

UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

**UNCTAD**



# OCEAN GOVERNANCE IN COSTA RICA

An Overview on the Legal  
and Institutional Framework  
in Ocean Affairs



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**UNCTAD/DITC/TED/INF/2018/4**

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## Acknowledgements

This publication was produced by Mariamalia Rodríguez Chaves, UNCTAD and DOALOS Consultant. The author wishes to acknowledge the contributions of UNCTAD, DOALOS and the Government of Costa Rica in the preparation of the present report. This document has not been formally edited.

Desktop formatting was done by Mr Rafe Dent of UNCTAD.

12 February 2019

## Acronyms and abbreviations

|           |   |
|-----------|---|
| AACUE     | Association Agreement between Central America and the European Union  |
| AJDIP     | Agreements adopted by its Board of Directors.   |
| ALADI     | Latin American Integration Association.   |
| AMPR      | Marine Areas for Responsible Fishing.   |
| AMUM      | Multiple Use Marine Areas.  |
| AyA       | Water and Sewage Institute of Costa Rica.   |
| CAFTA     | Central America – United States and Dominican Republic.   |
| CARICOM   | Caribbean Community.  |
| CBD       | Convention on Biological Diversity.   |
| CITES     | Convention on International Trade in Endangered Species of Wild Fauna and Flora.                                  |
| CLC       | International Convention on Civil Liability for Oil Pollution Damage.   |
| CLCS      | Commission on the Limits of the Continental Shelf.  |
| CMS       | Convention on Migratory Species.  |
| COMEX     | Ministry of Foreign Trade.  |
| CONAMAR   | National Council for Ocean Development.   |
| CST       | Certificate for Tourism Sustainability.   |
| DIPOA     | Food Safety Directorate of Animal Products.   |
| EEZ       | Exclusive Economic Zone.  |
| EFTA      | European Free Trade Association.  |
| EIA       | Environmental Impact Assessment.  |
| FTA       | Free Trade Agreements.  |
| IATTC     | Inter-American Tropical Tuna Commission.  |
| ICJ       | International Court of Justice.   |
| ICRW      | International Convention for the Regulation of Whaling.   |
| ICT       | Costa Rica Tourism Board.   |
| INA       | National Apprenticeship Institute.  |
| INCOP     | Costa Rican Institute of Ports of the Pacific.  |
| INCOPESCA | Institute of Fisheries and Aquaculture.   |
| INVU      | National Institute of Housing and Urban Development.  |
| JAPDEVA   | Board of Port Administration and Economic Development of the Atlantic Coast                                       |
| MAG       | Ministry of Agriculture and Livestock.  |
| MEIC      | Ministry of Economy, Industry and Commerce.   |
| MINAE     | Ministry of Environment and Energy.   |
| MINSA     | Ministry of Health.   |
| MOPT      | Ministry of Public Works and Transportation.  |
| PSMA      | FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing. |
| RFMO      | Regional Fisheries Management Organization.   |
| SENASA    | National Service of Animal Health.  |
| SEPLASA   | Sectoral Planning Secretariat of Environment, Energy, Ocean and Territorial Planning.                             |
| SETENA    | National Environmental Technical Secretariat.   |
| SINAC     | National System of Conservation Areas.  |
| SNG       | National Coastguard Service.  |
| TED       | Turtle Excluder Device.   |
| UNCLOS    | United Nations Convention on the Law of the Sea.  |
| UNCTAD    | United Nations Conference on Trade and Development  |
| UNFSA     | Fish Stocks Agreement.  |
| WTO       | World Trade Organization.   |
| ZMT       | Maritime Terrestrial Zone.  |

## INTRODUCTION

The present Report<sup>1</sup> is prepared within the framework of the project “*Evidence-based and policy coherent oceans economy and trade strategies*” (Project).<sup>2</sup> The Report provides an overview of international and national legal instruments for ocean governance within the Costa Rican context, as well as the competent national institutions, relevant to oceans economy and trade strategies that will be developed in subsequent phases of the Project.

Ocean governance is generally understood to encompass the legal and institutional frameworks for the management of ocean space, activities and marine resources, with the view to maintaining the ocean health, productivity, and resilience.

Section 1 of the Report provides an overview of relevant provisions of the United Nations Convention on the Law of the Sea (UNCLOS)<sup>3</sup> and how these have been implemented within Costa Rica.

Section 2 addresses a general overview of the institutional framework in Costa Rica, and the main international and national provisions on the conservation and sustainable use of marine living resources. In this regard, it should be pointed out that international instruments are incorporated in the Costa Rican national legal system once the respective instrument is ratified or approved by the Parliament through a specific law or adhered by the Executive Power through an Executive Decree.

Thereafter, section 3 addresses the four subsectors identified as national priorities in the Project, namely:

1. Sustainable marine fisheries (all fish but tuna);
2. Sustainable wild tuna harvesting/fishing sector (only tuna species);
3. Sustainable crustacean aquaculture; and
4. Seafood manufacturing sector.

In the final part of the Report (section 4), an overview of specific cross-cutting legal frameworks is provided, namely: regulations on trade, maritime terrestrial zone, navigation, water pollution, and marine tourism, as well as additional institutions, such as the judicial branch and the national apprenticeship institute.

In addition, trade linkages are flagged throughout the different sections in the Report.

# 1. BRIEF BACKGROUND: UNCLOS AND OCEAN GOVERNANCE IN COSTA RICA

UNCLOS establishes the legal order for the seas and oceans. It is the principal legal instrument with rules governing all aspects of oceans, including provisions on the delimitation of maritime zones; the conservation and sustainable use of the oceans and their resources; the protection of the marine environment; and the settlement of disputes relating to ocean matters.

Costa Rica ratified UNCLOS through Law No. 7291 on the 3 August 1992, and some of its provisions have been assimilated and developed through the national legal framework, as will be seen throughout this Report.

## 1.1. Sovereignty and sovereign rights of Costa Rica in its maritime zones

Within the UNCLOS framework, coastal States may determine the **baselines** from which the breadth of the territorial sea<sup>4</sup> is established. In the case of the breadth of the territorial sea of Costa Rica in the Pacific Ocean, the country’s baselines were established through Executive Decree No. 18.581-RE. However, the width of the territorial sea is currently under revision by Parliament in an effort to ensure that they comply with UNCLOS, in particular, its provisions on the use of normal and straight baselines.<sup>5</sup>

UNCLOS also sets the legal regime applicable in the different **maritime zones**, namely: the territorial sea, the contiguous zone, the exclusive economic zone, the continental shelf, which are areas within national jurisdiction; and the high seas and the Area, which are areas beyond national jurisdiction, and therefore, the

**Map 1. Costa Rica maritime area**



Source: National Geographic Institute - National Registry. Edition 1 IGNCR. 2018

rules that Costa Rica shall follow and implement as a party to the Convention.

Furthermore, in harmony with UNCLOS, Article 6 of Costa Rica's Political Constitution establishes that the country exercises sovereignty over its territorial sea within a distance of twelve nautical miles from its baselines.<sup>6</sup> In addition, the country exercises a special jurisdiction in its Exclusive Economic Zone, in a similar sense as the sovereign rights referred in UNCLOS, for the purpose of exploring, exploiting, conserving and managing the natural resources of waters superjacent to the seabed and of the seabed and its subsoil in accordance with International Law.<sup>7</sup> In line with UNCLOS provisions on maritime zones, the Fisheries and Aquaculture Law No. 8436 reinforces that Costa Rica exercises sovereignty over the marine areas existing in the internal waters, the territorial sea, and sovereign rights in the EEZ.<sup>8</sup>

Furthermore, Costa Rica has made a preliminary submission to the Commission on the Limits of the Continental Shelf (CLCS) in relation to the outer limits of its continental shelf beyond 200 miles on the Pacific coast.<sup>9</sup>

Regarding **maritime boundaries**, Costa Rica has established boundaries with neighbouring countries such as Panama,<sup>10</sup> Colombia,<sup>11</sup> and Ecuador.<sup>12</sup> Most recently, maritime boundaries with Nicaragua<sup>13</sup> were established by a judgment delivered by the International Court of Justice (ICJ) on February 2018. The judgment established clarity to both countries in relation to their EEZ and continental shelf, and therefore, on their respective rights and obligations.

## 1.2. Protection and preservation of the marine environment

UNCLOS sets the general obligation to protect and

preserve the marine environment.<sup>14</sup> It also includes more specific provisions on the prevention, reduction and control of pollution of the marine environment, including rare or fragile ecosystems and the habitat of depleted, threatened or endangered species;<sup>15</sup> the duty not to transfer damage or hazards<sup>16</sup> or to use technologies or introduce alien species that may cause significant and harmful changes into the marine environment.<sup>17</sup>

UNCLOS also contains provisions related to the adoption of laws and regulations to prevent, reduce and control pollution from land-based sources;<sup>18</sup> the obligation of States to ensure compliance with international rules and standards, and their national laws, to vessels flying their flags;<sup>19</sup> and enforcement measures applied by port and coastal States (articles 218 and 220, respectively). It is important to note that UNCLOS provisions are without prejudice to the obligations under other conventions on the protection and preservation of the marine environment while such obligations assumed by States under other conventions should be carried out in a manner consistent with the general principles and objectives of UNCLOS.<sup>20</sup>

Costa Rica has incorporated these UNCLOS provisions into its national legal framework through the Organic Law of the Environment No. 7554, in its Chapter VIII,<sup>21</sup> which contains regulations on the protection of the marine environment; as well as the Regulation to the Biodiversity Law,<sup>22</sup> which provides for norms on protected areas, including marine management categories.

Other relevant topics addressed by UNCLOS such as navigation, pollution and security have been implemented through domestic regulations and will be addressed under the relevant section of the Report.

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