

## **-MODULE 10-**

# **MARINE PROTECTED AREAS**

## **-SPECIAL FEATURES AND INTERNATIONAL LAW OBLIGATIONS & GUIDANCE-**

### **CONTEXT OF MODULE WITHIN BROADER COURSE**

- This is the tenth Module in the Course.
- Marine Protected Areas (MPAs) are recognised as an essential tool for the conservation of marine and coastal biodiversity and require special attention in protected areas law because of their special features and needs.
- This Module is Part 1 of a two-part set of Modules, Module 11 being Part 2. This Module gives attention to the special science, management, international law, and connectivity considerations for marine and coastal protected areas (MPAs). These special considerations need to be taken into account in MPA legal frameworks, the topic of Part 2 (Module 11).
- This Module serves to achieve four main purposes:
  - acquaint Learners with historical origins of MPAs and factors that have helped MPAs evolve to their present day-role.
  - introduce Learners to main features, threats, and management challenges of marine environments that require special attention in MPA legal frameworks.
  - provide an overview of main international law obligations and guidance on marine management and conservation relevant for MPA legislation.
  - introduce Learners to the connectivity conservation as it applies to the needs of MPAs.
- Where the situation permits, Modules 10 and 11 are best studied together in the order presented in this Course.
- In this Module, the phrase 'marine protected areas' includes marine and coastal protected areas and, depending on the context, may relate to sites that are completely offshore, entirely coastal or a combination of the two.
- Marine areas beyond national jurisdiction (i.e. High Seas) are not covered here because protection and use of the high seas is governed by international law which has different legal structures and processes of decision-making.

### **OVERVIEW OF KEY CONTENT**

In this Module the Educator will introduce the Learners to four special aspects of marine environments and marine protected areas that need attention for effective MPA legal framework:

- **Evolving Role of MPAs**
  - Historical development
  - Expanded marine jurisdiction
  - Scientific advances
  - Modern definitions
  - New global targets
- **Special features**
  - Special characteristics
  - Special threats
  - Special management challenges
- **International law**
  - Global oceans law
  - Global conservation treaties
  - Regional instruments
- **Marine connectivity**
  - What is marine connectivity
  - International law
  - Managing for marine connectivity

## **MODULE OBJECTIVES & OUTCOMES**

- **Objectives**
  - Review the evolution of MPAs for conserving and sustaining marine biodiversity and ecosystems.
  - Identify special characteristics of marine and coastal environments needing attention in MPA law.
  - Outline main international law obligations and guidance in marine conservation and MPAs.
  - Provide an overview of special marine connectivity features needing attention to support MPA development and sustainability.
- **Desired Outcomes**
  - Understanding of the evolving role of MPAs for conserving and sustaining marine biodiversity and ecosystems.
  - Knowledge of the special characteristics of marine and coastal environments needing attention in MPA law.
  - Knowledge of the main international law obligations and guidance in marine conservation and MPAs.
  - Awareness of special features of marine connectivity needing attention to support MPA development and sustainability.

## **READINGS & RESOURCES**

- *PA Law Guidelines* (Pgs 209-242) and accompanying case studies,
- *Legal Aspects of Connectivity Conservation* (Pgs 143-164).

## **STRUCTURE & DURATION OF MODULE**

- This Module is structured into **two main components**:
  - **Seminar Presentation**
  - **Exercise**
- The approximate **duration** of the Module is 4 hours comprising of:
  - Seminar Presentation (2 hours)
  - Exercise (2 hours)

[These time estimates are indicative only; actual duration of the Module will vary depending on the audience, setting, and content used.]

## REFLECTIVE EXERCISES

In this Module the Educator has the choice of **two exercises**:

- **Exercise 1** – *Exploring the Special Features of and Management Challenges Associated with the Marine Environment*
  - **Nature of the Exercise**
    - Knowledge-reinforcing exercise.
    - Two-group exercise.
    - Practical factual scenarios.
    - Discussion Forum
  - **Purpose of the Exercise**
    - Build awareness of the special characteristics of and threats to the marine environment as well as the management challenges posed thereby.
    - Provide Learners with an opportunity to think practically about approaches to addressing those challenges.
    - Develop problem solving skills.
  - **Structure of the exercise** (times are indicative, may vary by to audience and setting)
    - Introduction by Educator (10 minutes)
    - Group work (60 minutes)
    - Joint class discussion (30 minutes)
    - Consolidation by Educator (20 minutes)
  - **Methodology/Procedure**
    - Divide Learners into two groups
    - Each group will be introduced to a case study area called Lagoon Bay in the State of Utopia. Each group will be given a practical factual scenario that explores particular features, threats, and management challenges posed by marine and coastal environments when it comes to establishing an MPA in Lagoon Bay. Each group will also be given a table of applicable laws and international obligations. Each factual scenario will present different issues, uses, and interests that need to be taken into account.
    - Factual scenario one focuses on the interrelationship between the terrestrial and marine environment; the potential impacts of climate change as well as activities that pose a pollution threat.
    - Factual scenario two focuses on the tensions between marine conservation, customary practices and commercial fishing activities.
    - Each group will be tasked with studying their factual scenarios and making recommendations according to their respective scenarios on primary challenges and threats to the MPA, main stakeholders and current and potential interests that need to be taken into account, possible approaches for addressing specific

challenges, and whether there are any existing mechanisms in legislation/management plans to help address the challenges (1 hour).

- The groups will then be brought together and the Educator will facilitate an open discussion of the recommendations, and consolidate and elaborate as appropriate.

- **Exercise 2** – *Analysing and Comparing Protocols for MPAs under UNEP’s Regional Seas Conventions*

- **Nature of the Exercise**

- Knowledge-reinforcing exercise.
- Small group exercise.
- Legal analyses.
- Discussion forum.

- **Purpose of the Exercise**

- Get Learners to work with international law related to MPAs, including obligations arising from international treaties and associated guidance.
- Provide an opportunity for Learners to reflect on the contents of international agreements specifically relating to MPAs.
- Develop analytical skills.

- **Structure of the Exercise** (times are indicative, may vary according to audience and setting)

- Introduction by Educator (15 minutes)
- Small Group Work (60 minutes)
- Joint class discussion (30 minutes)
- Consolidation (15 minutes)

- **Methodology/Procedure**

- Divide Learners into small groups of two or more, depending on class size.
- Each group will be given:
  - The Mediterranean Protocol for MPAs under the Regional Seas Programme, and the Wider Caribbean Protocol for MPAs under the Regional Seas Programme (or two other Regional Seas examples of MPA Protocols if they fit the class situation better).
  - The CBD COP decision IX/20, Marine and Coastal Biodiversity, including Annexes I and II on scientific criteria and guidance for selecting MPA sites and establishing MPA networks.
- Each group will be tasked with carefully reading through the Protocols and CBD Decision and undertake the following tasks in two Parts (roughly 1 hour):
  - A comparison of the two Regional Seas Protocols with a view to identifying similarities and differences in how they

approach MPAs, with particular attention to provisions on the following: definitions relevant for MPAs, general obligations related to MPAs, provisions on establishing MPAs, associated provisions on protection, planning and management measures called for, and buffer zones.

- The extent to which the Protocols reflect the scientific guidance contained in the CBD COP decision, with particular attention in Annex I to uniqueness or rarity, endangered or declining species and/or habitats, vulnerability, biological diversity, naturalness; and in Annex II to ecologically and biologically significant areas, representativeness, and connectivity.
- All Learners will then come back together as a group and present their analyses. The Educator consolidate and elaborate as appropriate using a pre-prepared Summary Analysis (45 minutes).

## NOTES FOR THE EDUCATOR

### • **General Preparations for the Module**

- Read the main texts and the additional readings and resources.
- Work through the relevant Seminar Presentation and supporting Presentation Notes.
- Tailor the Presentations to suit your purpose and audience.
- Read through the relevant Exercises.
- Tailor the Exercises to suit your purpose and audience.

### • **Facilitation of the Module**

- The Educator may wish to consider the following factors in tailoring the Seminar Presentation to the specific context and audience:
  - Where this Module is presented as a stand-alone Module, the Educator may wish to spend some time introducing him/herself and allowing each Learner to introduce him/herself.
  - This Module provides the framework elements for Module 11 (Part 2 of the MPA set addressing 'Special Legal Considerations for National Frameworks'). Where the situation permits, the two modules are best studied together.
- This Module on MPA law builds on some generic elements of protected areas-related law covered in other Modules. The Educator may wish to cross-reference other relevant Modules for context or additional background. Where Learners are taking the full course the Educator should encourage their review of relevant sections of those Modules. Where Module 10 and 11 are presented as stand-alone Modules, it will be especially useful for the Educator to link key elements of this Module to relevant sections of other Modules, most notably:
  - Module 7 (International Law and Protected Areas) provides information on international and regional law instruments generally, as background for slide 29 on international law for MPAs, and slide 36 on examples of regional instruments for MPAs.
  - Module 8 (Connectivity Conservation – Introduction) provides useful background on scientific concepts generally for connectivity which also can be applied to MPAs, beginning with slide 38, and particularly with concepts illustrated in slides 41, 42, and 44.
- Module 10 contains a few optional slides and suggestions for additional discussion which the Educator may choose to use, tailor to the class, substitute with other examples, or skip, depending on what best suits the purposes and audience involved. The main optional slides are:
  - Slide 10 which deals with a discussion of marine areas under national jurisdiction. If the class lends itself to more discussion, ask the students if they know whether their countries have declared EEZs, and how that may have expanded coverage of MPAs. The Educator also may ask the Learners to think of examples of coastal or island states where the EEZ covers an area larger than the land area.
  - Slide 21 provides an optional slide of special threats causing coastal habitat loss, drawn from the Millennium Ecosystem Assessment of 2005/2006.
  - Slide 24 provides an optional slide of the lay out of Phoenix Islands Protected Area in the Southern Pacific Ocean as an example of an

MPA with straight and simple boundaries, the recommended approach especially for exceptionally large marine areas.

- Slides 25 and 27 suggest the option of taking the case study used in Exercise 10(1) of this Module (Lagoon Bay in the State of Utopia) and using two abbreviated scenarios to have the Learners identify main threats to the proposed MPA, main stakeholders and management challenges.

## **ASSESSMENT EXERCISES**

### **• Nature of Exercises and Guidance on Using Them**

- The Module provides a series of essay-style assessment questions that are designed to broadly cover the content of the Module.
- The questions may be utilised for assessment purposes or as an opportunity for Learners to consolidate their knowledge.
- The questions cover both theoretical and practical issues.
- No mark allocation for the questions has been provided.
- All of the questions are of equal weighting.
- It is recommended that in an exam-type setting, Learners should have 1 hour to answer each question.
- The answers for the questions can be drawn directly from the Seminar Presentation and the accompanying Notes for Educator.

### **• Assessment Questions**

- *Question 1*

Marine Protected Areas are recognized as an essential tool for conserving marine and coastal biodiversity and require a supportive legal framework to do so.

Write an essay describing the special characteristics and associated management challenges of marine environments that make them different from terrestrial environments and require special legal treatment. Include a brief discussion on why the oceans are so important for the planet's biodiversity and how the purpose of marine protected areas has evolved from their historical role.

- *Question 2*

The international community has set global targets for protection of coastal and marine areas important for biodiversity and ecosystem services. These targets are called the Aichi biodiversity targets and they are part of the CBD Strategic Plan for Biodiversity 2011-2020.

You are tasked by the Minister to prepare a memorandum identifying and explaining these global targets for marine protection, the scope of their application to areas under national jurisdiction, and the associated guidance they provide on the conservation measures needed for the country to meet these targets.

- *Question 3*

In recent years, IUCN has updated its generic definition of protected areas to include marine and coastal protected areas.

Write an essay explaining the definition and discussing the advantages of this generic definition for MPA and how it better addresses modern MPA objectives and scope. Also indicate any elements of the definition that are important to take into account in MPA legislation and that reinforce the role of law.

- *Question 4*

In recent decades, scientific understanding has improved significantly about the deteriorating state of the world's oceans and coastal areas, and the major threats to marine biodiversity, marine and coastal ecosystems, and MPAs. It is important to understand these threats in order to provide adequate legal support for MPA authorities to effectively plan and manage MPAs and MPA networks.

Write an essay outlining the major existing and potential threats to marine and coastal areas that need to be taken into account in legal frameworks for establishment and management of MPAs.

- *Question 5*

The Minister has directed staff to review and as needed revise the existing MPA legislation, taking into account, among other things, international law obligations and guidance relevant for national MPA law.

You are tasked with preparing a memorandum describing the major global conservation treaties and the associated conservation obligations, guidelines, and criteria for marine and coastal environments, and their relevance for national MPA law.

- *Question 6*

While knowledge about natural connectivity of marine species and marine ecosystems is less advanced than for terrestrial species and systems, scientific understanding is steadily improving. Management principles, international law, and national legal tools to support marine connectivity conservation are emerging.

Write an essay giving an overview of how marine connectivity happens, the different scales that may exist, and key legal and management tools already beginning to be used at international and national levels in some regions to support marine connectivity and MPAs.