Industry Leadership in Governance and Sustainable Use of the High Seas

Paul Holthus

Executive Director
World Ocean Council
paul.holthus@oceancouncil.org

_____

Abstract:

The high seas are subject to increasing use by a range of private sector interests that impact biodiversity and marine ecosystems. Environmental governance of the high seas is complex due to the fluid, inter-connected nature of the ecosystems and their biodiversity, making management of areas and resources beyond national jurisdiction difficult. Although UNCLOS and other institutional frameworks provide for governance, it will be very difficult, if not impossible, to govern the high seas without the constructive involvement of those to be governed. As the private sector is a primary user of ocean areas and resources, it is well placed to develop and deliver solutions. Some companies that are trying to be responsible ocean users, but the efforts of a few company or even a whole industry sector will not be enough to address global, cumulative impacts on the marine environment at the scope and scale needed. Leadership and collaboration in "Corporate Ocean Responsibility" from the multi-sectoral "ocean business community" is needed through a structure and process for companies to work on complex, intertwined, international environmental issues of the high seas.

_____

The ocean is in trouble around the world. Recent studies show that almost no part of the global ocean is unaffected by human impacts. Marine ecosystems are being degraded, destroyed and overexploited at an ever increasing rate and global scale. This is affecting the coastal inhabitants and communities worldwide that depend on marine areas for food and livelihood, many of whom are poor and marginalised. Degradation of the natural functions of the ocean may also affect its critical role in regulating the climate. A substantial proportion of business and industry is entirely dependent upon ocean resources, services and space, *e.g.* marine transport, offshore oil and gas, ports, fisheries, aquaculture, marine tourism, and seabed mining. The worldwide economic value of ocean goods and services is estimated at US$ 6-21 trillion. As the primary user of ocean space and resources, the private sector is key to the future of the ocean.

Although the ocean covers over 70% of the earth's surface, it is an increasingly crowded place. With seaborne shipping accounting for 90% of global trade, United States container shipments quintupled from 1980 to 2006 and worldwide cargo will double or triple by 2020. The offshore oil industry is expanding and moving into ever deeper waters and new areas. For example, Brazil has recently discovered offshore reserves that rival those of the North Sea, and the waters of Angola are the focus of major exploration efforts. More and more fishing vessels boats are searching ever harder to harvest fish as human consumption of fish grew from 20-85 million tons during 1960-2002 and 70% of fish stocks have become fully or overexploited. Add in the other ocean uses, such as the doubling of cruise ship passenger

capacity in the past 20 years, the recent growth in offshore aquaculture and wind farms, and the coming of wave energy and the overall mix becomes a dangerous recipe. As a result, inter-industry conflicts in the ocean are on the rise; for example, witness the recent territorial skirmishes between fishers and oil exploration firms off the coast of Norway as they try and work the same areas. As noted by Michael Grey of Lloyd's List of London: "It is probably sooner rather than later that we will hear of the first accident involving a ship or fishing craft and a wave generator, so systems that promote inter-industry cooperation must surely be welcomed".

Some companies have been proactive in developing projects to respond to marine environmental incidents and challenges on a limited basis. Even with responsible companies wanting to address environmental impacts, differentiate themselves from poor performers, the efforts of one company or even a whole sector are not enough to address collective global impacts of growing ocean use by a diverse range of industries in a shared global ocean ecosystem. At the same time, new ocean management regimes that will significantly affect industry, such as marine protected area networks, are being determined by governments, intergovernmental bodies and non governmental organizations (NGOs) without much, if any, business involvement. There is clearly a need for ocean industries to collaborate within and across sectors, and engage other ocean stakeholders. The governance of the world's ocean to maintain its health, productivity and biodiversity cannot be secured without proactive, collaborative private sector leadership. Vaclav Mikulka, Director of the United Nations Division of Ocean Affairs and Law of the Sea highlights: "Managing the global oceans requires the involvement of all stakeholders, especially the private sector, and all ocean industries have a responsibility to help maintain the health and productivity of the marine environment".

Sustainable development of the dynamic, interconnected global ocean "commons" – for which everyone, and no one, is completely responsible – presents unique challenges. The international "playing field" and "rules" for the sustainable development of the ocean are being established through numerous organisations, programmes, and agreements, most of which are United Nations related: Agenda 21's Chapter 17 on oceans and coasts and the World Summit on Sustainable Development targets; the United Nations Convention on the Law of the Sea (UNCLOS), which provides a global legal framework; and the Convention on Biological Diversity (CBD), which has promulgated the "Jakarta Mandate" on marine and coastal biodiversity conservation and sustainable use. Numerous other international agreements cover more specific aspects of the sustainable development of oceans and coasts. These include: the International Maritime Organisation (IMO) conventions on marine pollution from sea-based sources; the United Nations Environment Programme (UNEP) Global Programme of Action for Protection of the Marine Environment from Land-Based Activities; the United Nations Food and Agriculture Organisation (FAO) Code of Conduct for Responsible Fisheries; the Convention on the International Trade in Endangered Species (CITES); and the Regional Seas conventions.

Although the private sector is by far the main user of ocean space and resources, and responsible for the impacts that governments are seeking to manage, with a few exceptions, business and industry are largely not included, or only operate on the margins of these international ocean management processes. At the same time, governments and international bodies lack of capacity needed for surveillance and management of the global marine environment. The governance of the ocean ecosystem is inherently multi-sectoral and international, requiring the participation of all stakeholders. As the primary user of the marine environment, and source of many ocean impacts, the private sector is best placed to develop and drive solutions, but is often not doing so in a way that addresses the global scale of the issues. Industry efforts to address its impacts are usually piecemeal and reactive, usually undertaken by one company in a limited area. The problem is that there are few incentives for leadership in environmental responsibility and collaboration in a shared global ocean ecosystem. It is often not clear how, and with whom, to work on the complex, intertwined, international marine issues. In this "tragedy of the commons", actions taken by one company to be a good ocean steward generate costs that are not perceived to have benefits, resulting in a competitive disadvantage and few incentives to tackle shared environmental problems. Although there are few incentives to take on shared environmental problems, some companies try to do business in a more environmentally sustainable way. Unfortunately, the efforts of one company or even a whole industry sector are not enough to address global, cumulative impacts of growing ocean use by a

diverse range of industries. At the same time, some United Nations agencies, governments, and NGOs are working to address marine environmental problems, but are not engaging with ocean industries.

A new approach is needed to overcome the limitations of government and international community capacity to manage the seas and the lack of a critical mass of private sector commitment. There is a need to develop integrated ocean strategies and partnerships to ensure that ocean industries can operate in the seas without damage to marine ecosystems. The industry needs to engage on ocean sustainability issues with the other sectors of the ocean business community (shipping, fisheries, cruise ships, etc.) – and with other stakeholders (government, intergovernmental, NGO). A credible inter-industry alliance that coordinates global business efforts on ocean stewardship and sustainability will benefit the involved companies in a number of ways, including: maintaining the social license to operate responsibly in the marine environment and access resources; reducing uncertainty and social conflicts that disrupt planning and operations; improving relationships with the governments, international agencies and NGOs that are re-designing the ocean "playing field"; reducing conflicts with other industries; developing best practices; and improving companies ocean environment reputation. Such a multi-sectoral and multi-stakeholder approach can result in cost-savings (*e.g.* collaborative research to find science-based solutions to shared issues). Many companies want to address environmental impacts, differentiate themselves from poor performers, collaborate within and across sectors, and engage other ocean stakeholders. The problem is that until the creation of the World Ocean Council there has been no structure and process to make this happen.

The World Ocean Council is transforming the way ocean governance and sustainability is addressed by bringing together the responsible actors from a wide range of ocean industries to create a collaborative culture of "Corporate Ocean Responsibility". As Grey notes, "If we are thinking globally, oceanically and collectively, rather than considering our own narrow industry requirements the World Ocean Council could be a very good idea. [It] could provide just the sort of co-operative inter-industry vehicle we need". The World Ocean Council aim to bring together ocean industries to catalyse leadership and collaboration in ocean governance and sustainability by:
1. Catalysing collaborative industry science to find solutions to shared marine environmental issues;
2. Developing ocean industry coordination to call for and engage in improved ocean/climate change science is support of better ecosystem management and sustainable development of the seas;
3. Constructively engaging with other ocean stakeholders;
4. Developing sustainability standards, marine footprint reporting, and ocean stewardship strategies;
5. Facilitating interaction among sectors to reduce ocean use conflicts.

As Law of the Sea chief Mikulka concludes, "The World Ocean Council efforts to bring together the global "ocean business community" to develop leadership and collaboration for ocean sustainability and stewardship are critical to the future of the oceans".