

Let's Be *Nice* To The Ocean:

Thinking Outside the Box before the Third UN Ocean Conference

Nice, June 2025

Making Ocean Protection the Norm rather than the Exception - Modalities, Opportunities & Risks

November 2023

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Foreword by Ambassador Olivier Poivre
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for the 3rd UN Ocean Conference.



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La promenade des
Anglais, Nice, France.
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Any inaccuracies herein are the sole responsibility of the lead and contributing authors.

Stop the blue/blue/blue!

Co-organizer, along with Costa Rica, of the upcoming United Nations Ocean Conference in Nice in June 2025, France fully recognizes, through the commitment of the President of the Republic, its responsibility: to do for the ocean what was done ten years earlier in Paris during COP 21 for the climate. A historic mobilization, a universal commitment of all "maritime communities" for ocean justice.

We can no longer speak of a vast tranquil ocean. The one we have exploited for so long, without ever acknowledging its essential contributions to life, is deteriorating more and more. By 2050, three-quarters of hu-

manity, 7.5 billion of us, will live within 75 kilometers of this global ocean which, from being mistreated, is rebelling. The encounter promises to be painful if we do not overturn the current paradigm of exploitation in favor of protection. Dramatic effects of climate change and extreme phenomena, irreversible sea level rise due to the collapse of the cryosphere and warming waters, over-exploitation in exclusive economic zones, overfishing and illegal fishing, massive coastal development, various pollutions, notably plastic, constant industrial and human pressures, threats to deep-sea ecosystems...

In Nice, yes, a major agreement is needed. Informed by international scientists, who will be at the heart of the Conference. Built by political leaders - but also and significantly by local communities, peoples, users, and economic and financial actors - of the United Nations for the Ocean.

It will not be simple because "business as usual" and "blue/blue/blue" (to paraphrase Greta Thunberg) are the routine, due to the inertia, of many organizations, including the most reputable ones. In Nice, we will therefore have to organize ourselves differently. Courageously, sustainably, profoundly, all together, with and for the Ocean. If we are not nice to the Ocean, the Ocean will not be nicer to us.



Ambassador Olivier Poivre d'Arvor.

Special Envoy of President Macron for the 3rd UN Ocean Conference.



Mangrove forest in Fiji.
© Rémi Parmentier.

Executive Summary

Published less than two years before the 3rd UN High-Level Ocean Conference takes place in Nice, France, in June 2025, this paper is part of a series started in 2021 to trigger and encourage conversations about innovative ways to improve ocean protection and governance.

Human activities have disrupted the relative climatic and ecological

stability of the *Holocene epoch* and pushed our planet into the uncharted waters of the *Anthropocene*,¹ a new historical era where the frequency and intensity of extreme weather events, the rate of species extinction² or unpredictability of natural processes are bound to increase globally. The *Anthropocene* is accelerating in the ocean faster than anywhere else.³

1. Waters, C.N., Zalasiewicz, J., Summerhayes, C., Barnosky, A.D., Poirier, C., Gałuszka, A., Cearreta, A., Edgeworth, M., Ellis, E.C., Ellis, M. and Jeandel, C., 2016. The Anthropocene is functionally and stratigraphically distinct from the Holocene. *Science*, 351(6269).

2. Dirzo, R., Young, H.S., Galetti, M., Ceballos, G., Isaac, N.J. and Collen, B., 2014. Defaunation in the Anthropocene. *science*, 345(6195), pp.401-406.

3. Jouffray, J.B., Blasiak, R., Norström, A.V., Österblom, H. and Nyström, M., 2020. The blue acceleration: the trajectory of human expansion into the ocean. *One Earth*, 2(1), pp.43-54.

Climate change-induced ocean heatwaves are intensifying and becoming more frequent,⁴ overfishing has increased almost uninterruptedly since the UN Food and Agriculture Organization (UNFAO) started releasing statistics in 1974,⁵ and mass, heat-induced coral bleaching events are undoing coral gardening restoration efforts. The interplay between the ocean's declining health and the climate crisis is becoming more apparent than ever before. The ocean, which has absorbed 93%

of excess heat and close to 20% of the anthropogenic CO₂ emitted into the atmosphere, is reaching tipping points which will lead to many ecosystems to irreversible regime shifts and collapses.⁶ These drastic changes threaten the provision of paramount ecosystem services for humanity and the rest of our planet's inhabitants. **The Ocean is nice to us humans, to say the least; it is time for us to be *Nice* to the ocean.**

Co-hosted by the governments of France and Costa Rica, **the third**

High-Level United Nations Ocean Conference will take place in the city of Nice on the French Mediterranean riviera in June 2025. By the time of writing, we have less than a year and a half to ensure the truly transformative outcome the ocean and marine life so desperately need. Less than two years to be *Nice* to the ocean. More tangible ocean conservation and sustainable management efforts, alongside the urgent decarbonization of the economy, are needed today to bend the curves of the climate and marine biodiversity crises.

This paper is the culmination of three years of *thinking outside the box* by an inter- and trans-disciplinary community of experts,

undertaken by the Varda Group, supported by Bertarelli Philanthropy, TBA21 Academy, the Tara Ocean Foundation, the MedPAN network, the Ocean Born Foundation, and the Ocean and Climate Platform, and hosted by the Prince Albert II of Monaco Foundation, to propose innovative actionable ideas, principles and frameworks that can support a lifeline to the ocean during the Anthropocene. At the time of writing, there are less than 18 months to flesh out the following ideas into operational propositions for the Nice UN Ocean Conference:

4. Smale, D.A., Wernberg, T., Oliver, E.C., Thomsen, M., Harvey, B.P., Straub, S.C., Burrows, M.T., Alexander, L.V., Benthuyssen, J.A., Donat, M.G. and Feng, M., 2019. Marine heatwaves threaten global biodiversity and the provision of ecosystem services. *Nature Climate Change*, 9(4), pp.306-312.

5. FAO. 2022. *The State of World Fisheries and Aquaculture 2022. Towards Blue Transformation*. Rome, FAO.

6. IPCC AR6: Eyring, V., et al. (2021). Human Influence on the Climate System. In: *Climate Change 2021: The Physical Science Basis. Contribution of Working Group I to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change*. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA, pp. 423–552.



Artisanal fishing boats, El Cardón,
Baja California, 2023.
© Guillermo Ortuño.

The Protection Principle

A paradigm shift through which the burden of proof is not placed on those seeking conservation and sustainable management measures, but rather on those who wish to pursue extractive or polluting activities.

We have identified three key areas where some of these ideas may be tested opportunistically in the context of the Nice Conference: the Deep Ocean, the Southern Ocean, and the Mediterranean Sea.

Blue Finance

Contrary to conventional belief, ocean action does not necessarily

require more money but a wiser and more rational use of existing public funds, especially the billions of USD which are expected to be available from the agreed reduction of harmful incentives and subsidies after 2025.

Zero Discharge targets

Put in place in priority industrial and geographical sectors to complement and reinforce current efforts to address marine pollution, especially from plastic wastes, and achieve clean seas through the elimination of toxic discharges and emissions in order to protect marine ecosystems, seafood, and human health.

Ministries of the Ocean

From global internet fibre optic cables to the majority of international trade, to the nutrition and livelihood of three billion people, the future of the ocean is intrinsically linked to the functioning of our current and future economy. Its sustainable and equitable governance and use deserves priority ministerial recognition and attention.

Reformed governance of migratory and straddling biodiversity

To develop new ways of operationalizing the UN Fish Stocks Agreement (UNFSA), including by overhauling the outdated regional fisheries management systems and establishing Regional Ocean Management Organizations, putting at the heart of their mandates ecosystem sustainability and equity in the context of climate and ocean change.

Cap de la Nao.
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Glossary of Acronyms and Terms

Aichi Targets	Targets by the Parties to the Convention on Biological Diversity in 2010
Barcelona Convention	Convention for the Protection of the Mediterranean
BBNJ	Biodiversity Beyond National Jurisdiction
CBD	UN Framework Convention on Biological Diversity
CCAMLR	Commission for the Conservation of Antarctic Marine Living Resources
COP	Conference of the Parties
EEZ	Exclusive Economic Zone
GBF	Global Biodiversity Framework
IISD	International Institute on Sustainable Development
IPCC	Intergovernmental Panel on Climate Change
IPOS	International Panel on Ocean Sustainability
ICZM	Integral Coastal Zone Management
ISA	International Seabed Authority
RFMOS	Regional Fisheries Management Organizations
MedPAN	Network of Marine Protected Managers in the Mediterranean
MPAs	Marine Protected Areas (Singular: MPA)
MSP	Marine Spatial Planning

OSPAR Commission	Convention for the Protection of the Northeast Atlantic
SDGs	Sustainable Development Goals (Singular: SDG)
UNCLOS	United Nations Convention on the Law of the Sea
UNDESA	United Nations Division of Economic and Development Affairs
UNEP	United Nations Environment Programme
UNFAO	United Nations Food and Agriculture Organization
UNFCCC	United Nations Framework Convention on Climate Change
UNFSA	United Nations Straddling Fish Stock Agreement
WTO	World Trade Organization

“We need a rescue plan for the SDGs.”

UN Secretary General Antonio Guterres,
New York, September 2023.

A planetary social-ecological crisis

Drastic changes to the ocean and marine life are no longer just a threat, but they are a stark reality that breaks undesirable global temperature and biodiversity loss records every year. It took the Intergovernmental Panel on Climate Change (IPCC) 31 years to produce its first ocean and cryosphere report.⁷ Just as we cannot fathom how our ancestors believed the Earth to be flat, our descendants will find it

hard to understand how the ancestral interdependence between the oceansphere and the atmosphere was not evident in our minds from the start.

Absorbing approximately 90% of the excess heat and 25% of anthropogenic carbon dioxide in the atmosphere (CO₂), the ocean is a critical buffer against climate change. Collectively, we are inadvertently pushing the planetary

7. Intergovernmental Panel on Climate Change (IPCC). (2019). Special Report on the Ocean and Cryosphere in a Changing Climate. <https://www.ipcc.ch/srocc/>

boundaries⁸ of the terrestrial, marine and atmospheric systems beyond the safe operating space for humanity and all species, reaching tipping points and increasing the probabilities of ecosystem regime shifts and collapses.⁹ Ocean warming is disrupting the chemistry, biology and even the physics of the ocean, changing ocean current velocities, migration patterns and timing, as well as the abundance and health of critical habitats, including coral reefs which are home to 25% of the world's marine biodiversity. The

melting of the cryosphere (the global ice mantle) is expected to change our planet's geography through sea level rise, and destabilize weather patterns, which will lead to more frequent extreme weather events – alarmingly, recent data show that this phenomenon is happening faster than the IPCC had anticipated.

Increased CO₂ concentrations are changing the chemical composition of the ocean by lowering its pH, which significantly will impact organisms relying on calcium carbonate (CaCO₃) to build and maintain their

exoskeletons and shells. Among these organisms are molluscs and crustaceans as well as photosynthetic plankton, to which some studies have attributed the production of at least 50% of global photosynthesis on Earth, a real biological carbon pump.¹⁰ However, we must not forget that the ocean is a social-ecological system. For the 40% of humanity who live within 100 km of the ocean, the three billion whose nutrition depends on food from the

ocean, or the 800 million who have a livelihood derived from seafood production,¹¹ these threats are potentially catastrophic. Increasing the resilience of the ocean to climate and other human-induced impacts is therefore extremely urgent and should be considered a matter of survival for and by all. There is a high probability that humanity will soon cross various ocean tipping points which irreversibly compromise the ocean's function and habitability

8. Steffen, W., Richardson, K., Rockström, J., Cornell, S.E., Fetzer, I., Bennett, E.M., Biggs, R., Carpenter, S.R., De Vries, W., De Wit, C.A. and Folke, C., 2015. Planetary boundaries: Guiding human development on a changing planet. *Science*, 347(6223), p.1259855.

9. Möllmann, C. and Diekmann, R., 2012. Marine ecosystem regime shifts induced by climate and overfishing: a review for the Northern Hemisphere. *Advances in ecological research*, 47, pp.303-347.

10. Malone T., Azzaro M., Hopcroft R., Park C., Tadokoro K., Thorndyke M., Yoo S. (2021) Plankton (phytoplankton, zooplankton, microbes and viruses). Volume I, Chapter 6A, in "The Second World Ocean Assessment", United Nations, pp:115-130.

11. Cao, L., Halpern, B.S., Troell, M., Short, R., Zeng, C., Jiang, Z., Liu, Y., Zou, C., Liu, C., Liu, S. and Liu, X., 2023. Vulnerability of blue foods to human-induced environmental change. *Nature Sustainability*, pp.1-13.

for marine life.¹² The irreversibility of these tipping points is what makes these years critical for avoiding these changes, as adaptation will be our only alternative once they are crossed. The lack of absolute scientific certainty on some of these imminent risks should trigger the protection principle, rather than fueling scepticism, denialism, or lack of political will.

Increasing ocean resilience requires bending the curves of biodiversity loss and climate change, while augmenting protection measures and biodiversity restoration efforts:

although humanity has known this for decades, current trends still point in the opposite direction. Aside from threats posed by marine pollution from land-based and other sources and its cumulative impacts combined with climate change, some of the main drivers of marine biodiversity loss are overfishing and non-selective destructive fishing gears and practices. Among these are bottom-contact gears such as bottom trawling, which can devastate entire vulnerable benthic ecosystems and fragile natural features such as cold-water corals or sponge fields.

One step forward, and two steps back

Over the past decades, we have borne witness to *the good, the bad and the ugly* of marine sustainable management conservation. On the one hand, tremendous ambition towards the creation of international goals for conservation, such as the recent agreement of the Kunming-Montreal Global Biodiversity Framework (the good). However we have also seen low ambition in the acceleration of sustainably managed fisheries in RFMOs (the bad), as well as the failure of many countries to meet their commitments (the ugly),

as was the case for all of the Aichi Biodiversity Targets adopted in 2010, or the Sustainable Development Goals (SDGs) adopted in 2015. In consequence, we have a mixed bag of results.

Much attention is currently being paid to solid wastes reaching the marine environment, including ongoing negotiations under the auspices of the UN Environment Programme (UNEP) to develop by 2024 an international legally binding instrument on plastic pollution including in the marine environment. But uncertainty

12. Heinze, C., Blenckner, T., Martins, H., Rusiecka, D., Döscher, R., Gehlen, M., Gruber, N., Holland, E., Hov, Ø., Joos, F. and Matthews, J.B.R., 2021. The quiet crossing of ocean tipping points. Proceedings of the National Academy of Sciences, 118(9), p.e2008478118.

remains as to the level of ambition which may result from this effort, and liquid waste watersheds toxic waste discharges into the ocean through municipal and industrial facilities are not receiving the attention they deserve.

Regional instruments for the development of Integrated Coastal Zone Management (ICZM) and Marine Spatial Planning (MSP) were designed to plan sustainability in coastal zones, integrating issues such as fisheries, response to extreme weather patterns, habitat conservation, pollution and tourism management and control. However, not only did ICZM and MSP rarely move from concept

to practice: in reality, they had a hard time keeping up with rapidly evolving coastal climate change impacts.

Together with much needed ecosystem-based fisheries management, Marine Protected Areas (MPAs) are heralded as great tools to address some of these issues, but public authorities often fail to *walk the talk*. According to Target 5 of [SDG#14](#) to “conserve and sustainably use the ocean, seas and marine resources” in accordance with the UN 2030 Agenda endorsed by the UN General Assembly in 2015: “by 2020 at least 10%” of coastal and marine areas should have been protected and conserved.”¹³ However,

at the time of writing, three years after that deadline has passed, only 8% enjoy some form of protection, and among them very few receive full or high protection.

To illustrate, destructive fishing methods such as bottom trawling may take place within so-called MPAs located within the jurisdictional waters of certain countries. For example, while France claims that 33% of the maritime area under its jurisdiction is made up of MPAs, only 1.6% are fully or highly protected,¹⁴ and few of them enjoy sufficient

human, financial and regulatory means to effectively meet the MPAs qualitative targets. It is also imperative for us to see past quantitative objectives of protection and ensure that the entirety of the ocean is sustainably managed.¹⁵ Between 2015 and 2021, the French industrial fishing fleet spent as much time fishing in so-called MPAs, as they did outside. The current system of French “protected” areas is not preventing industrialized fishing practices like bottom trawling. The other co-chair of the Nice conference, Costa Rica, is also

13. <https://sdgs.un.org/goals/goal14>

14. Claudet et al. 2020.

15. Mora, C. and Sale, P.F., 2011. Ongoing global biodiversity loss and the need to move beyond protected areas: a review of the technical and practical shortcomings of protected areas on land and sea. *Marine ecology progress series*, 434, pp.251-266.

exhibiting inconsistencies with the spirit of conservation and sustainable development of the conference, after having reauthorized exploratory industrial trawling for shrimp within its jurisdictional waters in 2023.

Not only is destruction within “protected” areas a contradiction in terms; it also represents another breach of SDG#14, whose Target 2 states that “by 2020” we should have “sustainably manage[d] and protect[ed] marine and coastal ecosystems to avoid significant adverse impacts, including by strengthening their resilience, and take[n] action for their restoration in order to achieve healthy and productive oceans.”

These inconsistencies also extend to various members of the High-Level

Panel for a Sustainable Ocean Economy. During the second half of 2023 alone, the United Kingdom announced that it would grant 100 new licenses for North Sea oil and gas exploration. A similar decision was also taken by Norway, Chair of the High-Level Panel, which announced the creation of 19 new oil fields, worth 18 billion USD of investment, only a few days before the release of the Panel’s report in December 2020 which called upon governments to refrain from such practices. Two years later, in 2023, in another controversial move inconsistent with the Panel recommendations, Norway announced plans to develop large-scale deep-sea mining operations in the Arctic. *Do as I say, not as I do?* In



Dumbo octopus.
© NOAA/Monterey Bay
Aquarium Research Institute.

an editorial published in September 2023, the journal Nature asked the question with a taste of irony.¹⁶

Concern for marine life also extends beyond the exclusive economic zone (EEZ) of coastal and island States (which encompass up to the first 200 nautical miles from the coastline). After some two decades of discussions and negotiations, in June 2023 the UN General Assembly formally adopted the text of an international legally binding instrument for the conservation and

sustainable use of marine biodiversity in areas beyond national jurisdiction, the BBNJ Treaty, now open for signature since September 2023. But at the same time, the International Seabed Authority (ISA), a body established in 1984 under the United Nations Law of the Sea Convention (UNCLOS), is also discussing a mining code to give mining companies the go ahead to start deep-sea mining, a practice which was out of reach until recently.

16. Editorial in Nature, 5 September 2023: « Hypocrisy is threatening the future of the world’s oceans » <https://www.nature.com/articles/d41586-023-02746-8>

The Planet O(cean) Conference

The mandate of UN Ocean Conferences consists in supporting and promoting the implementation of SDG14. In their institutional communication, the United Nations summarizes SDG14 as “*Life below Water*,” but in practical terms, it is so much more than that: the ocean is our life-support system, it is where life first emerged; and if not cared for properly, where life as we know it may end. The ocean is what makes Earth a unique living planet within the known Universe –

Planet O(cean) is ultimately why there is no Planet B. That is why the ambition of UN Ocean Conferences should encompass the effective implementation and achievement of all current and future ocean sustainability and conservation frameworks, agreements and roadmaps; otherwise, we would be calling it the “UN SDG14 Conference” which will expire by 2030 with the conclusion of the UN 2030 Agenda. The synthesis report¹⁷ of a survey mandated by the French

and Costa Rican joint presidency of the Nice Conference, which we helped prepare and manage and in which 125 civil society organizations worldwide took place, showed that many non-governmental organizations (NGOs) would like to see among the outcomes of the Nice Conference a revised road map or new blueprint to maximize efforts in the five years separating the nice Conference from 2030, and beyond.

The first UN Ocean Conference in 2017 served to generate commitments and pledges by governments, civil society organizations and the private business sector. That 1,628 commitments were registered was

considered as a success. But their implementation was not properly monitored, perhaps in part due to the upheavals stemming from the COVID-19 pandemic. It is therefore difficult to measure their impacts “on the water.” Originally scheduled to take place in 2020 but postponed due to the pandemic, the second conference in 2022 served to reunite ocean advocates and relevant stakeholders and take stock of progress. But there was little to report and few new ideas on how to turn the tide on the loss of resilience, biodiversity and function of the ocean and many left yearning clear roadmaps and examples of leadership.¹⁸

17. <https://ocean-climate.org/wp-content/uploads/2023/10/SYNTHESIS-REPORT-A-Call-to-All-the-Voices.pdf>

18. e Costa, B.H., Gonçalves, J.M. and Gonçalves, E.J., 2022. UN Ocean Conference needs transparent and science-based leadership on ocean conservation. *Marine Policy*, 143, p.105197.

However, 2022 and 2023 have provided some important ocean multilateralism milestones which we should celebrate, implement, and replicate, in particular:

- the adoption in June 2022 by the 12th Ministerial Conference of the World Trade Organization (WTO) of an Agreement on Fisheries Subsidies contributing to illegal, unreported, and unregulated (IUU) fishing and to fishing overfished populations;
- the endorsement in December 2022 of the Post-2020 GBF by the 15th Conference of the Parties to the Convention on Biological Diversity (CBD); and
- the adoption in June 2023 and signature in September 2023 of an implementing agreement under

UNCLOS for the Conservation and Sustainable use of Marine Biodiversity in Areas Beyond National Jurisdiction (BBNJ) agreement, also referred to as the BBNJ Treaty.

Developing the necessary national and international capacity for the effective implementation of these agreements will take time, resources and skills, but more importantly political will. That is why the triennial UN Ocean Conferences are the perfect stage for thinking and acting transformatively and pushing for increased ambition. For example, the WTO Agreement on Fisheries Subsidies requires 109 countries to deposit their instruments of acceptance for it to enter into force, and the BBNJ agreement will also

need to be ratified by 60 countries before it can enter into force and a first Meeting of the Parties can be convened to even begin the process of adopting measures such as the designation of area-based management tools, including MPAs in areas beyond national jurisdiction.

These are low-hanging-fruit examples for governments to fulfil their promises to protect and sustainably use the ocean.

The French and Costa Rican joint presidency of the Nice Conference say that they are hoping to celebrate the BBNJ Treaty's entry into force



Captured juvenile hammerhead sharks displayed at seafood market, Keelung, Taiwan, 2019. Several hammerhead species are listed as critically endangered in the IUCN Red List.
© Dr. Kevin Weng.

in Nice in June 2025. This would be nice, but at the time of writing we note that the race for the 60 ratifications required has only just begun.

So, to be clear, while we can applaud these developments, they are no panaceas for protecting the ocean. Consensus-based decision-making, as is the norm in most multilateral ocean management instruments, generally reflects the lowest common denominator of what the international community collectively is prepared to do. This voting modality is not working for the advancement of a representative system of MPAs in

the Southern Ocean, nor is it working to establish robust observer programmes in the global longline fleet, or to curve the precipitous decline of oceanic sharks on the planet.¹⁹

That said, building consensus has its benefits. It binds the international community and ultimately no government will actively enforce an agreement which is imposed against its will. And weak measures can be strengthened incrementally during conferences or meetings of Parties. These accords can also be reinforced and improved through treaty amendments, although this takes

time, and these amendments must also be ratified by qualified majorities before they enter into force. Ultimately, there is nothing to prevent regional groupings and instruments, or for that matter national governments, to agree stronger measures which go beyond the universal common denominator.

Perhaps we need to think past voting modalities or regional agreements to trigger the much-needed change in ocean health; changes in the paradigms that shape our actions and the way we operationalize our access to and sovereignty of shared marine spaces and resources.

¹⁹ Pacoureaux, N., Rigby, C.L., Kyne, P.M., Sherley, R.B., Winker, H., Carlson, J.K., Fordham, S.V., Barreto, R., Fernando, D., Francis, M.P. and Jabado, R.W., 2021. Half a century of global decline in oceanic sharks and rays. *Nature*, 589(7843), pp.567-571.



Cierva Cove, Antarctica,
February 2023.
© Jim Barnes.

“Ocean COP”?

French President Emmanuel Macron’s Special Envoy for the Ocean, Ambassador Olivier Poivre d’Arvor, speaks of “an Ocean COP” when he describes his expectations for the Nice Ocean Conference. While strictly speaking it cannot be considered a COP because the Nice gathering is not taking place under the aegis of an international treaty, the COP analogy is Ambassador Poivre d’Arvor’s way of expressing that, together with the government of Costa Rica, France does not want the triennial gathering in Nice to be just another “talk shop.” His statement may stem from the crude

reality that the previous conference in Lisbon did not yield ambitious and concrete global outcomes to, once and for all, start being *nice* to the ocean. And evidently also, a way to warn that France wants the political capital and financial investment which the conference represents to be worth it.

So, what are the potential outcomes of the Nice Conference? How can it make a real difference? And why is it important for us to ask these questions today? Are we ready to think *outside the box*? Or will Nice be ‘just another conference’?

Blue Food for Action

For the third consecutive year, the Varda Group is encouraging a growing community of inter- and trans-disciplinary ocean advocates and practitioners to continue discussing ocean protection from *outside the box*.

The following are the summaries of the first two years:

In 2021, we had taken advantage of the hiatus in international meetings imposed by the pandemic to write a paper reflecting on some of our past actions to protect the ocean – some dating back forty years or more. It was an opportunity to begin drawing lessons from the old days

and applying them to contemporary issues and challenges. Under the title *Blue Food for Thought*, the paper was published by the Prince Albert II of Monaco Foundation in March 2021, as well as shorter versions by the Spanish journal *Ideas* (in [English](#), [Spanish](#) and [Catalan](#)) and the New York-based International Institute on Sustainable Development (IISD) under the title *Four New Ideas for Protecting the Ocean*.

In 2022, based on discussions we triggered at the One Ocean Summit hosted in Brest, France by President [Emmanuel Macron](#) we expanded the original paper and presented it



Participants at the Welcome Outside the Box event at the UN Ocean Conference in Lisbon, June 2022.
© Isabel Leal Maldonado.

under the title *From Blue Food for Thought to Blue Food for Action* at the Monaco Ocean Week in March 2022. This was followed by a series of webinars organized with support from [Dona Bertarelli Philanthropy](#), the [Tara Ocean Foundation](#) and [MedPAN](#) to discuss with a group of policy practitioners, scientists, economists, and ocean advocates the five key proposals in the paper. This resulted in *The Lisbon Addendum*, which we presented at the second UN Ocean Conference in Lisbon at an onsite event that we called *Welcome Outside the Box*.

Our five key proposals were, in a nutshell:

- ① **Making ocean protection the norm rather than the exception**, by reversing the burden of proof whereby ocean users would have to plead and make the case for the designation of Marine Exploitable Areas, as opposed to ocean advocates arguing for fractions of the ocean to be protected.
- ② **Establishing numerical management of large fish populations** (tuna, swordfish, marlin, sharks, etc.), as opposed to current weight-based management.
- ③ **Negotiating fishing fleet “disarmament” agreements** whereby countries chasing the same fish would coordinate the downsizing

of their respective fishing fleets to complement any action by the WTO to reduce fisheries subsidies.

④ **Treating micro- and nano-plastic particles like we treat radioactive wastes**, i.e., seeking to isolate them from the biosphere.

⑤ **Establishing Regional Ocean Management Organizations** to look after marine ecosystems as a whole, as opposed to the current fragmented or siloed single species approach which is often distorted and biased.

During the discussion that took place in Lisbon, participants said that they were inspired by the concept of making ocean protection the norm rather than the exception. **The protection of the Southern**

Ocean was identified as a priority area of global significance where the reversal of the burden of proof could be tested. Exploring ways to reverse the burden of proof was seen as an opportunity to move the goal post beyond 30% of ocean protection.

Some participants were sufficiently intrigued by these ideas that they added their own *outside the box* contributions. For example, a delegate from the South Pacific proposed fleshing out the concept of *ocean justice* to provide the ocean with rights. It was also proposed to stop using single species stock assessment to manage marine life and ecosystems which we know are so deeply interconnected: RFMOs



Litter in the Mediterranean...
and everywhere.
© Rémi Parmentier, 2022.

represent an outdated, obsolete, and imperfect approach and new models should be tested as we had suggested when proposing establishing “Regional Ocean Management Organizations”.

Thinking *outside the box* was also seen as necessary to restore trust in multilateral institutions, thereby increasing the quality and effectiveness of advocacy, education, implementation, and the funding of innovative solutions. There was a broad consensus that a paradigm shift was needed to bring new

thinking: *breaking down the silos* at all levels and *connecting the dots* between the climate, ocean, biodiversity, and development crises.

The main question raised was how to move from innovative concepts to concrete implementation plans. After all, if governments are not willing to do the bare minimum to accelerate ocean conservation and even act in accordance with their own pledges, why should they embrace revolutionary solutions? This is a key question to raise now in the run-up to the Nice conference.

From Ocean of distress to Ocean of hope

Looking back since the first UN Conference on the Environment held in Stockholm in 1972, we recognized in our 2022 paper some important achievements in the context of the last 50 years. In the absence of the environmental movement the state of the planet would be even worse than it is now. An array of national and multilateral environmental agreements negotiated and implemented since the 1970s have limited or delayed environmental damage, but the holes in the post-1972 safety net were too wide to stop the flow which

is truly out of control now. Despite some notable successes, with the environmental crisis having become intractable, the safety net has become increasingly fragile over time.

The endorsement in December 2022 as part of the Kunming-Montreal GBF of the so-called 30x30 target (protecting 30% of land and ocean, as well as sustainably managing the rest, by 2030) represents one of these achievements worth acknowledging and focussing on as a major step forward if properly implemented, and the environmental

organizations which have battled for years for the adoption of this target deserve a round of applause for their efforts. Looking in the rear-view mirror, the road to 30x30 was long and bumpy, including a series of largely failed commitments in the preceding 20 years. In 2010 the Parties to the CBD had committed to what was known as the *Aichi Target 11* consisting in protecting within 10 years 17% of the land and 10% of ocean and coastal areas. That 2010 commitment was also preceded by another pledge to “end biodiversity loss by 2010” made at the World Summit on

Sustainable Development in Johannesburg in 2002 (*Rio+10*). However, “ending biodiversity loss”, on land and at sea, remains today an inspirational vision and we should not be fooled by the 30x30 target. Looking just at the ocean, even if 30x30 is achieved the remaining 70% needs all our attention now.

The French Government is proposing the creation of an International Panel on Ocean Sustainability (IPOS) as a Nice outcome.²⁰ Increasing ocean knowledge and awareness is necessary of course, as the IPCC experience with climate change

shows. But the IPCC was established in 1988 and it was only nearly 30 years later, in 2015, that the Paris Agreement was adopted. We cannot wait for 30 years to halt ocean change. The proposed international panel on ocean sustainability can be useful only if it serves to expedite the implementation of pre-existing and new ambitious ocean protection objectives and targets for effective and accountable ocean and biodiversity conservation that are measurable, not just as an instrument to quantify and report on damage done to marine life and ecosystems. To truly serve ocean conservation and sustainability, the IPOS would need to go beyond traditional assessments of the different sources

of knowledge towards bold stands and recommendations, rooted in scientific evidence, to drive equitable decision-making on the side of ocean life and the communities who depend on it.



Kuriat Islands Marine and Coastal Protected Area, Tunisia.
© Hedi Chouchen.

20. We believe that calling this project **International Panel on Ocean Change** would resonate better with policy makers and the general public, because the word “sustainability” has been devalued by abuse.

The Protection Principle

Setting and implementing ambitious goals requires an overarching paradigm shift which can serve as a policy foundation. Looking in the rear-view mirror again, the endorsement of the Precautionary Principle in the Rio Declaration on Environment and Development was what

made the Rio Earth Summit of 1992 a lasting success, together with the UN framework conventions on climate change, biological diversity and desertification, laying the foundations for modern environmental law and policy.²¹

²¹ The 1992 Rio Declaration on Environment and Development was made up of 27 Principles, some of which were largely or flatly ignored; for example, Principle 14 to discourage or prevent the relocation or transfer to other States of activities or substances that cause severe environmental degradation or are found to be harmful to human health; or Principle 16, known as “the Polluter Principle”. The definition of the Precautionary approach set by Principle 15 was watered down during the negotiations in Rio, but it has represented a major paradigm shift in environmental policy which has been incorporated in international and domestic agreements and laws.

“In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.”

Because there cannot be “full scientific certainty” before environmental damage starts to occur (simply because risk assessments conducted by scientific teams are conditioned by value judgements which tend to be influenced by their sources of funding or political expediency), the Precautionary Principle represents the foundation for preventive action.²² This is fundamental in recognition of the fact that environmental damage can be irreversible, as we see for example, with the concentration of climate change-causing greenhouse gases in the atmosphere, or with the accumulation in the environment (air,

soil, and water, including the ocean) of plastic wastes and harmful substances which are toxic, persistent, bio-accumulative and/or disrupting reproductive and endocrine functions of animals including humans.

One year after the Rio Earth Summit, a decision by the Parties to the London Convention to ban permanently the dumping at sea of radioactive and industrial wastes and their incineration at sea was largely based on the precautionary principle. “Dumping at sea” under the London Convention is defined as the deliberate disposal of wastes from ships, aircraft, platforms, and other man-made structures at sea.

Banning this practice represented a milestone in international environmental policy; however, at the time some 70% to 80% of wastes discharged in the marine environment came from land-based sources (from rivers, estuaries, and coasts), hence it would have been (and would still be) logical to complete the ban on dumping “at” sea with measures to phase out and prohibit land-based discharges “into” the sea.

Some of the principles endorsed in Rio, like the *Polluter Pays Principle* (Principle 16), were largely ignored, but the Precautionary Principle has been incorporated into most post-Rio multilateral environmental agreements and in the national laws of many countries (including European Union treaties) and has served

as a legal basis in litigation. Shifting the burden of proof is implied in the Precautionary Principle, but because it was not explicitly expressed, companies – and entire industrial sectors – causing irreversible environmental harm have too often succeeded in evading their responsibility. This remains one of the holes in the safety net, which we propose to resolve with the *Protection Principle*.

The Precautionary Principle in public policy finds its origin in the report of the Brundtland Commission, *Our Common Future* (1987), which coined the words sustainable development five years before the Rio Earth Summit. This time, we have less than two years to seek the endorsement of the Protection Principle:

22. The term “precautionary approach” was retained in Rio because the US delegation objected to the use of the word “principle.”

“All extractive industries, whether conducted by States or corporations, whose activities are liable to harm the ocean must demonstrate that their operations and plans are environmentally safe, with a negligible, reversible, or acceptable footprint prior to commencing. Where damage has already occurred, mitigation or restoration measures identified by public authorities will be covered by the responsible entities.”

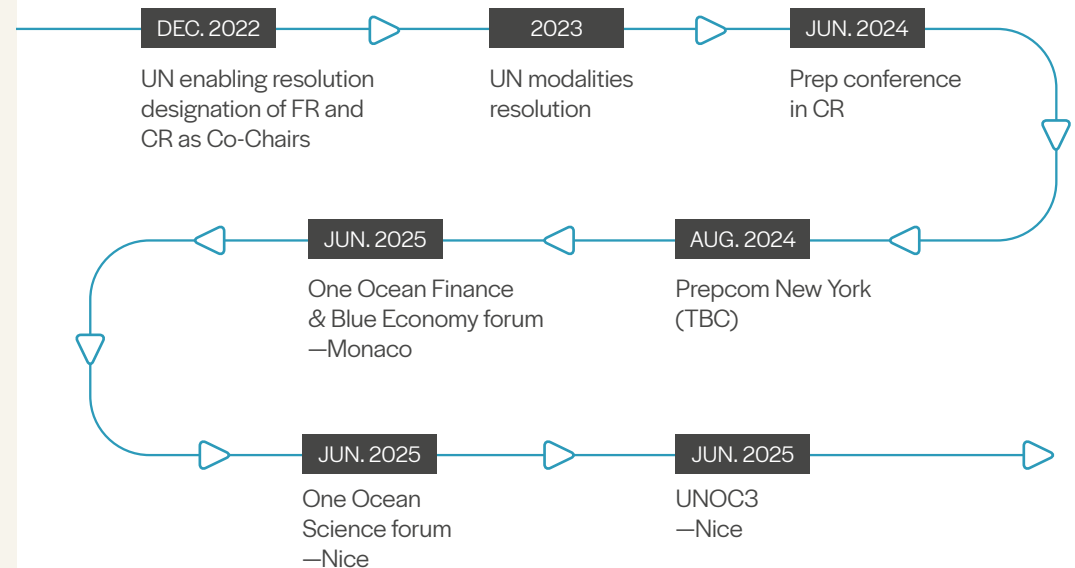
Proposed definition of the Protection Principle



Modalities, Opportunities and Risks

Which opportunities can we identify to test the appetite of policymakers

and practitioners to consider the merits of the Protection Principle?





Marlins for sale at the Chenggong seafood market, Taiwan, where the species is caught in industrial and artisanal fisheries.
© Guillermo Ortuño. 2019.

Blue Economy: there is no need for new money

Shortly prior to the official opening of the Nice Conference, two parallel fora will take place in Monaco and Nice, respectively focussed on blue finance and blue science.

Since the term “blue economy” was coined in 2011 on behalf of the Alliance of Small Island States (AOSIS) by Ambassador Peter Thomson, then the Permanent Representative of Fiji to the UN and now Special Envoy of the UN Secretary General for the Ocean, ocean finance has become central to ocean governance and policy conversations.

Data released during the 2nd UN Ocean Conference in Lisbon

suggests that SDG14 remains “the most underfunded” of all the 17 Sustainable Development Goals. According to the World Economic Forum (WEF), between 2015 and 2019 approximately USD 10 billion were invested per year in support of SDG14 targets. Yet the UN estimates that USD 175 billion per year would be needed to reach the targets by 2030. How can this USD 165 billion deficit be addressed?

In 2021 and 2022, we argued that governments do not necessarily need to look for new money to fund SDG14, that they just need to redirect and use existing funds more wisely and rationally. We proposed that for example the estimated USD 20 billion wasted worldwide

in government fisheries subsidies contributing to overfishing and over-capacity should be rechannelled in support of SDG14 targets to protect and conserve marine biodiversity and “clean up”²³ the ocean. Since then, the WTO adopted its fisheries subsidies agreement, which hopefully will enter into force before the next WTO Ministerial Conference scheduled in February 2024 in Abu Dhabi and if not, ultimately before the Nice Conference. WTO members are also working towards an agreement in Abu Dhabi to eliminate fisheries fuel subsidies, which are making it

artificially profitable to access certain maritime areas in distant waters, including the high and deep seas. Because they drive the access of industrial fleets to distant waters, fisheries *fuel* subsidies are threatening the food security and livelihoods of many coastal and island developing States.

Other subsidies which are harmful to biodiversity also represent a large source of funds which the Nice conference should explore. In accordance with Target 18 of the Kunming-Montreal GBF of December 2022, the signatories must:

23. Prevent the discharge of wastes.

Identify **by 2025**, and **eliminate, phase out or reform** incentives, including **subsidies harmful for biodiversity**, in a proportionate, just, fair, effective and equitable way, while **substantially and progressively reducing them by at least 500 billion USD per year by 2030**, starting with the most harmful incentives, and for the conservation and sustainable use of biodiversity, and **scale up positive incentives** for the conservation and sustainable use of biodiversity.

GBF Target 18, December 2022.

In other words, governments have said that by 2025 (the year of the Nice Conference) at least USD 500 billion per year should be identified to invest by 2030 in positive incentives (including subsidies) for the conservation and sustainable use of biodiversity, including marine biodiversity.

When the World Bank reviewed the use and impact of fisheries subsidies in 2009 and 2017, it referred to “the sunken billions.” With GBF Target 18, we must now avoid a “drifting billions” scenario. In the light of competing interests and priorities seeking to tap into these positive incentives, the One Ocean Finance and Blue Economy, in Monaco just prior to the Nice Conference, should focus on the best way to

use and share the billions which are expected to be liberated in accordance to GBF Target 18.

Beyond Plastic: Zero Discharge

The recent and current attention paid by public administrations, NGOs, and the private sector to plastic litter, including current negotiations seeking the adoption by the end of 2024 of a legally binding international instrument on plastic pollution including in the marine environment, is a great catalyst to draw attention to widespread use of the ocean as a sink for household wastes.

On 4 September 2023 the Secretariat of the International Negotiating

Committee (INC) to develop an international legally binding instrument on plastic pollution (including the marine environment) circulated the Zero Draft text, to serve as the basis for negotiations in the three meetings of the INC scheduled between November 2023 and the end of 2024. Reflecting different options and approaches, the publication of the Zero Draft is an encouraging sign that governments are ready to negotiate in earnest. **If some of the strongest options proposed in the Zero Draft are retained, the plastic treaty could go some way toward treating micro- and nano-plastic particles like radioactive particles as we suggested in 2022.**

However, we must be mindful that the “plastic tree” does not hide the “toxic tide”. Paradoxically, the more attention is paid to plastic wastes, the less is paid to noxious liquid wastes, especially those containing substances that are toxic, persistent, bioaccumulative and liable to affect the endocrine and reproductive system of animals including humans. This is due in part to the *out of sight – out of mind* syndrome, which means that concern for liquid waste discharges and losses is not raised routinely, but essentially only when a chronic pollution peak event occurs (such as a mass poisoning of fish, intoxication of a human coastal community, physical impacts on local tourism, or unexplained stranding of whales).

In their “Zero Pollution Ocean report – A Call to close the Evidence Gap”, the Back to Blue initiative, a joint project of The Economist Impact and the Nippon Foundation, recommends that *“marine pollution – beyond plastic – be central to the agenda at the 2025 UN Ocean Conference and other major meetings, such the UN Environment Assembly in 2024, with a view to raising awareness and spurring action among policymakers.”*

Solid wastes, including those made up of plastic are shocking, but they represent only a fraction of the wastes discharged into the ocean, deliberately for the most part. **Less visible point and diffuse sources of liquid wastes discharged from land**

into riverine, estuarine and coastal waters, including pesticide and fertilizer run-offs from agriculture practices, represent approximately 80 to 90% of all pollution inputs into the ocean.²⁴ Sewage sludges (aka human excrements mixed with other substances from municipal waste collectors such as detergents or micro- and nano-plastic particles escaping from textile products), effluents from industrial facilities enjoying licences to discharge their wastes (including into riverine and coastal waters), and toxic atmospheric

emissions which eventually end up in the ocean constitute the bulk of anthropogenic pollution inputs. Even when individual impact assessments are carried out for certain substances or classes of substances, **attention is rarely paid to the cumulative impact of different waste streams mixing with each other.**

In the light of these considerations, a Zero Pollution proposition makes sense. However, **Zero Discharge targets** in priority industrial and geographical sectors are preferable, because the definition of “pollution”

24. The remaining 10 to 20 percent is made up of so-called operational discharges from merchant and other vessels, including “midnight” (unreported) discharges of oil and chemical, ballast water, human wastes, lost or discarded fishing nets and gear, etc.

is not free of value judgements influenced by political and economic expediency.²⁵

Catalysing the creation of Ministries of the Ocean

Nice presents an opportunity to de-fragment ocean governance, in line with the one ocean paradigm. This is an issue at the crossroads of science and policy which should be given consideration by the meeting scheduled in Costa Rica in June 2024, the meeting of the conference's

Preparatory Committee in February 2025, and the One Ocean Science forum scheduled in the days preceding the Nice conference.

Organizations with overlapping ocean-related mandates in the areas of pollution prevention, shipping regulation, international trade, MPA designation and spatial planning, coastal management, climate change mitigation and adaptation, sand and gravel extraction, underwater noise, seabed mining, etc. must move away from current siloed approaches. In this way, cumulative impacts can be better measured and

considered in policymaking, in order to embrace holistic solutions. And conflicts (including conflicts of interest) between different segments of public administrations and ministries would likely be avoided.

Since the 2nd UN Ocean Conference took place in 2022, the need to harmonize ocean governance was illustrated on at least two occasions.

Proposals to establish a moratorium, a precautionary pause, or a ban on deep seabed mining were announced by several countries in various multilateral fora, including the second UN Ocean Conference in Lisbon (June 2022), COP27 in Sharm El Sheikh (November 2022), CBD COP15 (December 2022) in Montreal, the Our Ocean Confer-

ence in Panama (March 2023) and the Assembly of the International Seabed Authority (ISA) in Kingston, Jamaica (July 2023), notwithstanding reported attempts to fast track mining by the Secretariat of the ISA.

Siloed approaches also characterize national government policies. Proposals by the European Commission to phase out the destructive practice of bottom trawling within MPAs by 2030 has fallen on deaf ears within fisheries ministries as member State representatives at the UN FAO and RFMOs continue to support this practice, and certain EU member States announced that they would challenge the proposal in European courts. Tensions or clashes between Environment Ministries

²⁵ In 1998, nearly 30 years before 2025, Zero Discharge targets were agreed by the Ministers of the countries member of the OSPAR Commission for the Protection of the North East Atlantic, with mixed success in the implementation phase.

and other segments of public administrations (especially Fisheries and Agriculture, Trade and Industry, Treasury...) is nothing new of course. Bringing Fisheries into wider **Ministries of the Ocean** with a holistic ecosystemic mandate and vision could be part of the solution, as long as what until recently (or still even now) was perceived in many governments as “a small fish” (environment policy) is not swallowed by “bigger fish” (extractive industries).

The meeting scheduled in Costa Rica in June 2024 and the meeting of the Preparatory Committee for the Nice Conference in February 2025 could assess the experience of countries which have appointed Ministers of the Ocean and/or Ocean

Ambassadors in recent years and consider whether calling for this approach should form part of the Nice Conference outcome package, together with the creation of Regional Ocean Management Organizations to substitute or supervise RFMOs.

Reforming the Governance of Migratory and Straddling Biodiversity

Almost 40 years after the entry into force of the United Nations Fish Stocks Agreement (UNFSA), the health of target and non-target migratory and straddling populations of fish has declined across the global Ocean. RFMOs are the designated regional multilateral management



Lead autor Rémi Parmentier examines a marine turtle stranded after swallowing a long-liner fish hook.
© Rym Benzina.

bodies in charge of implementing the provisions of the UNFSA. Their conservation and sustainable management mandate extends beyond target populations (also called “stocks” by conventional fisheries managers) and also applies to “associated or dependent species or species belonging to the same ecosystem”, a vague taxonomic mandate, which has enabled a lack of management plans for most bycatch species and the rest of marine diversity. As we emphasized in our paper in 2022, the commodification of fish biodiversity as a resource, measured in tonnes and stocks rather than as individuals and populations, lays at the heart of this challenge, whereby species of economic importance are managed,

while the remaining bycaught species are practically ignored.

Most RFMOs have failed to integrate total mortality estimates across fisheries, from coastal/artisanal, to oceanic/industrialized, or to establish management plans for bycatch species. Access rights and species quota limits and allocations remain, for the most part, a highly politicized process which perpetuates an asymmetric distribution of resources across RFMO Parties, leading to coastal and island nations that have a given species in their waters not having a quota or sometimes not even a voice in the negotiations.

The large and dynamic ranges of migratory and trans-boundary biodiversity leave us with the crude

realization that even if we protect 30% of the ocean by 2030 with marine protected areas, if nothing else changes, many of these species could be pushed further to the brink of extinction, as any given 30% of the ocean is only a fraction of their annual range.

Of the seven species of sea turtle, six are threatened with extinction;²⁶ in just 50 years, we have seen a 71%

decline in the abundance of oceanic sharks;²⁷ bycatch remains one of the most significant threats to seabirds;²⁸ and estimates from the early 2010s suggest that both longline and gillnet fisheries kill hundreds of thousands of seabirds annually.^{29,30}

Stepwise *evolution* is not working for the management of these highly mobile and shared species. We need a paradigm shift to manage



Food shop at Hong Kong's 'Dried Food Street' displaying shark fins for sale. October 2023.

© Guillermo Ortuño.

differently shared ocean biodiversity, including questions around access rights, responsibilities, and quotas under a changing climate. **This was part of the idea behind substituting weight-based catch limits and quotas by numerical management, in our 2022 paper.**

There are countless examples of inconsistencies which are contributing to the unnoticed haemorrhaging of marine life. For example, a 2015 research article³¹ revealed that Ecuador, a nation which prohibited shark fisheries in the 1990s and which recently expanded the

Galapagos Marine Reserve to, in part, keep foreign longline vessels from taking "their" sharks, has a semi-industrial fishery which caught and landed approximately 260,000 sharks per year between 2008-2012. This figure amounts to x50 times the sharks that were found onboard the Fu Yuan Yu Leng 999, a Chinese vessel that made headlines in 2017. Media reports also indicate that shark fin exports from Ecuador increased by 635% between 2013-2021. The current RFMO framework not only does not establish mortality limits for "non-target" species, but

26. Putman, N.F., Hawkins, J. and Gallaway, B.J., 2020. Managing fisheries in a world with more sea turtles. *Proceedings of the Royal Society B*, 287(1930), p.20200220.

27. Pacoureau, N., Rigby, C.L., Kyne, P.M., Sherley, R.B., Winker, H., Carlson, J.K., Fordham, S.V., Barreto, R., Fernando, D., Francis, M.P. and Jabado, R.W., 2021. Half a century of global decline in oceanic sharks and rays. *Nature*, 589(7843), pp.567-571.

28. Dias et al. 2019. Threats to seabirds: a global assessment. *Biological Conservation*, 237: 525-537.

29. Anderson et al. 2011. Global seabird bycatch in longline fisheries. *Endangered Species Research*, 14: 91-106.

30. Żydelis et al. 2013. The incidental catch of seabirds in gillnet fisheries: a global review. *Biological Conservation*, 162: 76-78.

31. Martínez-Ortiz, J., Aires-da-Silva, A.M., Lennert-Cody, C.E. and Maunder, M.N., 2015. The Ecuadorian artisanal fishery for large pelagics: species composition and spatio-temporal dynamics. *PLoS One*, 10(8), p.e0135136.

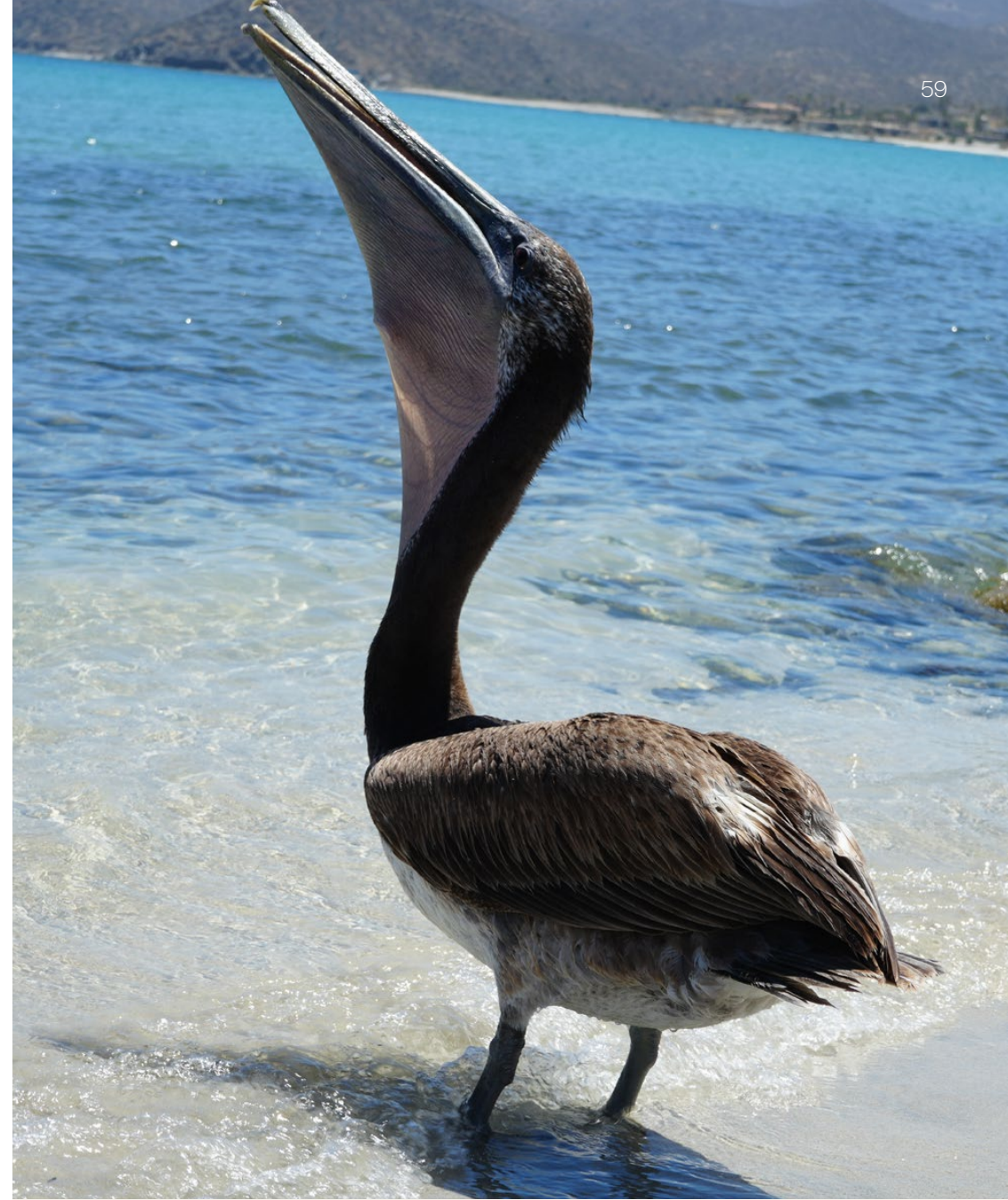
also barely takes into account the impact of domestic, small scale or semi-industrial fleets on straddling and migratory species.

The objective of this effort would be to re-envision and co-produce a conceptual governance, management, and implementation framework for ensuring a more sustainable, enforceable, and equitable implementation of the UNFSA under changing environmental conditions. This would produce the legal, economic, scientific and sustainability arguments to pause fishing in areas beyond national jurisdiction,³² redesign the boundaries of RFMOs based on ecosystemic considerations,

fund capacity development for local and coastal fisheries and engage in a redistribution of access rights and quotas for migratory and straddling populations in a changing climate. This could plant the seed for the development of Regional Ocean Management Organizations to transform RFMOs.

Single species “stock” assessments to manage marine life and ecosystems represents an outdated, obsolete, and failed approach. The Nice Conference should agree to test a re-conceptualized version to implement the UNFSA through a new vision that is more equitable and sustainable for generations to come.

32. White, C. and Costello, C., 2014. Close the high seas to fishing? *PLoS biology*, 12(3), p.e1001826.



Brown Pelican.
La Paz, Baja California.
© Guillermo Ortuño. 2023.

Conclusion: Where's the risk?

We are presenting this new set of innovative ideas to encourage others to join us in questioning the current *status-quo* with more creative and innovative visions and proposals, so that the transformative opportunity the Nice conference represents does not get lost.

Ocean change is one of the growing existential crises which we must face head on. There is nothing to lose from moving the goalpost to reinforce ocean protection, making it the norm rather than the exception. On the contrary, there is a lot to lose if we maintain *business as usual*, if we do

not look and act *outside the box*.

The Nice conference cannot and must not be only a reiteration of past efforts. Participants cannot leave Nice with the impression that they've been hearing —and that they sang!— the same old tune.

If we want people to listen and take action, if we want governments to be accountable, it is time to change the tune, and increase the volume.

The past successes of the environmental movement which we have lived through since the first UN Environment Conference in Stockholm in 1972 were possible only because people with daring visions did not hesitate to take risks and challenge the status-quo. And now, 50 years later, we know it was a mistake not to take them seriously.

Let's be *Nice* to the ocean, this time around.



Brittle star on coral.
© Schmidt Ocean Institute.

Protection as the norm - Opportunity #1: The Deep Ocean

Mineral resources found on and under the seabed have been a sort of Holy Grail for the mining industry in the past decades, with their exploitation now technically feasible. Both economic and environmental aspects of seabed mining remain untested, with potential irreversible environmental damage and equity issues as causes for concern. According to UNCLOS, mineral seabed resources found on and under the seabed of the high seas are part of the common

heritage of humankind, and their exploration and exploitation are regulated by the ISA, whose headquarters are in Kingston, Jamaica.

In recent years, the ISA has granted exploration licences to a number of sponsoring countries and their contractors, and —should exploitation begin— the ISA is meant to equitably distribute any arising benefits while also protecting the marine environment for the benefit of humankind, including future generations.

Deep sea mining equipment.
© Big Pixel/DSCC.



But equity concerns are not limited to the distribution of benefits, they also include the impact of mining on legitimate uses of the sea such as fishing and genuine scientific research. It is estimated that the high seas take up 500 million tonnes of atmospheric carbon per year, which ultimately becomes trapped in ocean sediments. In the long term, the possible remobilisation of CO₂ by deep-sea mining machinery and its release into the atmosphere raises intergenerational equity concerns. But also in the short term, the impact of deep-sea mining on biodiversity could affect the carbon pump that absorbs CO₂ daily.

Since the 2nd UN Ocean Conference took place in Lisbon in June 2022, the controversy over

the conservation of the deep-sea has accelerated, triggered by the prospect of deep-sea mining to be authorized by the ISA. In response, a few weeks before the Lisbon gathering the governments of Chile, Costa Rica and Spain each called for a “precautionary pause” on sea-bed mining. In Lisbon, a group of South Pacific Island States made up of Fiji, Palau and Samoa launched an Alliance for a Deep-Sea Moratorium; also in Lisbon President Emmanuel Macron from France made a surprise announcement calling for efforts to encourage sea-bed mining “to stop”. Five months later at COP27 of the UN Framework Convention on Climate Change (UNFCCC) held on Sharm El Cheik, Egypt, President Macron lifted the bar and called for

“a prohibition” on deep-sea mining. At the time of writing (October 2023) twenty-three countries member of the ISA had expressed support to a moratorium, a pause or a ban on deep-sea mining: Brazil, Canada, Chile, Costa Rica, Dominican Republic, Ecuador, Federated States of Micronesia, Fiji, Finland, France, Germany, Ireland, Monaco, New Zealand, Palau, Panama, Portugal, Samoa, Spain, Sweden, Switzerland, the UK, and Vanuatu.

The ISA has been discussing for some time the adoption of a mining code that, some say, would prevent irreversible environmental impacts, while others consider the opposite: if rushed it would, they warn, give a clean bill of health to deep-sea mining despite irreversible damage.

Concerns have been heightened by a move by the Republic of Nauru, a tiny island State in the South Pacific, under pressure from its Canadian contractor The Metals Company, which activated in 2021 a so-called two-year rule that under UNCLOS contemplates the consideration and provisional approval within two years of plans to go ahead with deep-sea mining unless two thirds of the members of the ISA Assembly reject the plans. In March 2023, the Director General of the International Union for the Conservation of Nature (IUCN) reminded in an open letter to all ISA Council Members that at the World Conservation Congress held in Marseille, France, in September 2021 “IUCN Member States, civil society and Indigenous organisations overwhelmingly voted in support of a

moratorium on deep seabed mining to protect life in the ocean”.

Manganese, nickel, cobalt and copper are the main metals targeted by the proponents of deep-sea mining. They argue that they can provide key elements for the on-going energy transition. However, car companies such as Volvo, Renault, and Volkswagen, and tech companies such as Samsung, Philips and Google have all gone on record to say that they do not need nor want to use deep-sea minerals. And in its 2022 updated financial guidelines to the extractive sector, the UNEP Finance Initiative said categorically that deep-sea mining is not considered part of the sustainable blue economy. Numerous financial institutions are thus also ‘pre-divesting’ from the sector.

In July 2023, at the ISA Council and Assembly the countries opposed to deep-sea mining have managed to postpone attempts to rush the adoption of the deep-sea mining code. It is now expected that the ISA will wait until 2025 to consider whether to authorize or stop deep-sea mining. A key problem with the ISA is that it holds its meetings in Kingston, Jamaica, a remote location far away from public attention and where even many ISA member States find it hard to send a delegation. In this context, the Nice Conference in 2025 represents a critical moment and an opportunity to reach high-level agreement to protect the ocean from deep-sea mining, in line with the position held by Costa Rica, France and a growing number of countries.



Protection as the norm - Opportunity #2: Antarctica and the Southern Ocean

Together with the Arctic Ocean, the Southern Ocean is the maritime region which is experiencing the most rapid and severe environmental changes due to the climate crisis.

The creation of a robust network of MPAs in the Southern Ocean is considered by scientists a necessary response to enhance resilience. But the Commission for the Conservation of Antarctic Marine Living

Resources (CCAMLR), a body within the Antarctic Treaty system, continues to fail to protect the area under its authority despite nearly two decades of talks.

Since the designation of the Ross Sea as an MPA in 2016, proposals to designate additional MPAs in the Weddell Sea, Eastern Antarctica, and the Antarctica Peninsula—tabled respectively by Germany,

France and jointly by Argentina and Chile and supported by the European Union— have failed. Consensus-based decision-making means that any country can block decisions if they do not like them regardless of their merit. The People’s Republic of China and the Russian Federation have repeatedly used their veto power to prevent progress. There were hopes that a Special Meeting of CCAMLR on spatial planning and MPAs which took place in Santiago, Chile in June 2023 would find a way forward, but instead of adopting a road map the meeting ended in an impasse with Russia and China maintaining their veto.

Instead of protecting the Southern Ocean, since 2018 each CCAM-

LR annual meeting has authorized industrial fisheries operations for Antarctic krill, the small crustacean which forms the basis of the entire Southern Ocean food web including iconic species such as whales and penguins, and which is increasingly used not only as feed in salmon and other aquaculture operations around the world, but also as a dietary complement, not only for humans but also household pets.

Antarctic toothfish, sold under the name Chilean seabass in the US or black hake in other markets, is a large fish species which occupies a niche in the Southern Ocean equivalent to sharks in other parts of the global ocean. The decline of Antarctic toothfish due to excessive

fisheries operations —also authorized by CCAMLR— (as well as illegal, unreported and unregulated catches) is another issue of concern to environmentalists.

In 2021 at a high-level conference organized by the Spanish Government to commemorate the 30th anniversary of the Madrid Protocol which in 1991 designated the entire Antarctic continent as a nature reserve, and again in 2022 in the papers we prepared for the One Ocean Summit and the second UN Ocean Conference, we proposed that that a High-Level Antarctic Life Summit be convened to break this destructive deadlock. The logic behind this proposal is that negotiators and scientists representing

their respective countries at technical meetings such as CCAMLR’s are generally very good at defending their countries’ interests and the instructions they receive “from above,” but they lack the tools and flexibility required to reach deals to resolve policy deadlocks.

Little more than a month after CCAMLR’s third Special Meeting, there was a ray of hope at the G20 Environment Summit held in India on 28ⁿ July 2023. In paragraph 52 of their communiqué, the G20 Environment Ministers (including China and Russia) agreed that:

“In the context of the Antarctic Treaty System, **we fully support** the long-standing commitment under the Commission for the Conservation



Antarctic Peninsula.
February 2023.
© Jim Barnes.



Penguins near the
Antarctic Peninsula.
© Jim Barnes.

of Antarctic Marine Living Resources (CCAMLR) to establish a representative system of MPAs in the CCAMLR Convention Area, **including designating additional MPAs in particular in Eastern Antarctica, the Weddell Sea and in the Western Antarctic Peninsula**, based on the best available scientific evidence.” (Emphasis added)

At the special meeting held in Chile, the Oceanographic Institute of Monaco proposed to take advantage of the presence of world leaders in June 2025 in Nice which is just outside Monaco. Building on

the most recent G20 statement, this could present a key opportunity for Heads of State and Government or their ministers to agree in 2025 to implement the Protection Principle in the Southern Ocean.

With relatively few extractive activities, hence limited vested interests, and a well-documented need to optimize protection, there is perhaps no maritime area better suited than the Southern Ocean to test shifting the burden of proof, making Southern Ocean protection the norm rather than the exception.

Protection as the norm - Opportunity #3: The Mediterranean

The Third UN Ocean Conference will take place on the shores of the Mediterranean Sea. Together with the French Government, the city of Nice is making arrangements for the construction of temporary installations in the city’s old harbour where the “blue zone” (restricted area for official negotiations) and the “green zone” (open to the non-accredited civil society organizations and the general public) will be located side-by-side. Inevitably, local organizations

and the general public will expect and demand that the UN Ocean Conference addresses issues of relevance to the Mediterranean, the sea before their eyes and in their hearts.

The Mediterranean basin has the merit of being a space where the Global North and the Global South meet, where developing and highly industrialized countries co-exist, and where the poor and the rich live together. Paradoxically, it is also the theatre of tragic daily losses of life

enhanced by cultural and economic divides. In that sense also it is a microcosm relevant for the rest of the world.

In September 2021, at the opening of the International Union for Conservation of Nature's World Conservation Congress held in Marseille, President Macron announced the formation of a Coalition for an Exemplary Mediterranean in 2030, a voluntary initiative which pledges to: "increase ambition for preserving marine and coastal biodiversity in the Mediterranean" (cluster #1) "promote and develop sustainable fishing to end overfishing by 2030" (cluster #2) "redouble efforts to combat marine pollution, particularly so that no plastic is discharged into the Mediterranean by 2030" (cluster

#3) and "promote maritime transport practices which protect the marine environment and combat climate change" (cluster #4) For each cluster, a lead role was assigned to: Monaco and Algeria (cluster #1); the EU (cluster #2); Greece, Italy and Morocco (cluster #3); and Egypt and France (cluster #4). This is one of 49 coalitions launched by the French Government in the framework of President Macron's One Planet Summits.

These types of voluntary coalitions which have multiplied in recent years are also known as plurilateral initiatives, because they represent a response to the difficulty in today's political environment, to reach multilateral agreements which require a consensus from all countries.

The Nice conference will take place almost at midterm, five years before the 2030 target date set by the Coalition promoted by President Macron. Hence one can expect that participants and commentators in Nice will want to know whether Mediterranean countries are on the right track to become "exemplary." Nothing is so sure; thus, it would be wise to go beyond a mere reiteration of the 2021 voluntary commitment. Plurilateral initiatives can be a good thing if they pave the way for multilateral agreements with solid implementation mechanisms. In other words, they must be construed as steps to reinforce legally binding agreements and national laws. But often the opposite happens, and

they undermine existing legal frameworks with stronger implementation provisions. Legally binding agreements can be slow to establish, maintain and reinforce, but governments should not throw the baby out with the bathwater. Replacing binding agreements with voluntary commitments with no implementation oversight is not a solution.

The Nice conference will coincide with the fiftieth anniversary of the creation, in 1975, of the Mediterranean Action Plan (MAP) and the adoption of the Barcelona Convention for the protection of the Mediterranean Sea (signed in February 1976). Before that time, scientists and regulators of Mediterranean countries were largely working in



isolation as if the natural environment knew of national borders. This began to change fifty years ago with MAP and the Barcelona Convention, later duplicated within 18 different maritime regions and forming what is known as the Regional Seas Programme. In some respect thus, the Mediterranean was already “exemplary” half a century ago, as other maritime regions followed its example.

When it reached 20 years of age, in 1995, the Barcelona Convention was amended by the Mediterranean riparian States to incorporate concepts which were new at the time in the wake of the Rio Earth Summit: the precautionary principle, biodiversity and the ecosystem approach.

Thirty years have passed now, and the Mediterranean riparian States must decide whether they want to

bring the Barcelona Convention into the 21st Century. For example:



National Marine
Park of Zakynthos.
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- Should there be new provisions to regulate the sustainable, regenerative, and equitable blue economy, including addressing the economic and environmental vulnerabilities which excessive reliance on blue tourism entail?
 - Can the Barcelona Convention and its Protocols address issues which have emerged in the last 30 years, such as the proliferation of hyper cruise liners and their environmental, social, and cultural adverse impacts, plastic litter, or climate change impacts including sea level rise on cities, agriculture and infrastructure?
 - And could the Protection Principle’s reversal of the burden of proof become a goal which would make the Mediterranean truly exemplary?

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