

SUMMARY REPORT

WORKSHOPS ADDRESSING MARINE AREAS BEYOND NATIONAL JURISDICTION

At the 3rd International Marine Protected Areas Congress (IMPAC 3)
Marseille, France, October 21-25, 2013

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INTRODUCTION

The 3rd International Marine Protected Areas Congress, held in Marseille, France, on October 21-25, 2013, featured, among others, the themes *Governance, Partnerships and Industry Involvement* and *Regional Approaches*, which were of particular relevance in the management and governance of marine areas beyond national jurisdiction (ABNJ). Workshop sessions covered the topics: Capacity development in ABNJ, establishing a global network of high seas MPAs, legal issues and regulations in the governance of ABNJ, and regional approaches in establishing MPAs in ABNJ.

The 2002 World Summit on Sustainable Development target to establish representative networks of marine protected areas worldwide by 2012 has not yet been achieved, but has been extended through the 2010 Aichi Biodiversity Target of conserving 10% of all marine and coastal ecological regions in MPAs by 2020¹. The latest report for global MPA coverage indicates that 2.8% of the global ocean is protected² (see Figure 1 for The Official MPA Map). Protection of the high seas is seen as a major gap in ocean protection, which is constrained by the lack of a framework for establishing high seas MPAs, a recurring message in all ABNJ sessions at IMPAC 3.

The current and future challenges for high seas MPAs are the same challenges that MPAs in coastal areas and EEZs have been facing, in particular, the development of appropriate tools and approaches for management and enforcement, and the need to establish management effectiveness. With the establishment of high seas MPAs being fairly recent, it is understandable that the urgent need to develop a legal framework for establishing and managing high seas MPAs has become the focal point of current efforts in ABNJ, as reflected in the discussions in all the ABNJ sessions at IMPAC 3. This framework could possibly form part of an implementation agreement to UNCLOS under consideration following Rio+20, which called for a decision on whether or not to negotiate a new agreement before the end of the sixty-ninth session of the General Assembly³.

¹ CBD 2010.

² IUCN and UNEP-WCMC 2013.

³ United Nations 2012.

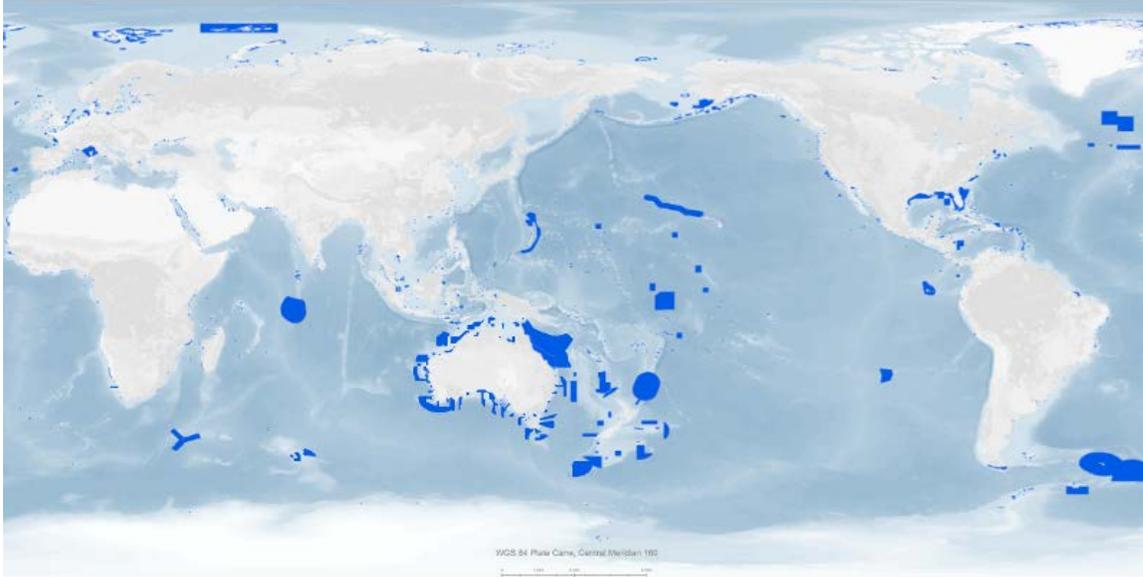


Figure 1. [The most recent official map of MPAs covering 2.8% of the world ocean.](#) (Source: IUCN and UNEP-WCMC 2013)

This report was prepared as part of the activities under the agreement between the Global Ocean Forum and the French Marine Protected Areas Agency, covering their partnership on IMPAC 3. It provides a summary for each workshop session on ABNJ, the key messages emanating from the sessions, and a reflection on recent developments in high seas MPAs and ABNJ as presented and discussed at IMPAC 3.

SUMMARIES OF WORKSHOP SESSIONS

There were five ABNJ sessions conducted at IMPAC 3 that are covered by this report.

1. Cross-sectoral Policy Dialogue and Linking Global and Regional ABNJ Processes and Capacity Development in ABNJ (WS4A2) **Organized by the Global Ocean Forum**

Panel:

Dr. Biliiana Cicin-Sain, President, Global Ocean Forum, and Professor of Marine Policy, School of Marine Science and Policy, University of Delaware (Chairperson)

Prof. Carlo Cerrano, Assistant Professor, Department of Life and Environmental Sciences (DiSVA), Polytechnic University of Marche, Italy

Dr. Miriam Balgos, Program Coordinator, Global Ocean Forum, and Associate Scientist, Gerard J. Mangone Center for Marine Policy, University of Delaware

Ms. Gwenaëlle Hamon, Policy Researcher, Global Ocean Forum, Gerard J. Mangone Center for Marine Policy, University of Delaware

Ms. Tina Farmer, Technical Editor, Communications and Publications, Fisheries and Aquaculture Department, FAO

Mr. Philippe Vallette, Director General, Nausicaä Centre National de la Mer, and Co-President, World Ocean Network

Summary:

The marine areas beyond national jurisdiction (ABNJ), which comprise 64% of the ocean's surface, contain ecosystems with marine resources and biodiversity of great ecological, socioeconomic, and cultural importance. Despite increasing efforts to improve understanding of these ecosystems and resources and to manage their uses sustainably, lack of information on ecosystems and biodiversity, inadequate implementation of existing commitments, limited capacity to effectively manage, and difficulties in enforcement and compliance are impacting the health and sustainability of marine biodiversity in ABNJ, compromising the many benefits and services that they provide to the global community. This workshop addressed the main issues related to ABNJ capacity: i.e., status and trends of oceans in ABNJ (including the effects of climate change), capacity needs related to ABNJ research and management, and ABNJ capacity development initiatives underway. This workshop was organized by the Global Ocean Forum (GOF) as part of the GEF/FAO/GOF Project on Strengthening Global Capacity to Effectively Manage ABNJ under the GEF/FAO ABNJ Global Sustainable Fisheries Management and Biodiversity Conservation in Areas Beyond National Jurisdiction Program.⁴

The workshop started with a presentation on the impacts of global climate change on the oceans. It is expected that deep-water warming will have more of an effect on marine habitats, particularly in Polar Regions, as well as the Mediterranean and other semi-enclosed seas, where more sensitive habitats are located, such as coral reefs and seeps. Varying intensities of ocean warming, acidification, oxygen depletion, or shortfalls in productivity could alter biological and social systems⁵. Exponential loss of functions and services are associated with minor biodiversity loss⁶. Such changes will have serious implications on the delivery of ocean goods and services. Marine reserves have the potential to enhance resilience of marine ecosystems to climate change. In the Mediterranean, priorities are being set for regional conservation planning, particularly through large transboundary MPAs.⁷

The need to develop capacity in the management and governance of ABNJ at all levels and in all dimensions, including capacity to implement identified priority management options, was emphasized at this workshop. Capacity development is necessary in order to strengthen implementation of existing institutional frameworks, tools, and approaches, as well as the capacity of developing country participants and other stakeholders who may not be well-equipped to meaningfully engage in relevant regional/global negotiations. The need for adequate public outreach and education in order to engage civil society in responsible/sustainable behavior towards the oceans was also emphasized.

But developing capacity is not a simple task. One of the challenges is the need to identify specific capacity needs in ABNJ and the existing resources to address them, including lessons learned from regional initiatives, e.g., the experience of the OSPAR Commission in the establishment of high seas MPAs. It was pointed out that implementation of international

⁴ IMPAC 3 2013a.

⁵ Mora et al. 2013.

⁶ Danovaro et al. 2008.

⁷ Cerrano and Danovaro 2013.

agreements at the national level, including translation into national policies, is a major challenge which is directly related to capacity. As well, there is a lack of personal connection on the part of the public and decision-makers to ABNJ because of the distance and remoteness of these areas constraining engagement in ABNJ management and governance.

Information on the capacity elements found throughout the GEF-funded and FAO-led program called *Global Sustainable Fisheries Management and Biodiversity Conservation in Areas Beyond National Jurisdiction* was also discussed. This Program, funded by GEF (\$50M) and coordinated by FAO in collaboration with a wide number of partners (with over \$200M in co-financing), consists of four projects: 1) *Sustainable Management of Tuna Fisheries and Biodiversity Conservation in ABNJ*; 2) *Sustainable Fisheries Management and Biodiversity Conservation of Deep-sea Living Resources and Ecosystems in ABNJ*; 3) *Ocean Partnerships for Sustainable Fisheries and Biodiversity Conservation - Models for Innovation and Reform*; and 4) *Strengthening Global Capacity to Effectively Manage ABNJ*. The fourth project, in particular, aims to promote effective global and regional coordination on ABNJ including through cross-sectoral policy dialogues, thematic communities of practice, a Regional ABNJ Leaders Fellowship Program, a public outreach network, and an ABNJ web portal.

Recommendations put forward at the workshop to address capacity development challenges and needs include: 1) conduct of a comprehensive survey of capacity development efforts and initiatives in ABNJ carried out in the past and consolidating lessons learned from them as a basis for future capacity development efforts; 2) identifying national interests in ABNJ and developing capacity to formulate and implement national policies regarding ABNJ in the context of existing policies, management, and governance of coastal areas and the Exclusive Economic Zones (EEZs); and 3) developing public outreach programs designed for communicators and civil society to understand the importance of ABNJ. Empowering civil society to behave in a manner that is beneficial to the environment, whether near or far, is essential. A major example of public outreach efforts is the special *Adventure in the High Seas* exhibit, which Nausicaa, the French National Sea Centre, is developing. The exhibit will present the challenge of managing ABNJ in a sustainable way. Incorporating capacity development needs in ABNJ in the discussion around a possible future implementing agreement on ABNJ under UNCLOS was also raised by a workshop participant.

2. *The Urgent Need for a Global Network of High Seas Marine Reserves (PA43)* Organized by Greenpeace

Panel:

Ms. Alicia Crow, International Oceans Campaigner, Greenpeace International (Chairperson)

Prof. Alex Rogers, Department of Zoology, University of Oxford, UK

Mr. Mark Dia, Regional Oceans Campaign Manager, Greenpeace Southeast Asia

Ms. Veronica Frank, International Oceans Campaigner, Greenpeace International

Summary:

The oceans, covering 72% of the Earth's surface, which provides manifold goods and services to the global community, are under threat by multiple human and natural pressures, including climate change. In particular, ocean acidification is happening at a fast rate, which at current

levels, are possibly the highest it has been in at least 300 million years. Overall global fish catches are declining; legacy and emerging contaminants degrade the oceans; and new mining activities pose environmental threats. “The health of the ocean is spiraling downwards far more rapidly than we had thought. We are seeing greater change, happening faster, and the effects are more imminent than previously anticipated. The situation should be of the gravest concern to everyone since everyone will be affected by changes in the ability of the ocean to support life on Earth.”⁸ This session addressed the need for a global network of high seas marine protected areas in order to bring back and/or maintain the health and productive status of the marine ecosystems of the world on an urgent basis.

The workshop emphasized the urgent need to take action in the protection of the oceans, considering that it is under threat by multiple human and natural stressors, drawing on information provided by the latest International Programme on the State of the Ocean (IPSO)/IUCN review of science on anthropogenic stressors on the ocean. Of greatest concern are de-oxygenation, acidification, and warming, the combined impacts of these three stressors on ocean productivity and the ocean’s ability to carry out its ecological functions, and overfishing.⁹

MPAs are critically important management tools for maintaining the health and productivity of the oceans. In ABNJ, establishing networks of MPAs is all the more important because of the highly connected nature of ecosystems and global biogeochemical cycles. There are important design considerations that need to be taken into account in the designation of MPAs, such as: 20-40% of a variety of habitats should be within MPAs networks in order to enhance fisheries; and size and spacing depend on the spill-over effects, the mobility, and the larval dispersal of target species.

In addition, there is a need to incorporate new elements in existing management frameworks of MPAs and networking of small MPAs in order to address new threats and emerging issues, including the impacts of climate change.

As part of its Oceans Rescue Plan for Rio+20, Greenpeace proposed the establishment of a global network of marine reserves that cover 40% of the ocean in order to reverse overfishing and the impact of other industrial activities¹⁰. In view of the many gaps in high seas governance and that, as of 2012, only 1% of the high seas is under protection, Greenpeace calls for a new high seas biodiversity agreement which: Spells out a clear objective to protect high seas life; provides mechanisms for establishing high seas MPAs; provides a clear process for conducting environmental impact assessments in ABNJ; establishes cooperative and collaborative mechanisms; ensures equitable sharing of benefits; and provides a centralized monitoring, control, and compliance system¹¹.

While work is progressing slowly through the UN Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity

⁸ Prof. Alex Rogers, as quoted in IUCN 2013.

⁹ IPSO 2013.

¹⁰ Greenpeace 2012.

¹¹ Greenpeace 2013.

beyond areas of national jurisdiction, other initiatives such as the work on ecologically or biologically significant areas (EBSAs) emphasized the need to elevate the discussions and expedite the process at the global level. In the meantime, while negotiations are ongoing at the international level, establishment of MPAs and management of fishing activities and other industrial activities in sensitive areas should move forward.

3. Governance of the High Seas – Legal Issues and Regulations (WS4A1) **Organized by the Global Ocean Commission**

Panel:

Ms. Cristina Narbona, Global Ocean Commission, Commissioner (former Minister of Environment, Spain) (Chairperson)
Dr. Dan Laffoley, Vice-Chair, WCPA–Marine, Principal Advisor on Marine Science and Conservation, Global Marine and Polar Programme, IUCN
Ms. Alicia Crow, International Oceans Campaigner, Greenpeace International
Dr. Linwood Pendleton, Director, Ocean and Coastal Policy Program, Nicholas Institute for Environmental Policy Solutions, Duke University
Dr. David Johnson, Director, Seascope Consultants
Ms. Kristina Gjerde, High Seas Policy Advisor, Global Marine and Polar Programme, IUCN

Summary:

The need for and prospect of a high seas biodiversity agreement, which is also envisioned to provide the mechanism for establishing, managing, and monitoring a global network of MPAs in line with existing global commitments, was the focus of this session. This session examined the state of the high seas in terms of management and protection, the current and emerging threats, and what policy options are available to support conservation and sustainable management efforts, and ultimately protect the health of the ocean. The output of this session was intended to inform the Global Ocean Commission's deliberations on high seas marine protected areas.¹²

There is an urgent need for management and protection of the high seas because it is largely unprotected and is in dire trouble. There are current and emerging threats including those posed by new technology. Current management structures focus on the right to exploit rather than the duty to protect, allowing too much extraction of resources and putting too many harmful substances into the ocean. There is no global mechanism for monitoring threats to marine life and cumulative impacts posed by seabed mining and no framework for the protection of the Arctic Ocean.

Among the policy options discussed at the meeting is a set of guidelines for spatial approaches to conservation of vent and seep ecosystems and management of human uses (“Dinard Guidelines”), which have been established under the initiative of the International Seabed Authority (ISA) to protect the natural diversity, ecosystem structure, function, and resilience of seep and vent communities (see Box 1 of the 2010 Dinard Guidelines on Chemosynthetic Ecosystem Reserves). The guidelines were developed as a proactive measure to ensure that while the scientific community is studying chemosynthetic ecosystems, conservation strategies for

¹² IMPAC 3 2013b.

networks of chemosynthetic ecosystem reserves in national and international waters are in place in anticipation of current or planned activities of the other sectors that may adversely impact these ecosystems.¹³ Some considerations in the application of the guidelines include: 1) identifying the location of important sites, where the sinks and sources are; 2) trade-offs in creating networks of MPAs; 3) defining extraordinary sites for protection, which is difficult especially when the sum total of desirable features are unknown; 4) applying adaptive management, including managing the roster of sites (upon discovery of new sites, previously identified sites may not be that important to keep in the network); 5) use of existing frameworks of governance in a transparent way; 6) monitoring, especially in areas where the mining industry is active; and 7) managing areas around the MPAs. In addition, there are key factors to consider, such as: 1) what exactly are we protecting; 2) what is extraordinary, and to whom; 3) what activities need to be excluded; 4) how feasible are these, who is going to do it, and how are they going to do it; and 5) what are the economic benefits. The need to prioritize and balance economic and environmental considerations in establishing high seas MPAs was also raised.

The workshop also addressed the environmental management approach in place under ISA, which is governed by the UNCLOS. For the polymetallic nodules exploration areas in the Clarion-Clipperton Fracture Zone, an environmental management plan is in place to ensure effective protection of the marine environment from harmful effects that may arise from activities in the Area. The environmental management plan requires the designation of areas of particular environmental interest.

Box 1. The Dinard Guidelines for management of Chemosynthetic Ecosystem Reserves (CERs):

- Use a two-level approach for identifying CERs: a) select CER sites of extraordinary value; b) establish networks of CERs. Combined, these spatial management designs will contribute to the conservation goal.
- Use adaptive management strategies to compensate for uncertainty and new knowledge.
- Establish CERs in a manner that is consultative and transparent.
- Governance of CERs should occur within existing governance regimes wherever possible.
- Where CERs include activities with the potential to cause significant adverse environmental effects, Environmental Impact Assessments (EIAs) that follow best practices should be required for these activities.
- Establish monitoring strategies to assess the spatial and temporal impacts of cumulative activities relative to the conservation goal and objectives.
- Use a set of prescriptive criteria, established before multi-use activities begin, to trigger closer monitoring or cessation of activities that jeopardize the conservation goal within a bioregion.

(Source: Van Dover et al. 2011)

¹³ Van Dover et al. 2011.

The workshop also reported on other progress and prospects in biodiversity conservation in ABNJ. Conservation communities have recommended a series of resolutions, which have been adopted by the UNGA, including the tightened measures to protect corals and seamounts from bottom-trawling. Progress in the establishment of high seas MPAs is encouraging. However, while UNCLOS provides the overarching framework for ABNJ, more than 30 years after the adoption of UNCLOS, the oceans community is still grappling with high seas issues, not making progress other than slow steps under the UN Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction. Countries now realize there is no mechanism for establishing high seas MPAs, no mechanism for EIA in ABNJ, no sectoral coordinating mechanism, and no framework for the exploration and exploitation of marine genetic resources.

Workshop speakers noted that at the Rio+20 Conference, a large number of countries were in favor of establishing a new implementation agreement to UNCLOS on ABNJ, but because of opposition from a small number of countries, only a compromise outcome was achieved, which is to address before the end of the 69th session of the UNGA (2014), on an urgent basis, the issue of the conservation and sustainable use of marine biological diversity in ABNJ, including by taking a decision on the development of an international instrument under UNCLOS. It is important to ensure that the issues mentioned above are taken into consideration in the development of this agreement. There is a need to start pooling resources together, including those of regional and international organizations and other relevant bodies, in order to ensure a positive outcome at the 69th UNGA. It is also important to advocate urgent actions regarding biodiversity conservation to government leaders and other high-level officials present at the Ajaccio Ministerial Conference and at other major venues.

4. Regional Approaches of MPAs in Areas Beyond National Jurisdiction – Part 1: Ecologically or Biologically Significant Areas (EBSAs) (WS5C1B) **Organized by the Secretariat to the Convention on Biological Diversity**

Panel:

Dr. Patrick Halpin, Associate Professor and Director, Marine Geospatial Ecology, Duke University, USA (Chairperson)

Dr. Jihyun Lee, Environmental Affairs Officer, Marine and Coastal Biodiversity, Secretariat of the Convention on Biological Diversity

Dr. Piers Dunstan, Senior Research Scientist, CSIRO, Australia

Dr. Jeff Ardron, Senior Fellow, Institute for Advanced Sustainability Studies, Germany

Summary:

In 2008, the Convention on Biological Diversity (CBD) established seven criteria to be used in the identification of ecologically or biologically significant areas (EBSAs) “in need of protection, in open ocean waters and deep sea habitats” (“the EBSA process”). Initially driven by the motivation to establish marine protected areas in ABNJ, the EBSA process has since broadened to encompass the possibility of informing marine spatial planning and other management and governance activities, both within and beyond national jurisdiction, especially due to the overlap between the EBSA criteria and biodiversity criteria used by various high seas and regional governance institutions. Through the EBSA process, almost 200 EBSAs have been

described, and a large percentage of the global ocean has been considered by six regional EBSA workshops. However, the procedures by which these areas could be protected through formal management structures have not yet been developed. This workshop reviewed the progress achieved so far in the EBSA process, including the conduct of regional EBSA workshops, the lessons that have been learned, and discussed the future prospects for the evolution of EBSAs, including how EBSAs could be incorporated into ecosystem-based decision-making.¹⁴

An overview of the EBSA process provided details on the activities carried out and the accomplishments achieved so far. CBD has been tasked to provide scientific advice to countries in the protection of the open-ocean and deep-sea areas. This task requires synthesis of the best available scientific and technical information to support expert scientific judgment on the description of areas meeting the EBSA criteria. The EBSA process, guided by provisions of the CBD COP 10 Nagoya, allowed interdisciplinary interaction at the national level, coordinated the provision of input, and the opportunity for stakeholders to address the ocean as one ecosystem. The value of the EBSA process extends to scientific collaboration and networking, and data compiled as a basis for discussion on how to protect the EBSAs.

The CBD Secretariat, with support from various countries and in collaboration with international and regional organizations, organized six regional workshops to assist countries in identifying EBSAs, using an expert-and country-driven process. Countries nominated expert participants to the workshops in which more than 90 countries and 80 organizations participated. So far, 75% of the world ocean is covered by 200 candidate EBSAs (252.9 million km²), 48 of which are in ABNJ. Reports emanating from the regional workshops in 2011 have been reported to the CBD Subsidiary Body on Scientific, Technical, and Technological Advice (SBSTTA) and to the UNGA by CBD COP 11; the reports from subsequent EBSA regional workshops are to be reported to SBSTTA and CBD COP 12 in 2014.

EBSAs are identified based on information that includes: Physical oceanography, seafloor geology, biology (e.g., deep sea corals, fish stocks, species diversity), and geography in hundreds of GIS data layers submitted by Parties and organizations for consideration at the regional EBSA workshops. Sometimes, proxy information is used when biological data are not available, as in the application of the uniqueness/rarity criterion, where physical data may provide the only basis for application of this criterion in areas where biological information is scarce. The workshop reports provide the details of and the maps associated with each EBSA (available at <http://www.cbd.int>). The next step is determining how scientific information used to describe the EBSAs can be used to support sustainable use and biodiversity conservation and management. There is a lack of certainty about what form this management might be in the future.

EBSAs are exposed to environmental pressures that include pelagic fisheries (long-line fishery effort), benthic fisheries, shipping, mining, climate change, and increasing cyclone frequency. The interaction between pressures and ecological/biological ecosystems is an important area for research. Development of ecosystem-based management plans for EBSAs will entail understanding the responses of ecosystems to different pressures in EBSAs, as well as

¹⁴ IMPAC 3 2013c.

identification of their values, identification and mapping of pressures, setting management objective and actions, and establishing a monitoring and review system.

Given that EBSAs are not MPAs (yet) and existing MPAs are not EBSAs (not all meet the EBSA criteria), EBSAs is just one among a range of area management approaches in ABNJ. Other approaches include the establishment of vulnerable marine ecosystems (VMEs) by regional fishery management organizations, particularly sensitive sea areas (PSSAs) through the International Maritime Organization, world heritage sites through the United Nations Educational, Scientific and Cultural Organization, and areas of particular interest (APEI) through the International Seabed Authority. Each approach involves the application of scientific advice in the selection process, and each process provides unique information that the other processes have not considered before. The EBSA process can be the “common currency” that could lead to cooperation and collaboration among these initiatives, since the EBSA selection criteria captures most of the important criteria in MPA establishment¹⁵.

5. Regional Approaches of MPAs in Areas Beyond National Jurisdiction –Part 2: Integrating the High Seas into Regional Networks (WS5C1A)

Organized by Institute for Sustainable Development and International Relations (IDDRI)

Panel:

Ms. Kristina Gjerde, High Seas Policy Advisor, Global Marine and Polar Programme, IUCN (Chairperson)

Dr. Julien Rochette, Research Fellow, Oceans and Coastal Zones, IDDRI

Ms. Elisabeth Druel, Research Fellow, Governance of High Seas Biodiversity, IDDRI

Dr. David Johnson, Director, Seascope Consultants, Ltd.

Ms. Hannah Thomas, Senior Programme Officer, Marine Assessment and Decision Support, United Nations Environment Programme - World Conservation Monitoring Centre (UNEP-WCMC)

Summary:

Biodiversity is at significant risk in ABNJ, which represent the largest biome in the global ocean and on Earth. In 2010, the Conference of the Parties to the Convention on Biological Diversity agreed that *at least 10 per cent of coastal and marine areas, especially areas of particular importance for biodiversity and ecosystem services, are conserved through effectively and equitably managed, ecologically representative and well-connected systems of protected areas and other effective area-based conservation measures, and integrated into the wider landscape and seascape.*¹⁶ However, establishing MPAs in ABNJ remains a challenge, in particular, in the areas of cooperation in management, compliance, and enforcement. Initial promising steps at the regional level, such as those taken by the OSPAR Convention for the Protection of Marine Environment of the North-East Atlantic, the Barcelona Convention for the Protection of the Marine Environment and Coastal Region of the Mediterranean, and the Convention for the Conservation of Antarctic Living Marine Resources (CCAMLR), provide experience and

¹⁵ Ardron 2013.

¹⁶ Ibid. 1

inspiration for other regional initiatives in ABNJ, and illustrate the potential benefits of developing a new, global legal agreement on ABNJ. This workshop analyzed the current situation and explored possible directions for developing and strengthening the regional approach in ABNJ.¹⁷

The workshop started with a brief overview of the existing framework and status of initiatives at establishing high seas MPAs. States cannot unilaterally establish high seas MPAs and there is no mechanism for doing this except through regional organizations, e.g., through the Regional Seas Programmes. The first high seas MPA is the Pelagos Sanctuary for Mediterranean Marine Mammals, initially established jointly among France, Italy, and Monaco in 1999, and was accepted as a specially protected area of Mediterranean interest in 2001, making its protection legally binding on all 21 parties to the Barcelona Convention.¹⁸ In 2009, CCAMLR approved a high seas marine protected area south of the South Orkney Islands in the Antarctic Peninsula Region.¹⁹ In 2010, the OSPAR Commission established the first network of six high seas MPAs.²⁰ The Sargasso Sea is a candidate EBSA and the Sargasso Sea Alliance is working on the establishment of a framework for a management plan for the Sargasso Sea.²¹ A system of deep-sea marine protected areas is also proposed in the Mediterranean.²² These are promising initiatives, but regional initiatives are limited geographically and legally. There is a need for coordination and collaboration by all competent authorities at all levels in facilitating the development of internationally recognized and cooperatively managed high seas MPAs.

The workshop also focused on the management of the OSPAR network of high seas MPAs and the lessons drawn from this experience. In view of the challenges posed by the extent, considerable depth, and remoteness of the high seas MPAs, the management of the MPAs will require the coordination and cooperation of other international organizations, such as IMO and ISA, present in the region. The OSPAR Commission has engaged in forging a Memorandum of Understanding with these organizations and has initiated what it calls the “Madeira process,” aiming to develop a collective arrangement among competent authorities on the management of selected areas in the Northeast Atlantic ABNJ. The Madeira process involves agreeing to a common set of principles and appropriate management activities. The role of technologies in the management of high seas MPAs, such as vessel monitoring systems that can be shared, cannot be overstated. However, integrating technologies in the management plans of high seas MPAs is as important as providing fora for sharing lessons learned, collaboration and cooperation, partnerships, and incentives. The application of compliance programs, similar to those of IMO that involve routine inspections and surveys, detection, and policing patrols, was also considered important in developing adaptive management plans.

An initiative of the UNEP WCMC to test area-based planning methods for biodiversity conservation in ABNJ through a collaborative regional project was also discussed. The project

¹⁷ IMPAC 3 2013d.

¹⁸ UNEP 2008.

¹⁹ WWF 2009.

²⁰ OSPAR Commission 2013.

²¹ Sargasso Sea Alliance 2013.

²² MedPAN 2013.

aims to: 1) explore how area-based planning tools can be adapted to address deep-sea ecosystem planning; 2) share the challenges and success of existing area-based planning experiences in ABNJ; and 3) test those area-based planning tools in multi-sectoral planning processes. The project will work in pilot areas covered by the Permanent Commission for the South East Pacific (CPPS) Lima Convention, which is currently exploring the adoption of a collaborative initiative on establishing network of high seas MPAs similar to the OSPAR Commission's, and by the Nairobi Convention Protocol Concerning Protected Areas and Wild Fauna and Flora in the Eastern African Region. Information derived from this project is intended to address the reticence on the part of the countries in managing fisheries across boundaries and to help countries build their capacity to negotiate at international negotiations.

Finally, the session also discussed strengthening the regional governance of MPAs in ABNJ through the elaboration of an implementation agreement (IA) to UNCLOS. The gaps in the existing framework were reviewed, which include: 1) Absence of a global framework to establish MPAs in ABNJ; 2) difficulties in establishing cooperation and coordination between different sectoral/regional organizations; and 3) important legal limitations of existing initiatives, for example, initiatives of Regional Seas Programmes will not be binding on non-contracting States. Filling the gaps will require, among other things, the establishment of an explicit mandate for cooperation and coordination among sectoral and regional organizations; a mandate to submit proposals for the establishment of high seas MPAs for international endorsement; and mechanisms for global reporting. Options currently being discussed for an implementation agreement to UNCLOS that could address these gaps include: 1) An MPA objective included in a framework agreement; 2) An MPA objective and mandate to States and international organizations to submit proposals for international endorsement; 3) Creation/designation of a global scientific body to develop additional proposals and regional management; and 4) A framework for integrated ecosystem-based planning and management. The benefits at the regional level that could be expected for an IA on ABNJ is that an IA can provide the explicit mandate for regional organizations to establish MPAs in ABNJ and that it can stimulate the development of the regional dimensions for the conservation of marine biodiversity. More information on the steps in the process of establishing high seas MPAs within the framework of an IA on ABNJ are described in the report of the 2011 Boulogne-sur-Mer seminar.²³ Meetings on the scope and feasibility of an IA on ABNJ are being planned for 2014 and 2015.

KEY MESSAGES AND REFLECTION ON DEVELOPMENTS IN ABNJ AT IMPAC3

Key Messages

To summarize, the following are the salient points emanating from the ABNJ sessions at IMPAC 3:

- **Develop capacity:** There is a need to develop capacity in the management/governance of ABNJ at the global, regional and national levels and in all dimensions (individual, organizational, and enabling environment), including capacity to implement identified priority management options such as MPAs, in particular, to develop ecosystem resilience to

²³ Druel, Billé and Treyer 2011.

climate change. Capacity development should be conducted in order to strengthen implementation of existing institutional frameworks, tools, and approaches, as well as develop the capacity of countries and other stakeholders which are not well-equipped to meaningfully engage in the relevant regional/global negotiations for policy-making in ABNJ.

- **Engage civil society:** In order to engage civil society in responsible/sustainable behavior towards the oceans and to ABNJ in particular, there is a need for adequate public outreach and education that emphasizes the importance of ABNJ because of the highly connected nature of ecosystems and their value to the global community.
- **Address new threats:** Given that MPAs are critically important management tools for maintaining the health and productivity of the oceans, there are important design considerations that need to be taken into account in the designation of MPAs, including the need to incorporate new elements in existing management frameworks of MPAs and networking of MPAs, in order to address new threats and emerging issues, including the impacts of climate change.
- **Balance objectives:** While recognizing the merits of existing proposals on high seas governance for consideration towards a new high seas biodiversity agreement, it is important to emphasize that the mechanisms for establishing high seas MPAs to be included in the agreement should serve both sustainable use and environmental protection objectives.
- **Work the current system:** In view of the urgent need for management and protection of the high seas because it is largely unprotected, MPA initiatives should continue to push for the application of existing tools, guidelines, mechanisms, and instruments.
- **Build on progress gained:** The Rio+20 provision to address, before the end of the 69th session of the UNGA, on an urgent basis, the issue of the conservation and sustainable use of marine biological diversity in ABNJ, including by taking a decision on the development of an international instrument under UNCLOS, is an opportunity for building on progress gained in recent years on biodiversity conservation in terms of fishing gear moratorium, closures, and establishment of high seas MPAs.
- **Capitalize on the EBSA process:** In addition to the identification/description of candidate EBSAs, the EBSA process should be applied to advance the achievement of the Aichi target through: 1) compilation of data as the basis for future discussion of protection of these marine areas; 2) promotion of scientific collaboration and networking; 3) understanding of risks and management options; 4) provision of potential foci for future research and monitoring; and 5) development of ecosystem-based management in EBSAs.
- **Gear up for the challenge:** The management of high seas MPAs is a big challenge due to the extent, considerable depth, and remoteness of high seas MPAs. Tackling these challenges will entail, among others, developing new technologies, providing fora for efficient sharing of lessons learned, and developing mechanisms for collaboration and cooperation.

Reflections on the Way Forward

There has been considerable progress towards the achievement of the Aichi target of protecting 10% of the oceans through networks of MPAs by 2020 through initiatives at the local, national, and regional levels. Just recently, for example, the US has announced that MPAs focused on natural and cultural heritage cover approximately 8% of U.S. waters.²⁴ However, at the current rate that MPAs are being established, it does not seem possible that the target could be achieved by 2020. It would take the equivalent of 20 million median-sized MPAs (<2 km²) to reach the 10% target. In addition to the technical and technological requirements of MPA establishment and management, the question of how all the forthcoming protected areas will be funded, as well as the continued management of existing sites, is part of the challenge.²⁵

Designation of very large MPAs to hasten the process seems to be the response being considered at the national level, and regarding the high seas as well. To facilitate the establishment of high seas MPAs, the development of a framework and guidelines that will encourage countries to engage in the establishment and management of high seas MPAs, possibly under an implementation agreement to UNCLOS on ABNJ governance, needs serious and urgent consideration. This could include, among other forms of area-based management, guidance for the protection and management of the 48 candidate EBSAs already identified in ABNJ.

To help the process along, it would also be useful to provide information on demonstrable benefits of high seas MPAs to countries to help them decide to collaborate on high seas MPAs. For countries to come to the table, the valuation of ecosystem services and information on trade-offs could help add to the prospective economic gains of engagement.

Achieving the Aichi target in terms of ocean coverage, however, should not preclude focus on other prevailing issues for MPAs, including management effectiveness, which is even more challenging for high seas MPAs due to their size and remoteness.²⁶ Part of the complex effectiveness question is also the debate about the size of MPAs (small, highly protected MPAs vs. large, multiple-use MPAs) and how to combine them.

CBD Executive Secretary Mr. Braulio Ferreira De Souza Dias, in his opening ceremony message at IMPAC 3, emphasized *that we cannot rely upon simply expanding the spatial coverage of protected areas. We need to find ways and means to address important qualitative elements of Target 11, including ecosystem services, ecological representativeness, effective and equitable management, well-connected systems, and integration into the wider landscape and seascape*²⁷ (see Box 2 for possible measures for the Aichi Target 11). Additionally, because of the highly connected nature of the oceans, an MPA will rarely succeed unless it is embedded in an integrated ecosystem management regime. It is also important to ensure that individual MPAs and system plans be designed to serve both sustainable use and environmental protection objectives.²⁸ Moreover, just as coastal MPAs are affected by adverse activities in areas outside

²⁴ National Marine Protected Areas Center 2013.

²⁵ MARE 2012.

²⁶ Kelleher 2012.

²⁷ CBD 2013.

²⁸ Ibid. 26.

the MPAs, although the scale may lessen the extent and intensity, whatever happens outside the high seas MPAs will also affect ecosystems, resources, and the environment within high seas MPAs; therefore, MPAs should not be a license or excuse for weak implementation of existing sectoral management frameworks, e.g., control of marine pollution, high seas fisheries management. Naturally, area-based management options under sectoral frameworks, such as Vulnerable Marine Ecosystems (VMEs), Particularly Sensitive Sea Areas (PSSAs), and areas of particular interest (APEIs), represent other important avenues for meeting the Aichi target. In particular, the value of recognizing fishery closures as MPAs could be considered.

Box 2. Possible indicators for the Aichi Biodiversity Target 11.

- Trends in extent of marine protected areas, coverage of key biodiversity areas and management effectiveness
- Trends in protected area condition and/or management effectiveness including more equitable management
- Trends in representative coverage of protected areas and other area based approaches, including sites of particular importance for biodiversity, and of terrestrial, marine and inland water systems
- Trends in the connectivity of protected and other area based approaches integrated into land and sea scapes
- Trends in the delivery of ecosystem services and equitable benefits from protected areas

(Source: CBD no date)

In light of the possibility that an implementation agreement to UNCLOS that covers establishment of high seas MPAs may take years to develop, it is important that work on MPAs continue to be pursued within the current framework. Just as it is imprudent to postpone the establishment of an MPA because of incomplete biophysical information, the lack of a better framework for doing so should not deter initiatives under the existing frameworks, i.e., through regional conventions. There is a need to balance efforts between pushing for a high seas MPA framework and moving forward in establishing high seas MPAs in multiple ways. Tools are available to start working without delay.

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