Editorial Note

Volume 5, number 1 of the *Asia-Pacific Journal of Ocean Law and Policy* is a special themed issue featuring articles dealing with State practice concerning marine protected areas (MPAs) in the Asia-Pacific region. As such, it complements Volume 4, number 2 of the journal so that together these two issues provide an assessment of State practice in terms of MPAs across the Asia-Pacific region.

The first article in this issue is by Chie Kojima of the Faculty of Law, Chuo University in Japan who examines the “Legal Structures of Marine Protected Areas in Japan”. Professor Kojima observes that the diminishing of fish stocks and the resultant decrease in fish consumption and decline of the Japanese fishing industry has led the Japanese government to reform legislation affecting MPAs. In the article, she addresses the establishment, management, and implementation of the legal regime of MPAs in Japan and the future implications of the recent amendment to Japan’s Nature Conservation Act. She concludes with her assessment of MPAs in Japan and its future prospects remarking that the Japanese approach towards MPAs can be considered as unique. This is because in the Japanese context, fishers are permitted to regulate their own fishing activities for their sustainable living and to monitor other fishers. It is further considered that these recent amendments to Japanese MPAs reveal a shift towards the implementation of precautionary and ecological approaches.

Second, Young Kil Park of the Korea Maritime Institute and Seokwoo Lee of Inha University Law School in Korea offer a systematic appraisal of “Marine Protected Areas in South Korea”. Dr. Park and Professor Lee outline the domestic regulatory framework of MPAs in South Korea, noting the relevant statutes that govern them, including the Conservation and Management of Marine Ecosystems Act and the Wetlands Conservation Act as well as the relevant government agencies tasked to manage MPAs. They note that South Korea is a party to the Convention on Biological Diversity (CBD) and that while Korea has made efforts to achieve Aichi Target 11 of conserving 10 per cent of coastal

and marine areas, Korea is still well short of this spatial target in terms of MPA coverage. In their conclusion, they observe that most MPAs in Korea are not managed well and recommend that in the first instance South Korea should concentrate on improving the management of already existing MPAs rather than necessarily devoting effort to increasing the number and area of MPAs.

Chi-Ting Tsai of National Taiwan University and Nien-Tzu Alfred Hu of National Sun Yat Sen University in Taiwan follow with "The Modernization of Area-Based Marine Protection in Taiwan". Professor Tsai and Professor Hu observe that in the 2030 Agenda for Sustainable Development, a sustainable development goal for marine resources is to conserve at least 10 per cent of coastal and marine areas by 2020. They point out that different types of area-based marine protection (ABMP) tools and especially MPAs should be designated or implemented. In their article, they explain Taiwan's practice of ABMP explaining its history in the context of Taiwan's democratic progress noting that laws passed from 2010 have called for the application of key ocean governance principles such as citizen participation and integrated management approaches. They identify challenges in the development of future ABMP tools including a deficiency in international and regional cooperation; a lack of legal enforcement transparency; and the absence of comprehensive and coherent ocean governance principles noting that these issues need to be confronted.

Next, Diep Ngoc Vo of the Diplomatic Academy of Viet Nam addresses "Viet Nam's National System of Marine Protected Areas". In his article, Professor Vo describes Viet Nam's State practice regarding MPAs by examining the relevant Vietnamese legal framework for MPAs; giving a specific description of the MPAs in Viet Nam; and, providing an assessment of the development of marine protection in the Vietnamese context. He observes that there are four potential obstacles that can affect the effective management of MPAs. They include: (1) the problem that the management boards of MPAs do not have the ability to enforce laws and regulations; (2) the presence of overfishing and fishing in no-take zones because alternative livelihoods for local people are not diversified and sufficient; (3) the potential adverse impacts of ecotourism development on the local community and environment; and (4) the absence of a framework for MPAs to operate as a network. Professor Vo sees a need for amendments and updates in policies and regulations to facilitate better management of MPAs in Viet Nam.

Jacqueline Joyce F. Espenilla of the Institute for Maritime Affairs and Law of the Sea, University of the Philippines, then examines "Area-Based Marine Protection in the Philippines: The MPA Experience". After providing a context for MPAs in the Philippines, Professor Espenilla begins with an account of the MPA development experience, noting that of the over 1,800 MPAs on record, about

1,600 are locally-managed and that the vast majority of MPAs are located within archipelagic waters. She goes on to describe the regulatory environment for MPAs in the Philippines by presenting relevant laws concerning parks and protected areas; fisheries; and governance. Her analysis demonstrates that while the present system of MPA regulation has generally worked, a number of potential conflicts remain, especially in cases of jurisdictional overlap. She also identifies the serious problem of the fragmentation of the MPA system and the poor management of MPAs. Given these challenges, Professor Espenilla surmises that the potential benefits offered by effective area-based management tools warrant serious consideration.

The fifth main article by Anastasia Telesetsky of the University of Idaho School of Law in the United States focuses on “United States Law, Marine Protected Areas, and Challenges to ‘Lasting Protection’”. She examines the legal regime for MPAs in the United States including the National Marine Sanctuaries Act, the Antiquities Act, and the Magnuson-Stevens Fisheries Act and identifies the responsible government agencies tasked with managing MPAs as well as their respective roles. She then moves on to describe the administrative processes for involvement of interested stakeholders and cooperative arrangements with other countries. In relation to enforcement of US laws and regulations regarding marine sanctuaries, she notes that NOAA’s Office of Law Enforcement is the lead enforcer but that the Coast Guard will also provide enforcement support. Professor Telesetsky then follows with her analysis of the role of area-based management in U.S. ocean policy and concludes with her thoughts on best practices and gaps in relation to U.S. area-based management.

Anna-Maria Hubert and Stuart Gray of the Faculty of Law, University of Calgary in Canada then provide an examination of “Area-Based Marine Protection in Canada”. They note that Canada has recently made significant progress towards meeting its international and domestic commitments to area-based marine protection and point out that Canada has extended protections to almost eight per cent of its coastal and ocean waters. In their article, Professor Hubert and Professor Gray provide an overview of the jurisdictional, legislative, and policy framework for area-based marine protection in Canadian waters and then go on to describe and analyse the relevant legislative and regulatory context with a focus on the three main federal legislative schemes that contribute to Canada’s national network of MPAs. After briefly addressing provincial area-based marine protection, as well as new initiatives to establish offshore indigenous protected and conserved areas and cooperative arrangements concluded by Canada, they conclude by giving their assessment of the efforts towards Canada’s marine conservation goals noting that the Aichi Biodiversity Targets

are set to expire in 2020. To reduce species loss and improve the health of marine ecosystems within Canadian territory and jurisdiction and globally, they advise Canada to support a more ambitious target in global negotiations and to take steps to extend and enhance protections over a larger portion of offshore areas nationally.

Following on from this, Joanna Mossop of the Victoria University of Wellington in New Zealand looks at "Marine Protected Areas and Area-based Management in New Zealand". In her article, Professor Mossop explains the legislative and administrative framework for marine planning and decision making in New Zealand, with a particular focus on MPAs. She identifies and describes a number of specially-established areas subject to specific legal regimes including marine reserves, marine mammal sanctuaries, benthic protection areas and seamount area closures, customary management areas, specially-created protected areas, and other protected areas. From her assessment, Professor Mossop believes that New Zealand's framework for MPAs is somewhat disjointed and often inadequate. She believes that without a comprehensive approach to spatial management in the marine environment, it is likely that the goal of creating truly representative protection is a long way off.

The final main article of this volume is "Going Big in the Pacific: Large-scale Marine Protected Areas in the Pacific Ocean," by Quentin Hanich of the Australian National Centre for Ocean Resources and Security (ANCORS), University of Wollongong, Australia, Clive Schofield of the World Maritime University in Sweden, and Chris Smyth of ANCORS, University of Wollongong in Australia. In this piece, the authors explain the continuing significance of the ocean and increasing threats to the marine environment, especially in the Pacific context with a particular focus on Pacific small island States. They point out that the oceans are essential to the global environment, critical to the international economic system, and an increasing source of energy resources. Given this context, they go on to examine the evolution of international spatial targets relating to marine conservation and in particular, large-scale MPAs beginning with the Australian experience and moving on to the efforts of small-island developing States in the south Pacific region as well as MPAs developed in the eastern Pacific off the coasts of the Americas. In their conclusion, they identify the substantial potential benefits to MPAs in general and large-scale MPAs in particular. However, they also query whether bigger MPAs are necessarily better, given the challenges posed by their size and frequently also their remote locations. They believe that the ongoing challenge is to ensure that such MPAs are well designed, governed, resourced and managed, to effectively conserve and utilise the world's oceans sustainably.

The main articles of the *Journal* are followed by brief reports on “State Law of the Sea Practice in Asian Pacific States” including a review of a recent shipping accident in Korea and a proposal for shipping reform in Korea to ensure that captain and crew operating within Korean waters are not operating vessels while under the influence of alcohol. A second State practice report reviews domestic lawsuits in the United States related to offshore oil and gas development reflecting a conflict of interest between the federal and local governments over coastal management.

The editors hope that the articles gathered together in this issue of APJOLP on the theme of marine protection will provide insights into regional practice and policy developments that will assist in the further development of such area-based management tools designed to protect and conserve the valuable marine environment and related marine ecosystems in the Asia-Pacific.

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