

Oceans Governance Arrangements in British Columbia

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1. Introduction

Jurisdictional responsibilities in the marine environment are shared by the federal and provincial governments. Offshore areas and all organisms in the water column are under federal care, while the province has jurisdiction over the foreshore below (seaward of) the high-tide mark and coastal (or “inland”) waters within the jaws of the land. Many important ocean activities (Table 1) are of central interest to the provincial government. Some of these are areas of exclusive jurisdiction; others fall under shared jurisdiction, or are areas of uncertain or evolving jurisdiction. Others areas, such as marine fisheries management, while a federal responsibility, are of great interest to the province. In addition to jurisdictional uncertainties, the actual ownership of the seabed along the Pacific coast remains unclear, particularly off the central and north coasts. Oceans jurisdictional divisions and uncertainties add complexity to the planning and management of these activities, particularly in the absence of effective mechanisms to coordinate the actions of multiple government agencies.

Canada and BC have collaborated on aspects of marine planning and management since the mid 1990s. One of the best examples of close collaboration was the 1998 joint discussion paper, *Marine Protected Areas: A Strategy for Canada’s Pacific Coast*, which proposed a joint federal-provincial approach, shared decision making, and the development of a comprehensive system of MPAs by 2010. Additionally, numerous initiatives have taken place between governments to improve the sharing of resource information systems for both planning and management purposes. Commencing in 2001, the provincial government has lead a series of sub-regional coastal and marine planning exercises with varying but increasing federal participation. To date, eight plans at the sub-regional scale have been completed that incorporate both federal

Table 1. Provincial Interests in Ocean resources.

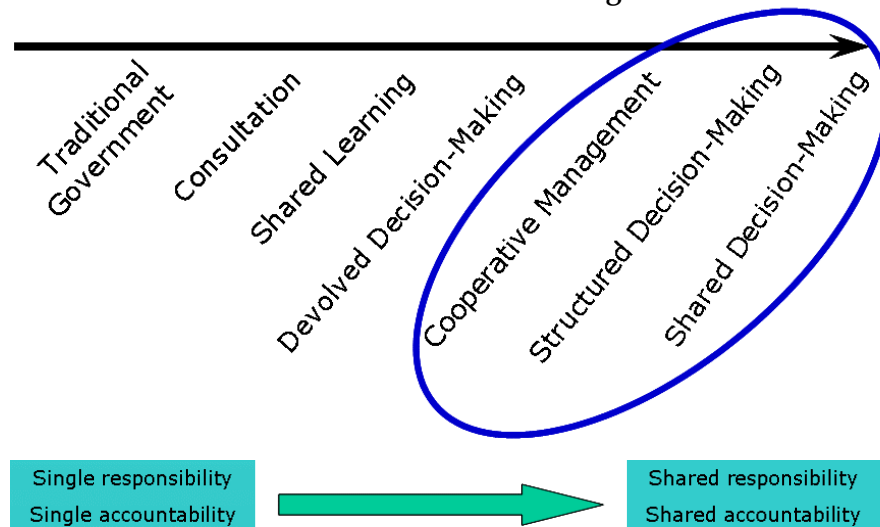
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|-------------------------------------|---------------------------------------|
| • Wild Capture Fisheries | • Ecosystem Conservation |
| • Seafood Processing | • Marine Protected Areas |
| • Aquaculture | • Coastal and Oceans Planning |
| • Recreation & Tourism | • Crown Land Tenures |
| • Marine Transportation | • Waste Management |
| • Port and Harbour Development | • Oceans Research |
| • Offshore Oil and Gas and Minerals | • Ocean Information Systems |
| • Renewable Ocean Energy | • Education, Monitoring and Reporting |
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and provincial ocean resource management objectives.

In contrast, the 2002 *Oceans Agenda* and the 2005 *Oceans Action Plan* were developed with very little or no involvement of provincial and territorial governments and limited involvement of other federal agencies. More recently, efforts have been undertaken through the Oceans Task Group (OTG) of the Canadian Council of Fisheries and Aquaculture Ministers to develop more collaborative approaches to oceans governance, both nationally and regionally. The OTG has proposed a national conference on oceans governance to be held in 2008.

The purpose of this paper is to describe existing arrangements between Canada and BC to ensure a common understanding of what exists now, and as a contribution to the development of more permanent and effective governance arrangements for the future. Oceans governance may be defined as the processes and institutions by which coastal and ocean areas are managed by public authorities in association with First Nations, communities, industries, NGOs, and other stakeholders through national, sub-national, and international laws, policies and programmes, as well as through customs, tradition and culture, in order to improve the socioeconomic conditions of the communities that depend on these areas and their living resources.¹ More informally, governance can also be defined as a broad continuum ranging from formal legal agreements between governments, to less formal and more inclusive arrangements among government and non-government parties. Oceans governance in Canada is moving away from the traditional approach whereby a single authority is empowered to make decisions, towards a shared governance system whereby decision-making responsibility, power, and accountability is shared by partnering agencies (Figure 1).

FIGURE 1. Continuum of Governance Arrangements



¹ From *A Handbook for Measuring Progress and Outcomes of Integrated Coastal and Ocean Management*. IOC Manuals and Guides, 46; ICAM Dossier, 2. Paris, UNESCO, 2006.

2. Oceans Governance Arrangements Between Canada and B.C.

2.1 *The 2004 Canada – BC Oceans Memorandum of Understanding*

Due to the province's concerns with the lack of consultation in the development of the 2002 *Oceans Strategy*, in September 2004, the two governments concluded the *Canada-British Columbia Memorandum of Understanding Respecting the Implementation of Canada's Oceans Strategy on the Pacific Coast of Canada*. The purpose of the MOU is to provide for further collaboration to advance the implementation of specific activities and objectives identified in the federal *Oceans Strategy*. Federal and provincial signatories to the agreement include Fisheries and Oceans Canada, Parks Canada, Environment Canada, Natural Resources Canada, and the previous provincial Ministries of Sustainable Resource Management, Agriculture, Food and Fisheries, Water Land and Air Protection, Energy and Mines, and Land and Water BC.

Under the MOU, the Parties agreed to develop subsidiary agreements on:

- a marine protected areas framework;
- coastal planning and integrated oceans management planning;
- an integrated oceans information management system;
- indicators for oceans management and state of the environment reporting;
- streamlining and harmonizing regulatory decision-making for aquaculture; and
- information gathering and sharing related to offshore oil and gas resources.

The oceans MOU also provides for additional subsidiary agreements on other matters that may be identified for future collaboration. Five of the six sub-agreements are complete and available for signature, while the sixth agreement on aquaculture is currently being addressed through the proposed national Aquaculture Framework Agreement. Completion of the sub-agreements will provide the basis for moving forward collaboratively on oceans initiatives.

2.2 *The Oceans Coordinating Committee (OCC) and Oceans Regional Implementation Committee (ORIC)*

To advance the development of the subsidiary agreements, since 2004 the two governments worked through an ad-hoc Oceans MOU Implementation Committee, whose mandate was to complete the sub-agreements and develop Action Plans for their implementation. This committee was co-chaired by DFO and BCMOE and consisted of Director, Manager, and senior technical level representatives from the following federal and provincial agencies:

Fisheries and Oceans Canada	Ministry of Environment
Environment Canada	Integrated Land Management Bureau
Parks Canada Agency	Ministry of Energy Mines and Petroleum Resources
Natural Resources Canada	Ministry of Agriculture and Lands

The Committee met every 2-3 weeks and developed good working relationships. For most of its term, the committee reported to a committee of federal Regional Director Generals and provincial Deputy Ministers, although contact and policy direction at this level was infrequent.

Recently, DFO's Pacific Regional Director General (RDG) and BC's Assistant Deputy Minister (ADM) for the Oceans and Marine Fisheries Division of the BC Ministry of Environment have directed that the ad-hoc committee become more formalized and renamed the Canada-BC Oceans Coordinating Committee (OCC). Canada and BC have agreed to cost-share for a third-party secretariat for the committee and to consider the expansion of its membership to include additional agencies with oceans related interests. To provide policy direction to the OCC, the DFO's RDG has committed to developing a coast-wide federal-provincial Oceans Regional Implementation Committee (ORIC) for the next stages of the *Oceans Agenda* that mirrors the successful committee that is currently established for implementation of the *Pacific Fisheries Reform* initiative.

Section 2.2 of the 2004 *Oceans MOU* commits the Parties to "...engage and coordinate..." the participation of other federal and provincial agencies in the development of the subsidiary agreements as required. As noted above, to ensure that the necessary parties from both governments are engaged in future activities under the *Oceans Agenda*, the OCC is examining the need to expand the representation on the OCC itself and any working groups established to further its work.

Some discussion has been given to the issue of providing more explicit mechanisms for external consultation with First Nations governments and interested stakeholders on the implementation of future *Oceans Agenda* activities, but no firm proposal has been developed. Groups external to government appear to be most interested in participating in the MPA and planning initiatives.

2.3 CCFAM and PCFAM

On September 23, 1999, Ministers from all jurisdictions signed the *Agreement on Interjurisdictional Cooperation with Respect to Fisheries and Aquaculture*. The Agreement committed governments to work in the spirit of co-operation and established a formal structure for their collaboration, the Canadian Council of Fisheries and Aquaculture Ministers (CCFAM). Inter-jurisdictional task groups, each with their own Deputy Minister Champion and co-chaired by the federal government and a province/territory, have been created to address issues of strategic importance to Canada's fisheries and aquaculture sectors. Task group work plans are approved by the CCFAM annually. These Sector Task Groups are:

- Task Group on Aquaculture
- Task Group on Freshwater Fisheries
- Task Group on Introductions and Transfers
- Task Group on Recreational Fisheries

- Task Group on Capacity Management
- Task Group on Oceans

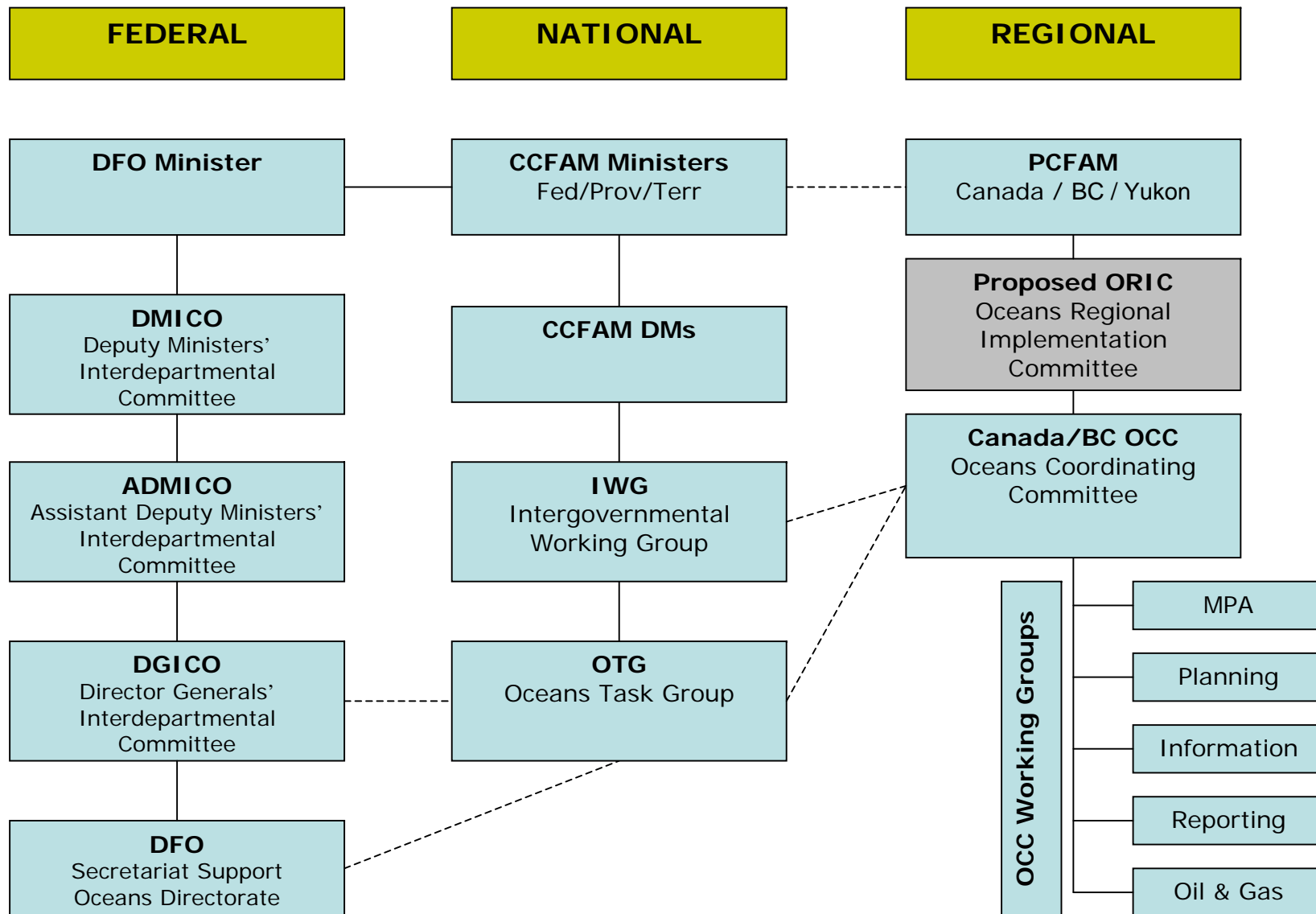
The Oceans Task Group (OTG), which is currently co-chaired by BC on behalf of the other provinces and territories, formalizes discussions among jurisdictions, and facilitates progress on oceans initiatives. Canada and BC have agreed at the working level to continue to brief regional federal and provincial agencies through the OCC on the work of the OTG under CCFAM. To date, these agencies have expressed a keen interest in the work at the national level, particularly in the discussions on governance arrangements and management of planning processes for the Large Ocean Management Areas (LOMAs).

The Pacific Council of Fisheries and Aquaculture Ministers (PCFAM) was established in 2003 to serve as the ministerial-level forum in BC and Yukon on fisheries issues. Under the PCFAM, a Pacific Fisheries and Aquaculture Committee (PFAC) has been established and is co-chaired by BC (Assistant Deputy Minister level) and Canada (Regional Director level). The committee has agreed to establish four sub-committees on habitat, fisheries management, aquaculture, and oceans. To date, these committees have not been very active and the proposed oceans committee was not formed in deference to the Oceans MOU Implementation Committee referenced above. It is now understood that the OCC will serve in this capacity but due to the involvement of other federal and provincial departments on the OCC, their relationship to the ministerial level of the PCFAM is not clear. Other federal agencies have expressed concern that oceans-related initiatives would be coordinated through a mechanism directly tied to PCFAM on which their agencies are not represented. Alternatively, it could be noted that the Ministers on PCFAM are the designated “lead” Ministers from their respective jurisdictions on oceans matters.

More recently, at their meeting on March 8th, 2006, PCFAM Ministers Hearn and Penner agreed to continue their collaboration on oceans matters and indicated that they would expect to receive regular reports on progress on the Oceans MOU and sub-agreements at future meetings. Subsequent correspondence of May 18th, 2006 from Minister Hearn to the Premier of BC highlighted the work of the OCC “...to examine potential governance models for oceans-related policy and activities...” The correspondence also welcomed the “...opportunity to work collaboratively with the Province of British Columbia to develop governance for integrated oceans management on the West Coast.”

Figure 2 shows the relationship between federal, national and regional oceans governance arrangements. Governance arrangements at the federal level can be seen as horizontal, in that they are designed to reach across the range of agencies at the federal level with interests in oceans management. The CCFAM and PCFAM represent vertical governance arrangements between orders of government, while the OCC and proposed ORIC are vertical and horizontal. The creation of formal horizontal governance arrangements was recommended by the Auditor General in the *2005 Report of the Commissioner of the Environment and Sustainable Development on Fisheries and Oceans Canada – Canada’s Oceans Management Strategy*.

FIGURE 2. Oceans Governance Relationships



3. Examples of Cooperative Efforts

This section is devoted to briefly describing examples of the variety of cooperative efforts related to oceans governance and community and ecosystem health in British Columbia. Some are more formal than others, some are led by the federal government, others by the province and some by ENGOs. Most focus on multiple issues and take an ecosystem-based approach.

3.1 *West Coast Vancouver Island Aquatic Management Board (AMB)*

The West Coast Vancouver Island Aquatic Management Board (AMB)², established in 2002 (but with predecessors reaching back over a decade), is a forum for local coastal communities and other persons and bodies affected by aquatic resource management to participate more fully with governments in all aspects of the integrated management of aquatic resources in the management area. The management area corresponds with the Nuu-chah-nulth 'Ha-houlthee', which extends seaward from Cape Cook on Brooks Peninsula to Solander Island, to the international boundary along the entrance to Juan de Fuca Straits, then true north to Sheringham Point. Inland boundaries generally follow the height of land along watersheds dividing Vancouver Island. The offshore boundary of the management area is not specified. Oceans priorities over the next five years include healthy marine environments, sustainable use, governance, science/information/technology, and economic prosperity.

The Board is co-chaired by First Nations and local government representatives, and includes representatives from federal and provincial agencies, industry, and marine conservation NGOs. The AMB brings a new approach to managing aquatic and ocean resources based on transparency, coordination, accountability, and a broader ecosystem perspective. Particularly notable characteristics of the Board include a carefully negotiated terms of reference that guide the Board's activities, mechanisms for identifying and implementing activities are institutionalized, the management area is place-based (i.e., ecological and cultural characteristics define the area), and the work of the Board is guided by Nuu-chah-nulth traditional values. These characteristics set the AMB apart from other oceans governance arrangements on the BC coast, and provide the potential opportunity to test an alternative and parallel governance approach to Integrated Oceans Management to that envisioned in the planning approach established for LOMAs.

3.2 *Governance of the Pacific North Coast Integrated Management Area (PNCIMA) Large Oceans Management Area (LOMA)*

The Pacific North Coast Integrated Management Area (PNCIMA) is one of five national pilot Integrated Management Planning initiatives being led by the Department of Fisheries and Oceans. The PNCIMA Large Ocean Management Area (LOMA) extends from the Canada-Alaska border in the north to Brooks Peninsula on the northwest coast of Vancouver Island and

² For additional details about the work of the Board, see <http://www.westcoastaquatic.ca/Home.htm>.

Quadra Island north of Bute Inlet in the south. The governance structure for PNCIMA continues to evolve, but the organizational structure linking the key components of a PNCIMA planning process will likely include a steering committee and secretariat to provide direction and support to planning and coordinating tables involving First Nations, provincial and federal governments, and stakeholders.

The governance framework for First Nations engagement in the PNCIMA process is largely in place and includes:

- First Nations Governance Committee: senior level representation of the four major First Nation's geographic aggregates in PNCIMA (Haida, North Coast, Central Coast, Northern Vancouver Island).
- Area Technical Teams: technical support bodies consisting of a biologist, socio-economic planner and GIS professional to provide ongoing technical support to First Nations planning processes at the PNCIMA or Coastal Management Area (CMA) scale.
- Community Coordinators/ Community Planning Committees: in the North and Central Coast, community coordinators and community planning committees have been established in each community to develop marine plans at a PNCIMA and CMA scale based on community interests and input. A central planning committee has been established in Haida Gwaii.

3.3 Southern Strait of Georgia National Marine Conservation Area (NMCA) Feasibility Study

Parks Canada has embarked on a feasibility study to determine the potential for establishing a National Marine Conservation Area (NMCA) in the southern Strait of Georgia. The southern Strait of Georgia NMCA project team provides for project management and technical planning expertise for the feasibility study. The team also facilitates public participation through a variety of methods, the more common being public meetings, open houses, and workshops.

The project team is comprised of both federal and provincial staff with agency representation from Parks Canada, Fisheries and Oceans Canada, and the provincial Ministries of Agriculture and Lands, and Environment. Within Parks Canada, membership consists of staff from the Park Establishment Branch in the National Office, the Western Canada Service Centre, and the Coastal BC Field Unit. There are also three seats available to First Nations Groups, one of which is filled by the Hul'qumi'num Treaty Group. Contracted by Parks Canada, a commercial fisher and a sports fisher are also on the project team to provide advice and expertise on aspects of commercial and sport fishing, respectively. Other members may be added to the project team as the study progresses and expert knowledge is needed on a particular topic.

The project team seeks consensus in making decisions on all aspects of the planning process and products. The role of the project team includes:

- discussion and debate of most aspects of the feasibility study;
- completion of an NMCA concept;
- identification and analysis of issues and values;
- development of a recommendation, after consultation, as to whether or not the establishment of an NMCA is feasible; the recommendation is passed on to the federal/provincial steering committee.

The project team is overseen by the Canada-BC Action Plan (CBCAP) Steering Committee, which is co-chaired by the Director General, National Parks, Parks Canada Agency, and the Deputy Minister of the Ministry of Environment. The specific roles and responsibilities of the Steering Committee include the review and approval of analyses and/or proposals regarding:

- the study area boundaries,
- the terms of reference to guide the feasibility study,
- the consultation process,
- boundary options,
- initiatives to minimize adverse economic impacts,
- management options,
- identification of existing land uses, and
- new opportunities for tourism development.

3.4 Georgia Basin Ecosystem Initiative and Action Plan

The Georgia Basin encompasses an inland sea and the land around it. This sea and its shores provide vital habitat for millions of birds that migrate each year along the Pacific Flyway. To protect, restore, and conserve this unique ecosystem, the federal and provincial governments launched the Georgia Basin Ecosystem Initiative (GBEI) in 1998. The GBEI established a vision, goal statements, and key result areas that shaped the partnerships, programs, and actions over the ensuing five years. Priority actions included developing new knowledge and providing tools to support actions, and applying knowledge and tools to specific projects to mitigate the impacts of rapid population and urban growth on the health of the Georgia Basin ecosystem.

The Georgia Basin Action Plan (GBAP)³ is the second five-year phase (2003-2008) of collaborative programming in the Georgia Basin. Population growth and land and water use decisions will continue to play a significant role in shaping priorities and actions, as will the

³ Additional details on the work of the GBAP can be found by visiting www.pyr.ec.gc.ca/georgiabin/index_e.htm

need to integrate social and economic priorities for the region with actions to protect and restore ecosystem health.

The Georgia Basin Action Plan Framework for Collaboration was signed by partners and released on April 2, 2003 at the 2003 Georgia Basin/Puget Sound Research Conference. The Framework includes a coordination and management structure that allows for collaborative planning and stakeholder involvement within and across individual mandates by a number of departments and ministries and Coast Salish First Nations, as well as partnering with other organizations on specific projects. The management structure is flexible, and allows representation from other partners at all levels as commitments are developed. The most recent addition to the partnership is the Coast Salish First Nations.

The management structure has the following components:

- Steering Committee (RDGs and Deputy Ministers)
- Coordination Office/Secretariat (staffed by and housed at Environment Canada)
- Joint Management Committee
- Planning and Implementation Teams (*Clean Air, Clean Water, Habitat & Species, Sustainable Communities and Integrated Data Management*)

3.5 Puget Sound Georgia Basin International Task Force

In 1993, the BC/Washington Environmental Cooperation Council (ECC), which reports to the Premier and the Governor, appointed a Marine Science Panel comprised of six university and government marine scientists from British Columbia and Washington to make recommendations for the management of the shared marine waters of the Georgia Basin and Puget Sound. In 1994, this panel delivered 12 recommendations (see Appendix B) to the Council in a report entitled, *The Shared Marine Waters of British Columbia and Washington*.

Subsequently, the Puget Sound/Georgia Basin International Task Force was created under the auspices of the ECC to address the Marine Science Panel's recommendations. Comprised of representatives from state, provincial, federal and tribal/First Nations organizations and agencies, the goal of the Task Force is to promote and coordinate mutual efforts to protect, conserve and enhance the shared inland marine environment through information exchanges, partnerships, and cooperative policy review and recommendations. Work groups were established to address the Marine Science Panel's high and medium priority recommendations.

The Task Force is co-chaired by the BC Ministry of Environment and the Puget Sound Action Team, a partnership of state and federal agencies, local and tribal governments, and diverse private sector interests. The Task Force has met twice yearly to receive reports from the work groups on their activities, to plan future activities, and to provide a general forum for exchange of information on transboundary issues affecting the inland marine waters.

The Task Force receives no dedicated funding for its activities. In Washington, funding is available through the Puget Sound Action Team's conservation and recovery plan budget. There is no equivalent dedicated funding source in British Columbia. Recently, BC and Washington State have undertaken a review of the Task Force to determine ways of connecting to emerging regional governance arrangements in Canada (the OCC) and in Washington (Governor's Ocean Policy Work Group).

3.6 *Big Eddy: The Juan de Fuca Eddy International Marine Ecosystem Initiative*

An idea spearheaded by the Canadian Parks and Wilderness Society (CPAWS), the "Big Eddy" initiative strives to bring together various international agencies to cooperatively manage and conserve the Juan de Fuca Eddy ecosystem, which lies off the west coast of Vancouver Island and the north coast of the Olympic peninsula of Washington State. This 'Big Eddy' is driven by a seasonal, nutrient-rich coastal upwelling that feeds one of the most productive ecosystems on the continental margin.⁴ The main goals of this initiative are to increase public awareness of this marine region, ensure the sustainable use of its resources, and to harmonize research and management across governments, non-government organizations, First Nations, academia, and industry on an international level. Although the "Big Eddy" initiative is still evolving and does not have an elaborate governance structure, it may serve as a useful forum to garner international interest and support for the sustainable use of marine resources in this region. To date there have been two large symposiums that facilitated information sharing and capacity building among all orders of government, private citizens, scientific experts, NGOs, academics, fishery organizations, First Nations/Tribal groups, and other interest groups.

Both federal (Canada & United States) and provincial / state agencies have endorsed this initiative as a means to collaborate on management issues that will facilitate the sustainable use of this region's marine resources. Currently, international endorsement has been on behalf of the following groups and / or agencies:

- Fisheries and Oceans Canada
- Olympic Coast Alliance
- Olympic Coast National Marine Sanctuary (NOAA)
- Parks Canada
- Province of British Columbia
- University of Washington – School of Marine Affairs
- Washington State Department of Fish and Wildlife
- West Coast Vancouver Island Aquatic Management Board

⁴ CPAWS-BC Chapter. (2005). *Big Eddy: The Juan de Fuca Eddy International Marine Ecosystem Initiative*. Accessed May 30, 2007 from http://www.cpawsbc.org/marine/sites/big_eddy.php.

3.7 *The BC Marine Conservation Analysis Team*

The BC Marine Conservation Analysis (BCMCA) project team, established in 2006, includes representatives from the federal government, provincial government, coastal First Nations, academia, and environmental non-governmental organizations. The overall purpose of the BCMCA Project is to collaboratively identify marine areas of high conservation utility/ interest in British Columbia using the latest in marine conservation planning theory and practice.

The BCMCA will involve two main components: 1) an atlas of known ecological values and human uses, and 2) analysis of known data using MARXAN.⁵ MARXAN is software used to help identify areas of high conservation utility that meet conservation objectives, while minimizing impacts to marine users and coastal communities. Expert sub-committees are responsible for identifying features and data sources to be used in the analysis, for defining conservation targets appropriate for each data layer, and for contributing to the overall scientific rigour of the BCMCA project. Results of the analysis may be used to inform the design of a Canada-BC Marine Protection Areas System for the Pacific coast.

4. **Oceans Governance Challenges**

Arrangements for oceans governance in BC have evolved considerably over the last decade, but a number of challenges remain. Major issues that need to be taken into account in designing processes and institutions to improve ocean governance include consideration of the following:

- inclusivity – harnessing the collective energies and capacities of agencies and stakeholders
- financing for governance activities (e.g., planning, implementation, monitoring, program evaluation, and research)
- effective mechanisms to reconcile conflicts
- identifying/reconciling policy priorities, goals and objectives
- ensuring accountability while providing for shared responsibility
- removing cultural, structural, and legislative barriers
- creating meaningful opportunities for public and other stakeholder participation
- avoiding duplication of effort
- incorporating transboundary and international considerations
- promoting ocean literacy – developing and sustaining innovative approaches to ocean governance will require improvements in oceans literacy

⁵ Ball, I.R. & Possingham, H.P. (2000). MARXAN (V1.8.2): Marine Reserve Design Using Spatially Explicit Annealing, a Manual.

Possingham, H. P., Ball, I.R., & Andelman, S. (2000). Mathematical methods for identifying representative reserve networks. In: S. Ferson and M. Burgman (eds) Quantitative methods for conservation biology. Springer-Verlag, New York, pp. 291-305.

5. Concluding Remarks

The previous ad hoc approach to oceans governance for Canada's Pacific coast is in the process of becoming more formalized to reflect the priority that both governments are placing on ocean related initiatives and the commitment to provide for a truly collaborative approach to the implementation of the federal *Oceans Agenda*. The Oceans Task Group (OTG), under the Canadian Council of Fisheries and Aquaculture Ministers (CCFAM), has identified the development of practical and effective governance arrangements as a critical factor for success of the next stages of Canada's *Oceans Agenda*, and made this a priority for their 2006/07 and 2007/08 Work Plans. Equally important will be the development of processes to ensure a shared vision between governments for sustainable oceans management, and the elaboration of clear goals and objectives for specific initiatives. It will be critical to understand the resource requirements of current and proposed governance arrangements prior to the development of future phases of the federal *Oceans Agenda*, and to have these arrangements fully in place before implementation begins.

May 31, 2007

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