

# The need for an ambitious UN Ocean Biodiversity Agreement

## No more “Wild West” oceans

March 2016

‘The findings [of the First UN global oceans assessment] indicate that the ocean’s carrying capacity is near or at its limit. It is clear that urgent action on a global scale is needed to protect the world’s oceans from the many pressures they face’

*UN Secretary General Ban Ki Moon*

More than 64% of the oceans lie beyond the jurisdiction of any one country, in the high seas and the seabed. These areas of the ocean constitute 45% of the Earth’s surface and belong to all of us. They belong to every single country, even if landlocked. They include important hot spots for numerous migratory species and fish stocks and they are home to an extraordinary variety of life that we are just beginning to discover. We know more about Mars than what lies on the bottom of our oceans. The high seas and the seafloor underneath are an extremely rich and diverse environment and play a crucial role in ensuring healthy, abundant and resilient oceans.

Until the last century most of the world’s oceans were too far, too deep, too rough, too cold or too dangerous to fish or mine. Much of the oceans were de facto marine reserves, off-limits to fishing and mining. However, technology has developed dramatically. Fishing vessels are now able to fish all over the world, including in the Arctic and Antarctic regions, and to depths of several kilometres. Vessels fish for months on end, using powerful sonar and satellite equipment to locate their catch. And now, companies are deploying new technologies to mine and drill in deep waters. There are no longer any safe havens for the life contained in our oceans.

The added pressure caused by climate change, increasing ocean acidification and pollution jeopardises oceans’ ability to perform its critical functions. At COP21 in Paris governments around the world recognised that protecting the oceans is a necessary step to mitigate climate change and safeguard the livelihood and very survival of millions of people around the world. Protecting marine ecosystems and building their resilience is more important than ever before in human history.

In spite of their crucial role, the high seas areas are amongst the least protected areas of the planet.

While recently there has been progress in the protection of coastal waters with the establishment of new marine reserves in Palau, Chile and the United States among others<sup>1</sup>, the level of protection on the high seas is still alarmingly low. As of 2016, far less than 1% of the high seas are protected, despite existing global commitments to establish networks of marine protected areas covering 10% of the oceans by 2020<sup>2</sup> and the World Parks Congress’s call for at least 30% of no-take areas<sup>3</sup>.

### Why we need an ambitious UN Ocean Biodiversity Agreement

The constitution for the ocean, the UN Convention on the Law of the Sea (UNCLOS), sets out the rights and obligations that countries have when operating in the high seas and the seabed, including the responsibility to protect ocean life from harm. Unfortunately, much more emphasis has been put on the “right to use” the oceans than on the responsibility to protect them, contributing to a “Wild West” approach to oceans management. If you want to fish, drill or mine the high seas and its seafloor, there are organisations and processes that enable you to do so.

<sup>1</sup> E.g. Our Oceans 2015, Valparaiso, Chile at:

<http://www.nuestroocean2015.gob.cl/wp-content/uploads/2015/10/Our-Ocean-2015-Initiatives.pdf>.

<sup>2</sup> E.g. CBD Aichi Target 11 and the Sustainable Development Goal 14.

<sup>3</sup> 2014 IUCN World Parks Congress, Promise of Sydney at:

[www.openchannels.org/news/mpa-news/world-parks-congress-recommends-target-30-no-take-mpa-coverage-worldwide](http://www.openchannels.org/news/mpa-news/world-parks-congress-recommends-target-30-no-take-mpa-coverage-worldwide)

But if you want to protect these areas— by creating a marine reserve to protect a fragile coral reef, for example – there is simply no clear way to do so. It is very difficult or even impossible at the moment to create and manage marine reserves, let alone monitor and enforce them, in most high seas areas.

The way we manage our oceans looks like a patchwork quilt with far too many holes. There are a wide array of different organisations and agreements responsible for managing parts of the high seas, specific activities, or particular fish species. However, there is little or no coordination or cooperation between these different bodies. Of the various regional fisheries management organisations (RFMOs) that are responsible for the management of particular fish populations, many have been spectacular failures, taking species such as the bluefin tuna to the brink of collapse due to gross mismanagement. By comparison, there are very few regional and international organisations with the power to conserve marine ecosystems and with a mandate and resources to create and manage high seas marine protected areas (MPAs) and marine reserves. There is also no centralised monitoring control and enforcement to ensure that conservation measures are respected in high seas waters or any process to undertake environmental impact assessments before any activity that potentially impacts our oceans takes place.

The current way of managing the high seas puts short-term corporate interests before the long-term health of our oceans. As the first UN world ocean assessment<sup>4</sup> points out delays in implementing solutions to problems that are affecting our oceans will lead to greater environmental, social and economic costs. Although properly implementing existing ocean protection rules would greatly improve the situation, this alone will never be enough.

We need to break with the sector-by-sector way of managing our oceans. The impacts from the multiple pressures on the oceans can no longer be considered in isolation. An ambitious UN Ocean Biodiversity Agreement and collective action is the only way to deal with the multiple threats to the high seas today.

**RFMOs:** There are still some geographical gaps in coverage of Regional Fisheries Management Organisations (RFMOs), e.g. the Arctic. RFMOs are established to manage target fish species in a specific region and do not have a mandate to advance wider conservation objectives or to establish MPAs<sup>5</sup>. Many RFMOs are not assessing or addressing the impacts of fishing on non-target species and vulnerable habitats such as seamounts and coral reefs. There is also limited communication and coordination between RFMOs, making the overall fishing impact on our oceans overlooked. RFMOs have an obligation under several UNGA resolutions, e.g. UNGA Resolution 61/105, to address the adverse impacts of bottom fishing on vulnerable marine ecosystems in areas beyond national jurisdiction, including by closing such areas to bottom trawling until appropriate measures have been put in place to prevent significant adverse impacts. The implementation of such obligation has been very poor<sup>6</sup>, proving the inability of fishing interest driven bodies to deliver effective conservation for non-target species.

**Other Organisations:** Many other global organisations and agreements are responsible for regulating different activities on the high seas, including the IWC (whaling), the IMO (shipping), ISA (deep sea mining) and the London Convention (dumping of waste). However, there is currently little coordination and cooperation between these bodies, and no mechanism to assess the impacts of all human activities on the high seas or to effectively monitor them.

For the vast majority of the oceans there are no effective agreements to protect marine life and their habitats from human activities, to assess these impacts, or to create, manage and enforce marine reserves. Even in the areas covered by **regional seas agreements**, the standards and rules applied are not uniform. Some agreements only focus on single threats such as pollution, while others address a range of threats and can establish MPAs, including on the high seas. However, when it comes to management of the protected areas, these regional agreements do not have the ability to address activities that may impact on biodiversity inside the protected areas, such as fishing, shipping or mining, which often leads to the creation of so called

<sup>4</sup> [http://www.un.org/Depts/los/global\\_reporting/WOA\\_RegProcess.htm](http://www.un.org/Depts/los/global_reporting/WOA_RegProcess.htm)

<sup>5</sup> Dire Tladi, The Proposed Implementing Agreement: options for coherence and consistency in the establishment of protected areas beyond national jurisdiction in IJMCL 30 (2015) 654-673.

<sup>6</sup> Alex. D. Rogers and Matt Gianni at <http://www.savethehighseas.org/publicdocs/61105-Implementation-finalreport.pdf>

“paper parks” – areas protected only on paper. Moreover, regional agreements only bind their contracting Parties and their level of implementation has been very slow.

## Moving Towards the new UN Ocean Biodiversity Agreement

The urgent crisis facing our oceans has made more and more leaders realise that the status quo is pushing marine life to collapse.<sup>7</sup> On 19<sup>th</sup> June 2015 the UN General Assembly adopted resolution 69/292 setting up the path for the development of a new UN Ocean Biodiversity Agreement. To this end a Preparatory Committee will convene in 2016 and 2017 to prepare substantive recommendations on the elements of the agreement and report back to the UNGA by the end of 2017. By September 2018, the UNGA will decide if and when to convene an intergovernmental conference to elaborate and finalise the text of the new agreement.

The negotiations will address marine genetic resources, including access and benefit sharing; area-based management tools, including marine protected areas and reserves, environmental impact assessment and capacity building and transfer of technology. No activities potentially threatening the ocean should be excluded.

Greenpeace is calling for an ambitious UN Ocean Biodiversity Agreement based on the ecosystem approach and other modern principles of ocean governance<sup>8</sup> that will address the multiple threats to ocean life in waters beyond national jurisdiction, thus breaking the sector-by-sector approach to ocean management and bringing about the end of the oceans “Wild West”. Only a global agreement can provide a coherent and integrated approach in these areas and ensure healthy, productive and resilient marine ecosystems across the world’s ocean. Governments and industries must recognise the need to use the ocean responsibly, and that by managing their activities effectively they can ensure healthy and productive oceans for generations to come.

The ocean hangs in the balance. There is no more time to waste. It is now up to countries to join forces and act together for a healthy ocean, for the millions of people that depend on it and for the right of future generations to continue enjoying the many critical services that oceans provide.

## Greenpeace is calling for a UN Ocean Biodiversity Agreement that will provide:

- an explicit mandate for the protection, conservation and sustainable use of biodiversity in areas beyond national jurisdiction
- the recognition and operationalisation of modern principles of ocean governance, such as the precautionary principle, ecosystem based approach, accountability, public participation and transparency
- a mechanism to designate, manage, monitor and enforce marine reserves;
- a mechanism for environmental impact assessments (EIAs) and strategic impact assessments (SEAs) in areas beyond national jurisdiction;
- a mechanism to ensure effective coordination and cooperation among competent regional and sectoral bodies and agreements and to improve accountability to ensure that their obligations to conserve high seas marine biodiversity, as set forth under UNCLOS and other agreements, are met
- operational provisions for engaging with non-parties concerning activities under their jurisdiction or control, building on the approach used by the UNFSA (Articles 17 and 33) and based on UNCLOS Article 197 on the duty to cooperate to protect and preserve the marine environment
- a fair regime for the access and sharing of benefits from the exploitation of marine genetic resources (MGRs) in areas beyond national jurisdiction
- streamlined decision-making procedures (based on qualified majority voting) to avoid veto and abuse of consensus requirements
- an effective institutional structure, which might include for instance a secretariat, a governing body/COP, and a science committee
- a centralised monitoring, control and compliance system as well as a dispute settlement mechanism to ensure that agreed rules are respected by all.

<sup>7</sup> See First UN World’s Ocean assessment, supra at 4, and Our Ocean Conference 2015, supra at 1.

<sup>8</sup> Duncan Currie, *Governance Principles Relevant to marine biodiversity in areas beyond national jurisdiction*, at [http://www.un.org/depts/los/biodiversity/prepcom\\_files/greenpeace.pdf](http://www.un.org/depts/los/biodiversity/prepcom_files/greenpeace.pdf)

For more information, contact:  
[veronica.frank@greenpeace.org](mailto:veronica.frank@greenpeace.org)

Greenpeace International  
Ottho Heldringstraat 5  
1066 AZ Amsterdam  
The Netherlands  
Tel: +31 20 7182000

**[greenpeace.org](http://greenpeace.org)**