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Legal issues affecting offshore aquaculture development

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The concept that the ocean is 'there for all to take' (Hugo Grotius) has been the legal framework for the management of ocean resources since the 1600's. This lack of governance of the ocean environment is continuing to influence present day legal developments and the implementation of an effective ocean policy. Unfortunately, marine aquaculture operates in a very crowded ocean environment with many conflicts from its neighbors' including:

- Navigation lanes have to be kept clear of obstructions
- Conflicts between traditional fishing and fish farms for space
- Recreational fishing when close to coastal areas
- Tourism – views of cages and structures from hotel windows
- Marine aquaculture is affected by two main international regimes of law:

The Law of the Sea: The Law of the sea aims to establish legal order for the peaceful use of the seas and oceans with the equitable use of their resources, along with the conservation of living resources and protection and preservation of the marine environment. The aim of the convention was to allow exploitation but also have a framework for protection.

International environmental law: The law of the Sea did not include matters of conservation, hence the introduction of international conventions relating to environmental issues. Interestingly, Aquaculture was not outlined in the convention, as the topic was not recognized as being of international significance! The law of the Sea (LOS) regime assisting in settling disputes about the extent of coastal states to claim sovereignty over the ocean waters. The convention divided the oceans into several jurisdictional zones which are subject to different legal regimes – the territorial sea, the exclusive economic zone (EEZ), the continental shelf and the high seas. For the purpose of this article, they will focus on the Exclusive Economic Zone (EEZ) as this is the area in which marine aquaculture will take place in the future. There are a growing number international environmental regimes and conventions that may affect the development of offshore aquaculture. However at present there is no UN legal instrument dealing with aquaculture. Aquaculture is an activity that has remarkable potential for human benefit. Let's not let this opportunity to provide a legal framework to development get away.

Biography

Katherine Hawes 'The Fish Lawyer' is the founder and principle solicitor of Aquarius Lawyers. With over 20 years' legal and business experience, her expertise lies in advising and representing organizations and businesses on issues pertaining to the marine environment. This includes aquaculture, marine and fisheries law, maritime security and marine resources management. She aims to keep readers up to date with national and international legal issues affecting the marine world with her newsletter 'The Fish Report'. In addition to having a Masters in Maritime Law, she also lectures on Corporations and Business Law to both undergraduates and postgraduate students at various tertiary institutions including the University of Technology. She also lectures on International Fishery Law at the University of Wollongong. She is also the founder of Aquarius Education which offers a wide range of education programs including Maritime Law and Contract Law fundamentals for non-lawyers. She was also regularly asked to speak at large international events. During 2013, she successfully delivered a paper at the International 'Fisheries Observer and Monitoring Conference in Chile, "Keeping it Legal" to the American Fisheries Society (September- 2013), and is booked to deliver 'Legal issues affecting offshore aquaculture development' at the Asia Pacific Aquaculture Conference in Vietnam (December- 2013).

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