



United Nations Environment Programme
environment for development



DELIC

Division of Environmental Law and Conventions

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IEG of the Global Commons BACKGROUND

The 'Global Commons' refers to resource domains or areas that lie outside of the political reach of any one nation State. Thus international law identifies four global commons namely: the High Seas; the Atmosphere; Antarctica; and, Outer Space. These areas have historically been guided by the principle of the common heritage of humankind - the open access doctrine or the *mare liberum* (free sea for everyone) in the case of the High Seas. Despite efforts by governments or individuals to establish property rights or other forms of control over most natural resources, the Global Commons have remained an exception.

Historically, access to some of the resources found within the global commons, except for a few like fisheries, has been difficult and these resources have historically not been scarce to justify the attempt for exclusive control and access. However, with the advancement of science and technology in recent years it has made access to resources in the Global Commons easier, leading to an increase in activities in these resource domains, some types of which lack effective laws or policies to control and regulate such uses.

Antarctica is facing rapid environmental degradation due to human pressures such as pollution, and the effects of global warming. Furthermore, the doctrine of *mare liberum* (free sea for everyone) allows for the dumping of wastes and over fishing in the high seas. The indication of this trend is that the impact on the resources and the environment of the Global Commons will also most likely worsen in the not distant future if a business as usual situation prevails. Such a trend of environmental degradation will take its toll on sustainable development and poverty alleviation.

OVERVIEW OF LEGAL ISSUES

The need to address environmental issues of the global commons has been debated among various stakeholders for a long time now. Furthermore, a number of legal and institutional frameworks exist to deal with the environmental issues of the global commons. For instance, parts of the United Nations Convention on the Law of the Sea (UNCLOS) are dedicated to environmental management of the world's oceans and various components of the Antarctic Treaty Systems (ATS) for Antarctica deal with the environment of the Antarctica. While some institutional and regulatory frameworks currently address natural resource issues in the Global Commons there are fundamental gaps and inconsistencies that require immediate attention.

An important legal issue DELC seeks to address is the severe fragmentation of legal regulatory frameworks governing the Global Commons. Another critical issue is that there is no umbrella institution developing and coordinating policies for existing or new environmental issues associated with natural resource exploration or exploitation in the Global Commons. A third gap in the IEG framework is the lack of regulatory standards for emerging issues/activities such as bioprospecting, including rights and processes regarding access and benefit sharing (ABS) arising from the use of genetic resources.

Recently, the United Nations General Assembly (UNGA) had established the Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction to make recommendations to the Secretary General on some of these issues. Furthermore, the Convention on Biological Diversity (CBD) is in the process of developing scientific criteria for biodiversity conservation in areas beyond national jurisdiction.

FOCUS OF DELC'S WORK

DELC's work on the global commons is part of the 'Environmental Governance' Sub-programme of UNEP. It focuses primarily on two of the global commons: the High Seas and the Antarctica. DELC intends to contribute to, and complement, some of the processes and deliberations in various national, international and regional fora.

DELC also hopes to address some of the gaps and build capacity of developing countries in some of the technical surrounding the environmental governance of the Global Commons while at the same time raising awareness around some of these critical issues facing these regions of earth.

INTENDED OUTCOMES

As part of its over-arching objective of strengthening IEG, DELC's work aims to achieve the following results:

- better understand the gaps in environmental governance and management of the global commons, especially the science and policy nexus;
- build or reinforce partnerships and coordination among numerous stakeholders;
- enhance the capacity of developing countries to actively participate in research, negotiate in processes, and develop legal instruments related to the High seas and Antarctica as well as implementing, complying with, and enforcing relevant international obligations;
- further develop effective environmental governance and management tools, guidelines, codes of conduct, institutions and frameworks on global commons developed; and,
- create then disseminate publications, including policy reports, issue papers, and other materials

- A-Z of UNEP

Annual Report	Funding for UNEP	Saskawa	UNEP Planning and Monitoring
Champions of the Earth	Gender	South South Co-operation	UNEP Sustainability
Children and Youth / Tunza	Global Environment Outlook	Sports & Environment	UNEP Year Book
Climate and Clean Air Coalition	Governments / SGB	Sustainable Consumption & Production	Virtual Library
Climate Change	Green Economy	Think.Eat.Save	Water
Climate Technology Centre & Network	Greening the Blue	Tourism	World Environment Day
Complaints Hotline	Harmful Substances	Transport	10YFP
Disasters & Conflicts	INFORMEA	UN Environment Assembly	Regional Offices
Ecosystem Management	International Resource Panel	UNEP Intranet	Africa
Education and Training	Major Groups and Stakeholders	UN REDD	Asia Pacific
Employment	OARE	UNEP Live	Europe
Energy	Our Planet	UNEP-UNEP Poverty & Environment	Latin America and the Caribbean
Environment Management Group	PROVIA - Science for Adaptation Policy	UNEP Finance Initiative	North America
Environmental Governance	Resource Efficiency	UNEP Governing Council	West Asia
Financial Inquiry			

