

DOALOS/UNITAR BRIEFING ON DEVELOPMENTS IN OCEAN AFFAIRS AND THE
LAW OF THE SEA 20 YEARS AFTER THE CONCLUSION OF THE
UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

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**Marine environment from the conclusion of the United Nations Convention
on the Law of the Sea to the World Summit on Sustainable Development**

**Part II of the presentation entitled “Legal instruments that support the implementation of
the United Nations Convention on the Law of the Sea” by Gabriele Goettsche-Wanli**

The United Nations Convention on the Law of the Sea as a framework or umbrella Convention

The United Nations Convention on the Law of the Sea (UNCLOS) is often referred to as a framework or an “umbrella” Convention, especially as regards its provisions dealing with the protection and preservation of the marine environment. Because many of those provisions set out general principles, which can only be effectively implemented following the adoption and implementation of other instruments. UNCLOS requires States to cooperate at the global, and as appropriate, on a regional basis, directly or through competent international organizations, in formulating and elaborating international ru

They must also promote the adoption, in the same manner, wherever appropriate of routing systems designed to minimize the threat of accidents.

National laws and regulations for the prevention, reduction and control of pollution of the marine environment from

1973 Protocol relating to Intervention on the High Seas in Cases of Pollution by Substances Other than Oil; the International Convention on Salvage, 1989 and in the International Convention on Oil Pollution Preparedness, Response and Cooperation, 1990 (OPRC). Its 2000 Protocol extended the scope of the OPRC to cover hazardous and noxious substances (mainly chemicals).

Measures for dealing with a nuclear accident or radiological emergency are set out in the

environmental impact assessment on any material proposed for dumping. Incineration is prohibited by the Protocol, as is the export of wastes or other matter to other countries for dumping or incineration at sea.

At the regional level, specific instruments or special provisions relating to the prevention, reduction and control of pollution

International standards to be taken into account in addressing pollution from land-based sources and pollution from and through the atmosphere

The Convention requires States to establish global and regional rules, standards and recommended practices and procedures to prevent, reduce and control pollution from land-based sources and prescribes that internationally agreed rules, standards and recommended practices and procedures shall be taken into account when adopting national laws and regulations.

There is no global convention dealing specifically with land-based sources of marine pollution, however, global rules and standards for the prevention, reduction and control of pollution from land-based activities are contained in the Global Programme of Action for the

Although several chapters of Agenda 21 are also important for the sustainable development of oceans and seas, this presentation will focus on Chapter 17 of Agenda 21 dealing with oceans and all kinds of seas.

Main elements of Chapter 17 of Agenda 21

The [Paris Declaration](#) to Chapter 17 specifically confirms that UNCLOS sets forth the rights and obligations of States and provides the international basis upon which to pursue the protection and sustainable development of the marine and coastal environment and its resources.

Main programmatic areas:

- Integrated management and sustainable development of coastal and marine areas, including exclusive economic zones.
- Marine environmental protection from land-based and sea-based activities.
- Sustainable use and conservation of marine living resources of the high seas.
- Sustainable use and conservation of marine living resources under national jurisdiction.
- Addressing critical uncertainties for the management of the marine environment and climate change.
- Strengthening international, including regional cooperation and coordination.
- Sustainable development of small island developing States (SIDS).

Overview of main progress achieved in implementing Chapter 17 of Agenda 21

The Commission on Sustainable Development (CSD) was mandated by the General Assembly to monitor the implementation of Agenda 21. The CSD focused on Chapter 17 in 1994 and 1999. At its seventh session in 1999, the CSD adopted a number of important recommendations on oceans and seas. Two years earlier in 1997, a Special Session of the General Assembly (Rio+5) had reviewed progress in the implementation of Agenda 21 and had concluded that environmental degradation had increased since UNCED. States renewed their commitment to implementing the measures agreed to in Rio. Ten years after UNCED, the following progress has been made. It is not an exhaustive list.

- Integrated approach to coastal management has been promoted.
- A significant number of legal instruments have been adopted to prevent, reduce and

- Adoption of initiatives such as the 1995 Jakarta Mandate on the Conservation and Sustainable Use of Marine and Coastal Biological Diversity of the Convention on Biological Diversity and the 1994 International Coral Reef Initiative.
- Increased understanding of the role of the oceans in global climate change and development of observational tools to forecast change. The adoption of the 1992 Framework Convention on Climate Change and its Kyoto Protocol.
- The establishment of the United Nations Open-ended Consultative Process in 1999 by the General Assembly.
- Increased efforts at improving regional cooperation both within and between regional bodies.
- Wide recognition of the special case both for environment and development of small island developing States. For example, the Barbados Programme of Action for the Sustainable Development of Small Island Developing States was adopted in 1994.
- Increased participation by non-governmental organizations.

However, in spite of all the progress made, efforts have not been sufficient.

Outcome of the World Summit on Sustainable Development

The World Summit on Sustainable Development (WSSD), held in Johannesburg, South Africa in September 2002, reviewed the implementation of Agenda 21, ten years after Rio. This review culminated in the negotiation and adoption of two main documents:

- the Johannesburg Declaration on Sustainable Development; and
- the Plan of Implementation

In addition, at the end of the Summit, several “Partnership initiatives” were announced to assist in the implementation of the agreements reached.

Plan of Implementation

The Plan of Implementation has eleven chapters: introduction; poverty eradication; consumption and production; natural resource base; globalization; health; small island developing States; Africa; other regional initiatives; means of implementation and institutional framework.

The Plan builds on the achievements since UNCED and is intended to expedite the realization of the remaining goals. To this end Governments committed themselves to undertaking concrete actions and measures at all levels. At Johannesburg, social and economic concerns were as much on the agenda as the protection of the environment, which was the predominant theme in Rio. Poverty is a running theme throughout the documents.

Protecting and managing the natural resource base of economic and social development: Oceans and seas

The text on oceans and seas forms part of Chapter IV (Natural resource base) of the Plan of Implementation. Most of the text was developed in advance. The outcome of the discussions on the protection and preservation of the marine environment at the third meeting of the Informal

Consultative Process in April 2002 informed and facilitated the negotiations. The Paris Conference on Oceans and Coasts at Rio+10 held in December 2001 was also very instrumental in that regard.

Outstanding issues before the WSSD were: a target for restoring depleted fish stocks, fishing rights of developing coastal States and a proposal to urge IMO to consider stronger measures to secure the implementation of IMO instruments by flag States.

The commitments agreed to at the WSSD reflect a shift in emphasis since Rio and Agenda 21 from the development of new international instruments to the implementation of those that exist.

At WSSD it was agreed to:

- Ensure effective coordination and cooperation at all levels.
- Achieve sustainable fisheries.
- Promote the conservation and management of oceans.
- Advance the implementation of the GPA and the Montreal Declaration on the Protection of the Marine Environment from Land-based Activities.
- Enhance maritime safety and protection of the marine environment from pollution.
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There are also several initiatives of regional scope, applicable, inter alia, to the Adriatic Sea Region, Sub-Saharan Africa, Arafura-Timor Seas, Pacific Island Countries, Asia-Pacific and East Asia. Details are provided on the website of the Johannesburg Summit at <http://www.johannesburgsummit.org/>.

Key commitments to achieving sustainable fisheries agreed to at WSSD include:

- Restoration of depleted fish stocks to levels that can produce maximum sustainable yield on an urgent basis and where possible not later than 2015.
- Becoming parties to and implementing the relevant fisheries agreements and other instruments, in particular the UN Fish Stocks Agreement, the FAO Compliance Agreement and the Code of Conduct.
- Urgent development of national and, where appropriate, regional plans of action, to implement the FAO international plans of action, in particular the international plan of action for the management of fishing capacity by 2005 and the international plan of action to prevent, deter and eliminate illegal, unreported and unregulated (IUU) fishing by 2004.
- Encouraging regional fisheries management organizations and arrangements to consider the rights, duties and interests of coastal States and the special requirements of developing States when addressing the allocation of fishery resources for straddling fish stocks and highly migratory fish stocks.
- Elimination of subsidies that contribute to IUU fishing and to over-capacity.
- Strengthening financial assistance to enable developing countries to develop their national, regional and subregional capacities for infrastructure and integrated management and the sustainable use of fisheries.
- Supporting the sustainable development of aquaculture.

Key commitments to promoting the conservation and management of oceans agreed to at WSSD include:

- Maintenance of the productivity and biodiversity of important and vulnerable marine and coastal areas within and beyond national jurisdiction.
- Implementation of the programme of work arising from the Jakarta Mandate.
- Establishment of a representative network of marine protected areas by 2012.

Key commitments to advancing the implementation of the GPA and the Montreal Declaration agreed to at WSSD include:

- Emphasis is to be placed in the period 2002-2006 on municipal wastewater, the physical alteration and destruction of habitats and nutrients.
- Partnerships and scientific research are to be facilitated, resources mobilized and human and institutional capacity-building are to be promoted, with particular attention to the needs of developing countries.
- The capacity of developing countries in the development of their national and regional programmes and mechanisms is to be strengthened.
- Regional programmes of action are to be elaborated and the links with strategic plans for the sustainable development of coastal and marine resources are to be strengthened.
- Every effort is to be made to achieve substantial progress by the next GPA conference in 2006.

Partnership initiatives which were announced at the Summit and which assist in the implementation of these and other key commitments include the following: A UNEP GPA initiative entitled “The H2O (Hilltops-2-Oceans) Partnership: Working Together to Protect Coastal and Marine Environments” which will apply globally and a regional initiative applicable to the Caribbean. Details are provided on the website of the Johannesburg Summit at <http://www.johannesburgsummit.org/>.

Key commitments to enhancing maritime safety and protection of the marine environment from pollution agreed to at WSSD include:

- Invitation to States to become parties to and to implement the relevant IMO conventions and other instruments.
- IMO is to be urged:
 - to consider stronger mechanisms to secure the implementation of IMO instruments by flag States; and
 - to finalize the IMO Convention on the Control and Management of Ships’ Ballast Water and Sediments.
- Efforts are to be made to examine and further improve measures and internationally agreed regulations regarding safety, while stressing the importance of having effective liability mechanisms in place, relevant to international maritime transportation and other transboundary movement of radioactive material, radioactive waste and spent fuel, including, inter alia, arrangements for prior notification and consultations done in accordance with relevant international instruments.

Partnership initiatives which were announced at the Summit and which assist in the implementation of these and other key commitments include the following: An IMO initiative of global application relating to ballast water management and a regional initiative applicable to the Malacca and Singapore Straits. Details are provided on the website of the Johannesburg Summit at <http://www.johannesburgsummit.org/>.

Key commitments to improving scientific understanding and assessment of the state of the marine environment agreed to at WSSD include:

- Expansion of ocean observing capabilities.
- Establishment by 2004 of a regular process under the UN for global reporting and assessment of the state of the marine environment.
- Promotion of the use of environmental impact assessments, environmental evaluation and reporting techniques.
- Strengthening of the ability of IOC and other organizations to build national and local capacity in marine science.

Partnership initiatives which were announced at the Summit and which assist in the implementation of these and other key commitments include the following: An initiative of global application relating to the assimilation of ocean data and another aimed at promoting the intelligent use and management of the oceans. Details are provided on the website of the Johannesburg Summit at <http://www.johannesburgsummit.org/>.

Key commitments to achieving the sustainable development of small island developing States

A separate chapter is devoted to SIDS. Measures agreed to at WSSD to assist them include:

- Acceleration of national and regional implementation of the Barbados Programme of Action for the Sustainable Development of SIDS with adequate financial resources, transfer of technologies and assistance for capacity-building from the international community.
- Improvement in financial returns from fisheries by supporting and strengthening relevant regional fisheries management organizations.
- Assistance to SIDS in delimiting and managing in a sustainable manner their coastal areas, exclusive economic zones and continental shelf areas, as well as relevant regional management initiatives within the context of UNCLOS and the UNEP regional seas programme.
- Undertaking by 2004 of initiatives aimed at implementing the GPA in SIDS.
- Development by 2004 of community-based initiatives on sustainable tourism.
- Assistance to 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.
- Supporting the availability of adequate, affordable and environmentally sound energy services.
- Supporting SIDS in the development of capacity and strengthening of efforts to reduce and manage waste and pollution.
- Undertaking of a comprehensive review of the implementation of the Barbados Programme of Action in 2004.

Partnership initiatives which were announced at the Summit and which assist in the implementation of these key commitments include the following: A UNEP International Coral Reef 0of1:

