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RIO+20: TIME TO TURN BACK THE TIDE

An analysis of gaps in the implementation of the ocean-related outcomes of the major summits on sustainable development

FOREWORD

The world is once again on the road to Rio, 20 years after the landmark 1992 Earth Summit, in many ways the bedrock of sustainable development in the 21st century. At the 1992 meeting, however, issues relating to the world's oceans took a back seat. The past two decades have brought a heightened awareness of the importance of oceans for human well-being and livelihoods, and of threats to ocean conservation, coupled with ever-increasing industrial-scale overfishing. Two opposing forces have been at play --a recognition that the need for sustainable global fisheries has never been more apparent, countered by the stark reality that global fish stocks, the world's largest wild protein resource, have never been more threatened or more overexploited.

The science relating to global fisheries decline is clearer than ever. Despite on-going claims of progress toward sustainability, and the many laudable statements and commitments made by fishing States, there has been insufficient action over the past 20 years to transform fisheries in line with conservation and sustainable development imperatives. Fisheries management remains fragmented among national and international bodies, with separate and often overlapping jurisdictions, inaction in the face of scientific data and no global accountability.

Over the preceding two decades, governments have made a number of important commitments, particularly on ocean issues, which if implemented would go a long way toward turning the tide on the wanton destruction of our planet's ocean richness. This paper attempts to outline the gaps in the implementation of the ocean-related outcomes of the major summits.

The conclusions in the paper are perhaps not surprising, but they are instructive. The many time-bound targets, specific promises and commitments listed and, for the most part, missed have been useful in agreeing on consensual and motivational goals. However, on their own, they have been insufficient. The global community must convert commitments into action. The main impediment to achieving reform for our use of the ocean, particularly on the high seas, is a lack of effective global governance and accountability.

The few months until the Rio+20 meeting next June and then beyond bring an opportunity to create critical institutional mechanisms for the high seas, where no State has sole jurisdiction and where change depends on international cooperation, compliance and enforcement mechanisms.

Rio+20 is about looking forward and a new paradigm shift. It must also be about matching action to words, and if the words are insufficient, it must forge a new way ahead. The high seas make up nearly 50 percent of our planet; some call it "the forgotten half." Our oceans are not endless, and as every year passes and ocean health and ecosystems are increasingly imperilled, it is no longer an option to ignore the marine world in all its richness and diversity, or to decide that the challenge is too large to tackle. 2012 can and should be the year to turn the tide.



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ABOUT THE PEW ENVIRONMENT GROUP

The Pew Environment Group is the conservation arm of The Pew Charitable Trusts, a nongovernmental organization that works globally to establish pragmatic, science-based policies that protect our oceans, preserve our wildlands and promote clean energy.

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Introduction

Oceans cover more than 70 percent of the world's surface, and marine fisheries provide food for billions of people. What is less known is that the high seas—the areas of the world's oceans that lie beyond the 200-mile limits of national jurisdiction—make up roughly two-thirds of our oceans and 45 percent of the planet's surface.



PHOTO: ISTOCK

This area, which contains perhaps the largest reservoir of biodiversity left on Earth, is exploited by many countries but is effectively managed by no one. Moreover, it is under extreme pressure.

According to the U.N. Food and Agriculture Organization (FAO) report *The State of World Fisheries and Aquaculture 2010*,¹ 85 percent of the world's fisheries are fully exploited, overexploited, depleted or recovering from depletion—the highest such estimate ever.

The problem is certainly not a lack of commitments. Numerous important pledges have been made both at the 1992 U.N. Conference on Environment and Development (Rio Earth Summit) in Rio de Janeiro and at the World Summit on Sustainable Development (WSSD or Second Earth Summit) in Johannesburg in 2002. Rather, what has been missing is the fulfillment of these commitments. In regard to the ocean, it is critical that such mechanisms as international conventions and such effective institutional mechanisms as U.N. oversight, coordination and review be instituted. As Rio+20 approaches, States and other participants have a unique opportunity to fill these gaps.

States, and in particular the major fishing States, have failed to live up to the relevant provisions of the Rio Declaration² and its progeny, as they relate to the ocean. The sustainable management of the ocean is essential to achieving the three pillars of sustainable development: economic development, social development and environmental protection. And, just as sustainable development depends on effective management of the ocean,³ it is imperilled by current mismanagement. As the U.N. secretary-general has noted:

“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.”⁴

Despite numerous internationally agreed-upon commitments, targets and timetables made in summits, conferences, meetings and workshops, the world has failed to make meaningful progress in numerous areas and on threats to ensure continued viability of the biodiversity of the high seas.

These threats include overfishing; illegal, unreported and unregulated (IUU) fishing; discards and bycatch; trawl and habitat-damaging practices; perverse government subsidies; ineffective fisheries governance; overcapacity; biodiversity loss; habitat loss; nutrient loading; land-based, coastal and ocean pollution; and climate change.

The current international institutional framework has contributed to the decline of the biodiversity of the high seas. Institutional fragmentation, weak international coordination, ecosystem assessment gaps, lack of enforcement and cooperation, poor performance of regional fisheries management organizations and arrangements (RFMO/As) and weak coastal policies have exacerbated the problem. Indeed, overfishing

and the decreased biological production and losses of biodiversity that result, and ultimately the collapse of fisheries, are largely the product of institutional failure.⁵

Despite strong language in the 1972 Stockholm Declaration,⁶ the 1992 Rio Declaration and the 2002 Johannesburg Plan of Implementation (JPOI), governments have failed to reverse or even halt the degradation of the oceans. Four decades after the Stockholm Declaration called for safeguarding representative samples of natural ecosystems,⁷ only about 1 percent⁸ of the world’s oceans have been protected. Twenty years ago, the Rio Declaration stated that States would cooperate in a spirit of global partnership to conserve, protect and restore the health and integrity of the Earth’s ecosystem;⁹ and six years ago, States at the U.N. General Assembly (UNGA) agreed to improve cooperation and coordination at all levels in order to address issues related to oceans and seas in an integrated manner and promote holistic management and sustainable development of the oceans and seas.¹⁰

In June 2012, States will meet again in Brazil’s former capital for Rio+20. For this historic meeting, States have committed to secure renewed political commitment for sustainable development, assessing progress to date and remaining gaps in the implementation of the outcomes of major summits on sustainable development and addressing new and emerging challenges.¹¹ The twin foci will be a green economy in the context of sustainable development and poverty eradication and the institutional framework for sustainable development.¹²

Key Ocean Promises Not Kept

Implementation of fishery capacity management measures by 2005

The JPOI¹³ promise to implement the FAO International Plan of Action for the Management of Fishing Capacity (IPOA-Capacity)¹⁴ by 2005 has been all but forgotten. The objective in the IPOA-Capacity—to achieve worldwide, preferably by 2003 but not later than 2005,¹⁵ an efficient, equitable and transparent management of fishing capacity—is critically overdue. By some estimates, the global fishing fleet is now two to three times larger than the oceans can sustainably support.¹⁶

Implementation action on IUU fishing by 2004

The JPOI promise has not been fulfilled to urgently develop and implement national and, where appropriate, regional plans of action to put into effect the FAO International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (IPOA-IUU)¹⁷ by 2004. Also unfulfilled is the promise to establish effective monitoring, reporting and enforcement, and control of fishing vessels, including by flag States.

To the contrary, the world has moved in the wrong direction on this issue—in spite of finalization of the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate IUU Fishing.

That agreement is an encouraging development in port State control of vessels, but far more needs to be done, including on the control of flag vessels and nationals; on monitoring, control, surveillance and enforcement; and on catch and trade

documentation schemes. The Organization for Economic Cooperation and Development task force meeting in 2004 estimated the worldwide value of IUU catches at \$4 billion to \$9 billion* per year.¹⁸ Since then, the number has doubled: IUU fishing is responsible for \$10 billion to \$23 billion a year in lost revenue and 11 to 26 million tonnes of fish¹⁹ of a total world capture of 142 million tonnes.²⁰ It is largely the developing countries that suffer the most from this loss of revenue, yet they are the least able to implement the needed enforcement measures.

Maintenance or restoration of depleted fish stocks to maximum sustainable yield levels by 2015

In Johannesburg in 2002, States also agreed to maintain or restore stocks to levels that can produce the maximum sustainable yield (MSY). States additionally agreed to achieve these goals for depleted stocks on an urgent basis and, where possible, not later than 2015.²¹ Given the current trajectory, it is highly unlikely that this goal will be met. The FAO State of World Fisheries and Aquaculture²² in 2010 reported that the combined estimates for fully exploited, overexploited, depleted or recovering from depletion was the highest ever: 85 percent. More than half of the fish stocks (53 percent) were fully exploited.²³ The remaining 32 percent were: overexploited (28 percent), depleted (3 percent) and recovering from depletion (1 percent).²⁴

Both unilaterally and acting through RFMOs, States in general have failed to maintain or restore stocks to MSY, but what is perhaps equally disturbing is the growing consensus

* Currencies in this report are U.S. dollars, unless otherwise noted.

among fisheries scientists that the MSY bar was set too low: The exploitation rate that achieves MSY should be reinterpreted as an upper limit rather than a management target. This requires overall reductions in exploitation levels and rates²⁵ (coupled with reductions in capacity and harmful subsidies).

Elimination of subsidies

In the JPOI,²⁶ the international community agreed that the elimination of subsidies that contribute to IUU fishing and overcapacity was required to achieve sustainable fishing. Yet while the World Trade Organization talks on subsidies continue,²⁷ global fisheries subsidies are about \$27 billion, or 25 percent of the value of the world fisheries catch.²⁸

Subsidies incentivize overfishing. Fishing effort is now twice as great as the ability of fish to reproduce and replace themselves.²⁹ Society loses \$26 billion a year from fishing. This is because the total revenue that fishing generates is only \$85 billion, while the cost of fishing (\$90 billion), plus the cost of non-fuel subsidies (\$21 billion), is \$111 billion.

Development of networks of marine protected areas by 2012

Marine protected areas (MPAs), including no-take marine reserves, are widely acknowledged as a key tool to protect biodiversity and help build resilience of ecosystems. Despite this, the promise made in the JPOI³⁰ is highly unlikely to be achieved: Currently, only about 1 percent³¹ of the global ocean is covered by MPAs, but the vast majority of these are within territorial waters or exclusive economic zones (EEZs), and not all existing MPAs are reserves that are fully protected.

Reduce biodiversity loss, significantly reducing the rate by 2010

The target for this JPOI³² and Millennium Summit goal³³ was missed. Biodiversity is vitally important for our well-being, because it underpins the ecosystem services on which life depends. Not only do billions of people rely on myriad species for their livelihoods and even survival, but the loss of biodiversity—permanent, in the case of extinctions—will also hinder the delivery of Millennium Development Goal (MDG) targets related to poverty, hunger and health because declines in biodiversity will increase the vulnerability of the poor and reduce options for development.³⁴ Indeed, the 2010 MDG Report³⁵ noted that the world missed the 2010 target for biodiversity conservation, with potentially grave consequences.³⁶

In particular, the specific indicators agreed for the MDGs—the proportion of fish stocks within safe biological limits, the proportion of terrestrial and marine areas protected and the proportion of species threatened with extinction³⁷—show by how far this goal has been missed.

Strengthen monitoring, control, surveillance, compliance, enforcement

Agenda 21, adopted at the Rio Conference, recognized the need to develop or upgrade systems and institutional structures for monitoring, control and surveillance.³⁸ Ten years later, the WSSD in the JPOI recognized that action is required to establish effective monitoring, reporting and enforcement, and control of fishing vessels.³⁹ The absence of effective global monitoring, control, surveillance, compliance and enforcement is still an important gap today, because the on-going decline in biomass of fish species is due in part to IUU fishing.⁴⁰

TABLE 1: GAPS THAT REMAIN

| PROVISION | CONVENTION | DEADLINE | STATUS |
|---|--|-------------|--|
| Implementation action on IUU fishing | Johannesburg Plan of Implementation (JPOI), 2002 | 2004 | The world has moved in the wrong direction. Despite the encouraging Agreement on Port State Measures to Prevent, Deter and Eliminate IUU Fishing, far more needs to be done. |
| Implementation of fishery capacity management measures | JPOI, 2002 | 2005 | All but forgotten. An efficient, equitable and transparent management of fishing capacity is critically overdue. By some estimates, the global fishing fleet is now two to three times larger than the oceans can sustainably support. |
| Maintenance or restoration of depleted fish stocks to maximum sustainable yield levels | JPOI, 2002 | 2015 | Given the current trajectory, it is highly unlikely that this goal will be met. |
| Elimination of subsidies | JPOI, 2002 | | World Trade Organization talks on subsidies continue. Global fisheries subsidies represent about 25 percent of the value of the world fisheries catch, at about \$27 billion. Fishing is now at an effort that is twice as great as the ability of fish to reproduce and replace themselves. Agreed subsidies contribute to IUU and overfishing. |
| Development of networks of marine protected areas | JPOI, 2002 | 2012 | Although marine protected areas, including no-take marine reserves, are widely acknowledged as a key tool to protect biodiversity and boost resilience of ecosystems, the promise made in the JPOI is highly unlikely to be achieved. |
| Reduce biodiversity loss, achieving a significant reduction in the rate of loss | JPOI and Millennium Summit goal | 2010 | The specific indicators agreed to for the Millennium Development Goals—the proportion of fish stocks within safe biological limits, the proportion of terrestrial and marine areas protected and the proportion of species threatened with extinction—show by how far this goal has been missed. |
| Agenda 21, Rio, WSSD | Agenda 21 recognized the need to develop or upgrade systems and institutional structures for monitoring, control and surveillance. | | Still not met. No effective global monitoring, control, surveillance, compliance or enforcement. |

The Earth Summit and Rio Declaration

The Rio Conference⁴¹ resulted in the Rio Declaration and Agenda 21, Chapter 17 of which addresses oceans. The Declaration contained a pivotal set of principles that for the most part have stood the test of time. Yet an examination of the Declaration shows how mixed the implementation of these crucial recommendations has been for the oceans over the past 20 years. Following is a list of the principles (1-6, 9, 10 and 15-17) that are most applicable to the marine environment, with a brief description:

- **Principle 1** states 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 past 20 years, “harmony with nature” has in general been missing, as demonstrated by the rapid loss in global biodiversity on land and sea and in particular the continued unsustainable commercial overexploitation of the oceans.
- **Principle 2** articulates the responsibility of States to ensure that activities, which would clearly include fishing in the high seas or the EEZs of other States, do not cause damage to the environment of other States or of areas beyond the limits of national jurisdiction. Also included in the Declaration is the notion that a State is liable for its conduct or omission that causes trans-boundary environmental interference.⁴² This principle, which was so important that it was included in Article 3 of the Convention on Biological Diversity

(CBD),⁴³ has been breached regularly through overfishing, destructive fishing practices, habitat destruction and other activities inside EEZs of countries and on the high seas.

- **Principle 3** balances the right to develop with the need to equitably meet the developmental and environmental requirements of current and future generations. Excess capacity, overfishing and IUU fishing have put those needs under enormous uncertainty. Marine biodiversity loss is increasingly impairing the ocean’s capacity to provide food. The erosion of diversity appears to be accelerating on a global scale. If fishing practices do not change, one study has projected the global collapse of all wild seafood currently fished by about 2050.⁴⁴
- **Principle 4** states that to achieve sustainable development, environmental protection shall be an integral part of the development process and cannot be considered in isolation from it. This principle can be seen as the environmental linchpin of the Rio Declaration, because it recognizes environmental protection as essential to sustainable development. This has not happened, as evidenced by the increasing number of studies showing degradation of the ocean, and is of increasing concern for the billions of people who rely on the ocean and its bounty as a principal source of sustenance and livelihood.

- **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 on which they depend. As above, this has not happened.
- New technologies are intended to aid sustainable development, according to **Principle 9**. However, for the most part, they have simply meant more-efficient fishing technologies, thus increasing the rate of depletion. They have seldom meant technology transfer leading to the development of truly sustainable fishing industries in the developing world.
- **Principle 10** stresses the benefits 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 Convention,⁴⁵ which grants the public rights regarding access to information, participation and access to justice in governmental decision-making processes on matters concerning the local, national and trans-boundary environment. Independent of the Aarhus Convention, there is inadequate transparency, particularly in information access and public participation in decision making and in global ocean governance, particularly as it relates to the high seas.
- The precautionary approach, in perhaps the most-often-cited **Principle 15** (also called the precautionary principle), enjoys widespread support, including recent recognition by the International Tribunal for the Law of the Sea,⁴⁶ but its implementation has been weak, particularly as it relates to conserving and protecting the marine environment. The precautionary principle states that if an action or policy might cause harm to the public or the environment, then in the absence of scientific consensus those taking the action must prove it is *not* harmful. In far too many cases, failure to consider or reach agreement on precautionary measures simply means that destructive fishing continues unabated and will increase. For this principle to be applied effectively to fisheries management and governance, States would need to adopt cautious conservation and management measures, including catch limits and effort limits. Such measures would need to remain in force until the impact of the fisheries on the long-term sustainability of the stocks had been assessed.
- The “polluter-pays” of **Principle 16** (or its equivalent in fisheries, user-pays) is often reversed: States with overfished fisheries may claim their “fishing record” as the basis for future allocations, rather than bear responsibility for the destruction of or damage to fish stocks. Rather, those States (particularly distant-water fishing States) that have caused overfishing and depletion of ocean biodiversity should be held accountable.

■ Environmental impact assessments under **Principle 17** have been undertaken far too infrequently, especially in the area of fisheries. UNGA Resolution 61/105 of 2006, as supplemented in UNGA Resolution 64/72 of 2009, made it clear that assessments must be undertaken before bottom fishing.⁴⁷ However, many States have yet to comply with the requirement, and it has not been more broadly applied to fisheries,

even though Article 206 of the U.N. Convention on Law of the Sea (UNCLOS) mandates assessments when a risk exists of significant and harmful changes to the marine environment. It is clear from Article 206, and from the International Tribunal for the Law of the Sea advisory opinion,⁴⁸ that environmental impact assessments are required by UNCLOS and under customary international law.

Agenda 21

Chapter 17⁴⁹ of Agenda 21 set out a strategy for the oceans.⁵⁰ Each area had a section setting forth the basis for action, objectives, activities and means of implementation. Many of these were progressive when adopted in 1992 and are still relevant. Unfortunately, a gap exists between the agreed way forward and implementation.

Some recommendations were broad, such as that States should ensure that marine living resources of the EEZ and other areas under national jurisdiction are conserved and managed in accordance with UNCLOS.⁵¹ Others were specific, such as that States identify marine ecosystems exhibiting high levels of biodiversity and productivity and other critical habitat areas, and provide necessary limitations on use in these regions through the designation of protected areas.⁵² Some have notably failed, such as the recognition that it is necessary to maintain or restore populations of marine species at levels

that can produce the MSY as qualified by relevant environmental and economic factors, taking into consideration relationships among species.⁵³ Others have been successful only in small part, such as the call to promote the development and use of selective fishing gear and practices that minimize waste in the catch of target species and minimize bycatch of nontarget species.⁵⁴

There was, however, one recommendation in Agenda 21 that was far-reaching and effective: that States convene an intergovernmental conference under U.N. auspices with a view to promoting effective implementation of UNCLOS provisions on straddling fish stocks and highly migratory fish stocks.⁵⁵ This led to the U.N. Agreement for the Implementation of the Provisions of the UNCLOS of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (Fish Stocks Agreement)⁵⁶ in 1995.⁵⁷

The Fish Stocks Agreement incorporated many state-of-the-art principles, including, notably, the precautionary principle. It also led to establishment of a series of RFMO/As.

It can be seen that recommendations that were underpinned by specific legal action, such as the convening of the Fish Stocks Agreement negotiating conference, resulted in concrete action that made a difference in the oceans, even though the state of the straddling stocks and highly migratory stocks

that the Agreement addresses remains poor.⁵⁸ Conversely, other recommendations—no matter how comprehensive, visionary or specific—failed in large part because, among other problems, there were no specific binding pathways for their implementation. It is critical that governance mechanisms, such as international conventions, and effective institutional mechanisms, such as U.N. oversight and review processes, be instituted.

Further Implementation of Agenda 21

In 1997, Member States examined progress made since the Earth Summit. The result was the Programme for the Further Implementation of Agenda 21 (Programme).⁵⁹

- The Programme noted that the decline of many fish stocks, high levels of discards and rising marine pollution had continued largely unabated, and it made seven recommendations for the oceans. Some were specific, such as that all governments should ratify or accede to relevant agreements as soon as possible and effectively implement such agreements, as well as relevant voluntary instruments.⁶⁰
- Others have failed, such as calls for States to prevent or eliminate overfishing and excess fishing capacity⁶¹ and take actions on subsidies.⁶² Some progress has been made on the call to improve the quality and quantity of scientific data.⁶³

- No new instruments were adopted or implemented: The Fish Stocks Agreement was only two years old, but this failure to address governance issues, apart from the call to ratify existing agreements, meant in effect that little progress was made.⁶⁴

The Millennium Summit, the WSSD and the MDGs

In 2000, the Millennium Summit⁶⁵ adopted the Millennium Declaration,⁶⁶ which drew the link between sustainable development and the need to change unsustainable patterns of production and consumption, while highlighting respect for nature and the need to protect our common environment.⁶⁷

The Declaration went so far as to resolve to adopt in all environmental actions a new ethic of conservation and stewardship, and reaffirmed support for Agenda 21 and the principles of sustainable development.⁶⁸

The eight MDGs were derived from the Millennium Declaration by the Secretary-General's Roadmap⁶⁹ and included Goal 7, ensuring environmental sustainability.⁷⁰ Targets were established for each goal: For Goal 7, one target was to "reduce biodiversity loss, achieving, by 2010, a significant reduction in the rate of loss."⁷¹ That target has been missed.

At the WSSD in 2005, States agreed to "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."⁷² Instances of such improvements in cooperation and coordination since 2005 have been few.

Rio+10: The WSSD and JPOI

Five years after the UNGA review of the implementation of Agenda 21, States gathered in Johannesburg in 2002 for an important 10-year follow-up to the Rio Conference, again to implement Agenda 21. The JPOI recognized that governance had to be improved, noting that "strengthening of the international institutional framework for sustainable development is an evolutionary process. It is necessary to keep relevant arrangements under review; identify gaps; eliminate duplication of functions; and continue to strive for greater integration, efficiency and coordination of the economic, social and environmental dimensions of sustainable development aiming at the implementation of Agenda 21."⁷³ Oceans were addressed mainly in seven paragraphs of the 170-paragraph Programme, while addressing Small Island Developing States (SIDS) specifically. The JPOI, recognizing the special cases of SIDS, called for such actions as:

- Implementing further sustainable fisheries management and improving financial returns from fisheries by supporting and strengthening relevant regional fisheries management organizations.⁷⁴

- Providing support for capacity-building and for the development and further implementation of SIDS-specific components within programmes of work on marine and coastal biological diversity.⁷⁵
- Assisting SIDS in mobilizing adequate resources and partnerships for their adaptation needs relating to the adverse effects of climate change, sea-level rise and climate variability.⁷⁶

Clearly, the international community has fallen short in these promises. The promises were not backed by any specific governance changes, nor were they supported by any specific, funded and time-bound processes designed to achieve the necessary outcomes.

For the oceans, the JPOI called for establishment of an effective, transparent and regular interagency coordination mechanism on ocean and coastal issues within the U.N. system.⁷⁷ This would have been useful if fully implemented, particularly in harmony with the call for greater cooperation among RFMOs and regional seas bodies.⁷⁸

In addition to interagency coordination, it is essential to have coordination among RFMOs, regional seas organizations and the U.N.-level bodies and meetings such as the Fish Stocks Review Conferences, the U.N. Open-Ended Informal Consultative Process on Oceans and the Law of the Sea⁷⁹ (ICP) and the Ad Hoc Open-Ended Informal Working Group to study issues relating to conservation and sustainable use of marine biological diversity in areas beyond national jurisdiction.⁸⁰ There were some time-bound calls, such as one to encourage the application of the ecosystem approach by 2010⁸¹ and the oft-cited call for establishing MPAs, including representative networks, by 2012.⁸²

Only about 1 percent⁸³ of the ocean has been fully protected, and as recently as October 2010 the CBD, in a recognition that this had

not occurred, called for 10 percent of the oceans to be protected by 2020⁸⁴—fully eight years after the original call at WSSD.

States also undertook in the JPOI to:

- Significantly reduce biodiversity loss by 2010.⁸⁵
- Restore fisheries to levels that can produce the MSY by 2015.⁸⁶
- Put into effect the FAO IUU fishing plan, the IPOA-IUU, by 2004.⁸⁷
- Establish representative networks of MPAs by 2012.⁸⁸

These laudable time-bound goals, however, were not accompanied by institutional and governance mechanisms to ensure their realization.

Regular Process for Global Reporting and Assessment of the Marine Environment

Another decision reflected in the JPOI⁸⁹ was to establish by 2004 a “regular process” for global reporting and assessment of the state of the marine environment. As part of the preparatory stage, the UNGA initiated the “assessment of assessments,”⁹⁰ which reported in 2009.⁹¹ The Ad Hoc Working Group of the Whole met for the first time in February 2011 to establish a management and review mechanism.⁹² The work is starting with a baseline for future global assessments,

due 2013-2014,⁹³ leading in later years to a global integrated assessment. Workshops are the key mechanism for a first global marine assessment under the supervision of a Group of Experts to assess the assessments.⁹⁴ The growth of the regular process from the JPOI is a good example of an on-going institutional development that is a positive outcome from an international programme for the oceans.

Convention on Biological Diversity

In 2002, CBD Parties committed to achieve by 2010 a significant reduction in the current rate of biodiversity loss at the global, regional and national levels as a contribution to poverty alleviation and to the benefit of all life on Earth.⁹⁵ In 2006, a goal to conserve at least 10 percent of each of the world's marine and coastal ecological regions was set. The goal was to be achieved for marine areas by 2012.⁹⁶

In 2010, a new CBD target⁹⁷ of protecting 10 percent of coastal and marine areas by 2020 was agreed, thus simply shifting the goalpost from 2012 to 2020. The Parties also adopted an important Marine and Coastal Program of Work in 2010, which contains important decisions and pathways on marine biodiversity.⁹⁸

Commission on Sustainable Development: The Importance of Institutional Mechanisms and the Road to Rio+20

The Commission on Sustainable Development (CSD) is the high-level body responsible for sustainable development within the U.N. system. In its CSD-4 1996 review⁹⁹ of Chapter 17 of Agenda 21, CSD discussed strengthening coordination mechanisms among regions and subregions¹⁰⁰ and urged implementation of recently adopted international instruments such as the 1993 FAO Compliance Agreement¹⁰¹ and the 1995 Fish Stocks Agreement, and noted various resolutions and decisions such as the Jakarta Mandate.¹⁰² Its first of 11 goals was to prevent or eliminate overfishing and excess fishing capacity. Clearly this goal, among others, was not achieved by the CSD's strategy.

The CSD again addressed the oceans in 1999 in CSD-7,¹⁰³ which emphasized the importance of the oceans in eradicating poverty,

ensuring food security and conserving marine biodiversity, as well as its intrinsic value for maintaining the conditions that support life on Earth.¹⁰⁴ CSD-7 emphasised the importance of international cooperation and recommended that priority be given to:

- A. conservation, integrated and sustainable management and sustainable use of marine living resources, including ecosystems;
- B. prevention of land-based pollution;
- C. better science; and
- D. an effective and coordinated implementation of the provisions of UNCLOS and Agenda 21, including institutional adjustments and improved coordination mechanisms for the transfer of environmentally sound technologies.¹⁰⁵



PHOTO: ISTOCK

CSD-7 recommended that RFMOs be strengthened,¹⁰⁶ that States join relevant international conventions¹⁰⁷ and that States establish MPAs,¹⁰⁸ and it also called for better interregional cooperation,¹⁰⁹ as well as international coordination and cooperation and a more integrated approach.¹¹⁰

Most importantly, CSD-7 recommended the establishment of an open-ended informal consultation process, which is now ICP.¹¹¹ With that recommendation, CSD-7 stands out as resulting in an important institutional reform for the oceans. ICP, with its renewed mandate in 2009,¹¹² is a crucial opportunity for States to focus for a week each year on important issues involving the oceans.

Mechanisms such as regular meetings, international overview activities and improved coordination can work together to improve

the efficacy of Conventions. The Resumed Review Conference of the Fish Stocks Agreement¹¹³ is an example: a four-year review conference that turned into a longer-term review conference that undertook a comprehensive examination of the adequacy of its provisions and means of strengthening the implementation of those provisions, and made recommendations accordingly. The review conference is the only opportunity for Parties to meet, in both plenary and informal sessions, and has provided a useful opportunity to assess the effectiveness of the Fish Stocks Agreement and its implementation. It is to meet again, in 2015 or thereafter.¹¹⁴

Conclusion

Some progress has been made in the past 20 years in implementing the outcomes of major summits for the ocean, but they have been few, as evidenced by the deteriorating state of ocean ecosystems and species. Many of the gaps in the implementation of the outcomes of the major summits, as shown in this analysis, are due to governance and institutional deficiencies. Time-bound targets, specific promises and commitments, while useful as motivational and aspirational goals, are insufficient mechanisms on their own in leading to the desired results. They are necessary but not necessarily sufficient.

With regard to the ocean, it is critical that governance mechanisms, such as international conventions, and effective institutional mechanisms, such as U.N. oversight and review mechanisms, be instituted. Governance mechanisms that include obligatory accountability to and oversight by the United Nations at the global level are critical to the conservation and sustainable utilization of ocean resources and to sustainable development.

Effective governance and institutional mechanisms are particularly important for the high seas, where no State has sole jurisdiction and where results depend heavily on international cooperation and compliance and enforcement mechanisms.

As Rio+20 approaches, States and other participants have a unique opportunity to fill these gaps and ensure that the outcomes of the Conference are: (1) as influential and enduring as the Rio Declaration; (2) more effective than the Fish Stocks Agreement in terms of institutionalizing cooperation and ensuring the implementation of effective conservation and management measures; and (3) made up of the vision, durability and design necessary to address the pressing challenges for the oceans described in this paper and elsewhere.

The very future of the ocean and the future livelihoods and food security of the billions of people dependent on a healthy ocean cannot wait another 20 years for action to fill these gaps.

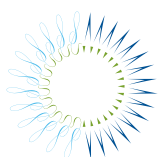
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- 10 UNGA Resolution 60/1 (2005), Para. 56 (l), www.un.org/depts/dhl/resguide/r60.htm.
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- 12 UNGA Resolution 64/236, Para. 20(a).
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- 22 SOFIA 2010.
- 23 SOFIA 2010, p. 8.
- 24 *Ibid.*
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- 30 JPOI, Para. 32(c).
- 31 See Endnote 7.
- 32 JPOI Para. 44.
- 33 The biodiversity target was adopted in 2005 and amended to include targets in 2007. The biodiversity target was endorsed by 110 leaders at the WSSD in 2002, and then at the Summit in 2005, where the UNGA adopted a set of detailed targets related to Goal 7 on environmental governance, which aimed at significantly reducing the rate of loss of biodiversity by 2010. See the World Summit Outcomes Document, UNGA Resolution 60/01 (24 October 2005), www.un.org/summit2005/documents.html.
The U.N. secretary-general noted the 2010 agreed target in his Report of the Secretary-General on the work of the Organization, A/61/1, Para. 24, (2006), http://mdgs.un.org/unsd/mdg/Resources/Static/Products/SGReports/61_1/a_61_1_e.pdf. States adopted this recommendation and specifically resolved that "All States will fulfil commitments and significantly reduce the rate of loss of biodiversity by 2010 and continue on-going efforts towards elaborating and negotiating an international regime on access to genetic resources and benefit sharing" (Para. 56(c)). The current targets were adopted in 2007 following a recommendation by the Inter-Agency and Expert Group on MDG Indicators (IAEG), <http://unstats.un.org/unsd/mdg/Host.aspx?Content=Indicators/About.htm>.
UNGA received the 2007 revised MDG monitoring framework in 2007 to monitor MDG Goal 7. Current official list of indicators: <http://mdgs.un.org/unsd/mdg/Host.aspx?Content=Indicators/OfficialList.htm>.
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- 51 Agenda 21, Para. 17.77.
- 52 Agenda 21, Para. 17.85.
- 53 Agenda 21, Para. 17.74(c).
- 54 Agenda 21, Para. 17.74(d).
- 55 Agenda 21, Para. 17.49.
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- 71 See MDG Report (2010), p. 57. At www.un.org/millenniumgoals/pdf/MDG%20Report%202010%20En%20r15%20-low%20res%2020100615%20-.pdf.
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- 79 U.N. Open-Ended Informal Consultative Process on Oceans and the Law of the Sea, www.un.org/Depts/los/consultative_process/consultative_process.htm.
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- 98 Report of the Tenth Meeting of the Conference of the Parties. 2010. In particular: Decision X/2 (Strategic Plan for Biodiversity 2011-2020 and the Aichi Biodiversity Targets, and Decision X/29 (Marine and Coastal Biodiversity), www.cbd.int/doc/meetings/cop/cop-10/official/cop-10-27-en.pdf.
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