

# **Linking Global and Regional Levels in the Management of Marine Areas Beyond National Jurisdiction**

## **South Atlantic Region**

### **Session 4: « Experiences, Priorities and Opportunities in the South Atlantic and Indian Ocean »**

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**Dr. Prof CISSE Yacouba**

**University of Bouake, Cote d'Ivoire**

**Lawyer at the Bar of Abidjan**

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# Introduction

## I The Legal Framework for Areas Beyond National Jurisdictions

### A. 1982 United Nations Convention on the Law of the Sea (UNCLOS) Implementing Agreements

- Agreement relating to the implementation of Part XI
- Agreement for the Implementation of the Provisions of UNCLOS relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks

### B Customary international law

- Freedom of high seas
- Protection and preservation of marine environment
- International cooperation and obligation to negotiate
- Precautionary approach
- Equity and Equitable use of marine resources
- Etc...

# C

## Areas Beyond National Jurisdiction

### - High Seas

- Freedom of the high seas that implies

  - Freedom to fish

  - Freedom to navigate

- Key Actors Exercising their control in the High Seas

  - The Flag State Jurisdiction (pr

  - The Port State Jurisdiction

  - The Coastal Coastal Jurisdiction

### - Area

- Exploration and exploitation of minerals

- Common heritage of mankind

- International Seabed Authority

- Commission on the Limits of Continental Shelf

- International Tribunal of the Law of the Sea

II

**EXPERIENCES: NATIONAL AND REGIONAL LEVELS**

**A National Experience concerning Areas Beyond National Jurisdiction**

There is so far one exemple of ABNJ illustrated by the Namibian case. The vast majority of African coastal States bordering the South Atlantic Ocean would need guidance to address various challenges concerning effective development and management of ABNJ.

1 ***In the High Seas*** : *The Namibian experience* regulating fishing activities within the EEZ and the Areas Beyond National Jurisdictions through Monitoring, Control and Surveilance

2 ***In the Area*** : Extended Continental Shelf beyond 200 Nautical Miles involving African States bordering the Western, Central and Southern Atlantic Ocean:

Ghana – South Africa – Kenya – Nigeria – Cote d’Ivoire – Namibia – Gabon – Angola – Mauritius – Seychelles have submitted before the Commission on the Limits of the Continental Shelf their demands for the extension of their Continental Shelf up to 350 nm according to article 76 of UNCLOS

**B South Atlantic Regional Fisheries Conventions Establishing the Link between the EEZ and Areas Beyond National Jurisdiction (High Seas)**

**1 CECAF (Committee for the Eastern and Central Atlantic)**

- Established in 1967
- Covers areas under national jurisdiction as well as ABNJ (high seas)
- Covers all living marine resources
- 17 African States parties to the Abidjan Convention are also parties to CECAF: Angola, Benin, Cameroon, Democratic Republic of Congo, Republic of Congo, Côte d'Ivoire, Equatorial Guinea, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mauritania, Nigeria, Sierra Leone, Togo,

## 2 **Ministerial Conference on Fisheries Cooperation among African States Bordering the Atlantic Ocean (COMHAFAT)**

- Established in 1989
- Adopted in 1991
- Into force in 1995
- Covers Central and Southeast Atlantic, from Namibia until Morocco
- **Covers waters under national jurisdiction and areas beyond national jurisdiction (high seas)**
- Covers all living marine resources within this area

- Functions include among others, inside and in areas beyond national jurisdiction:

- Conservation and management of fishery resources;

- Assessment and conservation of highly migratory species;

- Monitoring, surveillance and control of fishing vessels;

- Protection and preservation of the marine environment

- 17 African States parties to the Abidjan Convention are also parties to COMHAFAT: Angola, Benin, Cameroon, Côte d'Ivoire, Democratic Republic of the Congo, Equatorial Guinea, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mauritania, Namibia, Nigeria, Sao Tome and Principe, Sierra Leone, and Togo.

### **3 International Commission for the Conservation of Atlantic Tunas (ICCAT)**

- Signed in Rio de Janeiro on 14 May 1966
- Into force on 21 March 1969
- Amended in 1984 and 1992
- **Covers all waters of the Atlantic Ocean, including the adjacent seas**
- **Covers waters under national jurisdiction and Areas Beyond National Jurisdiction (high seas)**
- 12 African States Parties to the Abidjan Convention are Parties to ICCAT: Angola, Sierra Leone, Côte d'Ivoire, Equatorial Guinea, Gabon, Ghana, Guinea, Mauritania, Namibia, Nigeria, Sierra Leone, South Africa,

## 4 **South East Atlantic Fisheries Organisation (SEAFO)**

- Signed on 20 April 2001
- Into force on 13 April 2003.
- Covers all waters beyond national jurisdiction in the South-East Atlantic Ocean, particularly, those waters outside national jurisdiction of South-Africa, Namibia and Angola.
- Covers all living marine resources, except the sedentary species subject to fishery jurisdiction of coastal States pursuant to article 77(4) of the UNCLOS, and highly migratory species listed in Annex I of UNCLOS.
- Adopted measures to prohibit fishing activities to its members in 10 marine areas in the Southeast Atlantic with prominent seamounts.

- The **South Orkney** MPA is the world's first completely high seas MPA and the first in the Southern Ocean

- However there is a need for:

  - Practical guidelines for providing scientific advice for managing Bottom fisheries in high-seas areas

  - Comprehensive and representative marine protection of the Southern ocean through complementing nationally designated MPAs with marine protection in Areas Beyond National Jurisdiction

- 3 African States Parties to the Abidjan Convention are also parties to SEAFO Convention: Angola, Namibia, and South Africa.

## 5. African Group's position vis-à-vis the issue of ABNJ

Africa Group statement at the 8th Ad-Hoc Open-ended Informal Working Group on areas beyond national jurisdiction could be summarized as follows:

The ABNJ is considered as :

A Common Heritage of Mankind

Technical capabilities are required to enable African States to participate in the Management of this heritage

One solution to achieve that will be through the transfer of marine technology and science as recommended by UNCLOS

### III

## PRIORITIES : CAPACITY-BUILDING AND COOPERATION

### - Capacity Building's Obstacles

- Absence of adequate scientific data;
- Limited access to equipment and technologies necessary to compile such data, relating to physical and biological patterns, such as the distribution of species, habitats and ecosystems within EEZs or beyond;
- Lack of knowledge and training relating to the best processes, methods and tools to use in identifying ABNJ in need of protection

### - Priorities

- Capacity-building as a prerequisite to build and improve the ability to identify ABNJ in need of protection
- Capacity-building is also required for information and data collection concerning Status of Fisheries and Marine Biodiversity Conservation In areas beyond national jurisdiction in South Atlantic Area

- Share expertise and technology transfer in the exercise of developing conservation areas beyond national jurisdiction
- Provide training courses (short, medium and long term) on a regular basis on how to use methods and tools for managing marine resources and spaces beyond national jurisdiction
- Foster exchange visits between stakeholders and all interested parties by issue on ABNJ
- Share experiences and good practices relating to management of Areas Beyond National jurisdiction

- Enhance scientific capacity on marine fisheries conservation, marine biodiversity Protection, biology, spatial ecology and other related disciplines.
- Develop and encourage a knowledge-sharing network that provides professional expertise and advice to practitioners, governments officials and public agents, as well as to NGO's , Private sectors and other relevant technical and scientific institutions.
- Encourage and promote dialogue among scientists and stakeholders through training and capacity-building in order to ensure that deliverable products on issues regarding ABNJ are understandable, accurate and contain the necessary information to help policy-makers
- Organize regional workshops in order to bring together the expertise and experience from States parties to regional fisheries bodies and States parties to the Abidjan and Nairobi Convention
- Disseminate lessons learned in coastal areas that could be shared and possibly applied in open oceans and deeps seas, including areas beyond national jurisdiction.

## OPPORTUNITIES

- A**      **The Convention on the Biodiversity's** (CBD) decision IX/20 that “recognizes the need to increase capacity and to exchange experiences, lessons learned and good practices...”.
- B**      **The Abidjan Convention** on the protection of marine and coastal in western, central and southern Africa (22 States Parties)

**- Article 11 of the Abidjan Convention seems to contain a very broad and implicit reference to ABNJ in these terms:**

“The Contracting Parties shall, individually or jointly as the case may be, take all appropriate measures to Protect and preserve rare or fragile ecosystem as well as the habitat of depleted, threatened or endangered species and other marine life. To this end, the Contracting Parties shall endeavour to Establish protected areas....and to prohibit or control any activity likely to have adverse effects on the species, ecosystems or biological processes...”

**- COP 11 Decisions 2012 of the Abidjan Convention reaffirms that** Decisions by States Parties include : “developping a working group to study conservation and sustainable use of marine biodiversity beyond national jurisdiction; enhancing capacity for identifying ecologically or biologically significant marine areas...”

## **C OSPAR Convention**

This Convention could be a great opportunity for Coastal States Bordering the South Atlantic Ocean particularly African Coastal, because it has already developed some good practices and established;

- List of Threatened and/or Declining Marine Species and Habitats
- Defined Criteria of vulnerable marine ecosystems
- Defined Areas in need of protection in open-ocean waters and deep-sea habitats

## **Conclusion**

**“Ocean spaces are closely interrelated and must be considered as a whole”**

**THANK YOU FOR YOUR  
ATTENTION**