



Recommendations for the 69th Session of the United Nations General Assembly

Oceans and the Law of the Sea Resolution

Consideration of the 2014 Oceans and the Law of the Sea Resolution comes at the end of a pivotal year. Member States of the United Nations have advanced their deliberations on protections for biodiversity in areas beyond national jurisdiction. Some progress has also been made in establishing large-scale marine reserves and protected areas needed for lasting conservation. Finally, the United Nations' Open Working Group on Sustainable Development Goals (OWG) has recommended to the General Assembly that the post-2015 sustainable development framework include a goal specifically on oceans and seas. Member States should take this year's resolution as an opportunity to consolidate achievements, further their commitments to protect marine biodiversity, and avoid retreating while critical work remains to be done.

The ocean contains much of Earth's biodiversity, but only a tiny fraction of it is protected. Overfishing, pollution, and climate change threaten to degrade areas that remain healthy and teeming with life, diminishing their ability to provide vital services to humankind. The ocean stores roughly one-quarter of annual global carbon emissions. It is now 26 per cent more acidic than it was before the Industrial Revolution, with potentially catastrophic effects on the corals and other organisms that are the foundation of marine ecosystems. In this increasingly unstable environment, 90 per cent of fish stocks are now either fully fished (61.3 per cent) or overfished (28.8 per cent), up 3 per cent from levels only two years ago. In summary, the ocean's natural buffers are vanishing. Addressing these challenges will require precautionary management tools such as environmental impact assessments (EIAs)

and establishment of large marine protected areas (MPAs). In addition, large-scale, fully protected reserves can help rebuild depleted fish populations and protect vulnerable areas. Scientists have found that reserves and fisheries closures improve species richness and biomass—important indicators for ocean health and resiliency.

There is, however, no mechanism through which countries can create globally recognized, fully protected areas on the high seas. The Convention on Biological Diversity (CBD) calls for identification of ecologically and biologically significant areas in need of protection but does not confer the authority to designate or manage MPAs or reserves. There is also no mechanism requiring EIAs for activities planned on the high seas. Provisions of the United Nations Convention on the Law of the Sea (UNCLOS) and the CBD call for identification and prior assessment of potential threats from high seas activities before they take place. These provisions are only an outline and lack the detail needed for effective implementation.

The 69th session provides an opportunity to protect ocean biodiversity. The United Nations General Assembly can play an important role in creating an environment that enables positive change through the Oceans and the Law of the Sea Resolution.

In particular, this year's resolution should include text that:

- Reaffirms the commitment to take a decision on the development of a new instrument to protect high seas biodiversity before the end of the 69th General Assembly.
- Calls for further progress toward establishment of fully protected marine reserves and sizable MPAs, especially in ecologically or biologically significant areas, with the aim of achieving at least the Aichi Biodiversity Target of protecting at least 10 per cent of the world's oceans by 2020.
- Supports the General Assembly's adoption of an Oceans and Fisheries Sustainable Development Goal for the Global Ocean.

Marine biodiversity

January 2015 will mark the last scheduled meeting of the United Nations' Ad Hoc Open-ended Informal Working Group to study issues related to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction (the BBNJ Working Group). During June's penultimate meeting of the Group, most States agreed that the specifics of a new agreement to protect high seas biodiversity could best be developed through comprehensive negotiations, rather than extension of discussions in the working group format.

More meetings would jeopardize the commitment made at the Rio+20 Conference on Sustainable Development (Rio+20) to address high seas biodiversity on an urgent basis. Specifically, the delays could postpone a decision on the development of an international instrument before the end of the 69th General Assembly session in September 2015.¹

Instead, States should harness the momentum generated by the BBNJ Working Group. A new agreement under UNCLOS would promote implementation of the Convention's provisions related to the conservation and sustainable use of biodiversity. It also would foster cooperative links between the international instruments and institutions that manage the marine environment. The current patchwork of overlapping, sectoral jurisdictions leaves gaps in management, including the absence of an overarching legal mechanism to establish and manage MPAs on the high seas. Existing instruments also provide no clear authority to require prior EIAs for emerging high seas activities.² Despite the urgency needed, work is not on track to fulfill the MPA and EIA commitments of past Earth summits and those made by the Parties to the CBD.

The 2014 report of the Global Ocean Commission found that “[h]igh seas ecosystems are estimated to be responsible for nearly half of the biological productivity of the entire ocean” but that current high-seas governance systems are “no longer fit for purpose and cannot ensure long-term sustainability.”³ The Commission “strongly endorsed” the need for a new agreement to implement and update the environmental protection and conservation provisions of UNCLOS on the high seas. The momentum behind this recommendation was further strengthened by a declaration of the Pacific Island Forum supporting “a decision in favour of launching negotiations by September 2015 for an International Agreement under [UNCLOS] on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.”⁴ These conclusions, one from an independent group of eminent citizens and the other from heads of state and government, should sharpen focus even further on deploying these critical tools to protect marine biodiversity and build resilience.

The Pew Charitable Trusts encourages States to:

- Reaffirm their commitment to protecting high seas biodiversity in the Resolution on Oceans and the Law of the Sea.
- Before the end of the 69th General Assembly, launch negotiations for a new implementing agreement under UNCLOS to protect and conserve marine biological diversity in areas beyond national jurisdiction.

Large-scale marine reserves and marine protected areas

Fully protected marine reserves and sizable MPAs are widely acknowledged to be essential tools to protect biodiversity, restock marine areas, and build resilience to change. Their importance was reaffirmed in the Rio+20 outcome document.⁵ That document also noted the agreed-upon target in the CBD⁶ to establish a network of protected areas and other area-based conservation measures to cover 10 per cent of the world’s oceans by 2020.

To date, only about 1 per cent of the world’s oceans are fully protected. Most of these areas are small and inshore, providing important conservation benefits in regions that already are heavily fished. But they provide relatively limited protection for many wide-ranging predator species that move through the broader seascape. Large reserves, where ecological processes and functions can operate without human interference, are virtually nonexistent.

Market demand has expanded for dwindling and ever more inaccessible fish stocks, including those in polar regions. Even isolated and remote locations soon will face depletion without transformative improvement in the management and governance of marine ecosystems.

A worldwide system of very large, fully protected reserves in the high seas, as well as national initiatives to protect the marine life in the exclusive economic zones of States, is an essential and long-overdue contribution to the stewardship of the global marine environment. These reserves would protect highly migratory top predators such as sharks, swordfish, tuna, toothfish, marine mammals, and seabirds, as well as forage fish and the other marine fauna that all of these species depend on. Coastal fish populations also would benefit from the spill-over effect of fully protected reserves.

Globally, very large marine reserves remain viable in only a small number of intact regions. These regions should be an urgent priority. Efforts to designate additional large marine reserves remain underway in the waters of a number of countries around the world. These should be expedited. In addition, the effort by the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR), focused on establishing protected areas in the Ross Sea and East Antarctica as well as 13 other areas of high conservation value, should be strongly encouraged.

Pew calls upon Member States to:

- Accelerate progress toward establishment of fully protected marine reserves and sizable MPAs, especially in ecologically or biologically significant areas.
- Ensure that marine ecosystems are kept intact and that marine living resources are sustainably managed.
- Achieve, at a minimum, the CBD target of protecting at least 10 per cent of the world's oceans by 2020.
- Encourage CCAMLR Parties to proceed with their agreed-upon process to establish a network of protected areas in Antarctica's Southern Ocean.

Sustainable development goals

At Rio+20, leaders put in place a process to create goals for sustainable development to guide global progress in the coming years. These goals should focus the debate at a practical level and support international objectives with targets and indicators. Since March 2013, the OWG has worked to develop a list of specific goals. Its proposal to the General Assembly includes a goal to “[c]onserve and promote sustainable use of oceans, seas and marine resources.”⁷ Since the release of that report, the Global Ocean Commission has voiced support for a stand-alone sustainable development goal for oceans, joining the large coalition of countries committed to this outcome.

- Pew encourages States to include text in the Oceans and the Law of the Sea Resolution to support the OWG's proposal for an oceans-focused sustainable development goal.

Endnotes

- 1 United Nations Conference on Sustainable Development, Rio + 20, *The Future We Want*, June 2012, para. 162, <http://www.uncsd2012.org/content/documents/727The%20Future%20We%20Want%2019%20June%201230pm.pdf>.
- 2 United Nations Convention on the Law of the Sea, art. 206, 1833 UNTS 3; 21 ILM 1261, Dec. 10, 1982, http://www.un.org/depts/los/convention_agreements/texts/unclos/part12.htm
- 3 Global Ocean Commission, *From Decline to Recovery: A Rescue Package for the Global Ocean* (June 24, 2014), https://s3.amazonaws.com/missionocean_www_uploads/reports/GOC+Full+Report.pdf
- 4 Palau Declaration on 'The Ocean: Life and Future': Charting a Course to Sustainability, Annex B to Forty-Fifth Pacific Islands Forum Communique, PIFS(14)10, July 29-31, 2014, http://www.forumsec.org/resources/uploads/attachments/documents/AnnexB_Palau_Declaration_on_The_Ocean_Life_and_Future.pdf
- 5 United Nations Conference on Sustainable Development, Rio + 20, *The Future We Want*, para. 177.
- 6 10th Conference of the Parties to the Convention on Biological Diversity, Aichi Biodiversity Target 11, March 12-14, 2012, <http://www.cbd.int/sp/targets/rationale/target-11>.
- 7 Open Working Group on Sustainable Development Goals, “Outcome Document” (July 28, 2014), http://sustainabledevelopment.un.org/content/documents/4518SDGs_FINAL_Proposal%20of%20OWG_19%20July%20at%201320hrsver3.pdf.

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