, thanks to other partner countries, to ask the International Panel on Climate Change (IPCC) in 2015 to dedicate a special report to climate change, the oceans and the cryosphere. This request was accepted and I am extremely happy that this issue will be included the 6th Assessment Report on Climate in 2019.

The second major issue is plastic pollution, which my Foundation is combating by participating in several programmes. With regard to the Mediterranean, we initiated, along with our partner foundations – Tara Expeditions, Surfrider Europe and Mava - Beyond Plastic Med (BeMed) ⁽²⁾. The idea is first of all to better identify

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(1) For further information: Océan, le Maître du climat, interview with Dr Françoise Gaill, director of research at the CNRS, scientific coordinator of the Ocean and Climate Platform, La Lettre d'information de l'Institut Océanographique Paul Ricard n°14-2015.

(2) With more than 3000 million microplastic particles, the Mediterranean is the most polluted sea in the world. This waste could take 500 years to disappear. The missions of BeMed are: to support and develop networks of stakeholders committed to curbing plastic pollution; to implement effective and sustainable solutions and support the research into novel alternatives; to engage the stakeholders and the public by raising awareness and disseminating best practices. Source : beyondplasticmed.org



The Marine Reserve of Larvotto, with a surface area of 33 hectares, is located in the eastern part of the coast of Monaco.



The Mediterranean fan mussel is dependent on the Posidonia oceanica seagrass meadow, where young specimens are often concealed.

PRESERVING BIODIVERSITY SEAHORSE AND FAN MUSSEL

The Prince Albert II Foundation provides support for two research programmes carried out at the *Institut océanographique Paul Ricard*. Both concern emblematic Mediterranean species.

The first is entitled: 'Study and trials for the acclimation of the seahorse, *Hippocampus guttulatus*, in the Larvotto marine reserve'. Its aim is to develop the populations of this species in the Marine Protected Area of Monaco.

The other programme, launched in 2016, is focused on the Mediterranean fan mussel, *Pinna nobilis*, a protected species. Led by Prof. Nardo Vicente, it is a joint programme involving the Mediterranean Institute of the Marine Environment (IMEDMAR) at Calpe (Spain), the Institute of Marine Biology at Kotor (Montenegro) and the *Institut océanographique Paul Ricard* (France).

A study of the populations of fan mussels along the coasts of the three countries in the environments where the species settles provides evidence on the environmental conditions that are vital for its existence and on the threats that might result in its disappearance.

Source : *Institut océanographique Paul Ricard*





Ph. shutterstock/Ugo Montaldo

*A pelagic fish, the Mediterranean red tuna, *Thunnus thynnus*, is considered as overfished. Since 1982, commercial fishing of this species is regulated by quotas of catches per country. In the Mediterranean, the majority of catches are made around the islands of Malta and the Balearics.*

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the places where the greatest concentrations of micro- and macroplastics have accumulated, and also to combat this pollution at the source by limiting the use of plastics in many Mediterranean countries ⁽³⁾.

One might also add to these threats - even if there has been a great deal of improvement with regard to the respect of quotas - overfishing and illegal fishing, in all the seas worldwide, and also, unfortunately, in the Mediterranean.



Plastic waste washed up on the shore.

“There has been increasing awareness in the Mediterranean countries regarding all the environmental issues.”

➔ THE MEDITERRANEAN IS CONSIDERED AS A MODEL OCEAN FOR THE SCIENTIFIC COMMUNITY, A CRADLE OF CIVILISATIONS. CAN IT TODAY BE A CRUCIBLE FOR GENERATING SOLUTIONS FOR THE PROTECTION OF THE OCEAN, AND SO OF THE CLIMATE?

Of course, because there has been increasing awareness in the Mediterranean countries of all the environmental issues I was referring to.

I believe that there is today better collaboration, not only at government level, but also among scientists, organisations and the various bodies which are involved in the governance of the Mediterranean.

The Mediterranean Action Plan is a very fine tool, in particular for the stakeholders as regards all the initiatives related to plastic pollution, and also for all the other bodies within which we are working.

It is really important that all the users of the sea should sit around the same table and have regular and open discussions in order that the issues may be dealt with in the best way and as fully as possible.

That is very important.

➔ YOU HAVE, SIR, WITHIN THE PRINCIPALITY, ALWAYS ALLOWED SCIENTISTS AN IMPORTANT PLACE. DO YOU THINK THEY ARE SUFFICIENTLY LISTENED TO?

I think there has been an improvement, but the scientists are still not given as important a role as I would wish them to have.

For them to be still better heard is really a matter of communication, and, I should say, a matter of providing vital and interesting information, more regularly, so that there would be no misinterpretation, or disinformation, doing the rounds.

It is essential to give the scientists their say, as often as possible, because they have the most recent data, and because they are doing an outstanding job. I believe that in the past, they did not have the opportunity - perhaps because the times were not right - to express themselves clearly, in such a way that everyone could understand.

H.S.H. Prince Albert II of Monaco was awarded the Award for Excellence in National Stewardship in 2015, at the Peter Benchley Ocean Awards. These awards are often considered as the ‘Oscars’ of the sea, recognising personalities who have been particularly active in working for the preservation of the oceans in the fields of politics, science or the media.

(3) The utilisation of single-use plastic bags has been banned in the Principality of Monaco since 1st January 2017. The ban will be extended to include throwaway plastic kitchen items (cutlery, drinking straws, etc.) on January 1st 2020.

➔ FINALLY, IF YOU HAD TO MAKE A WISH, WHAT MESSAGE WOULD YOU LIKE TO PUT IN A BOTTLE FOR THE MEDITERRANEAN?

We must be resolutely optimistic, even though the Mediterranean – more than other seas since it is semi-enclosed – is extremely vulnerable to various forms of pollution, damage and depredation.

I believe that the Marine Protected Areas ⁽⁴⁾ are one of the most effective means to guarantee the survival of the oceans, and in particular, that of certain species.

Through several of the actions of my Foundation, we have shown the need to better protect some of them. I am thinking in particular of the red tuna, and also of the monk seal, which has more or less completely disappeared in certain areas of the Mediterranean. We have been taking part, along with various organisations, in its rehabilitation.

We also focus our efforts on the opening of new Marine Protected Areas (MPA), in particular in the Mediterranean, where there is still much to be done in this field. In order to make conservation actions sustainable, an environmental fund has been jointly set up by the Principality of Monaco, France and Tunisia, with the two-fold aim of on one hand bringing together institutional and private sector financial partners for the preservation of the Mediterranean, and on the other hand, directly funding the MPAs in the area in partnership with the local authorities.

The setting up of an MPA is absolutely necessary, in order to get as close as possible to meeting the Aichi Targets fixed in 2010 by the Convention on Biological Diversity ⁽⁵⁾, to reach by 2020 the goal of 10% of protected areas in the world ocean.

Certain recent estimations put it at 6%, which is already outstanding in so few years, but we only have two years left, and it is going to be extremely difficult to meet the Aichi Target.

I would also like to take the opportunity to say how happy I am that my Foundation is collaborating with your Institute regarding the preservation of Marine Protected Areas in the Mediterranean, in particular our Larvotto Reserve.

A programme for the reintroduction and the protection of the seahorse, an extremely emblematic animal, is in progress. Everyone is supporting this project with a great deal of enthusiasm and generosity. [See: *Seahorse and fan mussel*, page 9].

➔ THANK YOU, YOUR SERENE HIGHNESS, FOR EVERYTHING YOU ARE DOING FOR THE MEDITERRANEAN AND THE OCEAN. AND LET US HOPE THAT EACH NEW MARINE PROTECTED AREA WILL BE A STEP TOWARDS A PROTECTED WORLD OCEAN.

Absolutely. ■

*Interview by Patricia Ricard
April 2018*

*(4) The Mediterranean has 75 Marine Protected Areas in 21 countries. These MPAs are mainly along the northern shores, with the exception of a few sites in Algeria, Morocco, Tunisia, Israel, Lebanon and Syria.
Source : institut-ocean.org*

(5) The Aichi Targets, after the name of a Japanese prefecture, are twenty in number and constitute the new Strategic Plan for Biological Diversity 2011-2020 for the planet.



Greece has the largest population of the Mediterranean monk seal, Monachus monachus. Today, this marine mammal is one of the most threatened species worldwide.



Ph. L. Miar
Ph. Shutterstock / gettyimages



INTERVIEW WITH SERGE SÉGURA

French Ambassador of the Oceans

“To ensure the existing agreements are respected,
to complete and adapt the current framework.”

THE HIGH SEAS AS A PRIORITY ISSUE

1 / THE CURRENT FRAMEWORK, THE FIELDS AT ISSUE

2 / RECOMMENDATIONS FOR A NEW SYSTEM OF GOVERNANCE - THE STAKEHOLDERS

3 / FRANCE'S ROLE

CAREER SERGE SÉGURA

“My career has been fairly typical for a diplomat”, commented Serge Ségura. After studying law at the Aix-en-Provence law faculty, and political sciences at the Institut d’Études Politiques de Paris (IEP), he joined the Ministry of Foreign Affairs in 1980 : “I saw a lot of technical and intellectual changes there, adaptations to constantly changing worldwide diplomatic realities”.

Since childhood, Serge Ségura has always been attracted by everything to do with the sea. It comes as no surprise that he has tried to add a dash of ocean to his diplomatic functions: *“There are cases where it's been quite easy, in other posts a bit more difficult”.*

Serge Ségura has served at the Centrale – the Ministry of Foreign Affairs at Quai d’Orsay in Paris – and at post, in countries as varied as Angola, Spain, Albania, Slovenia, Madagascar, Sweden and Mozambique.

At the *Centrale*, Serge Ségura joined the Legal Affairs department, in particular the sub-department that deals with the law of the sea and river law, as well as polar issues. He held the post of deputy director from 2007 to 2012 before being appointed Ambassador to Mozambique: *“There, I really succeeded in putting into practice my passion for the oceans and my professional skills as a diplomat”.*

“On my return from East Africa, I had the good fortune to discover that there was a process of reflection under way, led by the

Minister of Foreign Affairs, Laurent Fabius, and the Secretary General. They observed that the oceans were becoming a power issue, with disputes that might degenerate, vast resources that were fiercely coveted, the intensive development of economic activities. It was becoming necessary to rethink our diplomatic approach to the oceans”.

This was done in September 2015 – shortly before the Paris Agreement on the climate (COP21) – with the creation of a new post of Ambassador for the Oceans under the Secretary General of the Ministry of Foreign Affairs and International Development.

“I must have been the perfect fit for the identikit portrait of the first person to hold this post: someone with a fairly varied range of diplomatic experience; who’s performed bilateral ambassadorial functions, and so is capable of managing a diplomatic relationship

with a particular State; already possessing fairly extensive knowledge of the law of the sea and the major issues in negotiations regarding the oceans”.

“The first page of my route map”, recalls Serge Ségura, “was to try to ‘maritimise’ the mindset of the Quai d’Orsay diplomats, that is, to highlight for the departments that deal with the oceans the links they might have with other departments or ministries.

The second aspect was to make people aware that for years, the Quai d’Orsay has been active in dealing with maritime issues and that today, the approach is more modern, better tailored to the realities of an international approach to the ocean. And so to communicate with civil society: scientists, companies, NGOs and the media, to explain what the diplomacy of the oceans in the 21st century means for France”.

“**To explain what the diplomacy of the oceans in the 21st century means for France.**”



Ministry of Foreign Affairs: site of the Convention (Paris).



Headquarters of the UN, New York



United Nations Conference on the Oceans for the implementation of Sustainable Development Goal 14, June 2017, at New York: in session, Serge Ségura with the French Ambassador to the United Nations, François Delattre.



Serge Ségura speaking during the 3rd session of the French - American Climate Talks on the Ocean (FACT-O), Mount Vernon, Virginia (USA). The Ambassador recalled France’s priorities in matters of Ocean Governance, in particular with regard to the protection of biodiversity for the high seas.

1/ The current framework, the fields at issue

➔ AMBASSADOR, WHAT IS THE CURRENT FRAMEWORK FOR WORLD OCEAN GOVERNANCE?

Before answering that question, we first have to try to define exactly what we mean by ‘governance’ because it’s a tricky word, widely used in all kinds of ways. The French word ‘gouvernance’ is a transposition, rather than a translation, of the English word ‘governance’, which is a much broader concept than what we might imagine ‘gouvernance’ to mean in French.

“The Montego Bay Convention is extraordinarily relevant today.”

To put it simply, I would say that governance is the management of an environment, a society or an activity. In maritime matters, ocean governance does exist today, contrary to what many people say or think. It is based on international public law, which is its architecture. And even if many new stakeholders are getting involved - NGOs, companies, foundations and so on - at the base we operate within a society of States and intergovernmental organisations.

To govern the relations between all these stakeholders, it is then the international law of the sea that calls the shots. It is based today on the United Nations Convention on the Law of the Sea, known as the Montego Bay Convention. Signed in 1982, in Jamaica, it came into force in 1994. France ratified it in 1996 ⁽¹⁾. [see: *United Nations Convention on the Law of the Sea -Extracts*]



The United Nations Convention on the Law of the Sea was adopted after 9 years of negotiations.



UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

Extracts

The text of the United Nations Convention on the Law of the Sea stipulates that the States Parties to it are “prompted by the desire to settle, in a spirit of mutual understanding and cooperation, all issues relating to the law of the sea and aware of the historic significance of this Convention as an important contribution to the maintenance of peace, justice and progress for all peoples of the world” [...]

They recognise “the desirability of establishing through this Convention, with due regard for the sovereignty of all States, a legal order for the seas and oceans which will facilitate international communication, and will promote the peaceful uses of the seas and oceans, the equitable and efficient utilization of their resources, the conservation of their living resources, and the study, protection and preservation of their marine environment” [...]

➔ IS THIS CONVENTION STILL RELEVANT TODAY?

Yes, you could even say it is extraordinarily relevant, in that it offers all the necessary flexibility to achieve a system of ocean governance which can be adapted, can evolve, can offer solutions to disputes between States.

➔ IN FIXING A LEGAL FRAMEWORK FOR THE OCEANS, DOES IT ALSO DEFINE THE DIFFERENT AREAS, WITH THE RIGHTS AND OBLIGATIONS OF THE STATES?

Indeed, this convention confirmed a division of the marine areas that had already existed since the codification presented at the first United National Conference on the Law of the Sea, held in Geneva in 1958, and its four conventions ⁽²⁾, then by a second conference, in 1960 [see: *Delimitation of marine areas*, page 18].

(1) To see the full text of this convention:
http://www.un.org/Depts/los/convention_agreements/texts/unclos/unclos_e.pdf

(2) These conventions concern the territorial sea and the contiguous zones, the high seas, the continental shelf, fisheries and the conservation of biological resources.

Starting from the shore, there are first the **Internal Waters** which are under the full sovereignty of the coastal State, just as the terrestrial territory is.

Then, there are the **Territorial Waters**, or **Territorial Sea**. This zone is interesting because many people think that the State has full sovereignty there, which is not true.

One of the important restrictions to the rights of the coastal State over its territorial waters is the notion of innocent free passage: it is not possible to forbid a foreign vessel from navigating along the coast in this area, as long as it does not constitute a threat. This notion is of variable geometry from State to State, as certain of them consider as a threat migrants on board a vessel.

Beyond the territorial waters, there are the **Exclusive Economic Zones (EEZ)**.

“**The creation of the EEZs was a brilliant invention, even though, obviously, we can never know how many conflicts they may have avoided.**”

Today, the creation of these zones by the Montego Bay Convention is criticized in some quarters, some people think that it gives too much power to the coastal States at sea, and too far offshore.

In fact, the drafters of this text were already aware at the time that tensions between States were increasing because of activities at sea, and that if the law did not construct anything, there was a serious risk that simple disputes might get out of hand and result in real conflict.

The older ones among us may remember the Cod Wars in 1973, between Iceland and the United Kingdom, when it came close to serious clashes. Without actually shooting at each other, and to avoid going irreparably too far, warships from the two countries played at seagoing ‘dodgems’ [see: ‘The Cod Wars’].

At that time, the EEZs didn’t exist. The Montego Bay Convention created them as a way of saying to the States: “It is for you to manage these maritime areas over which you have been given sovereign rights regarding the exploration, exploitation, conservation and management of fisheries and mineral resources, extended to the production of energy by water, current and wind power”.

The creation of the EEZs was a brilliant invention, even though, obviously, we can never know how many conflicts they may have avoided

As for the notion of the **Continental Shelf**, it already existed, but in the text of the 1958 Geneva Convention, its definition stipulates that it extends as far as the limit of the capacity for exploitation of the coastal State.

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THE COD WARS

This is the name given to a series of economic conflicts between Great Britain - and to a lesser extent Germany - and Iceland between 1950 and 1970. They concerned the cod fishing zones that the government of Iceland wanted to put off limits to foreign trawlers by pushing back the limits of their territorial waters.

The British government responded by sending out warships to defend its trawlers. Despite operations that were sometimes violent, there were no human casualties.

The dispute officially came to an end in 1976 with the recognition of the Icelandic territorial claims by the British.

These Cod Wars, and other tensions between States, led to the signature of the Montego Bay Convention in 1982, introducing and defining the notion of Exclusive Economic Zone (EEZ) [see: *Delimitation of marine areas*, page 18].

By ratifying this international convention, the United Kingdom and Iceland put an end to 20 years of conflict.

Source : L'Islande relance la « guerre de la morue », 15 octobre 1975, linternaute.com

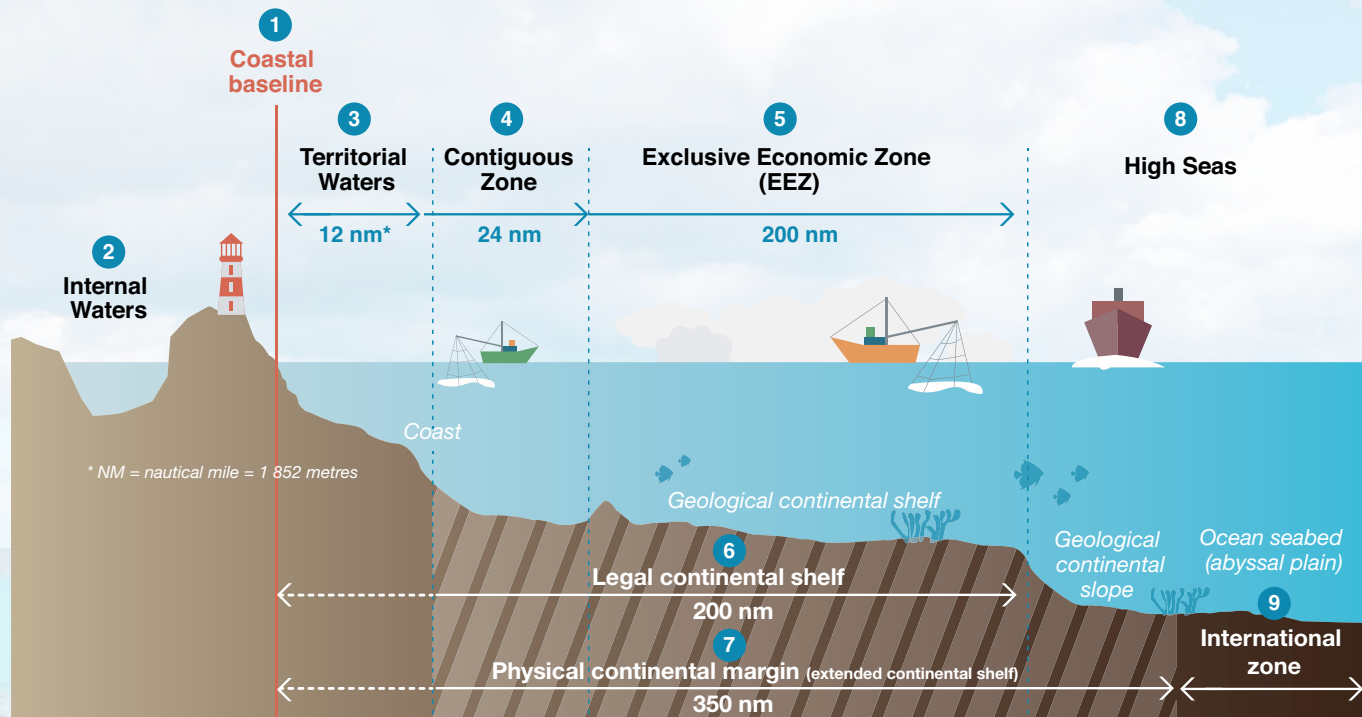
Collision between the British frigate HMS Scylla and the Icelandic patrol boat Odinn, 23rd February 1976.



(Ph. Issac Newton/Wikimedia Commons)

DELIMITATION OF MARINE AREAS

Based on the United Nations Convention on the Law of the Sea (UNCLOS)



THE UNITED NATIONS CONVENTION ON THE LAW OF THE SEA (1982) DEFINES A DIFFERENT STATUS FOR EACH OF THE MARITIME AREAS ADJACENT TO THE COASTLINE OF A COUNTRY.

WATERS UNDER THE SOVEREIGNTY OF COASTAL STATES

- It is from the **coastal baseline** ① that the maritime areas are measured. The **internal waters** ②, which include bays, roadsteads, lagoons, etc., are situated within this line. This line defines the foreshore, or low water mark, which corresponds to the minimum level reached by the sea under the influence of the astronomical tides alone.

- The **territorial waters**, or **territorial sea** ③, form the part of the sea (surface, water column and seabed) which are under the sovereignty of a coastal State up to a maximum breadth of 12 nautical miles, or 22.224 km, from the coast.

- The **contiguous zone** ④ to the territorial sea extends up to 24 miles from the coast. The coastal State has the right to enforce the law there in matters of customs, taxation, public health and immigration.

WATERS UNDER THE SOVEREIGNTY OF COASTAL STATES IN ECONOMIC MATTERS

- The **exclusive economic zone (EEZ)** ⑤ extends from the coastal baseline of the State to a maximum of 200 nautical miles, or 370 km, from the coastline.

It is sometimes wrongly applied to possible extensions of the continental shelf beyond the 200 nautical miles limit owing to the fact that the fishing zones are defined by limits outside the EEZ.

- The continental shelf as defined by the lawyers is not the same as that defined by the scientists.

• The **legal continental shelf** ⑥ of a coastal State (according to article 76 of the UNCLOS) includes the seabed and the subsoil beyond the territorial sea :

- over the whole breadth of the natural extension of the continental territories of this State, as far as the outer edge of the continental shelf;

- as far as 200 nautical miles from the coastal baseline, even if geographically this shelf does not exist. Thanks to this 'legal fiction', the coastal States which do not have a continental shelf are not penalised.

• The **physical continental margin** or **extended continental shelf** ⑦ is the submarine extension of the continental shelf beyond the 200 nautical miles of the EEZ:

- either up to a maximum limit of 350 nautical miles from the coastal baseline, if the coastal country demonstrates that its terrestrial territory extends across the seabed, that is if certain conditions of geophysical continuity are met ;

- or a distance of 100 nautical miles from the 2500 metre isobath (line of equal depth in relation to the surface of the sea).

A State's rights may be exercised solely over the marine soil and the subsoil, and not over the water column, which remains under international jurisdiction.

INTERNATIONAL MARITIME AREAS

- The **high seas** (or **international waters**) ⑧ begin beyond the outer limit of the EEZ, 200 nautical miles maximum from the coast. These maritime areas are not under the jurisdiction of any State.

- The **seabed international zone** ⑨ expresses the idea that the deep seabed and the subsoil, beyond the limits of the areas under national jurisdiction (EEZ), constitute a 'common heritage of mankind'. The International Seabed Authority (ISA), under the auspices of the United Nations, controls the activities of exploration and exploitation of all the mineral resources that are to be found in this zone.

To date, twenty or so exploration contracts for the resources of this zone have been attributed by the Authority, including four for China and two for France, at sites with polymetallic nodules and sulfides.

>>

Today, this proviso may appear laughable, as if you can mobilise the necessary means, the technology exists for exploiting the deep seabed. This means that, against all logic, you could extend your continental shelf as far as your neighbour's coast opposite. A new definition of the continental shelf has therefore been worked out stipulating the possibility of extensions under certain conditions.

France has already obtained a certain number of extensions ⁽³⁾.

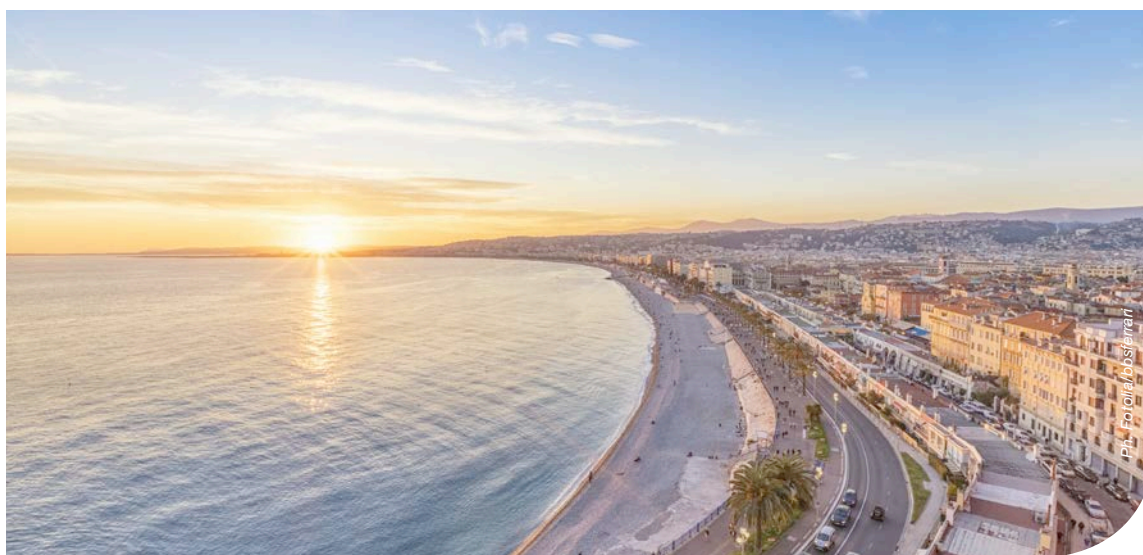
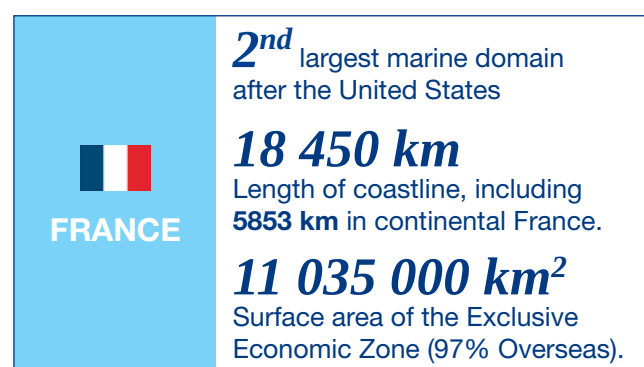
“**Mankind must find the right balance in our relationship with the ocean.**”

Beyond the EEZs, there are the high seas. It should be specified that for certain activities, such as navigation, the high seas start at 12 nautical miles. These marine areas are not under the sovereignty of the coastal States, but nor are they areas of non-law, contrarily to what we often hear.

With technological progress and the development of our knowledge of the oceans, the United Nations Convention on the Law of the Sea is not quite explicit enough to deal with certain current issues, such as the protection of the biodiversity, various kinds of pollution, plastics in particular, overfishing, the impact of climate change.

The States have therefore judged it necessary to make certain additions to this convention.

A treaty which is already under negotiation is intended to regulate the conservation and the sustainable utilisation of the biodiversity of the high seas.



Nice, Côte d'Azur, France.

>>

(3) The first recognition of the claims for extension of the continental shelf by France before the United Nations Commission on the Limits of the Continental Shelf (CLCS) dates from 2015. Four decrees published the same year in the French Journal Officiel fix the new limits of the continental shelf off the coasts of Martinique, Guadeloupe, Guyane, New Caledonia and the Kerguelen archipelago. This represents for France an extension of its submarine territory of 579000 km², or a little more than the surface area of continental France.

The French programme EXTRAPLAC (Extension Raisonnée du Plateau Continental) manages the process of applying to the CLCS for extensions of the continental shelf.

Source: EXTRAPLAC: 'Le domaine sous-marin de la France s'agrandit de plus de 500 000 km²', press release, SHOM, ifp, IPEV, IFREMER, 2015

>>

➔ **YOU REFERRED JUST NOW TO THE CURRENT FRAMEWORK FOR OCEAN GOVERNANCE. WHAT ARE THE MAIN AREAS THAT THIS COVERS?**

To answer your question, Mankind must find the right balance in our relationship with the ocean. And this balance is based, roughly speaking, on three cornerstones: security, in the broadest sense, economics and protection of the environment.

In the oceans, all activities should be carried out in a climate of security. There are two things that represent a threat to security: lack of safety and insecurity, to use the English terminology (although in French, the meaning of the corresponding words is inverted).

Firstly, there is question of safety in navigation and in maritime activities: fishermen should be able to exercise their profession without being cut in two by bigger ships than theirs; amateur sailors should be able to enjoy their leisure activities freely without being threatened by industrial or other activities.

The governance of the oceans therefore calls for rules which will ensure that people can navigate and work in safety.

In 2018, we have the 40th anniversary of the shipwreck of the oil tanker Amoco Cadiz on the coast of Brittany. It was an occasion for remembering and being aware, finally, of all the progress that has been made in maritime law to make the oceans safer since this black tide and that of the Torrey Canyon, in 1967.

And then there is the question of security, which means combating acts of malice. Unfortunately, the oceans are the arena for all kinds of trafficking: protected species,

arms, drugs - even migrants - as we have seen, sadly, in the Mediterranean, and elsewhere.

The international community has a duty to combat these criminal acts.

Another threat the oceans face is piracy. We might take this opportunity to recall that this phenomenon did not disappear with the 18th century adventure stories ⁽⁴⁾.

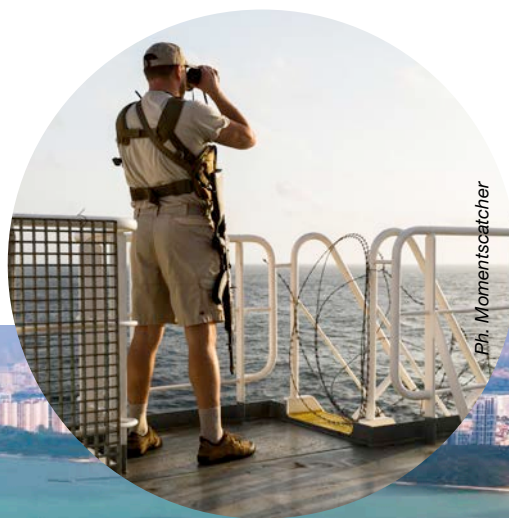
The international community has had to reorganise in order to deal with this form of criminal activity: off the coasts of Somalia, in recent years; today, more specifically in South-East Asia and in the Gulf of Guinea, for example [see: *Piracy at sea and Insecurity in the Gulf of Guinea*, page 21].

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(4) At that time, real characters such as Surcouf, the French corsair, or Blackbeard, the English pirate, aroused fear and fascination among readers.

Photo (inset)
Security measures against piracy in the Gulf of Aden, a strategic maritime route for world trade between Asia and Europe.

Photo (below)
Singapore is the world's second largest container port after Shanghai. Intensive maritime traffic, as well as yachts for which there are four world-class marinas.



Ph. Momentscatcher

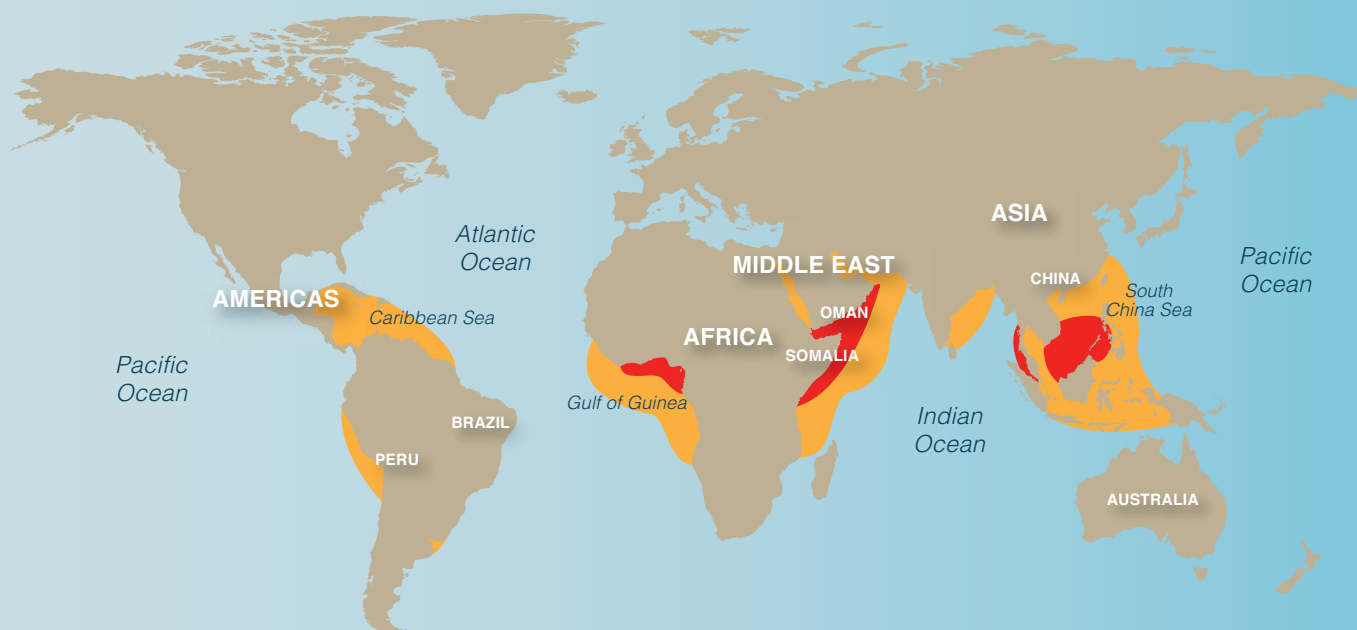


Ph. Fotolia/anekeho



PIRACY AT SEA

Fewer actions, but three times as many sailors taken hostage



In its annual report (2017) on piracy in the world, the International Maritime Bureau reported 191 acts of piracy or armed robbery in 2016 – against 246 in 2015.

But the kidnappings of sailors were higher in 2016 than in 2015. In 2016, 62 people were taken hostage for ransom in fifteen separate incidents: 34 kidnappings were carried out in the Gulf of Guinea; 28 others in the waters around Malaysia, Indonesia and the Philippines.

Source : piraterie-maritime.org

Orange Zone with risk of piracy
Red Zone with high risk of piracy

FOCUS

INSECURITY IN THE GULF OF GUINEA

Thanks to various United Nations actions – in particular Resolution 2018 of 31st October 2011 and Resolution 2039 of 29th February 2012 –, maritime insecurity in the Gulf of Guinea has become a major international concern, calling for a global strategy.

This was adopted by the heads of state and heads of government of the Economic Community of West African States (ECOWAS), the Economic Community of Central African States (ECCAS) and the Gulf of Guinea Commission (GGC) at the Yaounde Summit, on 25th June 2013. This conference offered the opportunity to introduce a code of conduct and a memorandum of understanding to make the waters of the Gulf of Guinea safer and more secure.

The European project GoGIN – Gulf of Guinea Inter-Regional Network – was signed on 14th October 2016 at Lomé, during the African Extraordinary Summit on Maritime Security and Safety and Development in Africa.

GoGIN is a project to support maritime security in the Gulf of Guinée, introduced by *Expertise France*, the French agency for international technical cooperation. It is a follow-up to the CRIMGO project – Critical Maritime Routes in the Gulf of Guinea.

The main aim is to encourage regional cooperation in order to contribute to the improvement of maritime safety and security in the coastal countries of the Gulf of Guinea. *Expertise France* is responsible for the management of the GoGIN project, in permanent coordination with the regional organisations and beneficiary States.

Sources :

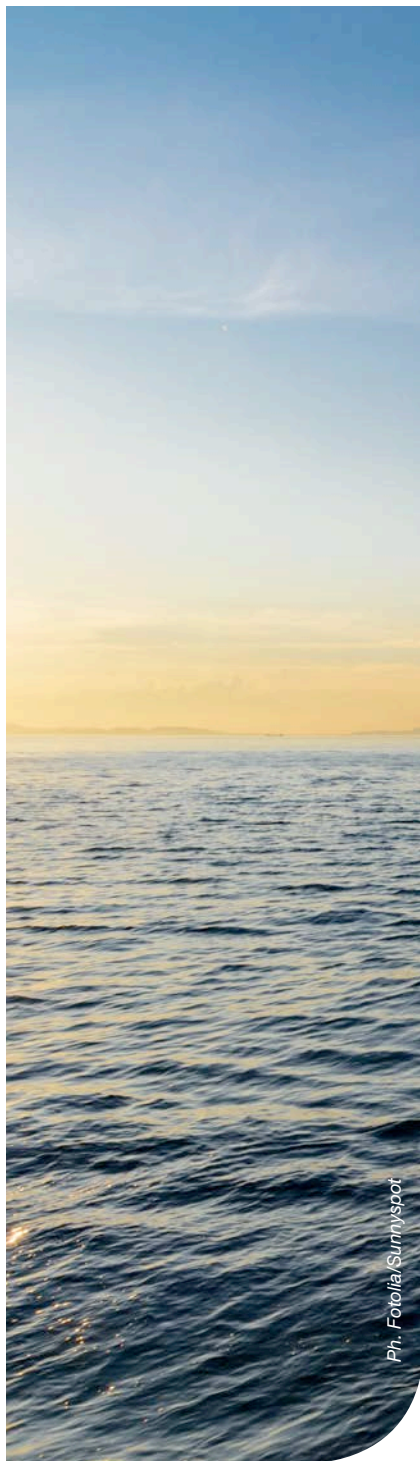
- La piraterie maritime : quels enjeux pour le golfe de Guinée ? By Robert Dussey, Minister of Foreign Affairs, Cooperation and African Integration, Togo.
- Expertisefrance.fr



Source upper map: www.diplomatie.gouv.fr

Source lower map: ministère des Affaires étrangères et du Développement international/Centre de crise et de soutien/ 30 March 2015.

“**The state of the oceans is not desperate, but it is rather depressing.**”



Ph. Fotolia/SunnySpot

>>

Then there is the threat of terrorism, which hangs over maritime activities. This is nothing new: on October 7th 1985, the Achille Lauro, an Italian cruise ship, was hijacked off Alexandria by four terrorists who claimed to be from the Popular Front for the Liberation of Palestine. They took all the passengers hostage and threatened to execute them if 50 Palestinian prisoners were not released. An American hostage in a wheelchair was murdered and thrown overboard. This incident had a big impact at the time ⁽⁵⁾.

Subsequently, no act of terrorism has been recorded on ships, but the threat persists, here as elsewhere.

Today, liners may have as many as 8000 people on board. You can imagine what a terrorist action might do if there were no strategy for prevention and for ensuring the safety of the passengers, and the crew, while awaiting the arrival of rescue forces, whatever the situation of the ship.

➔ THIS PURSUIT OF SAFETY AND SECURITY IS ONE ASPECT OF OCEAN GOVERNANCE. IS IT ALSO THE AIM OF THIS GOVERNANCE TO KEEP THE OCEANS HEALTHY AND PRODUCTIVE?

I would say that these are the other two cornerstones: environmental protection and the economic utilisation of the oceans.

The protection of the environment is today an obvious necessity.

The state of the oceans is not desperate, but it is rather depressing. There is a wide range of threats that weigh on the marine biodiversity. And as if that were not enough, we have discovered the link between the ocean and the climate, and all the influence they have on each other. This might be beneficial, but unfortunately, because of climate change - which we are the cause of - this influence results in a negative impact on the ocean.

It is a rather sombre picture, and today the international community is working as effectively as possible with the scientists to adapt to climate change and to try to combat and attenuate the impact.

The third cornerstone of ocean governance is the ‘blue economy’.

THAT IS TO SAY...

Many people think that the ‘blue economy’ is the maritime economy, that it is ‘blue’ because it has to do with the ocean. And developing States are still in the process of discovering the economic capacity that may be offered by their very long coastlines, their vast EEZs.

(5) After a few colourful episodes, American soldiers managed to capture the Palestinian terrorists, but since they were on Italian territory, they were handed over to the Italian authorities, before being judged in Italy, despite appeals for extradition by the United States. This resulted in a diplomatic crisis, with the risk of armed conflict between the two countries.



Ph. Fotolia/Manok

Every year, a thousand ships are broken up in Bangladesh, India, China and Pakistan.

In reality, the ‘blue economy’ is part of the ‘green economy’, and to get away from this watercolour palette, it should be defined with precision.

There is a terminology that is satisfactory to the member States of the European Union, including France. It involves stating that the ‘blue economy’, which is undertaken in a spirit of sustainable development, is based on three elements:

- that it is a **useful economic activity**, that is, not merely of benefit to a few people, but to all those involved: with an influence on the increase in wages and the distribution of wealth in the zone where this activity is carried out – the coastal zones, for example;

- that it is an **activity based on the protection of the environment**, that is, with the obligation not to cause environmental damage, and if it does, after carrying out impact assessment studies, you must undertake the restoration of the site. And perhaps your business activity will not prove feasible if the impact is too great

- that it is a **socially responsible activity**, that is, it does not involve child labour, or women and men working under unsuitable and inequitable conditions. We all remember the picture of certain shipyards for the demolition of ships in South-East Asia, with particularly hazardous work practices. And in this field too, the world community, on the basis of international law, is working to ensure better governance: thanks to the Hong Kong convention, Indian or Bangladeshi shipyards have had to upgrade their methods in order to be registered on a list of approved sites where European shipowners and States that are signatory to this convention may send their ships for dismantling [see : *Hong Kong Convention for the Safe and Environmentally Sound Recycling of Ships*].

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HONG KONG CONVENTION FOR THE SAFE AND ENVIRONMENTALLY SOUND RECYCLING OF SHIPS

Adopted in 2009, the text of the Convention was the result of work between the member States of the International Maritime Organisation (IMO) and NGOs working for the environment, in cooperation with the International Labour Organisation (ILO) and the States that have ratified the Basle Convention on the Control of Transboundary Wastes and their Disposal.

The Hong Kong Convention deals with all issues relative to the recycling of ships: the presence of hazardous substances such as asbestos, heavy metals, hydrocarbons, products harmful to the ozone layer, and so on. It also concerns working conditions in the demolition shipyards.

In July 2014, France became the third country to ratify this convention, after Congo and Norway. Belgium then Panama joined them in 2016. The Convention will take effect two years after ratification by at least fifteen States representing a minimum of 40% of the world commercial fleet and 3% of the recycling capacity.

Source: *L'Antenne, les transports au quotidien. Convention de Hong Kong (recyclage des navires)*, 23 February 2017, lantenne.com



Ph. Fotolia/Manok



GOVERNANCE OF MARITIME AREAS

TWO APPROACHES

With its 320 articles and 9 annexes, the United Nations Convention on the Law of the Sea establishes a general framework for maritime governance for all the signatory States. It is put into application by the international, national and regional stakeholders.

This key reference text, a 'real constitution for the oceans', is backed up by:

1/ TREATIES DEALING WITH SPECIFIC ACTIVITIES

This is a sector-based approach: maritime transport, fisheries, biodiversity.

As examples, here are a few conventions relating to different sectors:

• BIOLOGICAL DIVERSITY

- Rio de Janeiro Convention (1992) on biological diversity.

• ARCHAEOLOGICAL HERITAGE

- UNESCO Convention (2001) on the Protection of the Underwater Cultural Heritage.



Wreck in the Red Sea.

• FISHERIES

- Agreement on Port State Measures to prevent, deter and eliminate illegal, unreported and unregulated fishing (2016);
- FAO Convention on illegal unreported and unregulated fishing (2009);
- FAO Agreement encouraging compliance by fishing vessels on the high seas with international measures for conservation and management (1993).

• POLLUTION

- Convention of London (1990) on pollution by hydrocarbons;
- International Convention on the Prevention of Pollution by Ships, or MARPOL convention (Marine Pollution). In force from 1983;
- Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter (1972).

• SAFETY AT SEA

- International Convention for the Safety of Life at Sea, or SOLAS (1914). The version currently in force includes numerous amendments and updates.

• MARITIME TERRORISM, TRANSNATIONAL CRIMINALITY

- United Nations Convention against Transnational Organized Crime, or Palermo Convention (2000), and its Protocol III against the illegal trafficking of migrants by land, sea and air (2004);
- The Rome Convention (1988) for the Suppression of Unlawful Acts against the Safety of Maritime Navigation.

In this context of sector-based conventions, major international organisations are involved, such as the International Maritime Organisation (IMO) and the Food and Agriculture Organisation (FAO).

2/ REGION-FOCUSED CONVENTIONS

This is the regional approach.

For example, the United Nations Environment Programme (today, UN Environment) introduced a Regional Seas Programme in 1974. There are conventions for fourteen of these seas, and the coastal States are committed to common priorities for the management and preservation of the marine environment.

France is party to: the Barcelona Convention for the Protection of the Mediterranean (1976); the Convention for the Conservation of Antarctic Marine Living Resources, Canberra (1980); the Convention for the Protection and Development of the Marine Environment in the Caribbean region, or Cartagena Convention (1983); the Nairobi Convention for the Protection, Management and Development of the Marine and Coastal Environment of the East African Region, or Nairobi Convention (1985); the Convention for the Protection of Natural Resources and Environment of the South Pacific Region, or Noumea Convention (1986); the Convention for the Protection of the Marine Environment of the North-East Atlantic, or OSPAR Convention (1998).

Sources: website of the Agence française pour la biodiversité, aires-marines.fr. L'évolution du droit de la mer contemporain, speech by Prof. Jean-Paul Pancraccio, at the conference: « Les enjeux maritimes du monde et de la France », 2017.

Global approach

United National Convention on the Law of the Sea (UNCLOS)

Sector-based conventions
(fisheries, biodiversity, maritime transport...)

Regional approach

Regional conventions
(regional maritime conventions, action plans, regional fisheries agreements)

Source: Iddri

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➔ **AMBASSADOR, ARE THERE ANY PARTICULAR WEAK POINTS OR ANY POINTS WHERE THERE IS ROOM FOR IMPROVEMENT WITH REGARD TO THE CURRENT GOVERNANCE OF THE OCEANS?**

That's rather a tricky question for someone like me who is a servant of a State which is very well behaved. But we must admit that in the international community, all the States do not have the same attitude with regard to the oceans and to ocean governance, that is to a system of rules that they do not respect and which they flout.

The first weak point in the current governance of the oceans is then the non-compliance with the rules that the States impose on themselves: for example, illegal, unreported, unregulated fishing (IUU) is the work today of companies that in certain countries are well-established and operate in full sight and with the full knowledge of the States of which they fly the flag. It's clear that some of them are not playing the game.

The second weak point – perhaps more easily detected than the first - is that ocean governance must be seen as a notion in progress, that is we have to adjust our rules according to two things:

- **to technical progress.** Mankind is capable of working, virtually settling, further and further out to sea and down to the depths of the oceans. This is something that must be taken into account when making the rules to avoid a “first come, first served” situation, where anything goes. This is really important because over the past twenty years, technical progress has taken a great leap forward as regards our capacity for action in the oceans. Today, companies tell you, for example: “*Tomorrow, if the legislation allows it, I can install a floating platform out on the high seas, I can transform it into an artificial island so big liners can stop there and land their tourists there for a day or two; I can transform it into a port hub to distribute containers to various maritime islands; I can also do fish farming there in waters that are reputed to be cleaner than the coastal waters...*”. The law has to adapt and the diplomats have to negotiate to bring in the necessary amendments to the legislation in force;

- **to advances in knowledge.** When I was younger, I remember that when scientists talked about the deep sea, what they said, more or less, was: there is too much pressure, it's pitch dark, it's far too cold, we won't find anything there. Today, you have to recognise that they are the first to admit their misunderstandings and their errors, since they insist very clearly that the depths are pulsing with forms of life that we don't even know about.

In the processes of international negotiations, we talk a lot about marine genetic resources, for example ⁽⁶⁾.

“*If we don't want to be left behind, we diplomats and lawyers will just have to keep up.*”

The scientific discoveries in this field have been absolutely amazing, progress has been very, very rapid. So we don't want knowledge to slow down, of course, but if we don't want to be left behind, we diplomats and lawyers will just have to keep up. And sometimes that's not at all easy.

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(6) A study by the Consejo Superior de Investigaciones Científicas (CSIC) and the Institut Français de Recherche pour l'Exploitation de la Mer (IFREMER) stresses the urgency of implementing an international legal framework for the protection of the biodiversity of the high seas and the utilisation of marine genetic resources. Today, more than 18 000 products of natural origin and almost 5000 patents associated with genes of marine origin have been inventoried. Half of the patents target biomedical applications, the others sectors are in particular agriculture and aquaculture (26%), and the cosmetics industry (7%). An increasing number of applications concern the fields of ecotoxicology bioremediation and the production of biofuels.

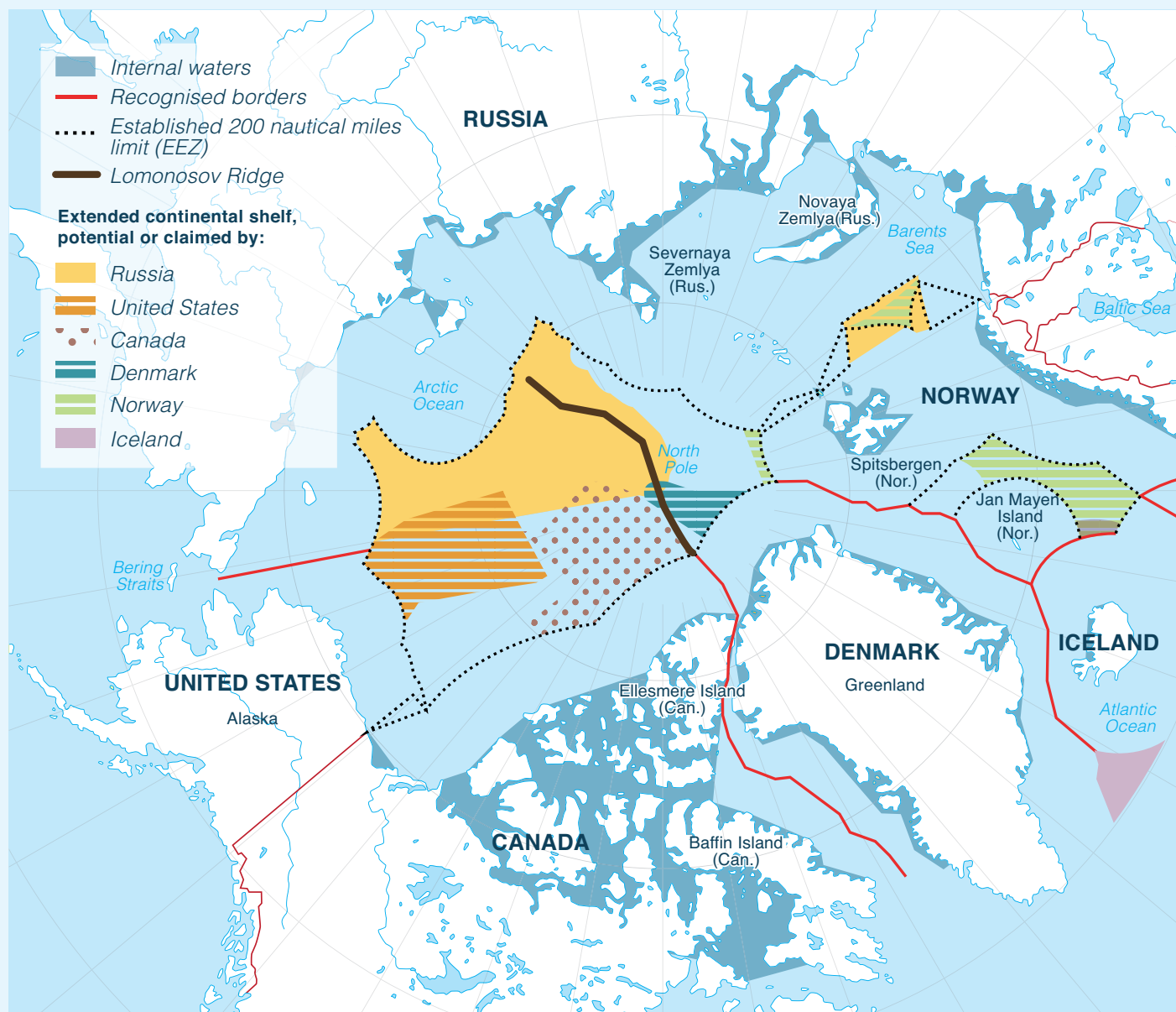
Source: Les ressources génétiques marines : un potentiel exceptionnel à protéger !, Press release, CSI and IFREMER, 2010.



Ph. Shutterstock/Rusla Ruseyn

THE NORTH POLE

MAJOR POLITICAL AND ECONOMIC ISSUES



Sources : Department of Geography, Université de Laval, Québec/CERI and Atelier de cartographie de Sciences Po, 2010.

CLAIMS FOR EXTENSIONS TO THE CONTINENTAL SHELF

The melting of the sea ice has raised the political and economic stakes for the North Pole, hitherto virtually inaccessible, at least for most of the year.

Coastal States have staked their claim to extensions of their continental shelf on the basis of a very specific science-based procedure:

- Denmark considers that the Lomonosov Ridge, a submarine mountain range (see map), is an extension of Greenland;
- Norway has applied for an extension in three sectors of the North-Eastern Atlantic and in the Arctic;
- Russia has claimed an extension of its continental shelf as far as

the North Pole. It considers that the Lomonosov and Mendeleïev Ridges are natural extensions of its national territory;

- the United States wishes to possess a coastal zone extending over 600 miles (965 kilometers) off the Alaskan coast;
- Canada claims more specifically the North-West Passage (12), which it considers as part of its internal waters. For the United States, and, to a lesser degree, the European Union, this is an international strait with the right of free navigation of ships.

To date, all the Arctic States have complied with the international rules.

“Climate warming is today the major event which will cause an upheaval in the Arctic, both because of the new accessibility and through the revolution in its biodiversity.”

Erik Orsenna, “Vive l’Océan !”, 2017



Source: Lasserre, Frédéric. « Les détroits arctiques canadiens et russes. Souveraineté et développement de nouvelles routes maritimes », *Cahier de géographie du Québec*, vol. 48, n°135, 2004, pp.397- 425.

THE SHORTEST ROUTE BETWEEN EUROPE AND ASIA

During the short Arctic summer, ships can follow two new polar maritime routes:

- The North-East Passage (blue dashes on the map) passes the North Cape (Norway), then follows the northern coasts of Siberia, to end up in the Bering Strait. This is the shortest route between Europe and Asia. It can save a lot of time: for example, 35 days instead of 48 days to reach Dalian (China) from Rotterdam (Netherlands), compared to the route through the Suez Canal. In 2012 and 2013, only 25 international ships and 46 Russian ships took this route because of the prohibitive cost of navigation in Russian waters and the permanent danger of drifting icebergs and storms.

- The North-West Passage (dotted lines on the map) follows the Canadian coast past the Arctic islands of the far north, then the Beaufort and Chukchi seas.

Source: Des autoroutes maritimes polaires ? Analyse des stratégies des transporteurs maritimes dans l'Arctique, by Frédéric Lasserre, *Cybergeo European journals of geography*, 2011.

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➔ SO GOVERNANCE WILL HAVE TO ADAPT TO THE NEW DEAL. WITH THE MASSIVE MELTING OF THE POLAR ICECAP, IS THIS NOT THE CASE FOR THE ARCTIC WITH NEW PERSPECTIVES FOR ECONOMIC EXPLOITATION?

Yes, that's true. And it's the specific problem of the Arctic, with the opening up of new shipping routes and new fishing zones, perhaps.

Let's look at this sector, which isn't talked about much, to show you that the international community is not entirely sitting there watching the train go by.

In the Arctic, there is - not really an organisation, more a kind of club of coastal States, which is called the Arctic Council ⁽⁷⁾.

France is one of the States referred to as 'observers'. And for years - with Michel Rocard ⁽⁸⁾, for instance - we've been saying: we have to adapt the governance of the Arctic to changes in the climate and the impact on this ocean.

New maritime routes have been opened up to shipping on a seasonal basis, various economic interests have appeared in matters of the exploitation of resources - including fisheries -, sharpening appetites of all kinds.

And the idea of negotiating with the user States of the Arctic a no-fishing agreement: very difficult to implement because these countries have a vision of a regional sea, rather like ours. They don't like it when other States come and look at their affairs, just as we don't much like it when, under the Barcelona Convention, the Americans come and tell us what to do to manage the Mediterranean.

The negotiations have just finished, and the international agreement on the banning of commercial fishing in the high seas zones of the Arctic will come into force in the coming months ⁽⁹⁾. This is marvellous, because the signatories are saying: *"Climate change and the warming of the oceans mean that we will see migrations of fish to the north. But our scientific knowledge is very limited on this subject. So, on the basis of a moratorium, we will ban fishing in this region of the Arctic ⁽¹⁰⁾, until we have specific data on this climate change, and specifically on the ecosystems of these waters. For that, we will finance a scientific research project. And, depending on the results, we will decide whether or not to set up a regional fisheries organisation in the Arctic"*.

This is something like playing safe, but applied in an intelligent and highly commendable way.

➔ LET US GO BACK TO THE QUESTION OF NAVIGATION IN THE ARCTIC. HOW IS CLIMATE CHANGE TAKEN INTO ACCOUNT?

We realised that if climate change continues with a tendency towards warming, the Arctic will remain for decades to come a very dangerous zone for navigation.

When the sea ice is compact, an icebreaker can break it up to open up shipping lanes that are navigable.

There is a problem when the ice is already broken up: no icebergs, but large cubes of ice on the surface of the sea, which are difficult to detect from the bridge of a ship. That means you have to reduce speed. But container carriers have to go fast. Their schedule is very tight with regard to delivery stops, and any delay would cause serious disruption ⁽¹¹⁾. So it is difficult to imagine opening up regular routes for container transport under the rather haphazard, and furthermore, costly ⁽¹²⁾ navigation conditions of the Arctic.

On the other hand, we see the development of the exportation of raw materials – mainly by the Russians – with a very sophisticated fleet of methane tanker icebreakers.

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(7) The Arctic Council includes eight coastal States of the Arctic and circumpolar regions: Canada, Denmark, United States, Finland, Iceland, Norway, Russia and Sweden; six organisations representing the indigenous peoples (Inuits, Aleuts, etc); twelve States referred to as 'observers', which may attend the debates but do not have the right to vote, and twenty international organisations, also 'observers'.

(8) Nominated in 2009 as French ambassador responsible for negotiations relative to the North and South Poles.

(9) After years of discussion, this Agreement was concluded, on November 30th 2017 in Washington, by the Arctic coastal countries – Canada, Denmark, Norway, Russia, United States –, the major fishing nations such as China, Iceland, Japan, South Korea and the European Union, which has authority for fisheries for the 28 member States. The Agreement will be automatically renewed in 2033, then every 5 years, until the eventual implementation of a management plan for fisheries in the region.

(10) This commercial no-catch zone in international waters is the size of the Mediterranean Sea, with a surface area of about 2.5 million m².

(11) The container transport sector is structured on the basis of the 'just-in-time' constraint, that is, delivery should be made according to a strict schedule (Ed.).

(12) Given the extensive logistical infrastructure that is required - icebreakers, reconnaissance planes, meteorological stations, added to the cost of ships with reinforced hulls - the traffic by the North-West Passage is very sparse. So the Arctic passages will never match Panama (13 000 transits a year) or Suez (21 000).

Source: Des autoroutes maritimes polaires ? Analyse des stratégies des transporteurs maritimes dans l'Arctique, by Frédéric Lasserre, Cybergeo European journals of geography, 2011.



Ph. Fotolia/robertharding

Lemaire Channel in the Antarctic peninsula.



Ph. JVN/Estimote Debebe

Jökulsárlón, a large glacial lake in south-east Iceland, at the edge of the Vatnajökull National Park. The waters are dotted with icebergs from the nearby Breiðamerkurjökull glacier

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For France, the company Ponant is interested in the zones that are inaccessible to other ships because they are too large. It has opted for a niche of original luxury cruises, which seems to have been a success since it has ordered several human-scale ships. It has also just announced the construction of the world's first icebreaker liner ⁽¹³⁾. This means that this ship will be going to places where the mapping, the navigation markers and even the lights and beacons system are poorly known.

Navigation is under the responsibility of the coastal States: we have to talk to the Russians, the Canadians, and the Canadians say: *"We don't agree about the legal status of the North-West Passage. But we can put this issue on hold, and you can navigate under our surveillance"*. Nevertheless, from the safety point of view, the Canadians invest vast sums to make this passage completely safe for navigation, and it is more and more frequented by shipping ⁽¹⁴⁾.

It was also realised that a ship like Ponant's offers cruises costing several thousand euros. That means that on the whole, the average age of the passengers is 70 years old.

You don't go to the rescue of a ship which is carrying cruise passengers in that age range in the Arctic or the Antarctic in the same way as you would a ship in the Mediterranean with 3000 people on board.

All these factors are taken into account by the International Maritime Organisation during meetings of the States Parties, within the frame of the Antarctic Treaty. This example shows how active the international community is.

(13) Flying the French flag, the icebreaker Ponant will be in service in 2021. This hybrid electric luxury cruise ship (150 m in length), driven by liquified natural gas (LNG), will cruise in the Arctic and Antarctic regions.

(14) The increase in the maritime traffic in the polar regions has made a new international legal framework necessary. This will add to or update the dispositions already applicable under the existing conventions SOLAS and MARPOL. The Polar Code, the common name for the International Code of Safety for Ships Operating in Polar Waters, introduced by the International Maritime Organisation in order to "improve the safety and security of the operation of ships and to attenuate its impact on people and on the environment in polar waters, which are remote, vulnerable and may be inhospitable". It came into force on January 1st 2017.

Source : omi.delegfrance.org



The cruise tourism at Magdalena (Chile) applies the Polar Code and its rules which helps to reduce the impact of ships on the environment ⁽¹⁴⁾. Situated in the Straits of Magellan, this island is home to 60 000 penguin, *Spensicus magellanicus*, that come here to breed, from November to March. A pathway for visitors has been marked out to preserve the territory of these flightless sea birds.

2/ Recommendations for a new system of governance... the stakeholders

➔ **AMBASSADOR, WHAT ARE YOUR RECOMMENDATIONS FOR A NEW OCEAN GOVERNANCE? SHOULD THE EXISTING FRAMEWORK BE ADAPTED TO MAKE IT MORE SUSTAINABLE AND MORE EFFECTIVE?**

The existing framework should be updated in two ways:

- to ensure that the agreements in force are respected by the States.

To prevent illegal fishing ⁽¹⁵⁾, I am thinking in particular of the Port State Measures Agreement (PSMA), which came into force in 2016.

If you don't succeed in catching the rogue ships which fish whatever and however they like, it is possible to trap them by banning or preventing them from selling their catch. And for that, you need the collaboration of the State where they will berth to unload their catch.

If they are operating at sea - which is more and more often the case - you can, by means of the satellites and technical systems the international community now has at its disposal, track a ship which has for example, illegally loaded tuna, and accost it when it arrives in a port.

- to make good what today appear as oversights in the Montego Bay Convention.

If you read Part XII, which deals with pollution in the marine environment, you will see that it was very much marked by the shipwrecks of the *Torrey Canyon* or the *Amoco Cadiz*, for example. There is a lot of reference to oil pollution, which was understandable at that time.

But there is little mention of chemical pollution, and none at all of plastics pollution. On the other hand, the link between the atmosphere and the ocean was already envisaged.

This is quite interesting, and the current text of the Convention therefore needs to be updated.

➔ **WITH REGARD TO WHAT IS LACKING IN THE LEGISLATION, THE HIGH SEAS ARE TODAY EXPOSED TO VARIOUS FORMS OF COVERTNESS, APPARENTLY WITHOUT ANY PARTICULAR PROTECTION. YOU HAVE TAKEN PART IN THE PREPARATORY NEGOTIATIONS FOR A FUTURE TREATY ON THE HIGH SEAS. CAN YOU TELL US SOMETHING ABOUT THAT?**

It is a process that started off at the reflection stage about ten years ago ⁽¹⁶⁾, and which will become a real negotiation for the international community at the UN in New York from September 4th to 17th, 2018.

This is what is known as BBNJ – *Biodiversity Beyond National Jurisdiction* –, that is, the implementation of an international agreement on the conservation and sustainable utilisation of the biodiversity situated beyond the maritime zones under national jurisdiction, mainly in the high seas area.

This is interesting because we are talking about the conservation and the sustainable utilisation of the ocean. The balance between the two is very important, and it is the key issue of the upcoming negotiation.

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“***It is interesting, because we are talking about conservation and the sustainable use of the ocean.***”

(15) Every year, illegal, undeclared and unregulated fishing (IUU) represents 26 million tonnes of catches. This business, estimated to be worth more than 23 billion dollars, compromises efforts to ensure sustainable fishing and the responsible management of fish stocks worldwide.
Source : FAO, 2017.

(16) At the Rio+20 Summit in 2012, the States undertook to draw up for the high seas an international treaty to preserve its biodiversity (Ed.).

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The agreement will be ready within a few years. It will be a key element in the international governance of the oceans, because it will provide a legal regime for the high seas to complete the text of the Montego Bay Convention on the Law of the Sea.

Now we will have to think how the international community will put this new legal regime into application. Are we going to create a new international organisation for the governance of the oceans, or rather decide to opt - as is already the case for the climate - for a COP for the high seas ?

The States Parties could meet every two years to take decisions and progress gradually regarding this issue.

France would be inclined to favour of the latter solution - less costly and easier to implement -, but which would considerably upset the current system of international ocean governance.

➔ SO IS IT TO BE NEW GOVERNANCE OR UPDATED GOVERNANCE?

New governance would mean wiping the slate clean, which would not be a good idea. An updated system of governance, yes, because concepts and ideas will emerge.

For example, in 1982, when the Montego Bay Convention was signed, we did not talk about the principle of the 'blue economy'.

Today, this is a key notion. When we talk about the sustainable utilisation of the high seas - that is, fisheries, exploitation of

marine genetic resources, and so on - everyone must have this principle in mind.

The new marine genetic resources are a good example to show what we want to avoid and to create. Today, scientists are working a great deal on these riches, and companies already exploit them economically for food, for medical drugs, or for other products.

How does that work ? Imagine that I am from a developed State, that I own a company and that I can charter a ship. I go either to the EEZ of the State of which I have the nationality, or to other EEZs where I have obtained the authorisation to operate. Otherwise, I go out to the high seas and no one will ask me for anything.

I collect samples of the biodiversity - algae, plankton, fishes, molluscs - and I take them back to the laboratory.

There, I extract genetic resources, for example a particular molecule which I will patent for use in an industrial process which will enable me to make a new kind of face cream, a new yoghurt. The profits will be mine alone.

Today, we live in an international society, the world has as it were become smaller because of technical progress in transportation, communication, and each person's perception. States cannot any longer behave towards each other on the principle of 'first come first served'. A minimum of solidarity is necessary, and that should be reflected in the new ocean governance, and be one of its principles.

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DNA analysis.



HIGH SEAS AND THE AREA A NEW ELDORADO?

The Areas Beyond National Jurisdiction (ABNJ) designate two maritime areas, with different legal status:

- the high seas (water column) are governed by the principle of freedom of navigation, overflight and scientific research;
- the Area consists of the seabed situated beyond the continental shelf. Its mineral resources constitute a 'common heritage of Mankind.

The high seas are home to pelagic fishes such as tuna and related species and certain species of shark, and deep sea species: grenadier, blue ling, black scabbard fish.

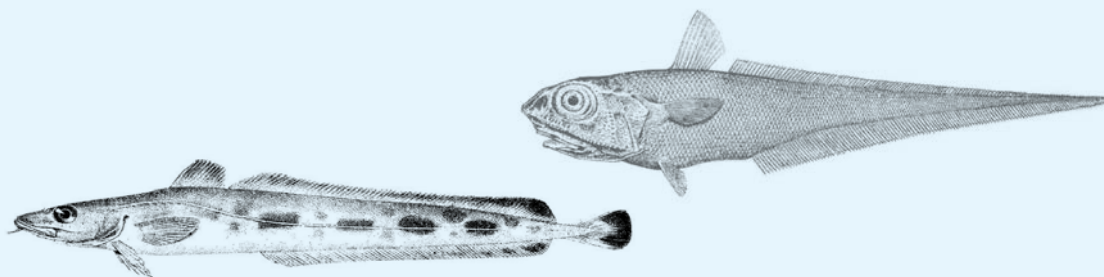
In certain regions, mineral resources are present in the soil and subsoil, in particular the polymetallic nodules - aggregates of different ores discovered in the 1970s, - and cobalt-rich crusts which contain a range of metals: cobalt, iron, manganese, and so on. The richest deposits are located in Polynesia, and specifically in the French EEZs.

Finally, particular ecosystems - seamounts, hydrothermal springs, cold water coral - possess genetic resources which are attracting increasing interest.

Source: "Gouvernance de la haute mer : tout comprendre des prochaines négociations en 10 points", by Julien Rochette, Glen Wright, Billet de blog, Iddri, 2017.



Holothuria (sea cucumber) on a bed of polymetallic nodules in the central North Pacific (photo taken by the submarine Nautile, from the Institut Français pour la Recherche et l'Exploitation de la Mer (IFREMER), at a depth of 5500m, during the Nodinaut-2004 survey.



*Fishes of the deep sea: the blue ling, *Molva dypterygia*, and the grey grenadier, *Macrourus berglax*.*

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➔ WILL THIS NEW GOVERNANCE GO BEYOND THE DEPLOYMENT OF LEGAL TOOLS ? WHO ARE THE STAKEHOLDERS?

This new governance is based on a new legal structure, which completes the earlier one, but it would not be very rational if it were not tailored to the modern multipolar world.

There is room for all the States, not only the coastal States, incidentally. The States without coasts will also be able to take part in the construction of this system of governance, and above all, there will be new non-State stakeholders. This is a very important change.

The non-governmental organisations (NGO), which were already closely associated with the negotiation of the Montego

Bay Convention, are today working with us. Accredited NGOs have access to the room at the United Nations General Assembly where the States negotiate the treaties. They are sometimes even included in the French official delegation, and that's a very good thing.

There is ongoing dialogue. For France and for the European Union, in any case, it is very wide-ranging.

Certain NGOs even have the capacity to draft texts because they are focused on certain subjects, better than we could be ourselves. Often, their proposals are adopted subsequently in the negotiation.

Most NGOs are important partners. [see: *NGOs, a Role in Governance*]. And the actual system of non-governmental organisations has proved its worth and today concerns a much broader field than just the sector working for the protection of the environment. It is interesting to see this development.



NGOs A ROLE IN GOVERNANCE

The role of the international NGOs in ocean governance has become a key one. And these whistle-blowers continue to fight tooth and nail in the courts when the situation demands it.

For example, in 2018, the organisation **BLOOM** won a striking victory by achieving a total ban on electric pulse fishing, voted by the European parliament. In 2016, **BLOOM** was also behind the total ban on deep water trawling below 800 metres within a 930 000 km² zone in the North-East Atlantic.

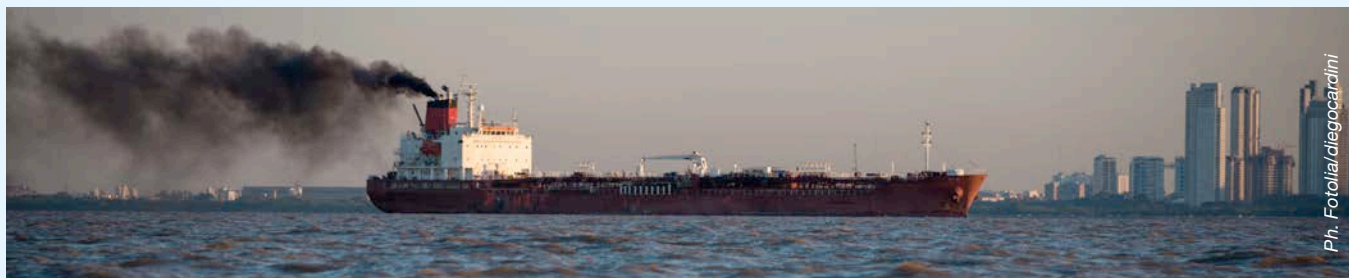
Claire Nouvian, the founder of **BLOOM**, this year won the prestigious Goldman Prize, considered as the highest international distinction in the field of the environment. It was recognition of the whole of her work to protect the marine biodiversity while preserving sustainable employment in fishing and aquaculture. The idea is not to ban everything, but to arrive at a consensus.

A new form of environmental lobbying is making its appearance today: the idea is to develop a dialogue, to provide the tools for

better knowledge as a basis for taking decisions. It's a 'win - win' approach.

Another example: **Surfrider Foundation Europe** is campaigning for the creation of a label for maritime transport, which would enable the consumer to buy products that have covered the whole journey with the optimum respect for the environment. "By highlighting good practices," explains Antidia Citores, lobbying and legal coordinator of the environment department, in charge of the maritime transport and infrastructure programme, "we must valorize what has been achieved, even if there is still a lot to be done". The idea is to create a 'transport quality' label related to the environment, with a common core of commitments, a kind of moral code, which will go beyond the existing legislation.

Scientific knowledge and making information available to the deciders and the legislators, as the *Ocean and Climate Platform* has done from the outset, today play a major role in the message delivered by the international NGOs.



Industry is also a stakeholder in the new governance of the oceans, and is becoming increasingly influential. On the other hand, I have noted that French companies show a certain reluctance in their approach to maritime issues.

I have the impression that many of them, in particular the major corporations – the SMEs seem to be more in phase with the reality of new ideas about the oceans – tend to consider that the issues dealt with will take decades to resolve – it's not true!

And that finally, issues such as that of the governance of the high seas do not concern them directly, since for most of them, their main business is situated on the French continental shelf or in the Exclusive Economic Zone.

I think that this vision of the future is misguided, since the scientists have shown us that there are things to discover every day - and that will be of economic interest, - perhaps in the high seas area, and not within the EEZ.

If the legal regime that we have constructed for the economic activities - once again, for the 'blue economy' in the high seas area - is not considered satisfactory by the companies, they have only themselves to blame, as when the time came, they did not provide enough information for the national delegations.



Because of its extensive coastline, Colombia has high potential for the exploitation of living resources (fishing and aquaculture). The country has the support of major international bodies such as the United Nations Development Programme (UNDP) and the FAO. Here, examination of specimens of shrimp.

“ ***The scientists are really the base upon which a new system of governance can be constructed.*** ”

➔ **WHAT IS THE ROLE OF THE SCIENTISTS IN THE NEW SYSTEM OF GOVERNANCE?**

The scientists are new stakeholders, they are really the base upon which a new system of governance can be constructed.

Their role is an essential one, of providing knowledge, and beyond that, of proposing solutions. But they cannot have the sole power of decision. The users of the ocean, the fishers, the navigators, must also have the right to take part in the debate. There is a balance to be sought and established, and that is not easy.

I would also say that if the opinion of the scientists is important, it would be a good thing if from time to time it were individual. These people - by nature rather discrete, often too modest - are not in the habit of expressing a personal opinion, their own ideas, but only the results of their research.

This is a pity, since from discussions with those scientists who are more used to communicating, I derive a lot of information, knowledge and ideas.

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3/ France's role

➔ AMBASSADOR, CAN FRANCE PLAY A MAJOR ROLE IN THE NEW OCEAN GOVERNANCE?

First of all, we have to start with an important principle, even if we are not necessarily aware of it: taking into account our science, our industry, our Exclusive Economic Zones, the French navy, which operates very effectively in all the oceans of the world, we have every reason to be considered as a major maritime State.

Furthermore, our country is a permanent member of the United Nations Security Council ⁽¹⁷⁾, which is not insignificant, as it obliges us to have detailed knowledge of all the issues of international current affairs, for example North Korea and the naval embargo, piracy, and so on. Whence the necessity of really being among the States that are drivers of change in the governance of the oceans. When France puts forward a position on maritime issues, in Brussels, I can assure you that we are really considered as an important nation.

We have a great advantage with our Overseas territories ⁽¹⁸⁾, because this gives us an experience of four of the world's oceans: the Atlantic, the Pacific, the Indian Ocean and the Austral Ocean, not to mention the Mediterranean. Our Overseas regions enable scientists to work, for example, in New Caledonia, in the Coral Sea Natural Park; in French Polynesia, on the management of Marine Protected Areas.

Experiences develop and prove useful. We should reproduce them at international level to offer examples to follow, and ideas derived from them should be integrated in a future treaty. France thus has really a role to play in the new governance of the oceans.

➔ WHAT WAS THE MAIN ITEM ON YOUR AGENDA IN 2017, AND WHAT IS YOUR MAJOR ENGAGEMENT IN 2018?

One is mainly legal, the other more political.

A United Nations Conference on the Oceans was held from June 5th to 9th 2017 at the UN. It was to support Sustainable Development Goal n° 14 concerning the oceans ⁽¹⁹⁾.

This conference was on the whole positive for France, since we appeared as a leader State in matters of the link between ocean and climate, because of the declarations that we made and because of the support that, thanks to the French delegation, the 2015 Paris Agreement was able to obtain ⁽²⁰⁾.

This process, with an 'Appeal for Action for the Oceans' for 2020-2030, dialogues within partnerships, enables people, different sectors, to work together, and encourages States to make a political commitment.



On June 8th 2017, a special event to celebrate World Oceans Day in the hall of the United Nations General Assembly in New York. It was held in parallel with the United Nations Conference on the oceans to support the implementation of Sustainable Development Goal n° 14, held at the UN headquarters (5th - 9th June 2017). The governments of Fiji and Sweden hosted the conference.

Every year, in July, the States are required to deliver a progress report to the United Nations on the implementation of each of the targets among their Sustainable Development Goals. They must report on the measures they have undertaken, the results achieved, and so on.

These are regular international engagements.

Another engagement, more to do with legislation, that we have already referred to, is the negotiation for a new agreement for the protection and sustainable utilisation of the biodiversity in areas beyond national jurisdiction (BBNJ).

The conference will start in New York in September 2018.

The wish of the Quai d'Orsay with regard to this international negotiation is that the views expressed by France should be original, in the good sense of the term, that is, we will make proposals for structures, texts, concepts.

➔ SO TO CONSTRUCT A NEW GOVERNANCE OF THE OCEANS THAT WILL BE MORE EFFECTIVE AND MORE SUSTAINABLE, THAT IS NOT UTOPIAN?

No, certainly not ! A propos, “It’s wonderful as it is”, Michel Rocard told me when I explained the BBNJ process, two years ago. He went on: “But Serge, are you trying to explain to me that the whole of the international community has agreed to sit down around a table to discuss the status of the high seas ?”

“Yes, Prime Minister, when all’s said and done, that’s about it”, I answered.

He was right, because as with the Paris Agreement on climate, a major diplomatic effort was deployed by France. But if there had not been the will at international level to get things moving, we would never have managed it, despite the effectiveness of our diplomatic service.

So we must be optimistic and recognise that from time to time, mankind, in the noblest sense of the term, and through mankind, the international community, is capable at the United Nations or elsewhere, of realising that something really must be done. This is the case for the oceans. ■

Interview by Christian Frasson-Botton
January 2018

(17) The UN Security Council is composed of 15 members, five of them permanent: China, United States of America, Russian Federation, United Kingdom and France. Its main responsibility is the maintenance of peace and international security. It can meet at any time in an emergency.
Source : www.un.org

(18) Overseas France includes 12 Départements and Collectivités: Guadeloupe, Guyane, Martinique, Réunion, Mayotte, Nouvelle-Calédonie, Polynésie Française, Saint-Barthélemy, Saint-Martin, Saint-Pierre-et-Miquelon, Terres Australes et Antarctiques Françaises, îles de Wallis-et-Futuna.
Source : Ministère des Outre-mer.

(19) SDG 14 is one of the 17 Sustainable Development Goals, and itself includes 17 Targets: Marine Protected Areas, prevention of illegal fishing, etc. It was on September 25th 2015 that 193 United Nations Member States undertook the commitment to achieve “17 Goals to transform our world” during the next 15 years: putting an end to extreme poverty, fighting against inequality and injustice, while resolving the problem of climate change.

(20) “This conference will mark the birth of a community of the oceans, as COP21 did for the climate”, declared Serge Ségura in *Le Monde*, July 11th 2017, in an article entitled: High Seas “We do not want to transform the oceans into aquariums” (Ed.).



Ph. Fotolia/wildestanimal

The humpback whale is a species of baleen whale. Found in all the world's oceans, it generally reaches lengths of 13 to 14 metres, with an average weight of 25 tonnes.







Ph. Shutterstock/Dudarev Mikhail

INTERVIEW WITH JULIEN ROCHETTE

Director of the Ocean Programme at the Institut du Développement Durable et des Relations Internationales (Iddri - Institute of Sustainable Development and International Relations)



“To enlighten public decision-making,
high-lighting environmental priorities.”

CAREER

JULIEN ROCHETTE

“I have always been immersed in a marine atmosphere”, Julien Rochette confided, almost as a profession of faith.

“I grew up in a small town on the west coast of France; my grandparents worked at the Chantiers de l’Atlantique shipyards, at Saint-Nazaire; and then I was twenty when the Erika ran aground off the coast of Brittany.”

That shipwreck and the black tide that resulted persuaded Julien Rochette to seek a profession related to the protection of the marine environment: *“I turned to marine environmental law, which is taught at the Centre de Droit Maritime et Océanique (maritime and ocean law centre) at the University of Nantes law faculty, where I did a PhD in public law”.*

The young legal expert also took a degree in international public law from the University of Milan, before joining the *Institut du Développement Durable et des Relations Internationales (Iddri - Institute of Sustainable Development and International Relations)* in Paris in 2007.

Today, as Director of the Ocean Programme, he provides legal and technical assistance to international, regional and national

organisations, in particular in the fields of the law of the sea, international marine environmental law, ocean governance and the integrated management of coastal areas.

Julien Rochette is a member of several French and international expert groups: the Scientific Committee of the *Liteau Programme*, the *Comité Spécialisé pour la Recherche Marine, Maritime et Côtière (COMER - marine, maritime and coastal research committee)*, the Sustainable Development Solutions Network (SDSN). He works at several higher education and research establishments: *Sciences Po Paris (Institut d’Etudes Politiques de Paris - School of Political Sciences)*, the universities of Paris-V, La Rochelle and Nantes.



Ph. G. Wright

Side event organised by Iddri during the UN discussions on the high seas (2016).

➔ JULIEN ROCHETTE, YOU ARE DIRECTOR OF THE OCEAN PROGRAMME AT THE INSTITUTE OF SUSTAINABLE DEVELOPMENT AND INTERNATIONAL RELATIONS (Iddri). IN WHAT DOES YOUR MISSION CONSIST?

The general mission of Iddri is to enlighten public decision-making, highlighting environmental priorities. This means - notably for our Ocean team - providing support for the decision-makers, the States first of all, but also the private sector and the various stakeholders, in the development of strategies, laws, ambitious measures for the protection of the marine environment.

In practical terms, we identify options, we publish studies, we bring together the stakeholders involved in ocean governance, we organize discussions, we initiate and reframe the debates, while encouraging exchanges of experiences between different States, different regions. All this represents an important part of our work.

Iddri also has the role of identifying what we might call the weak signals, that is to say the emerging issues, which have not yet been integrated into the international political agenda. The aim is then to deploy strategies to bring them to the forefront at the heart of international priorities.

For example, we were working on the question of the governance of the high seas at a time when discussions on the subject were really restricted to a small circle.

Finally, to enlighten public decision-making, highlighting environmental priorities, necessitates having recourse to science, and so part of our action involves the field of research.

➔ YOU WORK BOTH AT INTERNATIONAL LEVEL AND WITHIN REGIONAL ORGANISATIONS, IN PARTICULAR IN THE MEDITERRANEAN, IN THE PACIFIC, IN THE WESTERN INDIAN OCEAN AND IN WEST AFRICA.

Yes, we work in effect at two scales: the international scale, so within UN organisations, where we try to provide support for negotiations or the major political agendas regarding the oceans.

To come back to the high seas, we have for several years been working to ensure the opening of negotiations for an international agreement, and this year, we will continue to provide the negotiators with guidelines to achieve a draft agreement which will be ambitious in scope.

We are also involved in the processes related to the Sustainable Development Goals (SDG), in particular SDG 14 dedicated to the oceans.

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School of blue and white dolphin in the Azores archipelago (Atlantic).



Offshore rig for the extraction of oil and gas.



Ph. UN/Evan Scheiner

Port of Doraleh, extension of the port of Djibouti.



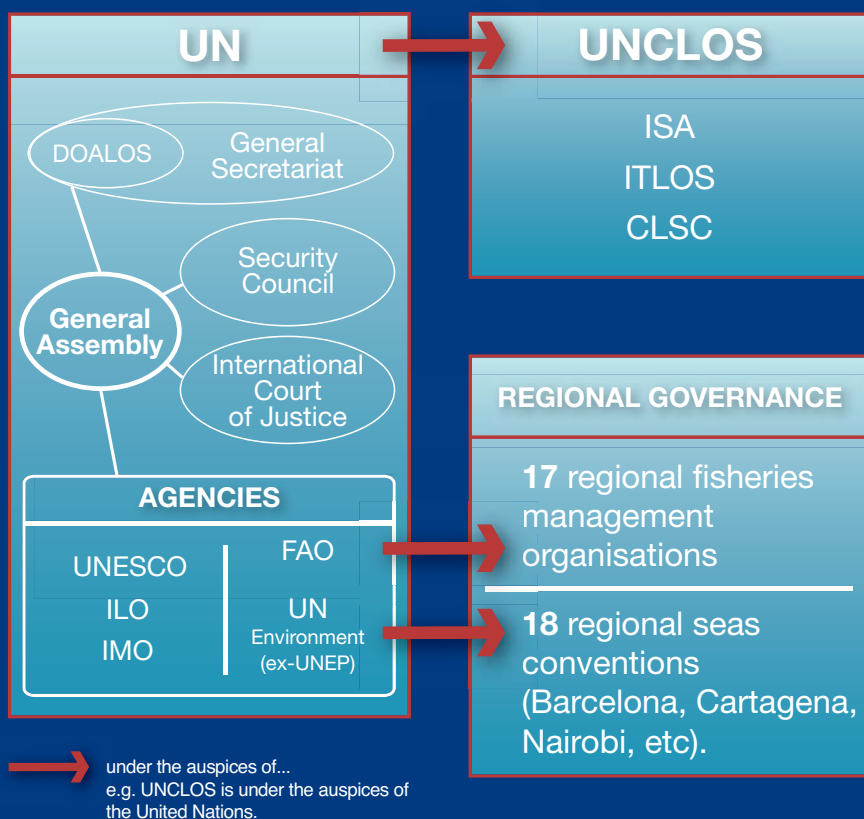
Ph. Fotolia/Fernbach Antal



OCEAN GOVERNANCE AN EXTENSIVE FRAMEWORK

The United Nations is a complex system made up of a central core, around which there orbit a series of specialised agencies and affiliated organisations.

For further information: UN website (<http://www.un.org/en/index.html>)



Schema showing the main bodies involved in Ocean Governance at international scale.

INITIALS AND ACRONYMS

ISA: International Seabed Authority; **CLCS:** Commission on Limits of the Continental Shelf; **UNCLOS:** United Nations Convention on the Law of the Sea; **IOC-UNESCO:** Intergovernmental Oceanographic Commission; **DOALOS:** Division for Ocean Affairs and the Law of the Sea; **FAO:** Food and Agriculture Organization; **ILO:** International Labour Organization; **IMO:** International Maritime Organization; **ITLOS:** International Tribunal for the Law of the Sea; **UN-Environment:** United Nations Environment Programme (UNEP); **UNESCO:** United Nations Educational, Scientific and Cultural Organization.

“Our aim is in effect to act both at regional and international scale.”

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But we also operate at regional scale. You know that the framework of Ocean Governance includes numerous regional organisations - in the Mediterranean, the Indian Ocean, West Africa and the Pacific, for example. In this context, we operate on the basis of a two-fold approach:

- either at the direct request of a stakeholder of a region, for example the secretariat of a regional convention or an NGO, which appeals to us for support on a particular issue, such as the management of coastal zones in the Mediterranean or the governance of the high seas in the Pacific;

- or we decide ourselves to act because we consider that an issue merits being included in the political agenda of the region. I'm thinking for example of what we did in 2017 in the Western Indian Ocean with the Nairobi Convention, for which we provided support for the implementation of Sustainable Development for the Oceans Goal n° 14 (SDG14): "Conserve and sustainably use the oceans, seas and marine resources".

So in effect we work at regional and international scale, while highlighting the way these two levels of governance should interrelate.

➔ COULD YOU GIVE US ANY SPECIFIC EXAMPLES OF LEGAL AND TECHNICAL ASSISTANCE IN YOUR MOST RECENT WORK? HAVE ANY SOLUTIONS BEEN FOUND?

Of course, there is no magic formula. In fact, we work according to the needs of the regions, their specific features, their requirements.

For example, a few years ago, the Mediterranean States adopted common rules for the protection of their coasts. And Iddri was commissioned by the Mediterranean Action Plan (MAP) to help Lebanon, Croatia and Italy to implement these regional rules.

On this same topic of the management of coastal zones, this time it was the States of East Africa that wished in 2010 to develop a legal instrument for the protection of their coasts. They asked us to help them to draft a text.

Today, we are working in particular in West Africa on issues related to the exploitation of offshore oil and gas⁽¹⁾.

This industry is developing rapidly in the region. Our mission consists in federating all the stakeholders - private sector, NGOs, States, regional organisations - with the aim of deploying strategies which will enable the exploitation of oil and gas at sea while guaranteeing the protection of the marine environment and the local populations.



Dalmacija (Croatia) is the site of the largest marina in Dalmatia.



On the Lebanese coast, Pigeon Rocks, at Beirut.



Inventory of fishes aboard an oceanographic research vessel.



Oceanographic research vessel in Antarctica.



Field missions, a key part of Julien Rochette's action.

➔ WHAT IN FACT ARE YOUR RELATIONS WITH THE OTHER STAKEHOLDERS IN OCEAN GOVERNANCE: THE SCIENTISTS, THE NGOS?

They are excellent, since we collaborate with a wide range of stakeholders, while preserving our specificity.

Iddri is not an NGO, nor a research centre in the sense that this is generally understood in the academic environment. It is a rather hybrid institution, a kind of think tank. But we often pursue similar objectives to the scientists and NGOs, and regularly collaborate with them.

➔ DO YOU THINK THE CURRENT SPREAD OF SCIENTIFIC KNOWLEDGE MAY BE COMPARED TO THE SPACE PROGRAMME OF THE 1950-1960S, WITH ALL THE ISSUES THAT THAT REPRESENTS?

Scientific knowledge is in effect constantly developing. We should remember that when the United Nations Convention on the Law of the Sea was negotiated in the 1970s, we had very little scientific knowledge regarding the high seas.

It was for this reason that this maritime domain was rather left out of the negotiations. Today, we know about the exceptional richness to be found in the depths of the oceans, for example organisms capable of developing without photosynthesis under extreme conditions.

All that is very promising for research. It will be possible to develop interesting applications: the medical drugs of the future are certainly at the bottom of the oceans. Which is why protecting this richness is useful today, and will be useful tomorrow.

“*The weight of the countervailing powers, in particular the NGOs, is essential for the protection of the marine environment.*”

➔ LET US GET BACK TO THE OTHER STAKEHOLDERS IN GOVERNANCE: THE NGOS. HOW MUCH WEIGHT DO THEY CARRY?

We work with a whole network of non-governmental organisations, which have become major actors in the protection of the marine environment, at international and regional scale.

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(1) This activity has developed considerably over the past decades. The offshore industry, which represents almost a third of the world's oil production and a quarter of gas production, has taken on a new dimension with its extension into deep and ultra-deep waters. Today, it plays a major role in the provision of energy worldwide.

Source: Iddri, 2017.

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It is extremely important, because we realise that the weight of the countervailing powers, in particular the NGOs, is essential for the protection of the marine environment. In France, for example, the *Loi Littoral* (coastal protection legislation) would often have been undermined if civil society had not made defending it a priority. In the same way, we may consider that civil society played a role in the movement that led to the opening of negotiations on the high seas.

➔ WHAT IS MOST NEEDED TO MEET THE CHALLENGES FACING THE ENVIRONMENT? ISN'T THERE A CERTAIN ANTAGONISM BETWEEN PROTECTION AND FREEDOM?

Freedom is the foundation on which the law of the sea was constructed, since the time of Grotius in the 17th century, who theorised the principle.

The States remain strongly attached to this principle, notably the freedom of navigation, since 90% of trade transits via the seas. It is thus difficult to see how this freedom might be called into question, since it is the corollary of international trade. The freedom to fish has on the other hand been restricted by the Agreement of 1995 on straddling fish stocks.

But the freedoms attached to the high seas are not absolute, as they are conditional on the protection of the marine environment, which has been the focus of numerous dispositions of the United Nations Convention on the Law of the Sea. These two approaches must therefore be reconciled.

➔ DO YOU THINK THAT ENVIRONMENTAL ISSUES ARE GIVEN ENOUGH PLACE IN HIGHER EDUCATION?

For the past few years, environmental issues have been better integrated in university and graduate school (*Grandes Écoles*) courses. At *Sciences Po* (School of Political Sciences, Paris), for example, I teach a course on ocean governance for Master students, and students are very happy to get to know about a field that is not necessarily very well known to all of them.

➔ WHAT PART DOES OUTREACH TO INFORM CIVIL SOCIETY PLAY IN YOUR ACTIONS?

Under the terms of its mandate, Iddri is not required to work directly with the general public. But we have nonetheless the aim of making our work known to the public in order to avoid being restricted to a closed circle and only talking to experts.

It is in fact very important that all the research, all the proposals that are made, should not be solely destined for a limited number of people, but should be publicised as widely as possible.

➔ HOW DO YOU ACHIEVE THAT?

Through teaching, for instance. In my lectures, I make a point of always showing students pictures or extracts from documentaries which show explicitly the impact of a problem. Giving figures for the quantities of plastic dumped in the sea is essential. But showing pictures of the stomach of a seagull full of this plastic waste is equally so.

More broadly, I think that films can generate empathy, develop the environmental and oceanic reflex among a broad public. The remarkable documentary on marine life, *Blue Planet II*, was seen by 17 million people in Britain, and is now being shown in the United States. I believe that this kind of practice plays a role in making sure the cause of the oceans is more widely shared by the international community.

➔ IN THE END, IS THE AIM OF YOUR ACTION TO CONTRIBUTE TO A NEW SUSTAINABLE GOVERNANCE OF THE OCEANS? IN ITS PRESENT FORM, IS THE LAW OF THE SEA IN YOUR OPINION SUFFICIENT TO FACE UP TO THE MAJOR CHALLENGES OF TODAY?

Firstly, I think that we should get some satisfaction from the fact that the law of the sea and the laws relative to the protection of the marine environment have developed considerably over the past few years. We are in a fairly interesting dynamic.

“*Half of the planet is today handicapped by having a rather patchy legislative framework.*”

Nevertheless, there is considerable room for improvement. I will give at least two examples.

Firstly, we should make good the existing legislative gaps, in particular with regard to the high seas: half of the planet is today handicapped by having a rather patchy legislative framework. Luckily, negotiations are being launched this year to work out an agreement specifically dedicated to the high seas.

Apart from that, we dispose of virtually all the legal instruments needed. All that remains is to implement them. We have in the space of a few years gone from a 'golden age' to a 'thankless age'. A golden age in which the international community was determined to build the edifice of ocean governance, a period certainly more exhilarating and full of hope, with the adoption of numerous agreements. Today, a 'thankless age', since it is now a matter of implementing these norms, an immensely complex task.

➔ ARE THERE ANY OTHER STUMBLING BLOCKS? ANY SOLUTIONS?


The difficulties have been clearly identified: for example, the lack of human and financial resources in certain national administrations, public sector funding that contributes to the overcapacity of fishing fleets and to overfishing ⁽²⁾.

Many of these factors of non-sustainability have been defined and the response calls for cooperation, both international and regional.

The States are today interconnected with regard to these issues concerning the management of the marine environment. It is of course necessary that there should be a commitment by pioneering States - those that are in advance with regard to certain issues - but we need to act as one, because we all share the same ocean. ■

*Interview with Christian Frasson-Botton
February 2018*

*(2) This overcapacity is not always the result of more efficient fishing technologies or larger, faster ships. In the developing world, overcapacity tends to become widespread when large numbers of poor people depend on fishing for survival.
Source: FAO.org*



*“We must really act as one,
since we all share the same ocean.”*

OCEAN, COMMON GOOD OF HUMANITY

“As actors of the civil society, we are convinced of the importance of these principles and have decided to launch an Appeal for the Ocean, Common Good of Humanity and we invite all men and women of good will to take it forward with us.”

“But We, signatories to this Appeal, consider that the entirety of the Ocean is under threat and vigorously demand that all marine spaces, from the coasts to the High Seas, be considered as a Common Good of Humanity.”

THERE'S BUT ONE OCEAN, GLOBAL AND ENDLESS.
THE OCEAN IS A TREASURE FOR HUMANITY.
IT'S THE FUTURE OF HUMANITY, YET IT'S UNDER THREAT.
THE OCEAN IS THE RESPONSIBILITY OF ALL.
THE OCEAN IS THE COMMON GOOD OF HUMANITY.

Sign the appeal:

<http://oceanascommon.org>

Follow the appeal on Facebook:

<https://www.facebook.com/OceanAsCommon>

This Appeal was launched on 8th June 2018 at Monaco, at the initiative of Catherine Chabaud, an ocean sailor with a commitment, and Vice-President of the association *Innovations Bleues*, on the occasion of World Oceans Day, with Françoise Gaill, President of the Scientific Council of the *Ocean and Climate Platform*, Eudes Riblier, President of the *Institut Français de la Mer*, member of the *Ocean and Climate Platform*, Jean-Louis Fillon, General Delegate of the IFM, and Rachel Moreau, the founder of *Programme Poupon Bleu*. Among the first signatories were Patricia Ricard, President of the *Institut Océanographique Paul Ricard* and spokesperson of the *Ocean and Climate Platform*; Sandra Bessudo, former Minister of the Environment of Colombia and President of the *Malpelo Foundation*...



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