

**Questions for the record from the U. S. Commission on Ocean Policy for
Admiral James M. Loy, Commandant,
U.S. Coast Guard**

Q. How is the Coast Guard impacted by the fact that the U.S. has not ratified the Law of The Sea Convention?

- A. The 1982 UN Convention on the Law of the Sea has aptly been described as a constitution for the world's oceans. Unquestionably, the Convention advances the interests of the United States as a global maritime power. It preserves the right of the U.S. military, including the U.S. Coast Guard, to use the world's oceans to meet national security requirements and of commercial vessels to carry sea-going cargoes. In the evolving post-Cold War era, national security has come to encompass not only military defense but also the protection and promotion of our economic, social, and environmental well-being. Illicit drug trafficking, illegal migration, and marine pollution are just three of the many national security threats facing our country today. The U.S. Coast Guard continues to be the logical choice to shield our nation from these and other maritime threats. Our versatile, multi-mission trained personnel and multi-capable vessels make us uniquely qualified to respond to the variety of threats facing America today. However, in the maritime setting, these assets must be backed by the force of international law. The 1982 UN Convention on the Law of the Sea serves as the international foundation for our maritime actions aimed at protecting our national security.

The U.S. Coast Guard frequently serves as the principal representative of the United States at numerous international fora. Coast Guard personnel routinely lead United States delegations at the International Maritime Organization (IMO), Diplomatic Conferences dealing in maritime matters, and bilateral negotiations aimed at improving international cooperation in the suppression of illicit drug trafficking and illegal migration. Coast Guard personnel also lead or participate in United States delegations to increasingly important international fisheries management and enforcement bodies such as the North Pacific Anadromous Fish Commission and UN Food and Agriculture Organization (FAO) initiatives on Illegal, Unreported and Unregulated fishing. United States positions are invariably predicated upon the navigational freedoms and maritime zones set forth in the Convention. A failure to accede to the Convention materially detracts from United States credibility where we seek to advance our various ocean interests based upon convention principles. Also, as a non-party, we risk losing our ability to influence international oceans policy by leaving important questions of implementation and interpretation to others who may not share our views. With the quickened pace of ratification, more and more countries are expressing the view that the rights in the Convention are contractual and not merely restatements of customary international practice. If we are to benefit from its many favorable provisions, we must choose to be a player, not an outsider. Only by being a full and visible participant in this global treaty can we expect to continue our leadership in the development of oceans policy.

Q. Can we design and implement a more robust data archive and distribution system than the one currently in place in the U.S.?

- A. The immediate answer would have to be: yes, the United States can always do a better job at this most difficult task. However, the word "data" is not terribly specific. Thus, it is not clear from the question what exactly is being asked. Accordingly, this question is answered in two parts, based on different assumptions about the meaning of the word "data."

Part 1. This part answer is restricted to the arena of geospatial/geophysical oceanographic and marine biological data on the oceans and coastal areas, especially from a policy and research perspective. We believe that there is ample opportunity for private/public sector collaboration with respect to gathering and publishing data relevant to Oceans issues. Some of this data is technical and academic, and needs a common public repository. We expect that this work will involve implementation of marine and coastal geographic information systems, spatial analyses, and metadata for imagery. The Coast Guard, like many Federal agencies, has developed these capabilities to help meet its specific missions. (For examples of the diversity of Federal Oceans-related sites, see <http://205.156.54.206/om/marine/mlinks.htm>.) But we understand this question to be pointed more toward the cross-organizational public sector, for example Canada's World Ozone & Ultraviolet Data Centre Data Archive (<http://www.msc-smc.ec.gc.ca/woudc/data>). We believe that this kind of work should be funded through public and private sector grants to researchers with the appropriate academic and technical background, people who can both understand the data to be gathered, and who can help stand up a public website that will organize and publish this data to the worldwide community of researchers and policy-makers concerned with Oceans issues. The Coast Guard strongly supports this form of collaboration, and is ready and willing to contribute data to Oceanic archive/distribution initiatives.

Part 2. This part answer is based on the assumption that the question is asked with a more unrestricted view of "data." Contrary to the implication in the wording of the question, there is no single data archive currently in place in the U.S., nor should there be. There are simply too many different kinds of data being collected and used for too many different purposes by too many different entities. At the same time, the question does get at an underlying problem that is common to many different areas of endeavor: "How do we make data systems more transparent and improve sharing of information across organizational boundaries?"

This is an issue with both internal and external implications for the Coast Guard. Internally, some of our single purpose legacy systems have made it difficult to move information between various Coast Guard programs and operational units. Externally, inadequate information sharing between agencies and between the public and private sectors has hampered more effective law enforcement and Homeland Security operations, among other important public purposes and areas of endeavor.

These deficiencies are recognized and improvements are coming, albeit more slowly than we would like. For example, the Coast Guard's new Marine Information for Safety and Law Enforcement (MISLE) system will provide an inter and intranet based system that integrates information across multiple Coast Guard operating programs. Further, parts of the MISLE database will be accessible to state boating safety and boat registration agencies. Externally, the Coast Guard has championed a concept called Maritime Domain Awareness (MDA) to improve effectiveness of law enforcement and safety activities in our ports and waterways, the U.S. Territorial Sea, Contiguous Zone and Exclusive Economic Zone, and even on the High Seas. MDA can be defined as "the effective knowledge of all activities and elements in the maritime domain that could affect the safety, security or environment of the United States or its citizens." Achieving MDA, which is viewed as a national capability rather than just a Coast Guard capability, will require collaboration across multiple agencies and with the private sector. Fortunately, work on this concept has already begun under a January 2001 multi-agency Memorandum of Agreement. There are other multi-party ocean/coastal data initiatives, such as NOAA's Physical Oceanographic Real-Time System (PORTS) (see <http://www.uscg.mil/vtm/pages/july2000portspdfversion.pdf>) in which the Coast Guard is a contributing partner. If you have specific questions on a particular aspect of Coast Guard data collection, storage, access and distribution, we would be happy to answer such questions for you.

- Q. Do you have specific recommendations for the Commission to help streamline governance issues? Please specifically address which programs or issues in the Coast Guard may be better addressed in another agency.**
- A. Form should follow function. Therefore, any consideration of organizational structure should occur only after the Commission has made its determinations on more fundamental issues: What ocean and coastal zone problems should be attacked? How should those problems be approached? For example, if the Commission decides to recommend tighter controls for land-use planning in coastal areas, with mandatory federal guidelines, that would necessarily have ramifications in the structure of the federal agency or agencies responsible for implementing and overseeing that new planning process. Further complicating the picture is that, in our federal form of government, there are historic delineations of responsibility between the federal, state and local levels of government. The future division of responsibilities for ocean and coastal governance across the various levels of government will necessarily have organizational implications.

As regards the Coast Guard, the service was subjected to a comprehensive inter-agency review of its currently assigned Roles and Missions in 1999. The review also considered the associated capital asset requirements for those Roles and Missions determined to be necessary in the public interest. That review process found that the functions then being carried out by the Coast Guard were all appropriate and necessary functions of responsible government and that the

Coast Guard was the right agency to perform those functions. A small number of current functions were deemed to be potentially appropriate for assignment to another agency (e.g., administration of bridges crossing navigable water) but there would be no net savings to the taxpayer and the negatives (disruption and cost of a transfer, potential loss of necessary maritime focus) argued against transferring those functions. The Executive Summary of this task force's report has been provided to each Commissioner while the full report has been provided to the Commission staff.

It should come as no surprise that the inter-agency task force came to the conclusions that it did. The modern Coast Guard is the end result of a long history of agency mergers and amalgamations intended to create an integrated, effective and cost-efficient national tool to address a wide range of disparate yet related maritime functions. The Coast Guard's multi-mission nature has resulted in a highly flexible and capable assemblage of human talent and multi-purpose assets operating under a single command and control structure. This, in turn, gives the Coast Guard the ability to deliver a wide range of essential services on a routine basis, while also giving us the ability to shift priorities quickly in the face of an emergency requiring a rapid response (e.g., a Cuban boat-lift, major oil spill, terrorist threats). Recognizing this, the inter-agency task force on the Coast Guard's Roles and Missions recommended the Coast Guard remain a multi-mission and military component of the United States' overall maritime capability. In light of the Commission's mandate, it should also be pointed out that the Task Force also concluded that recapitalization of the Coast Guard's Deepwater capabilities is a near-term national priority.

Given the Coast Guard's history and the Task Force's recommendations, I am unable to recommend any current Coast Guard functions for transfer to another agency.

Q. How can we better integrate the various agencies dealing with resource management and enforcement? {How should we address jurisdictional issues?}

- A. The issue of jurisdiction in resource management and enforcement operates at two levels. One is the geographic division of responsibility and authority between various levels of government or legal regimes (i.e., international waters, territorial seas, internal waters, inter-state waters, intra-state waters, exclusive federal, concurrent federal and state, exclusive state, etc.). The other meaning for "jurisdiction" gets at the division of authority and responsibility between various agencies at a given level of government, such as between Interior's Fish and Wildlife Service and Commerce's National Marine Fisheries Service). Species and ecosystems are governed by natural principles rather than arbitrary human boundaries. Thus, it is possible under current rules that both types of jurisdiction may come into play for a given species (i.e., in Area A, Agency X is responsible but in Area B, Agency Y is responsible).

In the absence of guidance from the Executive Office of the President about

commenting on agency organizational changes, it would not be appropriate for an agency to make specific recommendations on structural changes or reassignment of responsibility. However, it would be appropriate for the Coast Guard to offer thoughts on organizing principles that the Commission may wish to consider.

- Resource management and enforcement should start with the appropriate science and development of scientifically valid and operationally executable management and enforcement regimes.
- Management regimes should be either species-based or ecosystem-based, depending on needs determined by the science.
- For a given species or ecosystem management scheme, decision-making jurisdiction might need to be shared, according to statutorily established rules, boundaries or priorities. Where jurisdiction is unavoidably split by artificial human boundaries, coordination mechanisms such as the Atlantic States Marine Fisheries Commission or joint plans developed by regional fisheries management bodies are essential.
- To the extent possible, management responsibilities should be assigned consistently across a given class of species or groups of ecologically similar species. In other words, responsibilities for similar species occupying the same or similar ranges or ecosystems should not be split between different agencies.
- Responsibility to establish policy, based on science, and responsibility to execute established policy, based on operational capability, need not be co-located in the same agency. However, where policy setting and policy enforcement are not co-located, effective coordination mechanisms are essential.
- Assignment of enforcement responsibility should be based on “Best-Value” in utilization of enforcement assets. This is especially true for high-capability assets that typically have the greatest cost. Duplication of high-cost assets among multiple agencies should be avoided. High-cost assets should not be used in cases where less costly (i.e., less capable) assets will suffice.