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# **Australia's role in translating outcomes on oceans from Rio+20 to the Pacific**

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**Frances O'Brien**  
**Macquarie University's Global Leadership Program**  
**June 2012**

**Prepared for the 2012  
United Nations Rio+20 Summit**

## GLOBAL VOICES

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## RIO+20

The United Nations Conference on Sustainable Development, also referred to as Rio+20, is an important step in ongoing international efforts to accelerate progress towards achieving sustainable development globally. The conference will mark the 20th anniversary of the 1992 UN Conference on Environment and Development in Rio de Janeiro (the Earth Summit). It will also mark the 10th anniversary of the 2002 World Summit on Sustainable Development in Johannesburg.

The 1992 and 2002 summits were headline international events and key drivers of the sustainable development agenda. Similarly, Rio+20 presents an opportunity to re-direct and re-energise political commitment to the three pillars of sustainable development: economic growth, social improvement and environmental protection. The conference is expected to be attended by a significant number of Heads of State and Government.

## FRANCES O'BRIEN

Frances O'Brien, 21, is studying a Bachelors of Environment & Law at Macquarie University where she is a member of the Global Leadership Program. She works for the Environmental Protectors Office and is President of Macquarie University's World Vision group. She is interested in the issues surrounding oceans.

## Executive Summary

The purpose of this paper is threefold:

- 1) to consolidate the current international and Pacific region instruments and policies in relation to ocean management;
- 2) to evaluate these structures on their effectiveness; and
- 3) to make recommendations for future directions, with a specific focus on Australia's role.

The Pacific region is particularly vulnerable to environmental change and marine degradation. The Pacific nations, including Australia, seek a 'Blue Economy', to encourage sustainable management of ocean resources. At an international level, there is a dearth of effective instruments. On a regional level, the Pacific has implemented many ongoing plans which show great promise. To secure a safe future for the oceans, more carefully crafted international instruments which clearly interlock with regional structures are required. Australia, as one of two developed nations in the region, has an important and pivotal role to play in these structures, as a support and facilitator for small island nations.

Main points:

- Oceans are a priority point for the Rio+20 talks;
  - The Pacific region seeks a 'Blue Economy';
  - There are several effective regional instruments for oceans management already in existence in the Pacific;
  - A more integrated, consolidated international framework for oceans management is needed;
- and

- Australia can play a vital role in providing support and resources for developing neighbours to progress a Blue Economy.

## Introduction

Since the beginning of negotiations for the United Nations Conference on Sustainable Development (UNCSD or Rio+20), the Pacific region has promoted a 'Blue Economy', a concept which takes the sustainable development 'green economy' and applies it to oceans management. With most of the Pacific region formed by developing island nations, for them it is vital that instruments regulating use of ocean resources is produced from the Rio+20 Summit.

This paper is intended to be a distillation of the vast array of information and instruments currently available for the sustainable usage of oceans, with a particular focus on the Pacific region and Australia's role. It will begin by providing a background to the world's oceans, with an additional insight into the situation in the Pacific region. It will then discuss the expectations and hopes of the Pacific States of the Rio+20 Conference, with some commentary on how this compares to the expectations of other international actors. This will be followed by an evaluation of the current international and regional frameworks in place, finishing with suggested future plans to achieve a sustainable development future for the world's oceans. Throughout, Australia's role and contributions will be the main point of focus.

## Background to Ocean Management

Rio+20, which marks the 20<sup>th</sup> anniversary of the UN Conference on Environment and Development (UNCED or the Earth Summit) in Rio de Janeiro, 1992, has come at a time when political commitment to sustainable development has waned, yet the world has never been in greater need. For the secretariat of Rio+20, the success of sustainable development worldwide relies on the promotion of

a green economy to eradicate poverty, and development of an institutional framework for sustainable development.<sup>1</sup> The conference has identified seven priority areas for discussion:<sup>2</sup>

1. Food security;
2. Water;
3. Energy;
4. Cities;
5. Green jobs and social inclusion;
6. Oceans, Seas and SIDS; and
7. Disaster readiness.

It is the sixth discussion point, Oceans, upon which this paper will focus.

The oceans contain more than 90% of the living space by volume on Earth.<sup>3</sup> A more commonly quoted statistic relating to oceans is that they cover around 70% of the Earth's surface,<sup>4</sup> but repeating this idea encourages humanity to disregard the immense depth and volume of the oceans.<sup>5</sup> They provide humanity not only with food, jobs, minerals, transport and medical resources,<sup>6</sup> but also with the very basics for life; oceans drive the Earth's cycles, and regulate the global climate.<sup>7</sup> Only recently has a greater proportion of humanity become aware of the immense

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1United Nations Conference on Sustainable Development (UNCSD) Secretariat, *About Rio+20*. Retrieved 26 March 2012 from <<http://www.uncsd2012.org/rio20/about.html>>.

2*Ibid*.

3A. Mitchell, *Seasick*, Millers Point, NSW, Murdoch Books Australia, 2008, pp. 7.

4I. Goodwin, and W. R. Howard, 'Evidence of Environmental Change from the Marine Realm', in Matthews, J. A., Bartlein, P. J., Brittle, K. R., Dawson A. G., De Vernal, A. Denham, T., Fritz, S. C. and F. Oldfield, *The SAGE Handbook of Environmental Change*, Swansea, SAGE Publications Ltd, 2012, pp. 181.

5A. Mitchell, op. cit.

6UNCSD Secretariat, *Rio 2012 Issues Briefs No. 4 – Oceans*, UN-DESA, 2011, pp. 1. Available from <[http://www.uncsd2012.org/rio20/content/documents/216Issues%20Brief%20No%204%20Oceans\\_FINAL.pdf](http://www.uncsd2012.org/rio20/content/documents/216Issues%20Brief%20No%204%20Oceans_FINAL.pdf)>

7I. Goodwin, and W. R. Howard, loc. cit.

importance of oceans, not just as a two-dimensional transport medium or “an endless sewer and grocery store”.<sup>8</sup>

As a result, the oceans have been severely affected by human activity. A combination of increased water temperatures, acidity and rising sea levels, as well as overexploitation of marine resources and careless treatment of the seas has led to an oceanic crisis.<sup>9</sup> The draft negotiation text for Rio+20, the so-called 'Zero Draft', published in January 2012 (also entitled 'The Future We Want'),<sup>10</sup> marked the starting point for the final outcome document of the conference, and addressed several specific issues relating to the sustainable development of oceans, including management of fisheries, including problems with illegal, unreported and unregulated (IUU) fishing; the special status of Small Island Developing States (SIDS); ocean acidification; and protection of coral reefs.<sup>11</sup>

## The Pacific Region

The Pacific region as covered in this paper is formed of 16 nations: Australia, the Cook Islands, Fiji, Kiribati, Republic of the Marshall Islands, Federated States of Micronesia, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu and Vanuatu.<sup>12</sup> Of these, only Australia and New Zealand are considered 'developed'. The rest are SIDS, small landmasses supporting developing societies. Small islands and their societies, particularly in the Pacific are much more vulnerable than landlocked countries.<sup>13</sup>

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<sup>8</sup> Mitchell, A. op. cit. pp. 13.

<sup>9</sup> UNCSO Secretariat, *Rio 2012 Issues Briefs No. 4 – Oceans*, pp. 3-4.

<sup>10</sup> United Nations (UN), *The Future We Want*, January 10 2012. Retrieved from [http://www.uncsd2012.org/rio20/content/documents/370The%20Future%20We%20Want%2010Jan%20clean%20\\_no%20brackets.pdf](http://www.uncsd2012.org/rio20/content/documents/370The%20Future%20We%20Want%2010Jan%20clean%20_no%20brackets.pdf).

<sup>11</sup> UNCSO Secretariat, *Rio 2012 Issues Briefs No. 4 – Oceans*.

<sup>12</sup> J. L. Karihaloo and O. Perera, 'Agricultural biotechnologies in developing countries: Options and opportunities in crops, forestry, livestock, fisheries and agro-industry to face challenges of food insecurity and climate change' (ABDC-10), in *Harnessing biotechnologies for food security in the Asia-Pacific region*. Guadalajara, Mexico, 1-4 March 2010.

<sup>13</sup> P. D. Nunn, *Developments in Earth and Environmental Sciences 6: Climate, Environment and Society in the Pacific During the Last Millennium*, Amsterdam, Elsevier, 2007, pp. 198; UNESCAP, *Sustainable Development in the Pacific: Progress and Challenges*, Pacific Regional Report for the 5-year Review of the Mauritius Strategy for Further Implementation of the

The Pacific region has very high biodiversity values.<sup>14</sup> However, it is estimated that as little as 20% of the flora and fauna have been researched.<sup>15</sup> The region faces many threats to its environmental and social health, such as pollution, habitat destruction, climate change and ocean acidification.<sup>16</sup> Pacific SIDS (PSIDS) rely heavily upon the oceans for their economies and livelihoods, and the concept of a 'Blue Economy' has arisen from this reliance. This term was first used in the Rio+20 Negotiations in 2011 by Pacific delegates<sup>17</sup> during the 12<sup>th</sup> Meeting of the UN Open-ended Informal Consultative Process on Oceans and Law of the Sea.<sup>18</sup> A 'Blue Economy' as understood in the Pacific region refers to PSIDS inextricable relationship with the ocean, and thus a need to build social and political structures around it.<sup>19</sup>

## Pacific Expectations for RIO+20

The following section will examine expectations of Rio+20 outcomes as set out in submissions to the Rio+20 Compilation Document,<sup>20</sup> and other declarations. The groups represented are Australia, PSIDS and the Pacific region. These groups have been chosen as they highlight the similarities and differences between developed and developing nations, as well as identify the strongest voices

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Barbados Programme of Action for Sustainable Development of SIDS. Suva, Fiji, 2010, pp. 10. Available from <[http://www.sidsnet.org/msi\\_5/regional/pacific/Pacific\\_Regional\\_Synthesis\\_MSI5\\_Final.pdf](http://www.sidsnet.org/msi_5/regional/pacific/Pacific_Regional_Synthesis_MSI5_Final.pdf)>.

14 Center for Ocean Solutions, *Ecosystems and People of the Pacific Ocean – Threats and Opportunities for Action: A Scientific Consensus Statement*, pp. 1. Retrieved from

<[http://www.centerforoceansolutions.org/data/consensus\\_statement.pdf](http://www.centerforoceansolutions.org/data/consensus_statement.pdf)>.

15 UN Economic and Social Commissions on Asia and the Pacific (UNESCAP), *Sustainable Development in the Pacific: Progress and Challenges*, Pacific Regional Report for the 5-year Review of the Mauritius Strategy for Further Implementation of the Barbados Programme of Action for Sustainable Development of SIDS. Suva, Fiji, 2010, pp. 9.

Retrieved from <[http://www.sidsnet.org/msi\\_5/regional/pacific/Pacific\\_Regional\\_Synthesis\\_MSI5\\_Final.pdf](http://www.sidsnet.org/msi_5/regional/pacific/Pacific_Regional_Synthesis_MSI5_Final.pdf)>.

16 Center for Ocean Solutions, op. cit. pp. 2-3.

17 UNESCAP-Pacific Operations Centre (UNEPOC), *The "Blue Economy": A Pacific Small Island Developing States Perspective*, Rio+20 Pacific Preparatory Meeting, Apia, Samoa, 21-22 July 2011, pp. 3. Retrieved from <http://www.unescap.org/epoc/pdf/Rio+20-Pacific-Paper-2-2-Blue%20Economy-Pacific-SIDS-Perspective.pdf>.

18 UN Open-ended Informal Consultative Process on Oceans and Law of the Sea, *Report on the work of the UN Open-ended Informal Consultative Process on Oceans and Law of the Sea at its twelfth meeting*, 20-24 June 2011, 66<sup>th</sup> Sess., A/66/186, pp. 3. Retrieved from <<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/431/39/PDF/N1143139.pdf>>.

19 UNEPOC, op. cit. pp. 3.

20 UNCSD Secretariat, *Rio+20 Compilation Document*. Retrieved from <<http://www.uncsd2012.org/rio20/compdocument.html>>.

across the Pacific region.

## Australia

Australia envisions three key objectives of Rio+20 in terms of oceans:<sup>21</sup>

1. To provide a catalyst and framework for action by governments, civil society and the private sector;
2. To promote and share lessons from existing initiatives that are applying people centred approaches to marine conservation and management; and
3. To identify and progress actions that require a global scale response.

These objectives are all in aid of a transition to a Blue Economy, which Australia suggests could possibly occur under the UN Convention on the Law of the Sea (UNCLOS).<sup>22</sup> This framework would include a UN General Assembly process to address gaps in implemented actions, and to examine more issue-specific measures, such as strengthening of existing oceans management strategies, information sharing<sup>23</sup> and encouraging participation of local communities.<sup>24</sup> These are all fairly broad suggestions, understandably so, at an international level.

However, on the topic of fisheries, Australia is much more specific. Australia is clearly prioritising fishing, as four out of six desired Rio+20 oceans outcomes in the Australian Rio+20 Submission Document relate to fisheries.<sup>25</sup> These are:<sup>26</sup>

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21 Australian Federal Government, *Rio+20 and the Blue Economy*, pp. 2.

22 *Ibid*, pp. 3-4.

23 *Ibid*, pp. 4.

24 Australian Federal Government, *Australia's Response to the UNCSD Secretariat Questionnaire*. Retrieved 17 May 2012 from <<http://www.uncsd2012.org/rio20/index.php?page=view&type=12&nr=83&respondent=5&menu=21&group=1>>.

25 Australian Federal Government, *Australia's Submission to the Rio+20 Compilation Document*, pp. 4.

26 *Ibid*.



- strengthening of pre-existing regional management agreements and organisations,
- combating of IUU fishing,
- elimination of subsidies which encourage unsustainable fishing practices, and
- increased fisheries surveillance.

Such attention is understandable: fishing is a large industry in the Pacific. For example, tuna fisheries in the western and central Pacific Ocean are considered the most important tuna fisheries in the world, netting market values of US\$6-8 billion per annum.<sup>27</sup> Overexploitation of resources can destroy sensitive ecosystems,<sup>28</sup> exacerbated by the practice of many governments to provide large subsidies for fishing companies to invest in more boats, leading to excess fleet capacity.<sup>29</sup>

However, actions in the fisheries sector must not occur at the expense of other areas. Australia's maritime area is larger than the continental land, and with this comes a great responsibility to protect and sustainably manage all resources at an ecosystems level, not simply fish stocks. There is a danger that Australia is overly focused on fishing. Australia has prioritised fisheries, which have attracted detailed action statements and research. On the other hand, ocean health and natural resource management have gathered much less attention from Australia, a myopic approach, as a healthy environment as a whole is vital for the all-important fisheries.

## Pacific Small Island Developing States

Currently, there is a greater interest in adaptation than mitigation for PSIDS, to the point where nations such as Tuvalu<sup>30</sup> and Kiribati have requested permission to permanently evacuate their

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27 UNESCAP, *Sustainable Development in the Pacific: Progress and Challenges*, pp. 47.

28 Ibid, pp. 49.

29 L. R. Brown, *Eco-economy: Building an Economy for the Earth*, London, Earthscan Publications, 2001, pp. 53.

30 Institute for Global Environmental Strategies, *Climate Change Policies in the Asia-Pacific: Re-uniting climate change and sustainable development*, Kanagawa, Japan, 2008, pp. 3.

populations to other countries.<sup>31</sup> The islands are already feeling the effects of environmental threats such as climate change, coastal erosion<sup>32</sup> and mangrove bleaching.<sup>33</sup> They are often low-lying and highly sensitive to changes in the marine and coastal environment.<sup>34</sup>

PSIDS are pushing for the development of a Blue Economy, as far as is consistent with the Rio+20 ideal of a green economy.<sup>35</sup> PSIDS have four main hopes for Rio+20:<sup>36</sup>

1. Support for existing regional plans;
2. Improvement of ocean governance;
3. Maintenance of ocean health; and
4. Sustainable management of maritime resources.

There are evidently shared goals between the PSIDS and Australia, such as the strengthening of pre-existing regional instruments. PSIDS are also concerned with unsustainable fishing practices;<sup>37</sup> the sale of fishing licences to foreign fishing companies provides PSIDS with US\$60-70 million per annum,<sup>38</sup> but scientific research has identified falling fish stocks, not only in the Pacific, but worldwide.<sup>39</sup>

However, it is maintenance of ocean health which commands the greatest part of PSIDS attentions. It is a concern they hold in common with many scientific and regional research groups. The Intergovernmental Oceanographic Commission, for example, also seeks actions to reduce stressors and

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31 S. Power, 'Climate change and the future of our Pacific neighbours', *The Conversation*, 20 March 2012. Retrieved from <<http://the-conversation.edu.au/climate-change-and-the-future-of-our-pacific-neighbours-4512>>.

32 Oxfam, 'Adapting to climate change in poor countries: Who pays?' (adapted from *Adapting to climate change, what's needed in poor countries and who should pay – Oxfam Briefing Paper*), *Pacific Ecologist*, No. 15, 2007/08, pp. 28.

33 UNESCAP, *Sustainable Development in the Pacific: Progress and Challenges*, pp. 10.

34 P. D. Nunn, op. cit. pp. 217.

35 UNEPOC, op. cit. pp. 2.

36 Ibid.

37 Ibid, pp. 5.

38 UNESCAP, *Sustainable Development in the Pacific: Progress and Challenges*, pp. 47.

39 See, e.g. L. R. Brown, op. cit. pp. 54; E. Pitkitch et al., *Little Fish, Big Impact: Managing a Crucial Link in Ocean Food Webs*, Washington, DC, USA, Lenfest Ocean Program, pp. 4. Retrieved from <<http://www.oceanconservationscience.org/foragefish/files/Little%20Fish,%20Big%20Impact.pdf>>.

maintain or restore structure and function of marine ecosystems.<sup>40</sup> The Coral Triangle Initiative (CTI), which comprises Indonesia, Papua New Guinea, the Solomon Islands, Malaysia, the Philippines and Timor L'este, is looking to develop a regional plan to address threats to coastal and marine resources.<sup>41</sup> It is particularly concerned with the degradation of coral reefs surrounding the Coral Triangle countries, of which 95% are in danger from overfishing, pollution and coastal development.<sup>42</sup> Unlike Australia, this demonstrates a much more holistic approach, looking to the broader issues, where root causes may be found, not merely symptoms of an endangered ocean system.

## The Pacific Region

The Pacific Island Forum is the organisation most representative of the Pacific, as all its members (and only its members) form the Pacific region for the purposes of this paper.<sup>43</sup> New Zealand is its current chair.<sup>44</sup> In addition, there are a number of observer states, including Tokelau and Timor L'este.<sup>45</sup> The organisation's role is to co-ordinate efforts toward the Pacific Plan, a regional framework to assist regional development.<sup>46</sup>

In addition to a joint declaration by the heads of the Pacific Island Forum, the Pacific submission to the Rio+20 compilation document also contains the *Waiheke Declaration on Sustainable Economic*

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40 Intergovernmental Oceanographic Commission, *A Blueprint for Ocean and Coastal Sustainability*, Paris, Intergovernmental Oceanographic Commission, 2011. Retrieved from <[http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/SC/pdf/interagency\\_blue\\_paper\\_ocean\\_rioplus20.pdf](http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/SC/pdf/interagency_blue_paper_ocean_rioplus20.pdf)>.

41 Coral Triangle Initiative Homepage. Retrieved 9 May 2012 from <<http://www.coraltriangleinitiative.org>>.

42 Ibid.

43 Pacific Islands Forum Secretariat, *United Nations Conference on Sustainable Development 2012: Submission on Behalf of the Pacific Islands Forum*, pp. 1. Retrieved from <<http://www.uncsd2012.org/rio20/content/documents/464pacisland.pdf>>.

44 Ibid.

45 Pacific Islands Forum Secretariat, *About Us*. Retrieved 26 April 2012 from <<http://www.forumsec.org/pages.cfm/about-us/>>.

46 Pacific Islands Forum Secretariat, *The Pacific Plan*. Retrieved 26 April 2012 from <<http://www.forumsec.org/pages.cfm/about-us/the-pacific-plan>>.

*Development*.<sup>47</sup> The submission itself calls for the Blue Economy to be highlighted in the Rio+20 negotiations, which is also a strong lobby point for the Asia-Pacific Youth Group,<sup>48</sup> and requests the international recognition of the Pacific Ocean's global value, and the efforts of the Pacific Oceanscape Framework, a major regional plan, as a model for integrated sustainable oceans management.<sup>49</sup>

The *Waiheke Declaration* reaffirms the salience of the Pacific Island Forum and Millennium Development Goals (MDGs),<sup>50</sup> eight objectives designed to enhance human development in critical areas.<sup>51</sup> It is a declaration of political recommitment to the goal of developing a sustainable world,<sup>52</sup> as sought by Rio+20.<sup>53</sup> The priority points raised in the *Waiheke Declaration* include:<sup>54</sup>

- Realising the resource potential of the Pacific region, in sectors such as fishing and tourism;
- Encouraging integration in the Pacific region through liberalisation of trade and investment;
- Improving education and health levels;
- Promotion of tourism in the region; and
- Conserving island ecosystems.

Out of these three groups in the Pacific region arise common concerns and hopes. Fishing is a major theme, as are change and improvements to regional governance models. All three groups have also made reference to pre-existing structures, such as UNCLOS and the Pacific Oceanscape Framework. Unfortunately, Australia's bias towards fisheries could be harmful to the region; PSIDS seeking to

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47 Pacific Islands Forum Secretariat, *United Nations Conference on Sustainable Development 2012: Submission on Behalf of the Pacific Islands Forum*, pp. 2.

48 Nepali Youth Task Force on Rio+20, *Official Blog*. Retrieved 28 April 2012 from <<http://nepaliyouthrio20.blogspot.com>>.

49 Pacific Islands Forum Secretariat, *United Nations Conference on Sustainable Development 2012: Submission on Behalf of the Pacific Islands Forum*, pp. 2.

50 *Ibid*, pp. 6.

51 UN, *Millennium Development Goals*. Retrieved 29 March 2012 from <<http://www.un.org/millenniumgoals/bkgd.shtml>>.

52 Pacific Islands Forum Secretariat, *United Nations Conference on Sustainable Development 2012: Submission on Behalf of the Pacific Islands Forum*, pp. 6.

53 UNCSD Secretariat, *About Rio+20*.

54 Pacific Islands Forum Secretariat, *United Nations Conference on Sustainable Development 2012: Submission on Behalf of the Pacific Islands Forum*, pp. 6.

address ecosystems problems may be unable to gain the necessary support from their developed neighbour. This is why effective regulatory structures addressing balanced concerns must be developed. There are already some structures in place; the next section will examine some of these in terms of their role and effectiveness in promoting a Blue Economy.

## Current Frameworks for Ocean and Coastal Management

There are currently hundreds of instruments, initiatives and organisations related to the sustainable development of the Pacific, at national, regional and global levels. The popular model for international issues is a 'common but differentiated responsibilities' approach, as developed in Article 3.1 of the UN Framework Convention on Climate Change (UNFCCC).<sup>55</sup> This approach advocates an international regime (a collection of rules, institutions and procedures) which standardises and governs collective State action in the form of interlocking regional instruments.<sup>56</sup> Whilst it is not possible to address each and every one of the existing structures in this paper, a general idea may be formed by examining some of the major instruments. This section will first look to examples of international structures, followed by examples of regional plans. There is a list of examples of such structures in Appendix 1.

### International structures

Two of the best examples of pre-existing international instruments relating to management of oceans are Agenda 21 and the UNCLOS with its associated bodies.

It is important to begin with the outcome document from the original Rio talks in 1992: Agenda 21,<sup>57</sup> of which Australia is a signatory. This document is a remarkably detailed and proscriptive instrument,

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<sup>55</sup> *United Nations Framework Convention on Climate Change (UNFCCC)*, art 3.1.

<sup>56</sup> J. Depledge and F. Yamin, 'The global climate-change regime: A defence' in D. Helm and C. Hepburn. *The Economics and Politics of Climate Change*, Oxford, UK, Oxford University Press, 2009, pp. 434.

<sup>57</sup> UN, 'Agenda Item 21' ('Agenda 21'), *General Assembly Official Records*, 46th Sess., UN Doc A/Conf.151/26 (1992). Retrieved from <<http://www.un.org/esa/dsd/agenda21/index.shtml>>.

with a Chapter devoted to 'Protection of the Oceans, All Kinds of Seas, Including Enclosed and Semi-enclosed Seas, and Coastal Areas and Their Protection, Rational Use and Development of their Living Resources'.<sup>58</sup> This chapter provides for:<sup>59</sup>

- integrated management and sustainable development of coastal areas;
- marine environment protection;
- sustainable use of marine resources on high seas;
- address uncertainties in management of marine in terms of climate change;
- the special status of SIDS;
- use of precautionary principle in planning; and
- improve access to information and opportunities in consultation and participation.

Agenda 21 is non-binding, but was invaluable in setting up the Commission on Sustainable Development (CSD), which is responsible for following up on progress on the implementation of agreements out of the Earth Summit, and in creating the Straddling Fish Stocks Agreement,<sup>60</sup> to encourage co-operative management of common fisheries resources.<sup>61</sup> Yet despite a declaration of commitment in the Zero Draft to advance progress in implementing Agenda 21,<sup>62</sup> none of the major Pacific groups (Australia, PSIDS, general Pacific region) make mention of this instrument as a way forward. This may be due to a perceived failure of Agenda 21.<sup>63</sup> It is an unfortunate truth that international law is 'soft' and near impossible to enforce.

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<sup>58</sup> *Ibid.*

<sup>59</sup> *Ibid.*

<sup>60</sup> UN General Assembly, *Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks*. New York, New York, USA, 24 July – 4 August 1995, 6<sup>th</sup> sess. A/ CONF. 164/37.

<sup>61</sup> G. D. Triggs, *International Law: Contemporary Principles and Practices* (2<sup>nd</sup> ed), LexisNexis Butterworths, Chatswood, NSW, Australia, 2011, pp. 864.

<sup>62</sup> United Nations, *The Future We Want*, [6].

<sup>63</sup> See, e.g. Asia Pacific Youth on Rio+20, *Asia Pacific Youth Declaration on Climate Change and Sustainable Development*, 2011, pp. 1. Retrieved from <<http://www.icimod.org/v2/bull3/index.php/cms2/ajax/resource/download?id=4127>>.

UNCLOS is the culmination of decades of negotiations and customary practice. Although a majority of its provisions relate to delineating marine territory and preventing marine pollution, UNCLOS has been used by Australia, one of the convention's many signatories, to deal with oceans management issues.<sup>64</sup> Using its territorial rights under UNCLOS, Australia set up the Australian Whaling Sanctuary in 1999. However, an incident involving Japanese whaling activities highlighted the gaps in governance; despite a decision that the whalers had breached the law by whaling within the sanctuary,<sup>65</sup> there was essentially no action which could be taken to enforce the ruling.<sup>66</sup> Further, actions to manage pollution events under UNCLOS are seen as "disaster driven" and piecemeal'.<sup>67</sup>

## Pacific Structures

Two of the most important regional instruments for the Pacific are the Pacific Oceanscape Framework and the Pacific Plan. Australia is a member and active participant in both structures, the former of which overarches the latter.

The Pacific Oceanscape Framework is considered one of the most ambitious and innovative marine management frameworks yet developed.<sup>68</sup> First proposed by Kiribati in 2005, its endorsement by Pacific Islands Forum and Council of Regional Organisations of the Pacific have led to a plan which seeks to encourage stewardship at national, regional and international levels<sup>69</sup> over an area of land

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64 G. Bates, *Environmental Law in Australia*, LexisNexis Butterworths, Chatswood, NSW, Australia, 2010, pp. 89.

65 *Humane Society International Inc. v Kyodo Senpaku Kaishu Ltd* [2006] FCAFC.

66 G. Bates, loc. cit.

67 G. D. Triggs, op. cit. pp. 417.

68 See, e.g. Australian Broadcasting Corporation (ABC) Radio Australia, *Pacific Oceanscape Initiative is a World-beater*, 23 January 2012. Retrieved from <<http://www.radioaustralia.net.au/international/radio/onairhighlights/pacific-oceanscape-initiative-is-a-worldbeater>>; K. McCabe, 'New "Pacific Oceanscape" makes history', *International Waters Learning Exchange and Resources Network*, 2012. Retrieved from <<http://iwlearn.net/news/iwlearn-news/new-pacific-oceanscape-makes-history>>.

69 Pacific Island Forum Secretariat, *Pacific Oceanscape Vision*, 2008. Retrieved from <<http://www.conservation.org/global/marine/initiatives/oceanscapes/Documents/Pacific-Oceanscape-framework-brochure.pdf>>.

and ocean 38 million km<sup>2</sup> in size, including areas previously considered 'high seas' commons areas under UNCLOS.<sup>70</sup>

The Pacific Oceanscape Framework lays out six priority areas:<sup>71</sup>

1. Jurisdictional rights and responsibilities;
2. Good ocean governance;
3. Sustainable development, management and conservation,
4. Listening, learning, liaising and leading;
5. Sustaining action; and
6. Adapting to a rapidly changing environment.

The Pacific Oceanscape Framework is intended as the umbrella agreement under which all others, including the Pacific Plan, the Pacific Islands Regional Ocean Policy and other instruments at local, national and international levels are integrated.

The Pacific Plan is considered the 'master strategy for regional integration and co-ordination in the Pacific'.<sup>72</sup> Its goals are to:<sup>73</sup>

- Enhance and stimulate economic growth;
- Promote sustainable development;
- Promote good governance; and
- Develop security for Pacific countries through regionalism.

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<sup>70</sup> ABC Radio Australia, op. cit.

<sup>71</sup> Pacific Island Forum Secretariat, *Pacific Oceanscape Vision*.

<sup>72</sup> Pacific Islands Forum Secretariat, *About Us*.

<sup>73</sup> Pacific Islands Forum Secretariat, *The Pacific Plan*. Retrieved from  
<<http://www.aisaid.gov.au/Publication/Documents/strat-approach-pacific-roadmap>>.



The concept of regionalism is defined as a situation where members of a region work together for mutual benefit.<sup>74</sup> For the Pacific Plan, these members include both state and non-state actors, such as non-government organisations (NGOs), community groups and private companies.<sup>75</sup> Information-sharing and cooperative action at all levels is the key behind the Plan.

The Pacific Plan Action Committee (PPAC) produces annual reports which chart the progress of the Plan, key achievements of the Plan's members, emerging issues and future actions for the members to take.<sup>76</sup> It is intended to be a 'living document', adapting to the dynamic regional and international situation.<sup>77</sup> In the latest Annual Report (2011), Australia has been identified as taking on some important roles in the region. The Australian Defence Force and Australian Customs and Border Protection Service were part of the largest regional monitoring and surveillance operation, Kurukuru, which covered an area of 12 million km<sup>2</sup>.<sup>78</sup> In conjunction with several PSIDS, Australia has also set up the Australia-Pacific Technical College, with campuses in Fiji, Papua New Guinea, Samoa and Vanuatu.<sup>79</sup> The purpose of the college is to increase the number of skilled workers amongst the islands, with 2997 students graduated since 2008.<sup>80</sup> Other actions by Australia have included:<sup>81</sup>

- Implementation of steps to strengthen and co-ordinate regional search and rescue operations;
- Implementation of a project to improve safety standard of domestic shipping around Tonga and Kiribati;
- Representation of the Pacific region at tourism promotion events;

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74 Ibid.

75 Pacific Islands Forum Secretariat, *About Us*.

76 Pacific Islands Forum Secretariat, *Pacific Plan 2011 Annual Progress Report*.

77 Pacific Islands Forum Secretariat, *About Us*.

78 Pacific Islands Forum Secretariat, *Pacific Plan 2011 Annual Progress Report*, pp. 8.

79 Ibid, pp. 12.

80 Ibid.

81 Ibid, pp. 8-13.

- Support for the 2012 Pacific Non-Communicable Diseases (NCDs) Programme' and
- Funding for Pacific Regional Strategy on Disability.

## Global Framework, Regional Plans into the Future

As earlier discussed, the preferred model for dealing with international issues is the UNFCCC common but differentiated responsibilities approach.<sup>82</sup> de Boer observed that 'different actions by countries with different circumstances will need different docking stations of support'.<sup>83</sup> Differentiation is most apparent between developed and developing countries, owing to their varying capacities and resource bases.<sup>84</sup>

Additionally, international relations theory advocates the use of an overarching international framework to co-ordinate regional efforts.<sup>85</sup> This method of co-ordination is highly effective as it develops a 'contractual environment' in which parties feel obliged to participate.<sup>86</sup> For international regimes, it is important to identify the actors and assign them roles, for although some problems are 'fundamentally international in nature', the scale and complexity of those problems will require national policies which co-operate with those at the global level.<sup>87</sup>

Several frameworks at international and national levels have been proposed in varying detail by nations, organisations and major groups. This paper will examine two types of framework suggestion: the revision of pre-existing structures, and the creation of new structures.

## International Structures

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<sup>82</sup> UNFCCC, loc. cit.

<sup>83</sup> Y. de Boer, *Statement at the High-level Session*, Fourteenth session of the Conference of the Parties (COP 14) and the fourth session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (COP/MOP 4), Poznan, 11 December 2008. Retrieved from [http://unfccc.int/files/press/news\\_room/statements/application/pdf/cop\\_14\\_hls\\_statement\\_de\\_boer.pdf](http://unfccc.int/files/press/news_room/statements/application/pdf/cop_14_hls_statement_de_boer.pdf).

<sup>84</sup> J. Depledge and F. Yamin, op. cit. pp. 437.

<sup>85</sup> J. Depledge and F. Yamin, loc. cit.

<sup>86</sup> *Ibid.*

<sup>87</sup> C. Hepburn, 'Carbon Taxes, Emissions Trading and Hybrid Schemes' in D. Helm and C. Hepburn. *The Economics and Politics of Climate Change*, Oxford, UK, Oxford University Press, 2009, pp. 365.

The revision of pre-existing structures has been recommended by several groups. PSIDS, for example, have suggested a strengthening and revising of UNCLOS.<sup>88</sup> This would be in line with the nature of UNCLOS, a document which has developed over decades and changed in response to dynamic attitudes to the oceans.<sup>89</sup> Other groups (which notably do not contain Pacific nations) seek to strengthen and reaffirm Agenda 21 and principles which arose out of the Earth Summit.<sup>90</sup> For the PSIDS, they may be due to a perceived disconnect between international instruments and their own particular needs.<sup>91</sup> It is vital that international frameworks can successfully integrate regional plans into their structure, so that local efforts may be coordinated at an international level to deal with a global issue.

As such, other groups have called for the creation of new international structures. The Zero Draft itself does recommend the creation of a new framework for ocean management. This may be due to a perception that the concept of sustainable development has not been satisfactorily implemented under existing schemes.<sup>92</sup> The Major Group of Children and Youth, for example, suggests the creation of an office of 'Ombudspersons for Future Generations' and the development of a World Environment Court to oversee international environmental legal matters.<sup>93</sup> Australia proposes a new action framework centred on the Blue Economy, whilst avoiding duplication of UNFCCC initiatives.<sup>94</sup> The Global Oceans Forum is calling for integrated oceans governance to be raised to the highest levels of the UN system, a high-level position from which to co-ordinate regional and national

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88 UNEPOC, *The "Blue Economy": A Pacific Small Island Developing States Perspective*, pp. 2.

89 G. D. Triggs, op. cit., pp. 345.

90 UN, *The Future We Want*.

91 P. Thomson, *Statement by Permanent Representative of Fiji on behalf of the Pacific Small Island Developing States*, New York, New York, USA, 2011, pp. 2. Retrieved from <<http://pacificsids.org/statements/2010-2011/20110912.pdf>>.

92 D. Kobus, 'Development and testing of a conceptual framework for assessment of progress towards achieving sustainable development in countries in transition', *Journal of Environmental Assessment Policy and Management*, Vol. 7 No. 3, 2005, pp. 457.

93 Major Group of Children and Youth, *Contribution to the Outcome Document of Rio+20*, 2012. Retrieved from <[http://rioplustwenty.org/documents/MGCY\\_Contributions\\_Rio+20.pdf](http://rioplustwenty.org/documents/MGCY_Contributions_Rio+20.pdf)>.

94 Australian Federal Government, *Australia's Submission to the Rio+20 Compilation Document*, pp. 4.

actions.<sup>95</sup> However, it has been observed that “the international community has already spilled much ink and consumed forests of paper developing environmental instruments ... [yet they] have not done enough”.<sup>96</sup> Any calls for the development of new structures must avoid the unnecessary proliferation of duplicate instruments of little value.

## Pacific structures

It is unlikely that the Pacific will seek new structures; the Pacific Plan has already been widely accepted as the regional framework.<sup>97</sup> The support for the Pacific Oceanscape Framework also seems to indicate a longevity of the scheme. As both of these plans involve combined efforts across the region, it is expected that, although implementing sustainable development is a global task, the Pacific as a co-ordinated whole can prove highly influential.<sup>98</sup>

This does not mean that the plans are static. Each plan makes provisions for improving upon themselves. In the 2011 Pacific Plan Annual Progress Report, NCDs were noted as an emerging issue for which provisions would need to be made.<sup>99</sup> It was also observed that the Plan priorities were due to be reassessed in 2012.<sup>100</sup> This was followed by a list of areas recommended to be prioritised in the next year.<sup>101</sup>

## Conclusions and Recommendations

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95 B. Cicin-Sain, *Oceans and Coasts at Rio+20*, Global Ocean Forum. Retrieved from <<http://www.stakeholderforum.org/fileadmin/files/Opening%20B.Cicin-Sain%20PPT-Monaco.pdf>>.

96 Neil A. F. Popovic 'In pursuit of environmental human rights: Commentary on the Draft Declaration of Principles on Human Rights and the Environment', *Columbia Human Rights Law Review*, Vol. 27 No. 3, 1996, pp. 494.

97 UNEPOC, *The “Blue Economy”: A Pacific Small Island Developing States Perspective*, pp. 3.

98 Center for Ocean Solutions, *Ecosystems and the People of the Pacific Ocean – Threats and Opportunities for Action: A Scientific Consensus Statement*, Center for Ocean Solutions, 2012. Retrieved from <[http://www.centerforoceansolutions.org/data/consensus\\_statement.pdf](http://www.centerforoceansolutions.org/data/consensus_statement.pdf)>.

99 Pacific Islands Forum Secretariat, *Pacific Plan 2011 Annual Progress Report*, pp. 21.

100 *Ibid.*

101 *Ibid.*, pp. 22.

The oceans are in desperate need of sustainable management. The impacts of centuries of human exploitation are telling. Countries have pinned great hopes on the Rio+20 negotiations, but hopes, expectations and outcomes are often very different. There are hopes of a renaissance in sustainable development worldwide, with a renewing of political commitment and an increased willingness to assist one another.

There is clearly no lack of pre-existing institutions nor of governance or legislative instruments with which to raise a Blue Pacific Economy. It is the deficit of strength within these structures, especially at international level, which is the issue, and which States, particularly PSIDS, and major groups have made abundantly clear. Either pre-existing international structures must be tightened both in their content and their enforcement, or new, useful structures developed, whilst avoiding the creation of one more instrument without efficacy to add the vast number already in existence. These structures must also be flexible and grounded enough that they comfortably integrate regional plans suited to the specific natures of areas of the world. The international framework must play a facilitator's role between the different major groups and nations.

These things are crucial if the attendees of Rio+20 does indeed plan to deliver “The Future We Want”. International coordination and regional action, where States share knowledge and developed nations such as Australia provide resource assistance to their developing neighbours, may save the world's oceans, and the Earth itself.

## LIST OF ACRONYMS

ABC – Australian Broadcasting Corporation

ENB – Earth Negotiations Bulletin

IUU – Illegal, unreported and unregulated

MDGs – Millennium Development Goals

MGCY – Major Group of Youth and Children

MPAs – Marine Protection Areas

PSIDS – Pacific Small Island Developing States

SDGs – Sustainable Development Goals

SIDS – Small Island Developing States

UN – United Nations

UNCLOS – United Nations Convention on the Law of the Sea

UNDESA – United Nations Department of Economic and Social Affairs

UNEPOC – United Nations Economic and Social Commissions on Asia and the Pacific, Pacific Operations Centre

UNESCAP - United Nations Economic and Social Commissions on Asia and the Pacific

UNCSD – United Nations Conference on Sustainable Development

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## APPENDIX 1: EXAMPLES OF INSTRUMENTS, INSTITUTIONS AND PROGRAMMES RELATED TO SUSTAINABLE DEVELOPMENT OF OCEANS IN THE PACIFIC

1. The Pacific Plan
2. Pacific Oceanscape Framework
3. Agenda 21
4. United Nations Convention on the Law of the Sea
5. Coral Triangle Initiative
6. Global Oceans Forum
7. Johannesburg Plan of Implementation
8. Pacific Fishery Management Council
9. Ocean Drilling Program
10. International Convention for the Regulation of Whaling
11. Ocean Genome Legacy
12. Census of Marine Life
13. Barbados Programme of Action
14. Global Programme of Action for Protection of Marine Environment from Land-Based Activities
15. Nauru Agreement Concerning Cooperation in the Management of Fisheries of Common Interest
16. International Seabed Authority
17. Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 Relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks
18. Code of Conduct for Responsible Fisheries

19. International Maritime Organisation
20. Regular Process for Global Reporting and Assessment of the State of the Marine Environment
21. Oceans and Law of the Sea General Assembly resolutions and decisions
22. Agreement on Port Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing
23. World Research Institute Reefs at Risk



This report was prepared by Frances O'Brien of Macquarie University's Global Leadership Program for the Rio+20 Summit in June 2012.

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