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# THE CONVENTION ON BIOLOGICAL DIVERSITY: MOVING FROM POLICY TO IMPLEMENTATION

by Marjo Vierros\*

## INTRODUCTION

Marine and coastal biodiversity was an early priority for the work of the Convention on Biological Diversity (“CBD”). The 1995 Jakarta Mandate reflected this priority as a Ministerial Statement on the Implementation of the Convention on Biological Diversity referred to as a new global consensus on the importance of marine and coastal biodiversity. Further, in 1998, a program of work on marine and coastal biological diversity was adopted to assist the implementation of the Jakarta Mandate on national, regional, and global levels.

The adoption of the Jakarta Mandate and the CBD program of work on marine and coastal biological diversity represented a major development in international policy relating to oceans and coasts. The Mandate and the program of work both explicitly recognize the importance of biodiversity in marine and coastal areas. In addition, the program of work puts in place a number of agreed-upon priority actions towards conservation and sustainable use. In the years following the adoption of the program of work, the CBD Conference of the Parties (“COP”), the decision-making body of the Convention, made additional policy decisions relating to issues such as coral bleaching, mariculture, integrated marine and coastal area management, and biodiversity in marine areas both within and beyond the limits of national jurisdiction. The latter topic has been a focus of much work and controversy in the intersessional period between the seventh and eighth meetings of the COP.

Of particular note was the adoption at the seventh meeting of the COP of a marine and coastal biodiversity management framework that took into account both the ecosystem approach and the precautionary approach.<sup>1</sup> This framework incorporated, in the context of integrated marine and coastal area management, two types of marine and coastal protected areas. The first type is an area allowing sustainable uses, and the second is an area excluding extractive uses. The framework and associated policy language about the role of marine and coastal protected areas (“MCPAs”) as one of the essential tools and approaches in the conservation and sustainable use of marine and coastal biodiversity, cemented the role of MCPAs as a central instrument in the national implementation of the CBD.

While all of these developments add up to a substantial and forward-looking policy on the conservation and sustainable use of marine and coastal biodiversity resources, the CBD has been less successful in bridging the gap between policy and implementation. Programs and projects initiated either directly or indirectly as a result of the CBD and with the support of various funding agencies include numerous initiatives such as coastal management programs, MCPA development, and proposals



Courtesy of Athena Kennedy

Baby Sea Turtles are an Example of Marine Biodiversity.

relating to invasive species. However, such initiatives, though they may have resulted in local success stories, have not done enough to decrease biodiversity losses either globally or regionally.

This article looks at the incorporation of outcome-oriented targets into the CBD and its work programs as an attempt to move from policy to implementation. The article focuses on targets relevant to oceans and coasts, and in particular those targets pertaining to marine protected areas and associated measures. The history of target development, some of the controversies involved in the process, and how targets have been incorporated into national-level implementation of the CBD will be examined. Finally, whether the targets will be reached, and how much it matters if they are not reached, will be speculated.

## INCORPORATING TARGETS INTO THE CBD

### BACKGROUND

In a move to focus on real-world outcomes rather than ongoing policy development, in 2002, the CBD COP adopted a Strategic Plan for the Convention, containing an ambitious target “to achieve by 2010 a significant reduction of the current rate of biodiversity loss at the global, regional, and national level as a contribution to poverty alleviation and to the benefit of all life on earth.”<sup>2</sup> This target, which became known as the “2010 target,” has become a central driving force behind many of the actions — national, regional and international — taken in recent years to

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implement the CBD. The World Summit on Sustainable Development endorsed the target, further bolstering its international significance.<sup>3</sup>

In adopting the 2010 target, the CBD became part of a growing international trend of target-setting. Whether an indication of frustration over increasing worldwide environmental degradation, or a recognition that the policy-measures of old were simply not working, targets have increasingly found their way into international policy. Among the most important global environmental targets are those found in the Johannesburg Plan of Implementation<sup>4</sup> and the United Nations Millennium Development Goals.<sup>5</sup> In the context of these global targets, many regional conventions and programs have either adopted, or are in the process of developing their own targets.

In the years since 2002, the admittedly rather vague 2010 target produced a number of more specific sub-targets relating to given biomes and CBD work programs, including that on marine and coastal biodiversity. The proliferation of targets raised fears amongst many countries that no one would be able to keep up with all of them. To make the various biome-specific targets more manageable, the seventh meeting of the COP adopted a common framework with an aim “to enhance the evaluation of achievements and progress in the implementation of the Strategic Plan and its 2010 Biodiversity Target.”<sup>6</sup> The framework consists of seven focal areas under which goals and sub-targets would be developed, and which would collectively contribute to reaching the 2010 target.<sup>7</sup> For each of the seven focal areas, the COP identified goals, sub-targets, and indicators. Thus, the targets for all programs of work, including the one on marine and coastal biodiversity, now contain goals and sub-targets corresponding to this framework. The focal areas were as follows:

1. Reducing the rate of loss of the components of biodiversity, including: (i) biomes, habitats and ecosystems; (ii) species and populations; and (iii) genetic diversity;
2. Promoting sustainable use of biodiversity;
3. Addressing the major threats to biodiversity, including those arising from invasive alien species, climate change, pollution, and habitat change;
4. Maintaining ecosystem integrity and the provision of goods and services provided by biodiversity in ecosystems, in support of human well-being;
5. Protecting traditional knowledge, innovations and practices;
6. Ensuring the fair and equitable sharing of benefits arising out of the use of genetic resources; and
7. Mobilizing financial and technical resources, especially for developing countries, in particular the least developed countries and small island developing states among them,

and countries with economies in transition, for implementing the Convention and the Strategic Plan.<sup>8</sup>

## SOME ISSUES AND CONTROVERSIES

The COP 7 target-setting has resulted in controversies that highlight scientific and political problems relating to the adoption of common global targets. In the realm of marine and coastal biodiversity, the issues at the center of controversy include the appropriateness of defining specific percentage targets for area-based protection, the explicit mention of marine protected areas as tools for managing biodiversity and fisheries, and the need to protect biodiversity in marine areas beyond the limits of national jurisdiction.

The lengthy deliberations on targets for the program of work on marine and coastal biodiversity took place at the tenth meeting of the CBD Subsidiary Body on Scientific, Technical, and Technological Advice (“SBSTTA”) in Bangkok, Thailand, February 7–11, 2005. Prior to being put in front of SBSTTA, the proposed marine and coastal targets had gone through a process of development by an expert group and a scientific peer review process. At this point the proposed targets also contained short technical rationales that expanded on the aims and signifi-

cance of the particular target, and priority actions that could be undertaken to reach it.<sup>9</sup>

Under the goal to promote the conservation of the biological diversity of ecosystems, habitats, and biomes, the most controversial target related to marine and coastal biodiversity was target 1.1. This target reads as follows: “at least ten percent of each of the world’s marine and coastal ecological regions

effectively conserved.” Two main issues arose: first, whether ten percent was the appropriate percentage for which to aim by the year 2010; and second, whether by including a percentage figure the target was advocating an inappropriate, one-size-fits all solution to marine conservation.

On the first point, involved countries saw the ten percent figure as a policy target rather than one grounded upon scientific information. Many countries also recognized that protecting ten percent of marine and coastal ecological regions worldwide might not, in all cases, be enough for achieving a significant reduction of the current rate of biodiversity loss. Much would depend on how the countries managed the other ninety percent of the marine and coastal environment and the life history characteristics of the species to be protected within the different ecological regions.

Involved parties also disagreed over the meaning of the words “effective conservation,” and to what areas of the ocean the target referred. Some countries wanted explicit reference in the target to marine areas beyond the limits of national jurisdiction. Others opposed any such reference and preferred to strictly limit the target’s scope to national waters. Some countries also

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*The CBD has been less successful in bridging the gap between policy and implementation.*

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## THE NATIONAL RESPONSE TO TARGETS

Results of the CBD Third National Reports indicate that countries are taking the 2010 targets seriously. Of the 77 countries that submitted their Third National Reports by September 2006, 77 percent set specific national targets in response to target 1.1, while eighteen percent of the responding countries adopted the global target as is. Apparently, only a small minority of countries have not adopted any national targets relating to conservation of biomes and ecosystems. Important to note, however, is that these targets relate to all biomes, and are not exclusive to the marine environment.

The figures are somewhat lower in relation to marine and coastal environments, with 59 percent of coastal countries having adopted a national target in response to target 1.1. This figure is still quite high, considering that the COP only adopted the targets relating to the marine and coastal program of work in March 2006 (although, implicitly marine areas are included in the framework of targets adopted in 2004 as part of decision VII/30).

Only a handful of the national targets adopted by participating countries were quantitative in nature. Some targets refer to a specific percentage (ranging from over thirty percent to ten percent) of area to be protected, others use hectares or square kilometers as target figures, while yet others relate to the number of new marine protected areas to be established by 2010. Of special note is the Micronesia Challenge, announced at the eighth meeting of the COP, which aims to effectively conserve thirty percent of near shore marine resources and twenty percent of forest resources by 2020 in Micronesian countries (Palau, Federated States of Micronesia and Marshall Islands, and the U.S. territories of Guam and Northern Mariana Islands).<sup>17</sup> A majority of countries have set more qualitative targets in response to target 1.1, which include, for example, increasing protection for certain ecosystem types, putting in place a network of marine protected areas, or restoring good ecological quality in a given area.

Marine protective areas emerged as one of the major tools for implementing the CBD and for reaching the 2010 targets despite the controversy that surrounded discussions related to marine protected areas at various international fora. According to the CBD third National Reports, 93 percent of responding coastal countries have declared and gazetted marine and coastal protected areas. Thirty-eight percent of the responding coastal countries have implemented a system or network, and most of the others have a system or network under development.<sup>18</sup> Additionally, 95 percent of coastal countries' biodiversity strategies and action plans include developing new marine and coastal protected areas.<sup>19</sup>

Despite the efforts of coastal countries, there is still significant room for improvement. Only sixty percent of the responding coastal countries' MCPAs have established effective management, enforcement, and monitoring. Sustainable management practices over the wider marine and coastal environment surround the national system of MCPAs in only 43 percent of cases.

Nevertheless, all these activities have resulted in a global increase in marine protected areas. At the present time approxi-

avored explicit reference in the target to marine protected areas, including marine protected areas prohibiting extractive activities. Others favored the broader interpretation developed by the expert group, which defined effective conservation as "area-based measures, for example marine protected areas and other means of protection, for which management plans exist." That definition recognized the role of measures such as integrated oceans and coastal management and fisheries management that do not necessarily include marine protected areas. The debate over definitions reflects the unease in some countries about the role of the CBD in the conservation and sustainable use of biodiversity in marine areas beyond the limits of national jurisdiction, as well as the role of marine protected areas as fisheries management tools.

On the second point, concerning the appropriateness of assigning a universally applied percentage figure for the target, a number of countries opposed including any percentage figure. These countries argued that adopting a universal flat percentage would be too simplistic. The figure would not be appropriate for all circumstances, and might conflict with the strong, scientifically-based approach of decisions VII/5 (on marine and coastal biological diversity) and VII/28 (on protected areas).<sup>10</sup> Some scientific literature brings up similar concerns, recommending the adaptive application of a mix of marine resource management tools depending on the conditions that warrant them.<sup>11</sup>

In the end, SBSTTA adopted target 1.1 with the ten percent figure included, but without explicit reference to marine protected areas, or to marine areas beyond the limits of national jurisdiction.<sup>12</sup> The eighth meeting of the COP subsequently adopted the target, unchanged, in March 2006.<sup>13</sup> Most countries originally opposed to the flat percentage target noted that it still allows sufficient flexibility to apply the targets according to national priorities and frameworks. After all, all COP decisions relating to the global 2010 target framework contained the following language:

*Emphasizes* that the goals and targets... should be viewed as a flexible framework within which national and/or regional targets may be developed, according to national priorities and capacities, and taking into account differences in diversity between countries.<sup>14</sup>

Additionally polarizing the debate were references to destructive practices such as bottom trawling as the main threat to seamounts and fragile, slow-growing, cold-water coral reefs in the technical rationales of targets 1.1 and 1.2.<sup>15</sup> Some delegates opposed any reference to bottom trawling, while others insisted that such references be included. Because the disagreement could not be solved in the time available, SBSTTA was unable to agree on specific technical rationales for the targets. In the end, the targets were adopted without the annexed rationales and the COP subsequently endorsed the integration of the targets into the work program on marine and coastal biodiversity.<sup>16</sup> This move avoided debate on the bottom trawling issue in the context of the 2010 targets, but the debate is sure to continue elsewhere, both within the CBD and other international fora, until a solution can be found that will prevent damage from this activity to sensitive seabed habitats, such as cold-water coral reefs.

mately 4600 MPAs operate to cover an estimated 2.2 million km<sup>2</sup>, or 0.6 percent of the world's oceans and six percent of territorial seas. Since the 1970s, MPA area has rapidly grown at an annual rate of growth in the order of 4.5 percent. However, the current rate of growth is not yet enough to reach the ten percent target for all areas under national jurisdiction globally.<sup>20</sup> The picture may look more optimistic if it included broader, area-based protection measures other than MPAs, in the calculations. Unfortunately, no data has been collected regarding the extent of other area-based measures.

Whether the target-adoption actions taken by participating countries will have the desired effect on biodiversity remains to be seen. At the present time, the seventh meeting of the COP has adopted a set of indicators to globally monitor the state of biodiversity,<sup>21</sup> in conjunction with periodic assessments such as the Global Environment Outlook. Currently, no comprehensive assessment focuses solely on the state of marine environment, although the planned regular process for the global reporting and assessment of the state of the marine environment, including socio-economic aspects originally called for by the General Assembly,<sup>22</sup> may one day fill this gap.

### CONCLUSION

With only four years to go, it seems likely that the 2010 targets may not be reached globally, though they may be achieved

in part in some locations. According to the Millennium Ecosystem Assessment, reaching the 2010 targets would require unprecedented efforts, as current trends show no slowdown of biodiversity loss, and experts expect direct drivers of biodiversity loss to either increase or stay constant. With appropriate response measures, however, it is possible to reduce the rate of biodiversity loss for certain components of biodiversity and in certain areas by the year 2010.<sup>23</sup>

Perhaps reaching the 2010 target may not matter so much if the target inspires efforts to put in place a program for change that includes specific actions that will carry on in the future. The 2010 target has already raised the level of scientific input to the CBD, particularly in the context of developing indicators to assess progress towards the target. The target has also served to focus attention on the importance of biodiversity to human well-being, and the increased use of tools such as marine protected areas that demonstrably reduce biodiversity loss.

Failing to reach the targets may have negative side effects as well and a large-scale failure to reach the targets may result in disillusionment and target fatigue. Regardless, it is almost certain that the CBD will adopt new targets following the 2010 target, and that the present targets have served at least some purpose in focusing attention on biodiversity, and in moving the focus of the CBD increasingly from policy to implementation.



## Endnotes: Convention on Biological Diversity

<sup>1</sup> 7th CBD COP, Decision VII/11 (Feb. 2004), available at <https://www.cbd.int/decisions/default.aspx?m=COP-07&id=7748&lg=0> (last visited Sept. 25, 2006).

<sup>2</sup> Sixth Ordinary Meeting of the Conference of the Parties to the Convention on Biological Diversity, Decision VI/26 (Apr. 2002), available at <https://www.cbd.int/decisions/default.aspx?m=COP-06&id=7200&lg=0> (last visited Sept. 25, 2006).

<sup>3</sup> Biodiv.org, 2010 Biodiversity Targets, <http://www.biodiv.org/2010-target/default.aspx> (last visited Sept. 25, 2006).

<sup>4</sup> World Summit on Sustainable Development, Aug. 26–Sept. 4, 2002, *Johannesburg Plan of Implementation*, available at [http://www.un.org/esa/sustdev/documents/WSSD\\_POI\\_PD/English/POIToc.htm](http://www.un.org/esa/sustdev/documents/WSSD_POI_PD/English/POIToc.htm) (last visited Sept. 27, 2006).

<sup>5</sup> United Nations Millennium Development Goals, available at <http://www.un.org/millenniumgoals> (last visited Sept. 25, 2006).

<sup>6</sup> 7th CBD COP, Decision VII/30 (Feb. 2004), available at <https://www.cbd.int/decisions/default.aspx?m=COP-07&id=7767&lg=0> (last visited Sept. 25, 2006).

<sup>7</sup> 7th CBD COP, Decision VII/30, *id.*

<sup>8</sup> 7th CBD COP, Decision VII/30, *id.*

<sup>9</sup> Tenth Meeting of the Subsidiary Body on Scientific, Technical and Technological Advice (“10th SBSTTA”) Feb. 2005, *Draft GLOBAL Outcome Oriented Targets for the Program of Work on Marine and Coastal Biological Diversity*, available at <http://www.biodiv.org/doc/meeting.asp?mtg=cop-08> (last visited Sept. 25, 2006).

<sup>10</sup> For a reflection of the debate, see 10th SBSTTA, *Report of the Subsidiary Body on Scientific, Technical and Technological Advice on the Work of Its Tenth Meeting*, UNEP/CBD/COP/8/2, available at <http://www.biodiv.org/doc/meeting.asp?mtg=cop-08> (last visited Sept. 25, 2006) [hereinafter 10th SBSTTA Report].

<sup>11</sup> T. Agardy et al., *Dangerous Targets? Unresolved Issues and Ideological Clashes Around Marine Protected Areas*, 13 AQUATIC CONSERVATION: MARINE AND FRESHWATER ECOSYSTEMS 353 (2003).

<sup>12</sup> 10th SBSTTA Report, *supra* note 10.

<sup>13</sup> Eight Meeting of the COP to the CBD, Mar. 2002, available at <http://www.biodiv.org/doc/meeting.asp?mtg=COP-08> (last visited Oct. 22, 2006)

<sup>14</sup> See, e.g., 7th CBD COP, Decision VII/30, *supra* note 6.

<sup>15</sup> 10th SBSTTA, Recommendation X/4, available at <http://www.biodiv.org/recommendations/default.aspx?m=SBSTTA-10&id=10683&lg=0> (last visited Sept. 25, 2006).

<sup>16</sup> 7th CBD COP, Item 26 of the Provisional Agenda (Feb. 2004) available at <http://www.biodiv.org/doc/meetings/cop/cop-07/official/cop-07-20-add5-en.pdf#search=%22COP%20endorse%20target%201.1%20target%201.2%22> (last visited Sep, 25 2006).

<sup>17</sup> Nature Conservancy, *Palau's Challenge to Micronesia and the World* (Dec. 22, 2005), <http://www.nature.org/success/art16924.html> (last visited Sept. 29, 2006).

<sup>18</sup> The Convention on Biological Diversity, List of Reports, <http://www.biodiv.org/Reports/list.aspx?type=nr-03> (last visited Sept. 29, 2006) [hereinafter List of Reports].

<sup>19</sup> List of Reports, *id.*

<sup>20</sup> 8th CBD COP, *Summary Report of the Current Status of the Global Marine Protected Area Network, and Of Progress Monitoring Capabilities*, UNEP/CBD/COP/8/INF/4, available at <http://www.biodiv.org/doc/meeting.asp?mtg=cop-08&tab=1> (last visited Sept. 29, 2006); L. Wood, Oral presentation at The First International Marine Protected Areas Congress at Geelong, Australia: A Global Review of MPAs (2005).

<sup>21</sup> 7th CBD COP, Decision VII/30, *supra* note 6.

<sup>22</sup> United Nations General Assembly resolutions 57/141 and 59/24.

<sup>23</sup> Millennium Ecosystem Assessment (2005) *Ecosystems and Human Well-Being: Biodiversity Synthesis*, World Resources Institute, Washington, DC.