



## Proposal for Rio+20

Ocean Policy Research Foundation

### <Proposal background>

The United Nations Convention on the Law of the Sea (UNCLOS), adopted in 1982, came into effect in 1994; and in 1992, at the United Nations Conference on Environment and Development (UNCED), the Sustainable Development Principle and the Plan of Action Agenda 21 necessary for its implementation was adopted. These made clear an international policy framework for comprehensive management and sustainable development of the ocean, which covers 70% of the earth's surface. Also, at the 2002 World Summit on Sustainable Development (WSSD), UNCLOS and Chapter 17 of Agenda 21 were recognized as fundamental documents concerning the ocean, and concrete goals and time schedules for their related measures were agreed upon.

It is a fact that over the past 20 years many places around the world have added to this momentum and made great progress in environmental protection and conservation of the ocean and coastal zones and in sustainable development. UNCED and WSSD, along with the coming into effect of UNCLOS, have thus had tremendous impacts.

However, there are many problems that remain unsolved concerning the ocean, existing problems that have worsened over time, and unexpected ones that continue to arise. In order for international society to formulate appropriate responses to the problems of comprehensive ocean management and sustainable development, including issues concerning jurisdictional water delimitation, conservation of the marine environment, appropriate fisheries management, securing of maritime transport safety, and adaptation to global warming, each country must address the closely interrelated problems of the ocean and of maritime affairs, and, under the auspices of UNCLOS and Agenda 21, respond to them in a comprehensive fashion.

The Ocean Policy Research Foundation is an NGO in Special Consultative Status with ECOSOC and makes "Promoting Co-existence between Man and the Ocean" its guiding philosophy. Thus, recognizing the importance of sustainable development and comprehensive management of the ocean, as put forth by UNCLOS and Agenda 21, it

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has adopted an integrated approach in carrying out surveys, research, and implementation on a variety of ocean problems facing mankind. Of the seven programme areas in Chapter 17 of Agenda 21, we have placed special emphasis on “Integrated management and sustainable development of coastal and marine areas, including exclusive economic zones,” “Marine environmental protection,” “Strengthening international, including regional cooperation and coordination,” and “Sustainable development of small islands,” carrying out a variety of activities in our capacity as an NGO. We view Rio+20 as an extremely important conference for discussing an Action Plan for the next ten years. Thus, we call for “comprehensive ocean management” and “sustainable ocean development” to be considered main pillars of the Agenda and included in concrete terms in the Programme of Action. To this end, we offer the following proposal:

**<Proposal 1>**

In order to secure the survival of the human race in the face of an ever-expanding population, it is indispensable that the ocean and coastal zones are effectively developed and used while conserving them under the concepts of comprehensive ocean management and sustainable ocean development. As humanity sets its Programme of Action for the next ten years, we must remain keenly aware that “the problems of ocean space are closely interrelated and need to be considered as a whole,” as stated in the foreword to UNCLOS. To achieve this, OPRF would like to express its strong desire that an independent chapter be devoted to the Ocean Agenda, ensuring that the importance of the oceans are clearly understood by international society. If a separate chapter is not possible, we strongly call for the Ocean Agenda to be presented in such a way as to be clearly understood in its entirety by governments and the general public.

**<Proposal 2>**

We propose that the Ocean Agenda referred to above include the following five measures:

1) promotion of comprehensive ocean policy 2) management of islands and their surrounding ocean areas 3) sustainable development of maritime industries 4) education of the public and 5) responses to marine disasters. The measures are discussed in detail below:

**1) Promotion of Comprehensive Ocean Policy**

Comprehensive management of the vast ocean that covers 70% of the planet requires

that all countries share in a common legal and international framework. Each country needs therefore to establish an ocean policy system at the national level, coordinate its basic legal framework on the ocean, and make changes in its administrative organization necessary to implement ocean policy (e.g., a government-wide coordinating body and/or designation of a lead agency), thus allowing a comprehensive approach to ocean problems. We believe such a comprehensive approach to be extremely effective, as can be seen in the experience of those countries that have already made much progress in these initiatives; unfortunately, however, it is still not yet the universal practice.

In Japan, a framework for comprehensively addressing ocean problems was created in 2007 with the passing of the Basic Act on Ocean Policy, which set out the basic philosophy, 12 basic measures requiring comprehensive initiatives, and the creation of an organization to comprehensively promote ocean policy.

In order to manage the world's oceans both comprehensively and appropriately, we believe it necessary that in future each country establish at the national level such a system for implementing comprehensive ocean policy.

To accomplish this, the sharing of knowledge and experience concerning each country's ocean policy is needed, along with the promoting of technological cooperation for developing countries as they set out to adopt comprehensive ocean policies.

→ *Specific Elements: c. Institutional framework for sustainable development*

## 2) Management of Islands and Their Surrounding Ocean Areas

Today, islands are faced with various conservation and management challenges due to local environmental problems, global climate change and variability, and concerns about the submersion of islands caused by sea level rise. In order to respond to the various issues in the three areas of 1) Conservation and Management of Islands 2) Management of the Surrounding Ocean Areas and 3) Response to Climate Change and Variability, there is a need to acknowledge islands and their surrounding ocean areas as unified areas and implement sustainable development of island societies, as they carry out appropriate development, exploitation and conservation of the ocean through cooperation and collaboration between island States and the international community.

In other words, regarding the Conservation and Management of Islands, there is a need to promote measures for developing island management strategies, improving the

security and resilience of island societies, implementing waste management strategies, and developing renewable energy. For Management of the Surrounding Ocean Areas, there is a need to promote the establishment of baselines and maritime limits, implementation of practical fisheries management policy, the maintenance and securing of shipping services, exploitation of marine minerals in accordance with preservation of the ocean environment, and conservation and sustainable use of the marine environment and marine biodiversity. As for responses by island societies to Climate Change and Variability, adaptive measures must be promoted and relevant international law issues discussed.

Island States are being called upon to develop and adopt integrated policies and plans for oceans, coasts, and islands based on their respective social and cultural backgrounds, and then establish implementing institutions and organizations to address these issues. International society also has a responsibility to support the development and adoption of the policies and plans that result from island States' initiatives. (For more details, see the policy proposal "For the Better Conservation and Management of Islands and Their Surrounding Ocean Areas" in Appendix 1)

→ *Specific Elements: d. Any proposals for refinement of the two themes*

### 3) Sustainable Development of Maritime Industries

For the sustainable growth and development of the global economy, increased economic activity among countries, including developing States, is indispensable. Maritime industries center on maritime transport, which provides the fundamental infrastructure for these trading activities and is thus an important industry that must continue to develop. At the same time, increases in maritime transport will require more ships, resulting in congested seaways and greater risk to the global environment. Maritime industries must therefore rapidly transform themselves to become clean industries of low-carbon and reduced environmental impact, though to do so new technologies and international guidelines will have to be developed through coordination and cooperation among international organizations, national governments, businesses, and research institutes. While regulations for emissions from ships, better training for seafarers, and other concrete initiatives are already underway, an industry-wide carbon footprint reduction initiative that takes into consideration the acceptable use of energy and emissions is urgently needed. Thought should be given to applying these initiatives to government ships as well as to commercial ones.

Also, from the standpoint of security, international society must stand firm in its response to the recent frequent occurrences of piracy and armed robbery, but there is also a need to create an anti-piracy and judicial framework to eliminate these threats. When doing so, there is also a need for clear guidelines on issues where States may have differing opinions, such as regarding what obligations foreign vessels, including government ships, have when operating in ocean areas under the sovereign and jurisdictional right of another State and what rules are necessary in these areas. (For more details, see the policy proposal “Guidelines for Navigation and Overflight in the Exclusive Economic Zone” in Appendix 2)

→ *Specific Elements: d. Any proposals for refinement of the two themes*

#### 4) Education of the Public

Effective response to the closely interrelated problems of the ocean requires action not only at the national and governmental levels but by all the citizens of a State, thus making the increase of understanding and knowledge on the part of each citizen a necessity.

As put forth in Agenda 21, Chapter 36, education of the general public should be carried out both formally and informally, though formal schooling is potentially a highly effective means of impressing upon tomorrow’s leaders the importance of the ocean. This need to expand ocean education in formal curriculums should thus be recognized and promoted in each country’s ocean policy. However, care must be taken that implementation of this integration of ocean education into each country’s educational system proceed in harmony with existing educational policies, and its expansion calls for cross-sectional coordination within relevant ministries and agencies.

In Japan, as Article 28 of the Basic Act on Ocean Policy advocates the “Enhancement of Citizens’ Understanding of the Oceans” and the Basic Plan on Ocean Policy includes measures on the “Enhancement of Citizen’s Understanding of the Sea and Fostering of Human Resources,” these goals now have a firm place in Japan’ ocean policy. To implement them however, requires coordination with the education administration, which is now underway in cooperative efforts among universities, research institutes, industry, NGOs, and the private sector.

Also, as ocean problems imply a variety of subject matter to be addressed by many

disciplines, an interdisciplinary approach to ocean education must be developed that is not limited to the natural sciences but includes the humanities and social sciences, and promotes research from an educational perspective. Towards that end, there is an urgent need to create a platform on which countries can share their advanced educational practices and knowledge.

→ *Specific Elements: d. Any proposals for refinement of the two themes*

#### 5) Responses to Marine Disasters

Upon the recent Great Tohoku Earthquake and Tsunami, tremendous damage was incurred due to the tsunami, in spite of all past efforts invested in scientific research and disaster preparedness. We would like here to sincerely thank the many people around the world for their generous support for the relief efforts. By way of gratitude, we would also like to share with the international community what we have learned from our experience, in the hopes that such damage might be reduced in future. As population density is high along the coasts and a great variety of human activities takes place there, and as the coastal zone and ocean areas are home to complex yet delicate ecosystems, when a natural disaster occurs it can have enormous effects on the society, economy, and environment of the area.

Although Agenda 21 and the WSSD Plan of Implementation confirmed the need for systematic natural disaster precautions in order to fully realize sustainable development, in many areas such as coastal zones and ocean areas that would most benefit from systematic disaster prevention its implementation is still insufficient. We should follow the wisdom of science in adopting precaution as a pre-condition and, with the ocean in mind, reconsider disaster prevention systems to increase the resilience of coastal countries in the face of natural disasters.

From our recent experience, Japan learned that even if severe damage is incurred the utmost priority must be given to preventing the loss of human life, and that a combination of “hard” and “soft” measures for “disaster reduction” is necessary. We are now setting policies for comprehensive town reconstruction plans oriented to “disaster reduction,” such as relocation of towns to higher ground or more effective evacuation routes and facilities if relocation is not feasible. It is also necessary to create early tsunami detection, prediction, and warning systems and view activities on land and ocean areas as an interdependent continuum in planning for town reconstruction. Along with these, we propose the sharing and examination, within international frameworks,



of the knowledge on tsunamis accumulated by individual countries and international society at large for creation, improvement and expansion of disaster action plans and guidelines.

→ *Specific Elements: d. Any proposals for refinement of the two themes*

## Appendix 1

### For The Better Conservation and Management of Islands and Their surrounding Ocean Areas

Policy Proposal by the Ocean Policy Research Foundation and the  
Australian National Centre for Ocean Resources and Security at the  
University of Wollongong

#### 1. Purpose of This Policy Proposal

The ocean covers some 70 percent of the earth's surface and plays a significant role in sustaining human life by supplying natural resources and stabilizing climate. Islands serve as an irreplaceable base from which to protect and develop ocean resources, and conserve the marine environment and biodiversity.

Island States have the right to explore, exploit, conserve and manage their natural resources, and a responsibility to protect and preserve the marine environment, including conserving the living resources therein under the United Nations Convention on the Law of the Sea (UNCLOS) and other international treaties.

Today, however, islands are faced with various conservation and management challenges due to local environmental problems and global change. In particular global climate change and its associated effects have raised the plight of small islands as a matter of international concern.

This Policy Proposal reflects the results of a 3 year international research program undertaken by the Ocean Policy Research Foundation (OPRF), the Australian National Centre for Ocean Resources and Security (ANCORS) at the University of Wollongong and their contributing technical partners which has identified a range of globally interlinked issues whose resolution is fundamental to the future sustainability and development of small islands. Its purpose is to draw the attention of the international community to the need for more effective approaches to addressing these growing problems. This research has focused on the Pacific Ocean, where many islands are found and vast areas of the ocean fall under the jurisdiction of island States.

The research and recommendations are focused on the characteristics of islands, acknowledging islands and their surrounding ocean as unified areas, and considering how to conserve and



manage them. The results are being shared to support sustainable development of island societies and appropriate development, exploitation and conservation of the ocean through cooperation and collaboration between island States and the international community.

## **2. Priority Issues and Directions toward Solution**

### **2-1. On Conservation and Management of Islands**

#### **a. Development of Island Management Strategies**

In order to address the challenges of global change to biophysical resources of islands, the international community should support practical initiatives to assist countries in the development of strategic planning and implementation of island-scale management decisions. Such support should be aimed, inter alia:

- i) To develop robust environmental and socio-economic baselines against which management strategies can be designed and the success of outcomes evaluated. Environmental baselines should include: defining the natural dynamics of reef islands and high island shorelines (erosion, accretion patterns and island migration rates) at a range of timescales; the health and status of island ecosystems (e.g. coral reefs, water quality) and water resources; and resolution and recognition of the critical inter-linkages between island biophysical systems that maintain landforms and support human populations. Socio-economic baselines should provide an understanding of current human uses and impacts and their impacts and the values or forces which drive them.
- ii) To better resolve the outlook or future changes in local island landforms and ecosystems, that may be expected to arise from the combination of human uses and impacts and the effects of global environmental change.
- iii) To develop comprehensive strategies to manage the threats to island biophysical systems that allow communities to co-exist with the natural dynamics of islands. Such management strategies should also aim to maintain the life-supporting capacity and natural dynamism of islands and their associated ecosystems; reflect the diversity of island types; recognize the complex interaction of island biophysical systems (people, land, water, ecology); and embrace a broad range of practical management solutions that comprise land use and resource planning as well as hard and soft engineering tools.

- iv) To identify, design and implement alternative adaptation strategies that are sensitive to the natural dynamics of island biophysical systems.
- v) To implement, monitor and evaluate ecosystem-based management plans for island biophysical systems through effective implementation of the Regional Oceans Policy and 'Pacific Oceanscape'.

#### **b. Increased Safety and Resilience of Island Communities**

b-1. The international community should continue to support a range of disaster risk management measures to assist island States to reduce their levels of vulnerability and risk. Measures that can be considered for support are reflected in the priorities endorsed by representatives of Pacific island countries and territories at a range of regional and global fora such as the annual sessions of the Pacific Platform for Disaster Risk Management, and biennial sessions of the Pacific Climate Change Roundtable and Global Platform for Disaster Risk Reduction to name a few.

b-2. Based on assessments grounded in scientific data of natural disasters such as typhoons, storm surges, earthquakes and tsunamis for individual States and islands, island States should draft a comprehensive disaster preparedness plan and implementation framework in order to improve their observation systems, protective and evacuation facilities (e.g., storm surge and tsunami shelters), education for higher disaster preparedness (e.g., raising disaster awareness and carrying out emergency drills) and early warning systems, including national communication systems. Disaster resilient societies require development of both hard and soft infrastructures.

b-3. Adoption of conservation measures that are sensitive to individual characteristics of an island contributes to the establishment of a disaster resilient society. For example, in the case of the 2011 tsunami disaster in Japan, re-establishment of settlements in the areas that were affected by tsunamis in the past increased the damage. In order to build societies resilient to natural disasters, it is critical that island States develop and implement appropriate land use plans or national land plans to minimize the use of land, which is deemed vulnerable, based on detailed damage predictions. Particularly for very small islands, there is also a need to provide accessible shelters for populations in vulnerable areas.

b-4. In order to cooperate with island States to carry out the actions identified above, it is necessary for the international community to support scientific research on disaster risks for individual islands and observation systems (e.g., establishment of a core regional observatory), data and information sharing, and establishment or improvement of comprehensive disaster preparedness plans and their implementation, from technical, capacity building, and financial perspectives.

### **c. Implementation of Waste Management**

c-1. The international community should support island States in the development and implementation of comprehensive waste management strategies in accordance with the Pacific Regional Solid Waste Management Strategy 2010-2015 designed by the Secretariat of the Pacific Regional Environment Programme (SPREP).

c-2. There is an urgent need to improve waste disposal facilities that may affect the region's environment and reduce waste in particular (e.g. by introducing the 3R (Reduce, Reuse and Recycle) system and refuse compost). It is also important to increase the understanding and awareness of island residents about waste management issues.

c-3. For atoll islands, which are small in land area and so have difficulty securing waste disposal facilities, it is essential to develop and implement a medium- to long-term national strategy.

c-4. It is recommended that island States consider the utilization of economic mechanisms so as to control commercial product inputs which are released as waste products in time. In addition, consideration should also be given to establishing zero waste measures ("bring it in, take it out"). Developed countries that export goods to island States such as cars, equipments, electric and electronic goods) should assist in the implementation of such an approach.

### **d. Development of Renewable Energy**

d-1. A key to the economic independence of island States is to encourage societies that do not depend excessively on imported energy. Consequently, it is necessary to promote renewable energy innovation according to the natural conditions of each island, and provide business operators with the necessary incentives to promote the use and development of renewable energy as appropriate. In addition, there is a need to encourage measures to conserve energy including awareness-raising at both the political and civil levels.

d-2. The international community should assist island States in the identification and adoption of renewable energy technologies appropriate to the environmental conditions of each country.

## **2-2. Management of the Surrounding Ocean Areas**

### **a. Establishment of Baselines and Maritime Limits**

a-1. In order to fully implement integrated ocean management, it is important that island States that have not done so, establish their maritime baselines, zones, and outer limits as well as negotiate maritime boundary treaties. Likewise where applicable, island States also need to complete the procedures for the extension of their continental shelf in accordance with UNCLOS. It should be noted that charts at appropriate scales are necessary to depict baselines and to publicize maritime limits.

a-2. Where appropriate the international community should continue to give island States technical and legal assistance to establish baselines and maritime zones and update existing maritime legislation and charts as well as to conduct surveys necessary for States to establish their continental shelf.

### **b. Implementation of Practical Fisheries Management Policies**

b-1. It is recommended that island States strengthen conservation and management of small scale fisheries in coastal areas and of fishery resources in their EEZs. Support should be provided for the implementation of community based fisheries management measures, utilizing the best available scientific data. In order to support this implementation further socio-economic research is required into fishing activities, indigenous knowledge, and community benefits. Coastal fisheries management should be considered a priority area for capacity building and institutional strengthening.

b-2. It is recommended that island States and their distant water fishing State partners should strengthen monitoring, control and surveillance (MCS) at the national and regional levels to better combat illegal, unreported and unregulated (IUU) fishing. Particular consideration should be given to measures that combat misreporting and strengthen enforcement of license conditions. Some island States may benefit from the establishment and enhancement of enforcement organizations such as coastguards or national MCS committees to coordinate and maintain law and order at sea. The possibility of establishing joint coastguards and multi-lateral

surveillance enforcement agreements among some island States should also be considered.

b-3. The international community should promote sustainable fisheries through regional fishery management organizations, including activities that remove excessive fishing capacity, address IUU fishing problems, prevent overexploitation of fishery resources, and implement an ecosystem based approach to fisheries management. Consideration should be given to the development of new processes that ensure an equitable distribution of the conservation burden in a transparent manner. At the same time, the international community should provide support to island States to add value through processing and export of seafood products, which lead to job creation and economic development.

b-4. The international community should increase its support for the strengthening of fishery management systems in the Pacific islands, including capacity building and institutional strengthening at the local, national and regional levels

#### **c. Maintenance and Securing of Shipping Services**

c-1. Island States need to address the maintenance and securing of shipping services which are essential for transportation among the islands. The introduction and promotion of vessels that can easily be operated, managed and maintained should be encouraged. It is also recommended that island States and flag States act to prevent marine pollution and ecological damage caused by ships to island environments.

c-2. The international community needs to provide financial support for island States to secure maritime transportation and technical support for human resource development to implement conservation measures.

#### **d. Exploitation of Marine Mineral Resources and Preservation of Marine Environment**

d-1 Island States need to enact effective regulatory measures based on a precautionary approach and environmental impact assessment for environmentally responsible exploitation of seabed mineral resources. This requires implementing legal measures covering prospecting, exploration, and production. Seafloor mineral resource activities should be undertaken with careful attention to public health, preservation of marine life, safe operation of relevant processing facilities, appropriate management of resources and social and financial benefit.

d-2 It would be imperative to provide appropriate assistance to island States to establish

special guidelines and policies to guide all aspects of this new industry and ensure the protection of islands States' interests and environments when developing mineral resources on the seabed.

d-3. The international community should support workshops and processes that facilitate the sharing of technical knowledge related to environmental impact assessment and management of seabed mining activities, particularly for the benefit of developing countries.

#### **e. Conservation and Sustainable Use of the Marine Environment and Marine Biodiversity**

e-1. Island States should consider utilizing a range of management tools, including Marine Protected Areas (MPA), and other similar tools to achieve integrated oceans management and ecosystem-based management (EBM) to conserve and use the marine environment and marine biodiversity in a sustainable manner, while taking into account local conditions and circumstances.

e-2. To be effective, it is necessary that MPAs are designed around clear objectives, developed and implemented in harmony with other objectives for use of marine space and resources. Marine conservation is about stewardship and much more than no-take areas. The broader approach to EBM is important for addressing the complex issues already facing island States, such as sustainable development, the human environment and maintenance of ecosystem processes and biological diversity.

e-3. It is desirable that island States develop and adopt guidelines as appropriate for establishing and managing MPAs and applying suitable environmental impact assessment measures. The international community should strengthen technical and financial support for island States.

### **2-3. Response to Climate Change and Variability**

#### **a. Adaptation to Climate Change and Variability by Island Societies**

a-1. The small land area of islands and their vulnerability to natural threats raise the likelihood that they will be more affected by climate change and variability. Climate change and variability may affect islands through damage to coral reef and near-shore ecosystems due to sea surface temperature increase. Climate variability already affects islands through changes in the intensity and frequency of disasters due to ongoing ENSO cycles, El Niño Modoki and other meteorological irregularities; and climate change is expected to increase possible variability and

extremes. Understanding of data relating to climate/oceanic extremes and socio-economic indicators offer many important lessons to reduce vulnerability in islands. It is also important to undertake further targeted scientific research and to implement evidence-based, practical solutions to climate stress. This will engender long-term resilience and enable islands to appropriately adapt to disasters and climate change impacts.

a-2. It is important to take measures to address the following three issues. First, as to global scale climate change, there is a need to deepen our understanding through observation and experimental research of vulnerable ecosystem services and resources (e.g., coral reefs, fish, mangroves, shoreline systems, etc.) Second, as to climate variability, basic climate monitoring capacity must be strengthened in small islands to provide critical baseline data and broader research on meteorological irregularities such as decadal climate cycles, ENSO and El Niño Modoki.. Third, in terms of aggravation of local inshore marine environments caused by existing anthropogenic stress, appropriate action should be taken in line with Sub-section 2-1 of Section 2 of this document.

#### **b. Response to International Law Issues Related to Climate Change**

b-1. The low water lines of island are important, as they constitute the normal baseline for measuring the breadth of territorial seas, contiguous zones, EEZs and continental shelves, as well as the base point for drawing straight baselines and archipelagic baselines.

b-2. Current rules of international law do not adequately address the adverse impacts of climate change on the limit and the status of territorial seas, contiguous zones, EEZs and continental shelves in cases where low water lines shift or part or the whole of the island territory is submerged due to sea level rise. It is therefore desirable for the international community to consider adopting new rules to mitigate unfair impacts by Climate Change. In this respect, consideration should be given to adopting a supplementary agreement the UNCLOS.

### **3. Capacity Building and Institutional Strengthening**

Capacity building is essential to ensuring that island States are able to effectively implement their national and international obligations and ensure the long term conservation and sustainable use of their marine environments. Accordingly, the international community should support research into identifying priority institutional strengthening and capacity building needs for small island States in the fields of marine management, governance and development.

Support should be given to capacity building and institutional strengthening programmes that target national and regional priorities while minimizing disturbance to ongoing management responsibilities. As far as possible, such support should be coordinated through existing regional agencies..

#### 4. Suggestions for Responding to The Challenges

**4-1.** Various types of scientific knowledge should be accumulated in order to effectively respond to natural threats, problems associated with climate change and climate variability, maintenance and conservation of islands, and environmental preservation of islands.

**4-2** In order to respond to issues relating to the degradation of the living environments and increasing vulnerability of marine and coastal environments and communities, it is desirable for island States to establish and implement appropriate land use plans or national planning mechanisms, taking due account of environmental conservation.

**4-3** It is recommended that island States work towards sustainable development through effective management of the ocean areas under their jurisdiction so as to conserve and manage the environment and resources, in order to achieve a long-term sustainable utilization of marine living resources.

**4-4** In their effort to achieve sustainable development, the nature, history, culture, politics, and institutional arrangements (e.g., traditional use and ownership of land and the sea) that are unique to the States and islands concerned should be taken into account.

**4-5** It is recommended that the international community work with island States to identify the necessary forms and level of support through proper evaluation and analysis of the problems and their causes. The international community should provide focused cooperation and financial support to address identified needs

**4-6** In order to manage islands and their surrounding ocean areas effectively, it is necessary to establish systems or frameworks for the management and development of islands, to enhance capacity in national administrations and to support national community awareness programmes. Close working relations with NGOs should be explored and harnessed.



**4-7** It is important to manage the various problems impacting the conservation and management of islands and their surrounding ocean areas through approaches that recognize the interconnected nature of islands and their surrounding ocean areas.

## **5. Toward Realization of This Policy Proposal**

**5-1.** Island States are facing various challenges affecting their islands and surrounding oceans. These issues are closely interconnected and thus it is important to find solutions to them in an integrated manner.

**5-2** We recommend that in order to respond to these issues, island States should develop and adopt integrated policies and plans for oceans, coasts, and islands based on their respective social and cultural backgrounds, and then establish implementing institutions and organizations.

**5-3** We support the development of island State policies and plans that promote an integrated approach, given the interconnected nature of ocean management issues and the requirements for States to share in the responsibility of managing the oceans under UNCLOS and other international initiatives such as Agenda 21, the World Summit on Sustainable Development (WSSD) Plan of Implementation, the Barbados Programme of Action and the Mauritius Strategy.

**5-4** OPRF and ANCORS urge the international community to give full consideration to these recommendations, promote their implementation, and work for their inclusion in the Action Plan for Sustainable Development for the next 10 years, which is expected to be adopted at the United Nations Conference on Sustainable Development (Rio+20) to be held in 2012.

## Background of the Policy Proposal

### 1. Current Situations of Pacific Island States and Territories

#### 1-1. Geographic Scope

The western and central Pacific is one of the most important areas from the viewpoint of the management of islands and oceans under the UNCLOS framework. It is home to 14 States (Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu) that, together with Australia and New Zealand, comprise the Pacific Islands Forum. Additionally, there are eight territories dependent on or in free association with metropolitan powers, i.e., France (French Polynesia, New Caledonia, Wallis and Futuna), the United Kingdom (Pitcairn Islands) and the United States (American Samoa, Guam and Northern Mariana Islands). While the research project has focussed on the Western Pacific the issues identified are common to most small island settings

The Pacific island States are remote both from one another and their metropolitan Pacific Rim neighbours. Although these island States have small land area in general, their Exclusive Economic Zones (EEZs) occupy a greater part of the western and central Pacific. The total area of the EEZs of the 14 island States is about 19 million km<sup>2</sup>

#### 1-2. Biophysical Aspects

From a biophysical standpoint the islands of the Pacific represent a diverse range of physical landscapes and ecological systems. The formation and ongoing dynamics of island landscapes and ecological systems are controlled by the complex interaction of geological, climatic, oceanographic and biological processes. Many islands are intricately associated with coral reef ecosystems, which provide a range of important ecological and physical services. Indeed some islands are founded upon and entirely composed of the products of coral reefs. Some of these low islands and the shorelines of high islands are physically dynamic and change in size and position over a range of time scales.

The majority of Pacific Island communities, whether they live on low islands or the coastal fringes of high islands, depend intimately on the near-shore reef ecosystems and their natural resources. Reef ecosystems build and protect shorelines and provide the primary source of

protein for human communities.

### **1-3. Diversity of Culture, History, and Development Pathways**

Islands in the Pacific are complex and diverse in their history, culture, and politics. In many States, traditional ownership and management systems continue as the principal framework for managing terrestrial and marine environments. However in contemporary Pacific island communities, increasing population, urbanization and changing aspirations create additional pressures on island environments. It is thus critical that future solutions can draw upon traditional cultures and social organizations as well as modern governance frameworks, to address the pressures generated by increasing population and reasonable social expectations of economic development.

### **1-4. Problems of Increasing Population and Urbanization**

It is necessary to take appropriate measures to address various problems, including the deterioration of the natural environment and living conditions that are occurring in island States, taking note of the fact that much of the root cause of the management problems lies in not properly managing problems of increasing population, globalization and environmental carrying capacity.

### **1-5. Obligations under UNCLOS**

The sovereign rights and responsibilities of island States extend far beyond their near-shore zones to their EEZs and continental shelf for the purpose of exploring, exploiting, conserving and managing ocean resources in accordance with UNCLOS. It should be stressed that the UNCLOS framework is predicated on each State playing a significant role in conserving and managing the world's oceans.

### **1-6. Progress towards “Sustainable Development”**

Island States, though given legal recognition and responsibility regarding ocean governance and increasingly having been integrated with the global economic system, are disadvantaged in their economic development due to their small populations and territory, economies, their archipelagic nature, remoteness from major markets, and external dependence of their economies.

The international community has recognized the challenges confronting small islands in achieving sustainable development goals. ‘Sustainable development of small islands’ was

advocated in Agenda 21, adopted at the Rio Summit in 1992, which led to the adoption of the Barbados Programme of Action for the Sustainable Development of Small Island Developing States in 1994. However, it was widely agreed at the Johannesburg Summit in 2002 that progress in resolving issues identified in Agenda 21 and the Programme of Action were still far from satisfactory. Subsequently, the Mauritius Strategy for the Further Implementation of the Programme of Action was adopted in 2005 after continued discussion of this problem by the international community.

The Pacific island States have responded to the international requirements for integrated oceans and island management through the development of the Pacific islands Regional Ocean Policy in 2002 to provide a framework for the sustainable development of marine resources in the region; improved coordination in the implementation of international and regional obligations; and more effective coordination of regional organizations. In 2010, the Pacific islands Regional Oceans Policy was supplemented by 'Pacific Oceanscape' to support the implementation of the regional oceans policy. The three broad objectives of the 'Pacific Oceanscape' include (a) integrated ocean management; (b) adaptation to environmental and climate change through the development of baselines and monitoring; and (c) liaising, listening, learning and leading through facilitative and collaborative processes, systems and research.

Whilst there have been significant advances in, and continuing efforts to further promote, sustainable development of island States, the international community has not yet achieved these goals and much remains to be done. When the implementation of the Mauritius Strategy was reviewed at the United Nations in October 2010, it was agreed that progress had been slow in achieving the Millennium Development Goals (MDG) and that further action would be necessary.

It should also be noted that development potential differs greatly among Pacific island States due to population size, available resources, and level of social infrastructure. Some States are rich in natural resources and have relatively large economies and higher prospects for economic independence in the future. Other States are more vulnerable and will likely need continued assistance.

## **2. Problems and Challenges Related to Management of Islands and Their Surrounding Ocean Areas**

### **2-1. Problems and Challenges of Conservation and Management of Islands**

Islands and coastlines have been shaped by the impacts of extreme events (such as typhoons, tsunamis, storm surges and swell), seasonal and inter-annual variations in climatic and oceanographic conditions, long-term sea level rise and other global climatic changes. Their human communities have brought anthropogenic pressures of inappropriate coastal management practices, poor sanitation and waste disposal that reduce coastal water and land quality, aggregate mining and ever increasing pressure from growth in populations and economic expectations on limited land resources.

The combination of environmental and anthropogenic pressures has had typical effects that include: physical change in island shorelines (erosion, accretion and island migration); flooding of island surfaces; salinity intrusion of groundwater systems; and changes to the health of coral reefs and reef dwelling organisms. Such changes pose threats to the physical stability of islands, community infrastructure and resources.

These local problems (or stresses) have further reduced the resilience or capacity of islands and associated ecosystems to recover from the impacts of extreme events, global environmental changes and sea level rise.

### **2-2. Problems and Challenges Related to Management of Islands and Their Surrounding Ocean Areas**

It is desirable for island States to foster efforts toward sustainable development, paying attention to their conditions and making good use of their knowledge and assets. To achieve this, it is important to create an appropriate framework for ocean management in which islands States can make the best use of marine resources, ranging from living and non-living resources to ocean generated renewable energy.

There is a great role to be played by island States under UNCLOS, which provides for international collaboration for ocean governance, as the total area of the Pacific Islands' EEZs covers a large part of the Pacific Ocean. However, island States face obstacles to managing their marine resources and environment due to a lack of human, financial and organizational resources.

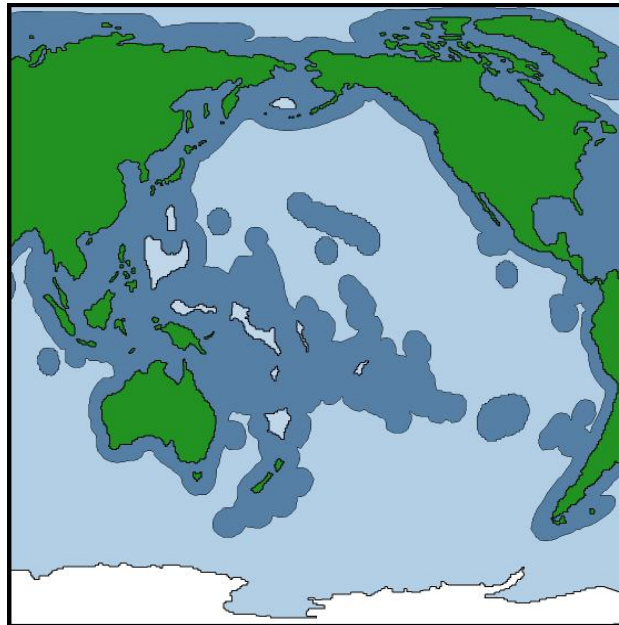
### **2-3. Problems and Challenges related to Climate Change and Variability**

Based on the fact that coral reefs and other marine eco-systems of islands are being damaged by

climate change and variability, some island States face a risk of partial or total inundation in the long term. This threatens not only the security of their physical environment,, but also their livelihoods, derived from farming and fishing. Climate change and variability also pose variety of other threats to island Stats, exacerbating the pressure on resources in coastal zones, water, quality and recreation.

# Guidelines for Navigation and Overflight in the Exclusive Economic Zone

## EEZ Group 21



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## Introduction

This document puts forward proposed “Guidelines for Navigation and Overflight in the Exclusive Economic Zone (EEZ)” developed by a group of senior officials and analysts primarily from countries of the Asia-Pacific region participating in their personal capacities in a series of meetings held from 2002 – 2005.<sup>\*</sup> The Guidelines are a set of non-binding, voluntary principles which provide the basis for a common understanding and approach to issues arising from the implementation of the EEZ regime, particularly in the Asia-Pacific region. The principles are based on the 1982 UN Convention on the Law of the Sea (the 1982 UNCLOS), State practice, and emerging ‘soft’ law.

Misunderstandings regarding military activities in foreign EEZs have become all too common. Major incidents include the March 2001 confrontation between the U.S. Navy survey vessel Bowditch and a Chinese frigate in China’s EEZ; the April 2001 collision between a U.S. EP3 surveillance plane and a Chinese jet fighter over China’s EEZ; the December 2001 Japanese Coast Guard pursuit of and firing at a North Korean spy vessel in its and China’s EEZ; and Vietnam’s protest against Chinese live fire exercises in Vietnam’s claimed EEZ. Navies are expanding and technology is advancing while coastal States are placing increasing importance on control over their EEZs. These opposing trends will result in a higher frequency and intensity of such incidents.

Other factors contribute to the problem. The scale and scope of maritime and airborne intelligence collection activities is becoming more intensive and intrusive. They generate tension and produce defensive reactions and escalatory dynamics. And new threats like trade in weapons of mass destruction, terrorism, piracy, and smuggling of arms, drugs and humans encourage both coastal and maritime States to extend their control or surveillance beyond their territorial seas, in some cases to others’ EEZs. Further, given the myriad boundary disputes and overlapping claims in the region, it is not always clear where one nation’s jurisdiction ends and another’s begins. Confusion and differences of opinion regarding the regime governing military activities in the EEZ further complicates the issue.

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<sup>\*</sup> Bali (June 2002), Tokyo (February 2003), Honolulu (December 2003), Shanghai (October 2004), and Tokyo (September 2005).

Agreement on the EEZ concept included many compromises between coastal States and maritime powers resulting in intentional ambiguity in some of its 1982 UNCLOS provisions. It was formulated more than 25 years ago in very different political and technological circumstances than those that exist at present. The ambiguities and lack of clarity should be examined in the light of these changed circumstances and evolving State practice with a view to reaching agreed interpretation.

### **Importance of These Guidelines**

These Guidelines are important for three main reasons. The first is the complexity of the Asian maritime environment with its unique combination of maritime geography, large areas of claimed EEZ, and many conflicting and overlapping claims to maritime jurisdiction. Second, recent incidents indicate that there is considerable ambiguity and range of perspective in Asia with regard to the EEZ regime, particularly the rights and duties of the coastal State vis-à-vis those of user States. Third, coastal State legislation and offshore activities are beginning to conflict with increasing naval activities of user States, including exercises, intelligence gathering and research, and their accompanying technological developments. Tensions and misunderstandings may increase unless greater clarity and awareness of the EEZ regime are provided and agreed.

### **Purpose of the Guidelines**

The Guidelines serve three main purposes:

First, they assist in clarifying the rights and duties of both coastal States and user States as well as certain terminology with regard to the activities that might be undertaken in an EEZ by foreign ships and aircraft.

Second, the Guidelines constitute an important regional confidence-building measure providing general principles for activities that some States currently regard as contentious.

Third, they will contribute to more effective oceans management in the region through improved understanding and more effective implementation of the EEZ regime.

**Legal Status**

The proposed Guidelines are non-binding in nature. They set out broad principles of common understanding regarding military and intelligence gathering activities in the EEZ but do not create legally binding obligations between States. In keeping with their non-binding nature, the Guidelines are framed in exhortatory rather than obligatory language.

The Guidelines may be generally regarded as reflecting the need for better understanding of the rights and obligations of States conducting activities in the EEZ of another country. They represent a consensus among the participants on issues that are at present contentious and a potential source of tension and dispute in the region.

**GUIDELINES FOR NAVIGATION AND OVERFLIGHT  
IN THE EXCLUSIVE ECONOMIC ZONE (EEZ)**

**PREAMBLE**

Participants in the Dialogue on “The Regime of the EEZ: Issues and Responses”:

Bearing in mind the purposes and principles of the United Nations concerning the maintenance of international peace and security and the promotion of friendly relations between States;

Recognizing that the 1982 United Nations Convention on the Law of the Sea (the 1982 UNCLOS) establishes a new regime for the seas and oceans which balances fairly the interests of all States;

Affirming the duty of all States to utilize the oceans for peaceful purposes as stipulated in Article 301 of the 1982 UNCLOS;

Acknowledging the obligation of all States to preserve and protect the marine environment;

Considering that the EEZ is neither high seas nor territorial sea and is subject to a specific legal regime under the 1982 UNCLOS;

Desiring to ensure the safety and security of navigation in the EEZ;

Recognizing the rights, jurisdiction and duties of the coastal State in the EEZ as provided in Article 56 of the 1982 UNCLOS;

Recognizing the rights and duties of other States in the EEZ as provided in Article 58 of the 1982 UNCLOS;

Recognizing a need for balance between the rights and duties of a coastal State in its EEZ and the rights and duties of other States;

Mindful that the sovereign rights and jurisdiction exercised by a coastal State in its EEZ differ from the sovereignty it exercises in its internal waters, archipelagic waters (if any), and territorial sea;

Recognizing that Article 300 of the 1982 UNCLOS prohibits the abuse of rights, jurisdiction and freedoms recognized under the Convention;

Acknowledging the importance of resolving disputes by peaceful means; and

Convinced that these Guidelines will promote understanding of the rights and duties of States conducting military and intelligence gathering activities in the EEZ of another State, and thus contribute to peace, good order, and security at sea, particularly in the Asia Pacific region;

Hereby recommend the following non-binding Guidelines for Navigation and Overflight in the EEZ.

## I. DEFINITIONS

### a. For the purposes of these Guidelines:

1. “abuse of rights” means the unnecessary or arbitrary exercise of rights, jurisdiction and freedoms, or interference with the exercise of rights by another State, or the abuse or misuse of powers by a State causing injury to another State;
2. “exclusive economic zone” means an area referred to as such in relevant Articles of the 1982 UNCLOS;
3. “hydrographic survey” means a survey having for its principal purpose the determination of data relating to bodies of water. A hydrographic survey may consist of the determination of one or several of the following classes of data: depth of water, configuration and nature of the seabed; directions and force of currents; heights and times of tides and water stages; and location of topographic features and fixed objects for survey and navigation purposes;
4. “marine environment” is the physical , chemical, geological and biological components, conditions and factors which interact and determine the productivity, state, condition and quality of the marine ecosystem, the waters of the seas and the oceans and the airspace above those waters, as well as the seabed and ocean floor and subsoil thereof;

5. “marine scientific research” means activities undertaken in the marine environment to enhance scientific knowledge regarding the nature and natural processes of the seas and oceans, the seabed and subsoil;
6. “military activities” means the operations of military vessels, aircraft and devices, including intelligence gathering, exercises, trials, training, and weapons practices;
7. “military surveys” refers to activities undertaken in the marine environment involving data collection for military purposes;
8. “peaceful uses/purposes” in the context of the EEZ means that uses of that zone, or the purposes of activities conducted therein or thereabove, must not threaten or use force;
9. “surveillance” means the observation by visual or any technical means of activities on, over or under the seas and oceans; and
10. “threat of force” means a coercive attempt to compel another State to take or not to take certain specific action, or an action that is directed against the territorial integrity or political independence of that State, or against any of its assets or people, or taken in any other manner inconsistent with the UN Charter.

## II. RIGHTS AND DUTIES OF THE COASTAL STATE

- a. A coastal State may, in accordance with international law, regulate navigation in its EEZ by ships carrying inherently dangerous or noxious substances in their cargo.
- b. The coastal State should have due regard for other States’ freedoms of navigation and overflight and of the laying of submarine cables and pipelines, and other internationally lawful uses of the sea related to these freedoms, such as those associated with the operation of ships, aircraft and submarine cables and pipelines.

- c. A State using another State's EEZ should ensure that its vessels and aircraft with sovereign immunity, act, as far as is reasonable and practicable, in a manner consistent with the 1982 UNCLOS.
- d. In recognition of its rights and obligations with regard to the management of the marine environment and marine living and non-living resources, the coastal State may, on a temporary basis, place qualifications on the freedom of navigation in areas with special circumstances in its EEZ, such as major fishing grounds and marine protected areas. These arrangements may be made permanent by reference to the competent international organization.
- e. Any restriction on navigation and overflight imposed by a coastal State in its EEZ due to its weapons tests and exercises, or any other operational activity, should be temporary, in specified areas only, and only if such suspension is essential for the carrying out of such tests and exercises.

### III. RIGHTS AND DUTIES OF OTHER STATES

- a. While exercising the freedoms of navigation and overflight in an EEZ, States should avoid activities that unreasonably prejudice the peace, good order or security of the coastal State.
- b. States' exercise of the freedoms of navigation and overflight should not interfere with or endanger the rights of the coastal State to protect and manage its own resources and their environment.
- c. The exercise by other States of the freedoms of navigation and overflight should not interfere with the rights of the coastal State with regard to its establishment and use of artificial islands, installations and structures in its EEZ.

#### IV. MARITIME SURVEILLANCE

- a. The right of a coastal State to conduct maritime surveillance in its EEZ should not be impeded by other States exercising their rights in that zone. In this context, the foreign State must have due regard to the rights and duties of the coastal State.
- b. Maritime surveillance may be conducted by States for peaceful purposes in areas claimed by other States as EEZ. This surveillance should not prejudice the jurisdictional rights and responsibilities of the coastal State within its EEZ.
- c. States should develop arrangements for the sharing of surveillance information with coastal States.

#### V. MILITARY ACTIVITIES

- a. With the exception of the qualifications noted elsewhere in these guidelines, military vessels and aircraft have the right to navigate in, or fly over the EEZs of other States, and to engage in other internationally lawful uses of the sea associated with the operations of ships and aircraft.
- b. Ships and aircraft of a State undertaking military activities in the EEZ of another State have the obligation to use the ocean for peaceful purposes only, and to refrain from the threat or use of force, or provocative acts, such as stimulating or exciting the defensive systems of the coastal State; collecting information to support the use of force against the coastal State; or establishing a 'sea base' within another State's EEZ without its consent. The user State should have due regard for the rights of others to use the sea including the coastal State and comply with its obligations under international law.
- c. Warships or aircraft of a State intending to carry out a major military exercise in the EEZ of another State should inform the coastal State and others through a timely navigational warning of the time, date and areas involved in the exercise, and if possible, invite observers from the coastal State to witness the exercise.



- d. Military activities of a State in the EEZ of another State should not hamper the search and rescue operations of the coastal State in its EEZ. States should cooperate in any such search and rescue operations.
- e. Military activities of a State in the EEZ of another State should not involve the deployment of systems that prejudice the defense or security of the coastal State, or interfere with or endanger the right of the coastal State to protect and manage its resources and environment.
- f. Military activities of a State in the EEZs of another States should not cause pollution or negatively affect the marine environment or marine living resources, including mammals. In particular, if prohibited by the laws of the coastal State, such activities in a coastal State's EEZ should not involve live weapons fire, underwater explosions or creation of sound waves and dangerous or radioactive materials that may directly or indirectly harm marine life or cause marine pollution.
- g. Military activities by another State should not be conducted:
  - 1) in areas which have been announced by the coastal State as temporarily closed for the purposes of safety of navigation and overflight;
  - 2) in areas with intensive fishing activities declared by the coastal State;
  - 3) in areas with special circumstances adopted in accordance with Article 211 (6)(a) of the 1982 UNCLOS;
  - 4) in marine parks or marine protected areas declared by the coastal State as required by Article 194 (5) of the 1982 UNCLOS;
  - 5) in areas with intensive navigation and near sea lanes and traffic separation schemes; and
  - 6) near submarine cables and pipelines on the seabed of the EEZ clearly marked by the coastal State on large-scale charts recognized by the coastal State.

- h. If there are high seas immediately adjacent to the coastal State's EEZ, a State undertaking military exercises should make every possible effort to limit them to the high seas.

## VI. NON-INTERFERENCE WITH ELECTRONIC SYSTEMS

- a. The activities of a State in the EEZ of another State should not interfere with the communications, computer, and electronic systems of the coastal State, or make broadcasts that adversely affect the defense or security of the coastal State.
- b. The coastal State should not interfere with the communications, computer, and electronic systems of vessels or aircraft of another State exercising its freedoms of navigation or overflight in or over the coastal State's EEZ.
- c. In order to make subparagraphs a and b effective, States should conclude agreements regarding mutual non-interference with communications, computer and electronic systems.

## VII. SUPPRESSION OF PIRACY AND OTHER UNLAWFUL ACTIVITIES

- a. Ships in an EEZ are subject to the exclusive jurisdiction of their flag State, except in circumstances provided by the 1982 UNCLOS or other international treaties.
- b. States may act in an EEZ of another State to seize a pirate ship or aircraft, or a ship or aircraft taken by piracy and under the control of pirates, and arrest the persons and seize the property onboard.
- c. To suppress terrorism and illicit traffic in drugs, persons, arms, and weapons of mass destruction (WMD), their delivery systems, and related materials, States should:
  - 1. board and search any vessel flying their flag in their EEZ that is reasonably suspected of transporting terrorists or being engaged in illicit traffic in drugs, persons, arms, and WMD, their delivery systems, or related materials, and

- seize such cargoes that are identified as such; and
2. consent, under appropriate circumstances, to the boarding and search of their own flag vessels by other States, and to the seizure of terrorists or drugs, persons, arms, and WMD-related cargoes on such vessels that may be mutually identified as such by both States.
- d. The boarding and search of a foreign flag vessel in an EEZ without the consent of the flag State is not justified solely because it is suspected of illegal trafficking in WMD, their delivery systems, or related materials.
  - e. In cases of arrest or detention of foreign vessels in the EEZ of a coastal State, the arresting vessel should through appropriate channels inform the coastal State of the action taken.

#### VIII. MARINE SCIENTIFIC RESEARCH

- a. Coastal State consent should in normal circumstances be granted for marine scientific research conducted exclusively for peaceful purposes and in order to increase scientific knowledge of the marine environment for the benefit of all humanity.
- b. Marine scientific research that has direct use for living and non-living resource exploration and exploitation, conservation and management is entirely under the jurisdiction of the coastal State, which is not obliged to grant consent to such research by foreign vessels.
- c. Overflight by manned or unmanned aircraft of one State over the EEZ of another State should not be conducted for the purpose of marine scientific research without the consent of the coastal State.
- d. States should fulfill their obligations to provide information to the coastal State in accordance with Article 248 of the 1982 UNCLOS, and to comply with certain conditions in Article 249 of the 1982 UNCLOS, particularly with

regard to the participation of the coastal State in marine scientific research projects.

#### IX. HYDROGRAPHIC SURVEYING

- a. Hydrographic surveying should only be conducted in the EEZ of another State with the consent of the coastal State. This does not apply to the collection of navigational data by a ship required for safe navigation during the ship's passage through an EEZ.
- b. Coastal State consent for hydrographic surveying should normally be granted unless the surveys fall within one of the consent categories in Article 246(5) of the 1982 UNCLOS.
- c. The Guidelines in Articles VIII and IX also apply to aircraft, autonomous underwater vehicles (AUVs), remotely operated vehicles (ROVs) and other remotely operated devices of a State conducting research or collecting data in an EEZ.

#### X. TRANSPARENCY OF LEGISLATION

- a. Those States with policies and/or legislation regarding military activities in their EEZs should make them as transparent and as widely known as possible, including to the military authorities of other States that are frequently using or navigating their EEZs.
- b. The dissemination or the receipt of the legislation by other States should not and does not constitute recognition of or refusal thereof by the receiving States of the legality of the legislation, unless specifically so stated by the receiving States or authorities.
- c. A copy of those laws should also be deposited with the UN Secretary-General, and be made available for easy reference by any interested States, authorities, or

persons, with a view to increasing transparency and mitigating any hostile intentions.

- d. Military vessels and aircraft of a State exercising the freedoms of navigation and overflight in the EEZ of another State should observe and comply with the coastal State's legislation on the basis of goodwill, or comply under protest.
- e. Where States disagree, dialogue should be initiated either at the bilateral or regional level.

#### XI. NON-PREJUDICIAL CLAUSE

- a. Nothing contained in these Guidelines, or activities taking place pursuant to them, should be interpreted as prejudicing the position of any State in its claims to sovereign rights or jurisdiction in its claimed EEZ, or its rights and responsibilities therein under the 1982 UNCLOS.

## EEZ GROUP 21

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