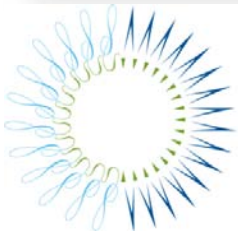




The Ocean in the Earth Summit
A Brief Background
2011



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While perhaps well-intentioned, States, and in particular the major fishing States, have failed to live up to the relevant provisions of the Rio Declaration and its progeny, particularly for the ocean. Twenty years later, it is imperative to ensure that the principles, goals and targets that were agreed to in prior negotiations are implemented, and to forge a new way forward. The principles, goals and targets highlighted in this brief continue to be highly relevant today. There can be no healthy Planet Earth, no “green economy”, and indeed no sustainable future for humanity, without a healthy ocean. States should continue the tradition of the Earth Summits and reach for a bold, courageous and visionary agreement at UNCSD to ensure the future viability of ocean ecosystems.

INTRODUCTION

The United Nations Conference on Sustainable Development (UNCSD) will take place in Brazil in 2012 to mark the 20th anniversary of the 1992 United Nations Conference on Environment and Development (UNCED) in Rio de Janeiro, and the 10th anniversary of the 2002 World Summit on Sustainable Development (WSSD) in Johannesburg. It is being convened under United Nations General Assembly (UNGA) resolution 64/236.¹

The *objective* of the Conference will be to secure renewed political commitment for sustainable development, assessing the progress to date and the remaining gaps in the implementation of the outcomes of the major summits on sustainable development and addressing new and emerging challenges.²

The two *foci* of the Conference will be (a) a green economy in the context of sustainable development and poverty eradication (GESDPE) and (b) the institutional framework for sustainable development (IFSD).³ The Conference is to result in a focused political document,⁴ and both the Conference and the preparatory process are⁵ to carry out an overall appraisal of the implementation of Agenda 21, the Programme for the Further Implementation of Agenda 21 and the Johannesburg Plan of Implementation. They are to ensure the balanced integration of economic development, social development and environmental protection, as interdependent and mutually reinforcing components of sustainable development.⁶ Participation of all major groups is encouraged.⁷

¹ UN General Assembly resolution 64/236, Implementation of Agenda 21, the Programme for the Further Implementation of Agenda 21 and the outcomes of the World Summit on Sustainable Development, at <http://www.un.org/Depts/dhl/resguide/r64.shtml>.

² UNGA resolution 64/236, para. 20(a).

³ UNGA resolution 64/236, para. 20(a).

⁴ UNGA resolution 64/236, para. 20(b).

⁵ According to the decision taken at the eleventh session of the Commission. UNGA resolution 64/236, para. 20(c). The Preparatory Committee met for three days in 2010, is again to meet for two days in March 2011 and will meet a third time for three days in Brazil in 2012 immediately before UNCSD. UNGA resolution 64/236, para. 25.

⁶ UNGA resolution 64/236, para. 20(d).

⁷ UNGA resolution 64/236, para. 21.

UNCED and WSSD are both remembered as **Earth Summit 1** and **Earth Summit 2** respectively; it is likely that UNCED will be remembered as **Earth Summit 3**. With 70% of the Earth covered by the ocean, and given the importance of **the ocean as a key life support system of Planet Earth**, now is the time for UNCED to pay due attention to the needs of the ocean, and to the hundreds of millions of people who depend on healthy ocean ecosystems for their very survival.

STATE OF THE OCEAN

Many have come to realize the fragile nature of ocean ecosystems. Once thought to be vast, resilient areas, able to absorb waste and withstand increased human population, fishing and shipping pressures, we are increasingly seeing the ocean's vulnerability. For example:

- Coastal development has led to the destruction of 50% of the world's mangroves,⁸ which provide crucial habitat for a variety of important coastal and ocean species and serve as natural barriers to increased storm surges;
- Excessive nutrients from sewage outfalls and agricultural runoff have contributed to a rise in the number of dead zones (hypoxic or anoxic areas), from 149 in 2003 to over 200 in 2006, resulting in the collapse of some ecosystems;⁹
- 80% of global fisheries are either fully exploited or overexploited;¹⁰
- 90% of the large marine predators are estimated to have already vanished due to unsustainable fishing,¹¹
- Approximately 3,000 species of plants and animals are transported in ships' ballast water each day, leading to an uncontrollable growth of alien invasive species resulting in irreversible damage to marine habitats;
- An estimated 58% of global coral reefs are threatened,¹² and many will be gone by 2040 due to the rising temperature of the ocean as well as ocean acidification;¹³ and
- The ocean's 'carbon sink function' is changing ocean chemistry, stifling the growth of plankton, corals, and invertebrates that form the primary level of the marine food chain.¹⁴

⁸ Gilman, E, et al. 2006. Pacific Island Mangroves in a Changing Climate and Rising Sea. United Nations Environment Programme. Regional Seas Reports and Studies No. 179.

⁹ Nellemann, C., Hain, S., and Alder, J. (Eds). February 2008. In Dead Water – Merging of climate change with pollution, over-harvest, and infestations in the world's fishing grounds. United Nations Environment Programme, GRID-Arendal, Norway.

¹⁰ FAO. 2010. The State of the World Fisheries and Aquaculture 2010.

¹¹ Worm et al., "Impacts of Biodiversity Loss on Ocean Ecosystem Services." 314 Science (3 November 2006), 787-790.

¹² UNEP. 2002. Global Environment Outlook 3: Past, present and future perspectives. Earthscan Publications Ltd, London. 2002 (pg 186).

¹³ UNEP. 2007. Global Environment Outlook 4: Environment for Development. United Nations Environment Programme 2007 (pg 136).

¹⁴ Nellemann, C., Hain, S., and Alder, J. (Eds). February 2008.

Indeed, ecosystems are negatively impacted by a wide array of factors including single-species management in isolation of associated and dependent species, illegal, unregulated and unreported (IUU) fishing, discards and bycatch, trawl damage, perverse government subsidies, ineffective fisheries governance, overcapacity, biodiversity loss, habitat loss, excessive nitrogen loading, coastal and ocean pollution, and the adverse effects of climate change. All of these continue to degrade coastal and ocean ecosystems. Institutional fragmentation, ecosystem assessment gaps, lack of enforcement and cooperation, and weak coastal policies are also issues requiring further attention. These issues are exacerbated by increased and rapid levels of industrialization -- critical ecological functions are continually undermined by habitat loss and environmental degradation associated with poorly regulated and managed industrialization processes.

Long-standing human-caused stressors on marine ecosystems have been widely demonstrated to cause numerous undesirable changes in living systems.¹⁵ These include decreased abundance of key species, structural damage to living and nonliving habitats, and loss of ecological functions, resulting in reduced resilience to additional stresses. Reduced ecosystem resilience is of particular concern because the anticipated adverse effects of climate change are predicted to be severe or even catastrophic for particular ocean ecosystems, habitats and species, and the coastal communities that are entirely dependent on them. The resilience of ecosystems – the capacity to withstand stress and recover from such impacts – is believed to be crucial to their functioning, persistence and viability.¹⁶ Degraded ecosystems (i.e., those that have lost biodiversity, ecological functions or structural integrity) are expected to be less resilient, and, therefore, to have less capacity to withstand the additional stresses of climate change.¹⁷

Theory suggests that reducing the stressors acting on an area can help maintain ecosystem integrity, population viability, the health of organisms, and foster recovery from adverse impacts. Removing some stressors (e.g., through reducing fishing effort or the establishment and management of marine protected areas (MPAs), including no-take marine reserves) is considered to be an important action to build the resilience of ecosystems and populations.¹⁸

However, while 13% of the world's land areas are protected, only about 1% of global marine areas are protected in some way with less than 0.5% fully protected. Further, there is near to zero protection of marine ecosystems and biodiversity occurring in deeper waters on the continental shelves and in the international waters of the high seas. Vulnerable areas include seamounts, which can be areas of high diversity and /or productivity and where the existence of little or unknown endemic species is common place. There is a general lack of understanding about the importance of these areas and the benefits and services they provide.

¹⁵ IUCN World Commission on Protected Areas (IUCN-WCPA). 2008. Establishing Resilient Marine Protected Area Networks – Making it Happen. *IUCN-WCPA, NOAA and TNC, Washington, DC*. 118 pp.

¹⁶ Walker, B and D Salt. 2006. Resilience Thinking: Sustaining Ecosystems and People in a Changing World. Island Press; Washington, DC.

¹⁷ Hughes, TP, DR Bellwood, C Folke, RS Steneck and J Wilson. 2005. New paradigms for supporting the resilience of marine ecosystems. *Trends in Ecology and Evolution* 20: 380-86.

¹⁸ Sandin, SA, JE Smith, EE Demartini and many others. 2008. Baselines and degradation of coral reefs in the Northern Line Islands. *PLoS ONE* 3(2): e1548. doi:10.1371/journal.pone.0001548.

Even when countries do restrict or ban destructive activities such as bottom trawling in their national waters, these activities continue largely unabated on the high seas, which account for 45% of the surface of the earth. There are efforts to protect vulnerable marine ecosystems in areas beyond national jurisdiction including, for example, pursuant to UNGA resolutions 61/105 and 64/72; and through regional fisheries management organizations (RFMOs) including the North East Atlantic Fisheries Commission (NEAFC), which has closed some vulnerable marine ecosystems to bottom fishing in order to protect them, albeit temporarily. However, adherence to these measures is patchy, while the destruction of these vulnerable ecosystems continues apace.

These and other efforts must be accompanied by improved governance, ecosystem monitoring, enforcement and surveillance. Looking to the future, focus must be given to preventive actions, particularly through the use and application of the precautionary principle and the ecosystem approach to conservation in ocean areas.

BACKGROUND AND HISTORICAL UNDERPINNINGS

The major documents underpinning UNCSD include¹⁹ the Rio Declaration on Environment and Development,²⁰ Agenda 21,²¹ the Programme for the Further Implementation of Agenda 21,²² the Johannesburg Declaration on Sustainable Development and the Plan of Implementation of the World Summit on Sustainable Development ("Johannesburg Plan of Implementation" or JPOI). Other documents include the Programme of Action for the Sustainable Development of Small Island Developing States,²³ the Declaration and state of progress and initiatives for the future implementation of the Programme of Action for the Sustainable Development of Small Island Developing States,²⁴ and the Mauritius Strategy for the Further Implementation of the Programme of Action for the Sustainable Development of Small Island Developing States.²⁵

¹⁹ See UNGA resolution 64/236, preamble.

²⁰ Report of the United Nations Conference on Environment and Development, Rio de Janeiro, 3-14 June 1992, vol. I, Resolutions Adopted by the Conference (United Nations publication, Sales No. E.93.I.8 and corrigendum), resolution I, annex I.

²¹ *Ibid.*, Annex II.

²² Resolution S-1 9/2, annex.

²³ Report of the Global Conference on the Sustainable Development of Small Island Developing States, Bridgetown, Barbados, 25 April-6 May 1994 (United Nations publication, Sales No. E.94.I.18 and corrigenda), chap. I, resolution 1, annex.

²⁴ Resolution S-22/2, annex.

²⁵ Report of the International Meeting to Review the Implementation of the Programme of Action for the Sustainable Development of Small Island Developing States, Port Louis, Mauritius, 10-14 January 2005 (United Nations publication, Sales No. E.05.II.A.4 and corrigendum), chap. I, resolution 1, annex II.

LIVING UP TO THE RIO DECLARATION

- **Principle 1 of the Rio Declaration** is that human beings are at the centre of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature. In the last 20 years, “harmony with nature” has been missing.

As the Secretary-General’s report noted,²⁶

Over the past 50 years, humans have changed ecosystems more rapidly and extensively than in any comparable period of time in human history, largely to meet rapidly growing demands for food, fresh water, timber, fibre, and fuel. This has resulted in a substantial and largely irreversible loss in the diversity of life on Earth. Admittedly, some of these changes have contributed to substantial net gains in human well-being and economic development, but the balance is rapidly tilting in the opposite direction. The gains were achieved at the cost of the degradation of many ecosystem services, increased risks of nonlinear changes, and indeed the exacerbation of poverty for some groups of people. Unless addressed, the benefits and possibly even the possibility of survival of future generations will be seriously eroded.

From climate change and its myriad impacts, through to the destruction of and damage to ecosystems, the loss of biodiversity and the degradation of the natural environment, including from overfishing and destructive fishing, human impacts on the ocean has been profound. This has a direct impact on sustainable development. As the Secretary-General observed,²⁷ poor and marginalized peoples are usually directly dependent on environmental services, and the steady degradation of the natural resource base impacts their lives and livelihoods disproportionately. This is particularly true for fisheries. Fisheries are critical to developing states for food security, as a protein source, as a source of social and cultural importance, and as a source of cash income as well as for export markets. Yet largely at the expense of small coastal states, larger fishing States have, through overfishing and unsustainable fishing practices, caused large-scale depletion of fishery resources worldwide.

- **Principle 2** of the Rio Declaration states the responsibility to ensure that activities, which would clearly include fishing in the high seas or the Exclusive Economic Zones (EEZs) of other States, do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction. Included further in the Declaration is the notion that a State is liable for its conduct or omission that causes transboundary environmental interference.²⁸ This principle is so important, that it was included in Article 3 of the Convention on Biological Diversity. However, it has been disregarded both inside EEZs and on the high seas, particularly in terms of overfishing, bycatch, destructive fishing practices and habitat destruction.
- **Principle 3** balances the right to develop with the need to equitably meet developmental and environmental needs of present and future generations. Excess capacity, overfishing and IUU fishing have put the environmental needs of present and future generations in jeopardy. Some reports conclude that marine biodiversity loss is increasingly impairing the ocean’s capacity to provide food, and the trend of an ongoing erosion of diversity

²⁶ Implementation of Agenda 21, the Programme for the Further Implementation of Agenda 21 and the outcomes of the World Summit on Sustainable Development: Report of the Secretary-General, paragraph 31, available at <http://www.uncsd2012.org/>.

²⁷ Secretary-General report, paragraph 32.

²⁸ Principle 13, Rio Declaration.

appears to be accelerating on a global scale. Some studies project the global collapse of all wild seafood currently being fished by the year 2050.²⁹

- **Principle 4** states that in order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it. This Principle can be seen as the lynchpin of the Rio Declaration with respect to the environment, as it puts environmental protection as a *sine qua non* of sustainable development.
- **Principles 5 and 6**, in their focus on poverty eradication and developing countries, reinforce the need to ensure that overfishing and habitat destruction do not deprive developing countries and the poor of the marine resources they are dependent upon.
- **Principle 7** acknowledges the responsibility that developed States bear in light of the pressures their societies place on the global environment, and unsustainable patterns of production are meant to be eliminated under **Principle 8**.
- Although new technologies are intended to aid sustainable development according to **Principle 9**, when it comes to fishing, this has simply meant more efficient fishing technologies increasing the rate of depletion, rather than technology transfer leading to the development of truly sustainable fishing industries in the developing world.
- **Principle 10** stresses the elements of transparency, including access to information and public participation in decision-making, and is widely recognized as being crucial to good governance. It is now encapsulated and implemented in the Aarhus Convention³⁰, signature and ratification of which would be beneficial to international ocean governance. Policy making on fisheries and oceans often occurs behind closed doors and without the participation of civil society or key stakeholder groups. This needs to be improved.
- The precautionary approach, in the often cited **Principle 15**, enjoys widespread support, but when it comes to the protection of the marine environment, its implementation has been weak. Implementing the precautionary principle in fisheries management requires that action is taken to prevent irreversible harm, *before it starts to take place*. Where there is a lack of scientific certainty, as is too often the case in fisheries, fishing should not take place until precautionary conservation and management measures are agreed and implemented. In far too many cases, failure to reach agreement on measures simply means that destructive fishing continues unabated or will even increase – the opposite of the precautionary principle.
- The polluter-pays **Principle 16** (or its equivalent in fisheries: user-pays) is likewise often reversed: States that have overfished fisheries may claim their ‘fishing record’

²⁹ Worm et al., “Impacts of Biodiversity Loss on Ocean Ecosystem Services.”, 314 *Science* (3 November 2006), 787-790.

³⁰ Opened for UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, opened for signature at Aarhus, Denmark, 25 June 1998, 2161 UNTS 447, at <http://www.unece.org/env/pp/treatytext.htm>. Entered into force 30 October 2001. 41 Parties. Almaty Guidelines on Promoting the Application of the Principles of the Aarhus Convention in International Affairs.ECE/MP.PP/2005/2/Add.5 20 June 2005, adopted at the second meeting of the Parties to the Aarhus Convention, 25-27 May 2005, <http://www.unece.org/env/documents/2005/pp/ece/ece.mp.pp.2005.2.add.5.e.pdf>.

as the basis of future allocation, rather than bear any responsibility for the destruction of or damage to fish stocks.

- Environmental impact assessments under **Principle 17** have been undertaken far too infrequently, especially in the area of fisheries; UNGA resolution 61/105, as supplemented in resolution 64/72 made it very clear that prior to bottom fishing, such assessments must be undertaken.³¹ However, many States have yet to comply with this requirement which only applies to deep-sea bottom fisheries. It has yet to be applied to all other high seas fisheries, but should be. In addition, its application varies in the EEZs and territorial waters of most countries.

WORLD SUMMIT ON SUSTAINABLE DEVELOPMENT (WSSD)

The 2002 World Summit on Sustainable Development (WSSD) held in Johannesburg, South Africa, had an objective to forge a new spirit of cooperation and urgency based on agreed actions toward sustainable development, calling for the ratification of environmental conventions and protocols and the execution of their principles, as progress in implementing the sustainable development principles of Rio was realized as slow to non-existent.

The main outcome of the WSSD was the Johannesburg Plan of Implementation (JPOI), which was crafted to implement the commitments originally agreed at UNCED, and at the Millennium Summit held in New York in 2000. Regarding the marine environment, the WSSD observed that “oceans, seas, islands and coastal areas form an integrated and essential component of the Earth’s ecosystem and are critical for global food security and for sustaining economic prosperity and the well-being of many national economies, particularly in developing countries.”³² The Summit reaffirmed the commitment of governments to the Rio principles, and adopted goals and targets with set timetables to meet the aspirations of those principles. Further, unlike preceding events, world leaders at the Earth Summit, set specific global goals related to the marine environment, which are summarized in *Box 1*. Unfortunately, many of the targets are insufficient and will not deliver the desired outcomes even if fully achieved. In addition, progress toward these targets has been lackluster at best, and most will not come close to being achieved.

³¹ See resolution 64/72, paragraph 119(a), which requires States to “[c]onduct the assessments called for in paragraph 83 (a) of its resolution 61/105, consistent with the Guidelines, and to ensure that vessels do not engage in bottom fishing until such assessments have been carried out.”

³² Paragraph 29, Plan of Implementation, World Summit on Sustainable Development, Johannesburg, September 2002.

BOX 1: JPOI Marine-related Goals and Targets

Ecosystem Approach and Integrated Management

- Encourage the application of the ecosystem approach by 2010 for the sustainable development of the oceans, particularly the management of fisheries and conservation of biodiversity
- Promote integrated coastal and ocean management at the national level and encourage and assist countries in developing ocean policies and mechanisms on integrated coastal management
- Assist developing countries in coordinating policies and programmes at the regional and sub-regional levels aimed at conservation and sustainable management of fishery resources and implement integrated coastal area management plans, including through the development of infrastructure

Protection of the Marine Environment from Land-based Activities

- Advance implementation of the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities and the Montreal Declaration on the Protection of the Marine Environment from Land-based Activities, with particular emphasis in the period 2002-2006 on municipal wastewater, the physical alteration and destruction of habitats, and nutrients, by actions at all levels

Biodiversity and Marine Protected Areas

- Achieve by 2010 a significant reduction of the current rate of biodiversity loss at the global, regional and national level as a contribution to poverty alleviation and to the benefit of all life on earth
- Develop and facilitate the use of diverse approaches and tools, including the ecosystem approach, the elimination of destructive fishing practices, the establishment of marine protected areas consistent with international law and based on scientific information, including representative networks by 2012

Small Island Developing States

- Undertake a comprehensive review of the implementation of the Barbados Programme of Action for the Sustainable Development of Small Island Developing States in 2004

Fisheries

- Implement the FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported, and Unregulated Fishing (IUU) by 2004
- Implement the FAO International Plan of Action for the Management of Fishing Capacity by 2005
- Eliminate subsidies that contribute to illegal, unreported, and unregulated fishing and to overcapacity
- Maintain or restore depleted fish stocks to levels that can produce their maximum sustainable yield on an urgent basis and where possible no later than 2015

Integrated Water Resource Management

- Develop integrated water resource management (IWRM) plans by 2005

Global Marine Assessment

- Establish a regular process under the United Nations for global reporting and assessment of the state of the marine environment, including socioeconomic aspects, by 2004

Coordination of UN Activities on Oceans

- Establish an effective, transparent and regular inter-agency coordination mechanism on ocean and coastal issues within the United Nations system

MILLENNIUM DEVELOPMENT GOALS (MDGs)

In the MDGs, first developed out of the eight chapters of the United Nations Millennium Declaration, signed in September 2000, and most recently reaffirmed in 2010, the world's political leaders agreed on a specific set of goals with targets and timetables emphasizing measures to lift the world's poor out of poverty and to achieve healthful conditions for all. For the ocean, the MDGs call for improved cooperation and coordination at all levels to address ocean issues in an integrated manner and the promotion of integrated management and sustainable development of the ocean and seas.

BOX 2: Millennium Development Goals – Targets relevant to Ocean conservation

Goal 1: Eradicate extreme poverty and hunger

- Target 1.A: Halve, between 1990 and 2015, the proportion of people whose income is less than one dollar a day.
- Target 1.C: Halve, between 1990 and 2015, the proportion of people who suffer from hunger.

Goal 7: Ensure environmental sustainability

- Target 7.A: Integrate the principles of sustainable development into country policies and programmes and reverse the losses of environmental resources.
- Target 7.B: Reduce biodiversity loss, achieving, by 2010, a significant reduction in the rate of loss.
- Target 7.C: Halve, by 2015, the proportion of people without sustainable access to safe drinking water and basic sanitation.

Goal 8: Develop a global partnership for development

- Target 8.C: Address the special needs of landlocked countries and small island developing states (through the Program of Action for the Sustainable Development of Small Island Developing States and 22nd General Assembly provisions).

Added in 2005 through UN GA Resolution 60/1

- Improve cooperation and coordination at all levels in order to address issues related to oceans and seas in an integrated manner and promote integrated management and sustainable development of the oceans and seas.

The challenges posed by the existing world governance and economic structure have often proved too difficult to overcome, and there has been, ultimately, limited progress. Reducing fishing subsidies and reducing over-capacity in fisheries, as well as facilitating technology transfer to developing States and facilitating the development of sustainable, vertically integrated fisheries industries in those States is necessary to further the MDGs and should be addressed at UNCSD.

CONVENTION ON BIOLOGICAL DIVERSITY (CBD)

The recently concluded CBD COP-10 in Nagoya, Japan, reached some important conclusions for the ocean, both in its Strategic Plan and in its Marine and Coastal Biodiversity Decision. Target 6 of the Strategic Plan³³ requires that by 2020 all fish and invertebrate stocks and aquatic plants are managed and harvested sustainably, legally and applying ecosystem-based approaches so that:

- overfishing is avoided;
- recovery plans and measures are in place for all depleted species;
- fisheries have no significant adverse impacts on threatened species and vulnerable ecosystems; and
- the impacts of fisheries on stocks, species and ecosystems are within safe ecological limits.

Business as usual fisheries management will fall far short of achieving this target. Achieving the target will require major reforms of the mandate, governance structures and procedures followed by RFMO/As and their performance, to enable them to prevent overfishing and habitat destruction. It will also require international structural reforms such as the elimination of harmful subsidies and overcapacity.

Achieving Target 11, conserving 10% of coastal and marine areas being managed through protected areas and similar measures, will also require governance reforms, particularly in the high seas, to enable the systematic identification and conservation of areas needing protection and/or restoration.

An *ad hoc* informal working group convened by the UN General Assembly to address marine biological diversity in areas beyond national jurisdiction met in February 2006.³⁴ A summary of trends prepared by the co-Chairs noted (*inter alia*) that:

(4.) UNCLOS and other relevant legal instruments need to be more effectively implemented, including through capacity-building to developing States.

(5.) The conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction should be based on the precautionary and ecosystem approaches using the best available science, and prior environmental impact assessments.

³³ <http://www.cbd.int/doc/meetings/cop/cop-10/official/cop-10-27-en.pdf>.

³⁴ Ad Hoc Informal Open-ended Working Group to study issues relating to the conservation and sustainable use of marine biological diversity in areas beyond national jurisdiction established by the UNGA, summary of trends prepared by the Co-Chairpersons of the Ad Hoc Open-ended Informal Working Group, contained in annex I to the report of the Working Group. Report of the Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction, Annex I, 20 March 2006, A/61/65.

Copy at <http://www.un.org/Depts/los/biodiversityworkinggroup/biodiversityworkinggroup.htm#A/63/79>.

(10.) Area-based management tools such as marine protected areas, including representative networks, and temporal and spatial closures for fisheries management are widely accepted and further elaboration of criteria for identification, establishment and management is required.

(19.) Conservation and management issues in areas beyond national jurisdiction have emerged as major issues, which require urgent attention and action.

Parties recognized that “marine protected areas are one of the essential tools to help achieve conservation and sustainable use of biodiversity in marine areas beyond the limits of national jurisdiction, and that they should be considered as part of a wider management framework consisting of a range of appropriate tools, consistent with international law and in the context of best available scientific information, the precautionary approach and ecosystem approach; and that application of tools beyond and within national jurisdiction need to be coherent, compatible and complementary and without prejudice to the rights and obligations of coastal States under international law.”³⁵ They referred to the *ad-hoc* working group and included the possibility of an implementing agreement under UNCLOS.³⁶

The CBD decision on Marine and Coastal Biodiversity has provided a pathway for establishing marine protected areas. The decision³⁷ encourages States and competent intergovernmental organizations to cooperate collectively or on a regional or sub-regional basis, to identify and adopt appropriate measures for conservation and sustainable use in relation to ecologically or biologically significant areas (EBSAs), including by establishing representative networks of marine protected areas and to inform the relevant processes within the United Nations General Assembly. In essence, the Parties agreed, particularly through a series of regional workshops,³⁸ to identify ecologically or biologically significant areas which may require enhanced conservation and management measures, including marine protected areas, and to establish a repository of that information.³⁹ It is clear that the identification of EBSAs and the selection of conservation and management measures is a matter for States and competent intergovernmental organizations, including UNCLOS.⁴⁰

One important forum for this process is the *Ad Hoc* Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction (sometimes referred to as ‘BBNJ’), established by the UNGA in resolution 59/24; it will meet 31 May-3 June, 2011 in New York. Looking forward to UNCSD, structural governance reforms will be necessary to ensure that this process is placed on a sound legal footing and to enable the far-reaching measures that are necessary to be implemented, including in the high seas.

³⁵ COP 8 Decision VIII/24, para. 38.

³⁶ *Ibid.* para. 40.

³⁷ CBD Decision X on Marine Biodiversity, paragraph 32, at <http://www.cbd.int/doc/meetings/cop/cop-10/official/cop-10-27-en.pdf>.

³⁸ CBD Decision X on Marine Biodiversity, paragraph 36.

³⁹ CBD Decision X on Marine Biodiversity, paragraph 39.

⁴⁰ CBD Decision X on Marine Biodiversity, paragraph 26.

BOX 3: Some CBD COP-10 Targets

Target 3: By 2020, at the latest, incentives, including subsidies, harmful to biodiversity are eliminated, phased out or reformed in order to minimize or avoid negative impacts, and positive incentives for the conservation and sustainable use of biodiversity are developed and applied, consistent and in harmony with the Convention and other relevant international obligations, taking into account national socio-economic conditions.

Target 5: By 2020, the rate of loss of all natural habitats, including forests, is at least halved and where feasible brought close to zero, and degradation and fragmentation is significantly reduced.

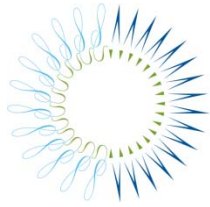
Target 6: By 2020, all fish and invertebrate stocks and aquatic plants are managed and harvested sustainably, legally and applying ecosystem based approaches, so that overfishing is avoided, recovery plans and measures are in place for all depleted species, fisheries have no significant adverse impacts on threatened species and vulnerable ecosystems and the impacts of fisheries on stocks, species and ecosystems are within safe ecological limits.

Target 9: By 2020, invasive alien species and pathways are identified and prioritized, priority species are controlled or eradicated, and measures are in place to manage pathways to prevent their introduction and establishment.

Target 10: By 2015, the multiple anthropogenic pressures on coral reefs, and other vulnerable ecosystems impacted by climate change or ocean acidification are minimized, so as to maintain their integrity and functioning.

Target 11: By 2020, at least 17% of terrestrial and inland water, and 10% of coastal and marine areas, especially areas of particular importance for biodiversity and ecosystem services, are conserved through effectively and equitably managed, ecologically representative and well connected systems of protected areas and other effective area-based conservation measures, and integrated into the wider landscape and seascapes.

Target 12: By 2020, the extinction of known threatened species has been prevented and their conservation status, particularly of those most in decline, has been improved and sustained.



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