

4.031 Achieving conservation of marine biodiversity in areas beyond national jurisdictions

RECOGNIZING the key role oceans play in sustaining life on our planet;

ALARMED at the multiplying threats to marine biodiversity resulting from regulated and unregulated human activities in areas beyond national jurisdiction, which comprise 64% of the world's oceans;

CONCERNED that the accelerating rate of degradation of the marine environment in areas beyond national jurisdiction due to human activities has not been stemmed, as well as by the projected impacts of climate change;

FURTHER CONCERNED by the lack of systematic prior assessment of the individual and cumulative impacts of human activities in oceans beyond national jurisdiction;

ACKNOWLEDGING that the United Nations Convention on the Law of the Sea (UNCLOS) provides the overarching legal framework for governance of human activities in areas beyond national jurisdiction, including the conservation and management of living resources and the protection and preservation of the marine environment;

ALSO ACKNOWLEDGING that the Convention on Biological Diversity (CBD) provides the legal framework for the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources, and the role of the CBD with respect to areas beyond national jurisdiction as set forth in Decision VIII/24, paragraph 42, of the 8th Meeting of the Conference of Parties (COP8) to the CBD;

RECALLING IUCN's commitment to the goal of implementing effective protection, restoration and sustainable use of biological diversity and productivity and ecosystem processes in areas beyond national jurisdiction (including the water column and seabed) and the establishment of a representative system of Marine Protected Areas (MPAs) at regional and global scales that includes areas beyond national jurisdiction, for example: Resolution 2.20 *Conservation of marine biodiversity*, adopted by the 2nd IUCN World Conservation Congress (Amman, 2000) and Resolution 3.064 *Conservation and sustainable management of high-seas biodiversity* and Recommendation 3.098 *Conservation and sustainable management of high-seas biodiversity* that were adopted by the 3rd IUCN World Conservation Congress (Bangkok, 2004);

FURTHER RECALLING IUCN's commitment to the goal of prior environmental impact assessment - including through Resolution 19.28 *Environmental Impact Assessment* adopted by the 19th IUCN General Assembly (Buenos Aires, 1994), which called on governments to adopt environmental impact legislation;

RECOGNIZING the obligations on states contained in Article 206 of UNCLOS which provides that "When States that have reasonable grounds for believing that planned activities under their jurisdiction or control may cause substantial pollution of or significant and harmful changes to the marine environment, they shall, as far as practicable, assess the potential effects of such activities on the marine environment and shall communicate reports of the results of such assessments in the manner provided in Article 205";

FURTHER RECOGNIZING that Article 14 of the CBD calls for each Contracting Party, as far as possible and as appropriate, to: "Introduce appropriate procedures requiring environmental impact assessment of its proposed projects that are likely to have significant adverse effects on biological diversity with a view to avoiding or minimizing such effects and, where appropriate, allow for public participation in such procedures";

RECALLING that Chapter 15.5(k) of *Agenda 21* calls on governments to: "Introduce appropriate environmental impact assessment procedures for proposed projects likely to have significant impacts upon biological diversity, providing for suitable information to be made widely available and for public participation, where appropriate, and encourage the assessment of the impacts of relevant policies and programmes on biological diversity";

ALSO RECALLING that Chapter 17.22(b) of *Agenda 21* states that it is necessary to: "Ensure prior assessment of activities that may have significant adverse impacts upon the marine environment";

NOTING the calls for action to protect and maintain biodiversity and biological productivity in areas beyond national jurisdiction and calls for the establishment of networks of marine protected areas as expressed in international instruments including the World Summit on Sustainable Development (WSSD) *Plan of Implementation* (Johannesburg, 2002), UN General Assembly (UNGA) Resolutions adopted in 2002-2007, Vth IUCN World Parks Congress (Durban, 2003), and CBD COP7 and COP 8;

RECALLING Articles 80-86 of UNGA Resolution 61/105 on *Sustainable Fisheries*, require prior assessment of individual bottom-fishing activities in areas beyond national jurisdiction to determine whether such activities would have significant adverse impacts on vulnerable marine ecosystems, and to ensure that such fishing activities are managed to prevent such impacts, or not authorized to proceed;

NOTING that the deadline of 31 December 2008 set in Article 83 of UNGA Resolution 61/105 is quickly approaching and that there has not yet been full implementation of the measures called for in areas where new agreements are under negotiation, or where such agreements have not yet entered into force, or in respect of some existing Regional Fisheries Management Organizations (RFMOs); and

TAKING NOTE of the Chairs' reports of the first and second meetings of the 'United Nations Ad-Hoc Openended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction', established by the UNGA in 2005;

The World Conservation Congress at its 4th Session in Barcelona, Spain, 5-14 October 2008:

1. CALLS ON states to:
 - (a) become party to UNCLOS and its Implementing Agreements, the CBD and other relevant binding instruments, if states have not already done so, and to implement appropriate measures associated with these and other instruments aiming to protect the marine environment and marine biodiversity beyond national jurisdiction, in particular the UN Food and Agriculture Organization's (FAO) *Code of Conduct for Responsible Fisheries*, the *FAO Guidelines for Deep-Sea Fisheries on the High Seas*, the *FAO International Plans of Action* and the *WSSD Plan of Implementation*;
 - (b) enhance efforts under current arrangements and agreements to protect the marine environment and biodiversity in areas beyond national jurisdiction, including *inter alia*, to identify ecologically and biologically significant areas using scientific criteria and guidelines of the CBD and other relevant criteria, to protect habitats and species in such areas through the application of multiple tools including the establishment of MPAs, and to facilitate the development of representative networks of MPAs in areas beyond national jurisdiction;
 - (c) promote arrangements, processes and agreements that ensure the consistent, coordinated and coherent application of the best conservation and governance principles and approaches, including integrated ecosystem-based management and the precautionary approach; and (d) examine the need for further agreements to implement UNCLOS with respect to the conservation and protection of the marine environment and marine biodiversity in areas beyond national jurisdiction; and
2. URGES the UNGA to adopt a resolution calling on states to:
 - (a) develop assessment processes, including the assessment of cumulative impacts, of human activities with a potential for significant adverse impacts on the marine environment, living marine resources and biodiversity in areas beyond national jurisdiction; and

- (b) ensure that assessed activities with the potential for such significant adverse impacts are subject to prior authorization by states responsible for nationals and vessels engaged in those activities, consistent with international law, and that such activities are managed to prevent such significant adverse impacts, or not authorized to proceed;

In addition the World Conservation Congress, at its 4th Session in Barcelona, Spain, 5-14 October 2008, provides the following guidance concerning implementation of the *IUCN Programme 2009-2012*:

- 3. CALLS ON the Director General to promote and strive to achieve the actions described in paragraphs 1 and 2 above.

State and agency members of the United States abstained during the vote on this motion.