



# “High Seas” Conservation and Marine Scientific Research

Lee A. Kimball  
UNOLS Council  
Oct. 5, 2006

# UNCLOS (1982): The Framework

- Rights and obligations of all States
- Comprehensive: all ocean activities, existing and emerging
- Its obligations & principles = building blocks for new legal instruments
- Global and regional treaties complement and supplement UNCLOS and function within its framework, whether
  - Specialized treaties/regimes (e.g., shipping, fishing, minerals development, etc.)
  - Broader treaties (e.g., Biodiversity Convention)



# UNCLOS Framework (2): Geographic and Jurisdictional

- Zones of coastal state jurisdiction
  - Territorial Sea, EEZ, Continental Shelf
- Beyond national jurisdiction
  - High Seas (water column)
  - Area (seafloor)

# Convention on Biological Diversity (1992)

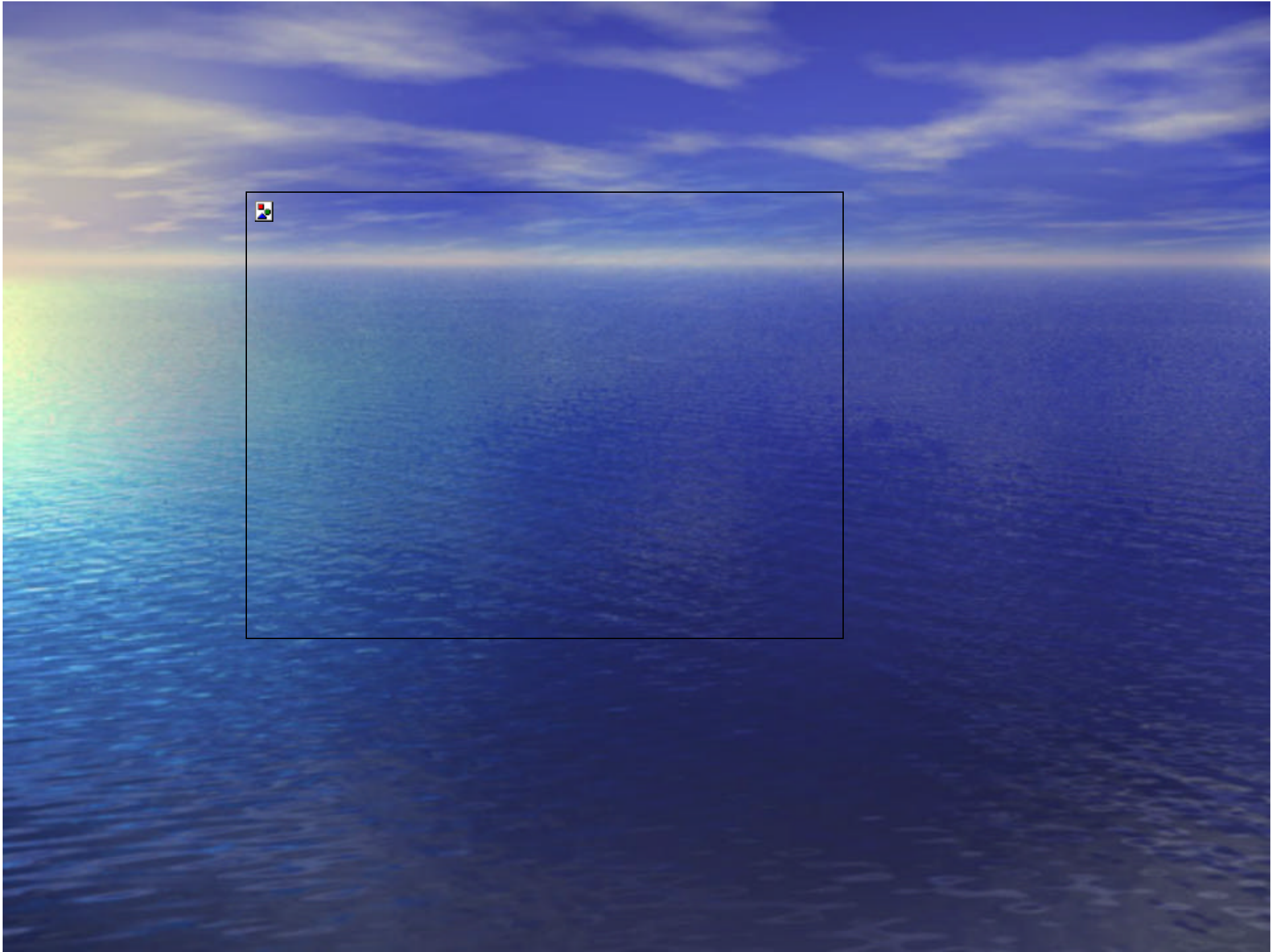
- Objectives:
  - conservation of biodiversity,
  - sustainable use of its components,
  - fair and equitable sharing of benefits arising out of the utilization of genetic resources
- Parties to implement CBD consistently with UNCLOS obligations



# Biodiversity Convention (2)

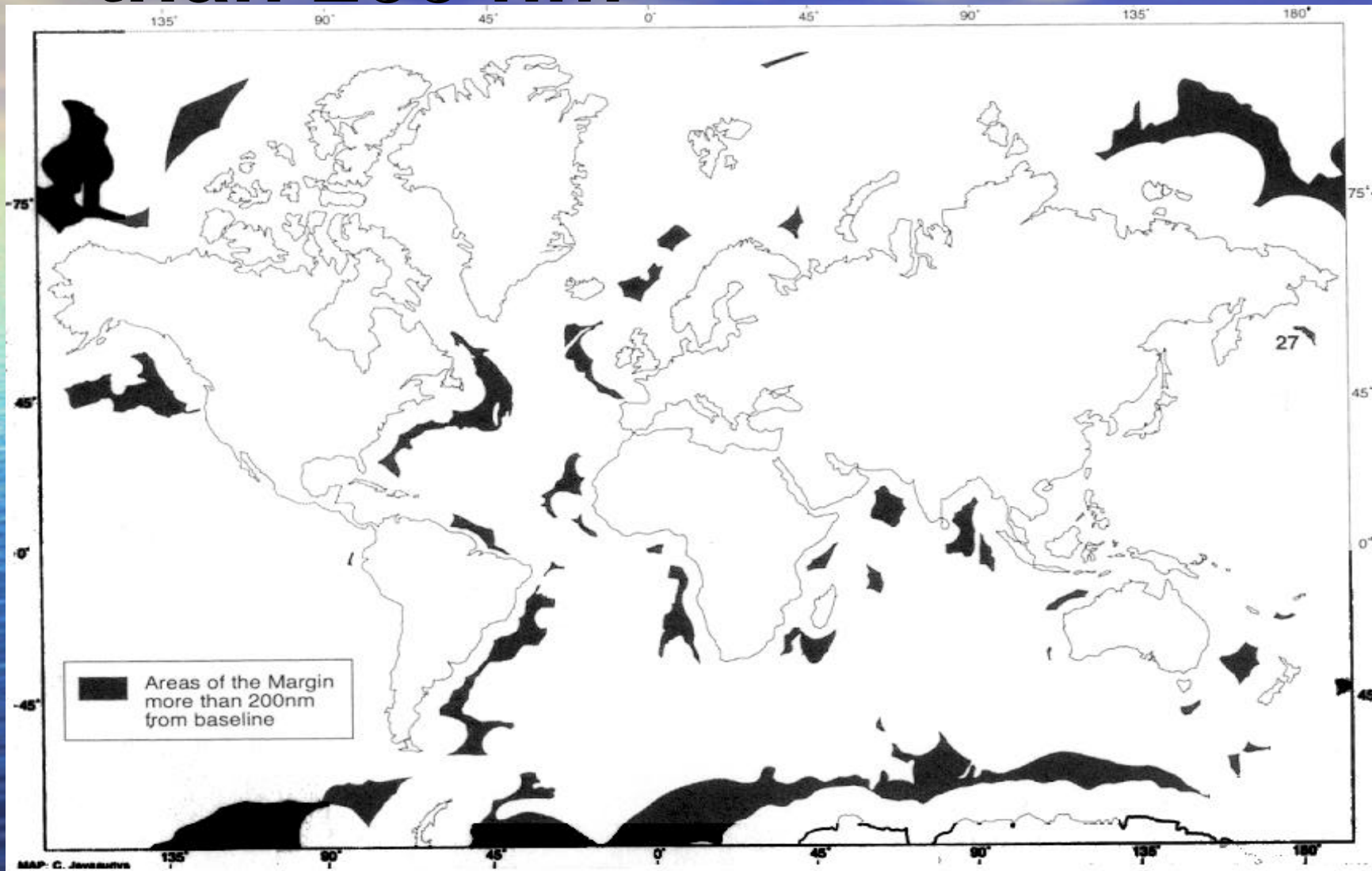
Beyond national jurisdiction,

- Parties to cooperate to conserve & sustainably use biodiversity
- Convention does not apply directly to components of biodiversity
- Convention does apply to “activities and processes” carried out under a Party’s jurisdiction or control that may adversely affect biodiversity in these areas (e.g., MSR)
  - Identify & monitor activities
  - EIA of proposed activities likely to have significant adverse effects
  - State responsibility to avoid environmental damage





# Continental margins wider than 200 nm



# Ocean Conservation Developments Beyond National Jurisdiction

3 separable but linked issues:

- high seas fisheries
- marine protected areas (MPAs)
- Bioprospecting (MSR)

4<sup>th</sup> – seabed (Area) minerals development

5<sup>th</sup> – MSR environmental impacts generally



# The Build-Up

- United Nations
  - General Assembly (annual)
  - UNICPOLOS (annual)
  - ABNJ (Feb. 2006, 2007?)
- Biodiversity Convention (biennial)
- International Seabed Authority (annual)
- Fisheries Bodies (RFMOs, UNFSA, FAO)

# High Seas Fisheries: What are the MSR implications?

## Issues

- Overexploitation
- Illegal, unreported, unregulated (IUU)
- Destructive fishing practices

## Implications for MSR

- Loss/damage to areas/species of scientific interest
- Inform conservation & mgmt decisions



# Seabed (Area) Minerals Development: MSR Implications

ISA administers UNCLOS regime

- Manganese nodules, polymetallic sulphides (vents), cobalt crusts (seamounts)
- Protect flora and fauna from minerals activities

## Implications for MSR

- Loss/damage to areas/species of scientific interest
- Inform conservation & mgmt decisions
- ISA promote/coordinate MSR for Area
- ISA developments (regulations, knowledge base) likely to influence national approaches to these minerals w/in national jurisdiction

# Bioprospecting (MSR): The Issues

- Legal/Political Considerations
  - Legal status of Area genetic resources
  - Nature of MSR related to Area genetic resources (“bioprospecting”)
- Environmental Considerations
  - Localized concentrated impacts (vents)
  - Use conflicts (a) among scientists (b) other uses
  - Potential large-scale ‘harvests’ for biotechnology development



# Bioprospecting (MSR): Where are we now?

- Developing Countries: new legal regime for Area genetic resources based on UNCLOS and CBD, including benefit-sharing
- Developed Countries: concerned about implications for regulating MSR (high seas freedom)
- Both: stronger international collaboration and capacity-building in MSR and possible International MSR Code of Conduct
- Some developed countries willing to discuss a benefit-sharing regime for genetic resources

# Bioprospecting: further suggested studies (ABNJ working group)

- Nature & scale of bioprospecting & biotechnology from Area; commercial interests
- Patents and intellectual property rights; how implemented at national level
- Range of public/private partnerships MSR and biotechnology firms; do they restrict flow of knowledge from MSR; opportunities to broaden collaboration with developing countries
- Options to develop benefit-sharing mechanisms, including non-monetary benefits



# Opportunities for MSR

- International MSR Code of Conduct
- Expand Int'l Collaboration in MSR > national jurisdiction
- Cooperate in establishment of MPAs
- Provide advice on international deliberations

# International MSR Code of Conduct

- Avoid environmental impacts and conflicts of use – including MPAs as a tool
- Advance communications on planned activities to better coordinate
  - maximize scientific results and reduce impacts
  - enhance international collaboration
- Enhance widespread availability and sharing of samples, findings



# Other Opportunities

- Expand int'l MSR collaboration
  - ISA, continental shelf > 200 n.m.
- MPAs – a vehicle for science & conservation
- Provide Advice
  - Process – national, international
  - Substance – further studies?

# In conclusion.....

- Ocean conservation developments do have implications for MSR
- It may be time for the scientific community to engage these issues proactively