

**CONFERENCE ON
STOCKHOLM DECLARATION AND LAW OF
THE MARINE ENVIRONMENT**

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Keynote Address

by

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Ladies and Gentlemen,

Thirty years ago, in this very city, a declaration was adopted by the community of nations that set a new path in international relations by bringing the human environment to the forefront: The 1972 Stockholm Declaration on the Human Environment. It has established important principles upon which international rules have been developed to apply to the whole human environment. Within that context, they apply also to the protection and preservation of the marine environment. Over the past few days, this Conference has addressed various aspects of the influence of the Stockholm Declaration on marine environmental law.

Ten years after this Declaration, the community of nations adopted the 1982 United Nations Convention on the Law of the Sea, or as we often say, the constitution for the oceans. The Convention, which is built upon the principles laid down in the Declaration, contains a comprehensive set of international rules for the protection and preservation of the marine environment. Part XII of the Convention constitutes the legal framework for human activities relating to the marine environment. I would like to talk about the Convention, its implementation, where we are today, and where we are going from here.

Of the twenty-six principles contained in the Stockholm Declaration, three are of particular relevance to the marine environment. These principles refer, *inter alia*, to the duty of States to prevent marine pollution and their responsibility to ensure that their activities do not cause transboundary environmental damage. In addition, the Stockholm Conference adopted 109 recommendations for action

at the international level for the protection of the human environment. Nine of these recommendations concerned marine pollution.

The Stockholm documents had an immediate and direct impact on the work of the Seabed Committee, the predecessor of the Third United Nations Conference on the Law of the Sea, and, in particular, its Subcommittee III. This Subcommittee was responsible for preparing draft articles on the protection and preservation of the marine environment for consideration by the Conference on the Law of the Sea.

The process culminated in the formulation of a comprehensive international regime for the protection and preservation of the marine environment. The regime put in place an overarching framework for further development to be carried out by competent international organizations in dealing with specific aspects of the degradation of the marine environment.

Of critical significance is the fact that the Convention represents a concrete application of the integrated approach to the human environment that permeated the Stockholm Declaration. The Convention is the embodiment of a number of essential elements of this integrated approach. Marine environmental law cannot be developed and implemented in isolation from the political, economic, social, scientific and technological aspects of marine affairs. Environmental law in one marine sector cannot be developed and implemented in isolation from that in other marine sectors. Furthermore, marine environmental law cannot be developed and implemented in isolation from terrestrial and atmospheric environmental law.

Applying the integrated approach, it was imperative for the Convention to strike a basic balance between the protection and preservation of the marine environment and the well-being of nations through the use of the oceans and their resources.

One important component of the balance achieved in the Convention is to provide for the rational exploitation, on one hand, and sound conservation, on the other, of the resources of the oceans, especially the living resources. The Convention thus foreshadows the concept of sustainable development.

Another important component of the balance is the reconciliation of global or community needs with the demands of national sovereignty and jurisdiction. In particular, the Convention has sought to accommodate both the need to protect the marine environment and the necessity to preserve the freedom of navigation and the right of passage of vessels.

Although the environmental provisions of the Convention are contained mainly in its Part XII, it is important to note that there are environmental provisions in various other parts of the Convention. This fact itself is a reflection of the connection between the environmental issues and other issues relating to the oceans.

The integrated approach, the balances achieved and the norms embodied in the Convention emanate essentially from the Stockholm Declaration itself. In

turn, the Convention serves as a model for further global, regional and national action.

For example, the Convention has laid down the duty of States not only to protect and preserve the marine environment but also to prevent the spreading of pollution beyond their own boundaries as envisaged in the Stockholm Declaration. This duty of preventing transboundary effects of pollution is of great significance because it provides a binding legislative basis for dealing with the human environment as a global commons.

A related norm embodied in the Convention is the legally binding duty of States of not transferring damage or hazards from one source of pollution to another.

The Convention foreshadowed another principle when it emphasized the conservation of associated and dependent species in the exclusive economic zone and the high seas. This is the ecosystem approach to marine environmental law. The duty of States to cooperate and the related duty of States to assist developing States is the basis of yet another principle – that of common but differentiated responsibilities. Ten years later, in 1992, the Rio Declaration specifically advocated the application of these principles.

Just as the Convention on the Law of the Sea built upon the Stockholm Declaration, so did the Rio Declaration build upon the Convention. The Rio Declaration highlighted other principles -- the principle of the precautionary approach as well as the “polluter pays” principle.

From Stockholm to the Convention on the Law of the Sea, from the Convention to Rio, and from Rio to today, when we celebrate the 30th anniversary of the Stockholm Declaration, the international community has witnessed extraordinary developments with respect to the law of the marine environment. The legal framework for human action in relation to the world's oceans and seas is provided by the Convention. Taking the legal framework of the Convention as a basis, the Rio Conference formulated a programmatic framework for the world's oceans and seas in chapter 17 of Agenda 21.

In addition, a multitude of conventions and soft law instruments, at the global, regional and subregional levels, have been formulated. Over the past few days, this Conference has addressed them thoroughly. They range from the 1972 London Dumping Convention and its 1996 Protocol and the 1973 MARPOL Convention for the prevention of pollution of ships and its 1978 Protocol to the recently adopted 2001 Convention on the control of harmful anti-fouling systems in ships. They range from the Global Programme of Action for the protection of the marine environment from land-based activities to the recently adopted International Plans of Action on fisheries-related issues. They range from regional seas conventions and protocols to regional fisheries conventions and agreements.

Today, thirty years after the Stockholm Declaration, the international norms for the protection and preservation of the marine environment are in place.

The focus of the international community is now shifting from setting norms to implementing them.

Implementation of law is not merely application and enforcement. It essentially means putting the law into practical effect. Take a simple example. Article 193 of the Convention is often cited as the forerunner of the concept of sustainable development. It provides for the sovereign right of States to exploit their natural resources pursuant to their environmental policies and in accordance to their duty to protect and preserve the marine environment. The question is, how many States have the oceanographic and hydrographic expertise to delineate their maritime zones? How many States know which natural resources they have in their maritime zones and to what extent? How many States know how to exploit them? Without a favourable answer to these questions, the right of States to exploit their natural resources remains empty words. Similarly, the duty to protect and preserve the marine environment remains a duty on paper only.

Last year, during the second meeting of the United Nations Open-ended Informal Consultative Process, an expert from the Pacific Islands region put this matter into perspective. He stated: "Although there are 19 States parties to UNCLOS in the region and only 3 non-States parties, the high rate of participation in UNCLOS does not appear to have made much material difference."

This "material difference" is what we are looking for when we talk about the implementation of law. So, what would bring forth this "material difference"?

It is interesting to note that the Convention itself foresaw this problem and provided for practical measures so that this material difference does appear in the real world. One such essential measure is international cooperation both at the global and the regional levels. Such cooperation is a duty of all States. Taking into account the uniqueness of marine ecosystems, commonality of interests and concerns, and economies of scale, the Convention places particular emphasis on regional cooperation.

Under the Convention, the duty of international cooperation includes cooperation for the purpose of promoting studies, undertaking programmes of scientific research and encouraging the exchange of information and data required about pollution of the marine environment. Monitoring and assessment of environmental matters constitute another area of cooperation. States are obligated to observe, measure, evaluate and analyze the risks or effects of pollution of the marine environment. States shall also endeavour to participate actively in regional and global programmes to acquire knowledge for the assessment of the nature and extent of pollution, exposure to it, and its pathways, risks and remedies.

With respect to cooperation with developing countries, the Convention provides for scientific and technical assistance. States have a duty to promote programmes of educational, scientific, technical and other assistance to developing States for the protection and preservation of the marine environment, and the prevention, reduction and control of marine pollution. Training of scientific and technical personnel is part of such assistance. So is supplying

developing States with necessary equipment and facilities. Going beyond mere supplying, enhancing their capacity to manufacture such equipment falls under such assistance. States are also obligated to provide appropriate assistance to developing States concerning the preparation of environmental impact assessments.

The duties of international organizations are also clearly specified in the Convention. For the purposes of prevention, reduction and control of marine pollution or minimization of its effects, international organizations are to grant preferential treatment to developing States. Such preferential treatment should cover allocation of appropriate funds and technical assistance and the utilization of the specialized services of the international organizations concerned.

Chapter 17 of Agenda 21 reinforces and builds upon these measures. Of particular note is international cooperation in executing programmes for systematic observation of marine environmental quality and establishing a global database and clearing-house on marine pollution control. Another measure is allocating adequate funding for capacity-building to ensure the full participation of developing countries in international programmes for the collection, analysis and use of data and information.

Transfer of technology and allocation of financial resources to developing countries for adopting cost-effective and environmentally sound technologies is envisaged. International cooperation is sought in human resource development and capacity-building in general.

The question is: To what extent has international cooperation materialized? To what extent have the related duties of States and international organizations been fulfilled?

The answer is clear: Direct State-to-State cooperation in protecting and preserving marine environment requires substantial expansion. This is particularly true regarding scientific and technical assistance and provision of equipment and facilities to developing States.

The cooperation of States through international organizations has been extensive. But there again, the inadequacies in providing the means of implementation – technical and financial means – are of great concern. Take the example of the Global Environment Facility (GEF). While the value of the ecological services of marine and coastal ecosystem is estimated to be about two-thirds of that of all the planet's ecosystems, the funds provided from the GEF for the purpose of marine and coastal protection account for only one-eleventh of the funds for all environmental projects.

A related issue is that, whatever the level of cooperation in the provision of the means of implementation through international organizations, the organizations themselves are sectorally oriented. Their efforts thus remain uncoordinated, often missing the opportunity to maximize intersectoral synergies and in many cases leading to wasteful duplication and overlaps.

In this context, it augurs well that the international community is refocusing and re-doubling its efforts to find ways and means to implement the Convention and for this purpose, to enhance international cooperation in a coordinated

manner. States are renewing their reliance on the United Nations, in particular, the General Assembly and the Secretariat, to this end.

The General Assembly of the United Nations attempts to apply the integrated approach to ocean affairs. It provides an intersectoral and interdisciplinary overview and it also strives to combine the political, economic, social and environmental aspects with the legal aspects. Through the General Assembly, Member States thus took upon themselves an important role – the oversight role for developments relating to the implementation of the Convention as well as other developments in ocean affairs and the law of the sea. In this context, the General Assembly can also be viewed as a standing mechanism for international cooperation and coordination in ocean affairs. The Secretary-General is called upon to assist the General Assembly to fulfil its oversight role effectively. We at the Office of Legal Affairs, through our Division for Ocean Affairs and the Law of the Sea, execute these responsibilities on behalf of the Secretary-General. As the Secretariat of the United Nations Convention on the Law of the Sea, it is natural that the responsibilities are assigned to us.

The review of the General Assembly is done on the basis of a comprehensive overview report prepared by the United Nations Secretariat, incorporating contributions and information and analysis from organizations of the United Nations system, other intergovernmental organizations and major groups, as identified in Agenda 21.

After a review and evaluation of developments, the General Assembly in its effort to promote the implementation of the global ocean regime relies essentially on exhortation and moral suasion through its resolutions.

Recently, Member States have taken steps to make the work of the General Assembly on ocean matters more effective. Most significantly, at the turn of the millennium, they established an open-ended informal consultative process. The process is to facilitate the annual review by the General Assembly, in an effective and constructive manner, of developments in ocean affairs. The task of the process includes suggesting particular issues to be considered by the General Assembly, with emphasis on identifying areas where cooperation and coordination at the intergovernmental and inter-agency levels should be enhanced.

The process considers the comprehensive report of the Secretary-General and provides inputs to the deliberations of the General Assembly and its resolutions. The process can not only re-direct the attention of the international community to the measures embedded in the Convention and Agenda 21, but also broaden and deepen the search for ways and means to effectuate those measures. The third meeting of the process took up the issue of the protection and preservation of the marine environment. It took stock since Stockholm and Rio and renewed the emphasis particularly on implementing the large set of rules already in existence, especially through international cooperation and coordination.

One major proposal of the process was for the General Assembly and all international organizations to consider how they can assist in the implementation of both binding and non-binding instruments. Preparing and publishing periodic reports of progress was one suggested means. Other suggested means reiterated the importance of training, technical cooperation and financial assistance.

Against this background, I would like to suggest certain concrete steps that can be taken without going beyond the limits of the present arrangements.

First, at the intergovernmental level, the resolutions of the General Assembly under the agenda item entitled "Oceans and the law of the sea" can pinpoint a selective set of concrete achievable actions relating to international cooperation and coordination. They should be target-oriented, time-bound and their accomplishment verifiable through objective indicators.

In this context, the work of the Consultative Process could be designed in such a manner as to help in identifying that selective set of achievable actions. The Consultative Process should engage the organizations of the United Nations system and other intergovernmental organizations, especially the funding institutions, in a constructive dialogue with a view to identifying the selective set of achievable actions. The Consultative Process has the opportunity to involve all stakeholders in its work. In identifying the selective set of achievable actions, it must mobilize inputs and support from the major groups, especially the private sector and non-governmental organizations.

Secondly, at the inter-agency level, the work programme of the United Nations Secretariat should contain concrete activities and outputs promoting intergovernmental and inter-agency cooperation and coordination in ocean affairs based on its mandate contained in the relevant resolutions. As one concrete activity, the United Nations intends to carry out a comparative study of the assistance programmes of the sectorally-oriented technical agencies of the United Nations system. The objective would be to pinpoint the intersectoral synergies and to assist organizations in identifying areas where actions may need reinforcement. The organizations of the United Nations system and the funding institutions should also be encouraged to include activities promoting implementation of their instruments in their respective work programmes. The emphasis should be on implementation through international cooperation and coordination. To this end, the leadership of the governing bodies of various organizations which provide the mandate for the work of the organizations could have regular consultations. The Heads of the organizations could also have regular consultations. In this connection, the United Nations Secretariat intends to take the initiative of exchanging ideas and information with the focal points in the organizations for ocean matters.

One point that I always stress is that there must be cooperation and coordination in ocean matters at the national level. After all, it is the representatives of the Governments who are represented in the governing bodies of the respective agencies that provide the mandates for the work of these agencies. It is therefore necessary that well-defined and coordinated positions

are developed in capitals so that delegates can provide a coordinated focus for the work of the organizations.

The United Nations active stewardship in the protection and preservation of the marine environment is long-standing. The Organization convened the first-ever international Conference on the Human Environment in Stockholm. It convened the Conference on the Law of the Sea, and the Rio Conference on Environment and Development. It is organizing the forthcoming World Summit on Sustainable Development. It sponsored the Millennium Ecosystem Assessment, of which oceans constitute one part. It has shouldered an oversight role for ocean matters. Seen in this perspective, it is fair to say that the United Nations has served the community of nations well in dealing with ocean issues and environmental issues. But much remains to be done!

The United Nations – the General Assembly and the Secretariat – must make further efforts to enhance international cooperation and coordination in ocean matters. An effective implementation of the international norms on the protection and preservation of the marine environment is a must, if we are to fulfil – to quote the well-known first Principle of the Stockholm Declaration – our “solemn responsibility to protect and improve the environment for present and future generations”.

Thank you for your attention.