



Area-based Management
Tools in Areas Beyond
National Jurisdiction

TIME FOR **EARLY,** **COORDINATED ACTION** **TOWARDS EFFECTIVE** **IMPLEMENTATION**

**IUCN High Seas Workshop on
Area-based Management Tools in
Areas Beyond National Jurisdiction**
(3 & 4 September 2024)



**RÉPUBLIQUE
FRANÇAISE**

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OFB
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A two-day workshop was organized by IUCN on 3-4 September 2024 at its Headquarters in Gland, Switzerland, as part of a regular workshop series¹ with the support from the French Biodiversity Agency (OFB, Office français de la biodiversité), and focused on identifying and fleshing out activities that could help prepare for the designation of Area-based Management Tools (ABMTs), including Marine Protected Areas (MPAs) under the BBNJ Agreement.

Disclaimer: This document attempts to capture the main outcomes of the workshop discussions. It does not imply endorsement by individual participants nor their institutions.

¹ [Laying the foundation for rapid, effective, and equitable implementation of the new High Seas Biodiversity Treaty - Story | IUCN](#)

Overview of workshop outcomes

The following is an overview of key action-oriented outcomes coming from the workshop discussions:

Pathway(s) to achieving ABNJ MPAs

The workshop discussed the Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction (BBNJ Agreement) as both a platform for improving coordination and collaboration among existing instruments, frameworks and bodies with mandates to establish Area-Based Management Tools (ABMTs) and as a new legal framework that can, by itself, enact ABMTs. As such, the BBNJ Agreement can build on existing processes, where available, in the identification, designation and management of ABMTs including Marine Protected Areas (MPAs), but can also create ABMTs that do not build on previous work and will develop their own standalone processes. Where there is flexibility in the interpretation of what the BBNJ Agreement can and cannot do, narratives that reflect a low level of ambition should be avoided. While the establishment of ABMTs through existing processes is vital, reliance solely on this route could lead to a path of dependency on non-BBNJ processes that would nullify the original intention of the BBNJ Agreement itself.

Partnerships were a key topic throughout the workshop, with strong recognition that knowledge of the BBNJ Agreement is still limited to a very small community and there is a need to grow this community, but it was also stressed that being able to effectively engage in new fora can take a long time and that growing trust in organizations

and individuals and interpersonal relationships is key. This requires long-term, sustained and reliable engagement, as well as funding. On the stakeholder side, it was noted that especially with an influx of new organizations, coordination of messages and outreach within the community will be necessary to avoid working at cross-purposes or overwhelming key partners. On the government side, building understanding among in-country personnel beyond the BBNJ negotiators, notably within government's different line ministries, will be critical for support of ABMTs, but also to ensure coherence of governments engaging in different international fora. It became clear from the discussions that the importance of finding government allies and mobilizing them is not limited to the proposal stage itself: such allies are also key in other stages such as producing the science to underpin ABMT proposals and during preliminary informal consultations. Government allies will also be vital for conducting Monitoring, Control, and Surveillance (MCS) of future MPAs, which can be very expensive and will often rely on in-kind contributions from governments.

The question of pace was also discussed in several sessions and breakout groups: on the one hand, there was a strong recognition of the urgency to act in response to the biodiversity and climate crisis, and of the role that BBNJ ABMTs can play in that regard. On the other hand, spending sufficient time on design, stakeholder consultation and building partnerships and support would potentially help deliver better and cost-effective results. "As fast as possible, but as slowly as necessary" captures this discussion well.



Processes under the umbrella of the BBNJ Agreement

There was a general agreement that several elements of the BBNJ Agreement provisions on ABMTs would benefit from, or even require, additional guidance to flesh them out, while recognizing that this may have implications for the pace at which ABMT proposals could be adopted by the BBNJ Conference of the Parties (COP). Elements identified in particular were:

- ABMT proposals (Art.19, paragraph 6), e.g., a standard template;
- Criteria underpinning ABMT proposals (Art.19, paragraph 5 and Annex I); and
- Consultations for ABMTs (Art.19, paragraph 2).

For all the elements above, the BBNJ Agreement foresees the possibility of the Scientific and Technical Body (STB) developing additional guidance to be adopted by the COP, which would be the BBNJ COP2 at the earliest, as BBNJ COP1 will first need to agree on key documents and modalities for the STB. Although there is no explicit mandate for the STB, further work will be needed to develop recommendations and guidance for the content of the management plan required as part of an ABMT proposals (Art.19, paragraph 4 f), including provisions for MCS.

Based on the discussions at the organizational meeting of the Preparatory Commission (PrepCom) and the relatively narrow scope for the clusters of issues that States converged on, despite containing some flexibility², it is unlikely that the further development of guidance on any of these issues will be discussed at the PrepCom itself. Based on this conclusion, participants agreed that this work would need to be advanced through parallel processes, while acknowledging that bringing them into the official BBNJ process will likely be challenging and that such workstreams would need to find the best pathways to get

messages where they are needed, to nourish and support discussions by States.

Some parallel fora or avenues mentioned in this context were:

- The Third United Nations Ocean Conference (UNOC3);
- BBNJ Informal Dialogues;
- The Informal Consultative Process (ICP);
- The Singapore BBNJ Symposium;
- The High Seas MPA Accelerator;
- Through a network of MPA pilot sites; and
- Through projects or workshop series.

On the areas of work that did get included in the clusters of issues contained in the annex to the statement by the co-chair of the PrepCom at the closing of the organizational meeting of the PrepCom, and that will form the basis of the PrepCom Programme of Work, participants agreed on the importance of establishing the subsidiary bodies involved in the ABMT process, in particular, a well-designed and functioning STB. There was further agreement that operationalizing the financial mechanism also requires additional work and guidance.

At the workshop, there was recognition that currently the focus of many stakeholders and funders, as well as of other relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies (IFBs), was on the ABMT part of the Agreement and that interconnections between the ABMT chapter and other parts of The Agreement, such as Environmental Impact Assessments (EIAs), could be worth exploring in future workshops.

2 “The clusters of issues set out herein include matters to be addressed by the Conference of the Parties to the Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction at its first meeting, as expressly set out in the Agreement, which are indicated with an asterisk (*), and additional matters identified during the organizational meeting of the Preparatory Commission that may be addressed at an early stage by the Conference of the Parties to the Agreement.” - A/AC.296/2024/4

The broader umbrella of integrated ocean governance - Processes in other fora

Throughout the workshop, it was recognized by participants that the BBNJ Agreement includes a strong focus on collaboration and coordination with other relevant IFBs, and that its implementation will include frequent interactions with such IFBs. Participants therefore highlighted a strong need to help get relevant IFBs “BBNJ-ready”, which includes both the Secretariats and their wider communities of practice and government decision makers, which may often not be the same ministries that negotiated the BBNJ Agreement. Some participants expressed the view that consultation with IFBs on some of the ABMT proposals being considered “should have started yesterday,” given the recognition that building relationships that enable effective engagement takes sustained, reliable efforts over long periods of time. It was noted that informal possibilities to exchange, such as workshops or the Convention on Biological Diversity (CBD) Sustainable Ocean Initiative, could play an important role in building that trust.

IFBs specifically mentioned included:

- The Convention on Biological Diversity (CBD);
- The Regional Fisheries Management Organizations (RFMOs)/Regional Fishery Bodies (RFBs);
- United Nations Environment Programme (UNEP) & Regional Seas Conventions;
- The Regional Seas Convention for the North-East Atlantic (OSPAR);
- The Convention for the Conservation of Antarctic Marine Living Resources (CCAMLR); and
- The International Maritime Organization (IMO).

Participants also shared that there were important lessons for the BBNJ Agreement in the experience of some of the IFBs (with CBD Ecologically or Biologically Significant Marine Areas (EBSAs) being the most prominent), but that these should only inform and not form the basis of BBNJ approaches. In terms of messages that the BBNJ community of practice could bring to these other fora, some participants stressed that the BBNJ Agreement should bring more focus on the application of the precautionary principle and on the quality of MPAs, compared to existing efforts. Given the large number of relevant fora and workstreams, participants agreed again that a strategic and coordinated approach would be most helpful.



Key considerations from the workshop

In their work to advance BBNJ ABMT proposals, stakeholders are advised to:

- Encourage growth and diversification of the expert community that understands and supports the BBNJ Agreement in their interactions with other stakeholders and governments;
- Consider that strong partnerships with governments and coalitions of governments are not only required to submit ABMT proposals, but are also key in other respects, such as collecting the data and science to underpin proposals and MCS of future BBNJ MPAs;
- Consider quality in the face of urgency: spending more time on design, stakeholder consultation, and building partnerships and support can potentially yield better and cost-effective results in the long run than rushing the process;
- Recognize that the BBNJ COP can build on existing processes, but also has its own authority and measures it can decide on; avoid employing narratives that reflect low-ambition interpretations;
- Avoid creating precedents where BBNJ ABMT processes would only be required to build on existing processes; and
- Coordinate and, where feasible, collaborate closely with other stakeholders, including on messages and outreach, to avoid working at cross-purposes or overwhelming key partners.

With regard to ongoing processes to prepare the BBNJ Agreement for entry into force and early implementation, including but not limited to the PrepCom, stakeholders are advised to:

- Continue championing the signature, ratification and early entry into force of the BBNJ Agreement, while working on parallel processes to lay the groundwork for its implementation;
- Work toward and support the setting up of well-designed and functioning subsidiary bodies, in particular the Scientific and Technical Body, and operationalizing the financial mechanism;
- Consider that several elements of the BBNJ Agreement provisions on ABMTs could benefit from additional guidance, notably ABMT proposals, criteria, consultations and management plans, including provisions for MCS;
- Advance work on the above-mentioned elements through processes parallel to the PrepCom, and find the best pathways to get messages and outputs to where they are needed to advance these discussions; and
- Consider organizing future work, including a workshop, on interlinkages between different parts of the Agreement, e.g., between the ABMT and EIA sections.

When engaging in other relevant IFBs to advance BBNJ ABMTs, stakeholders are advised to:

- Recognize the important role that interactions with some IFBs will play in the implementation of the BBNJ Agreement and the corresponding importance of helping get these IFBs “BBNJ-ready”;
- Prioritize long-term, sustained and reliable participation in key fora to build the knowledge and trust needed to effectively engage with the BBNJ Agreement in those fora where this relationship does not yet exist;
- Recognize, create, and make use of the value of informal possibilities to exchange, build trust and mutual understanding;
- Recognize that there are important lessons for the BBNJ Agreement in the experience of some of the IFBs;
- Promote the application of the precautionary principle and high-quality of standards for MPAs;
- Coordinate and where feasible collaborate closely with other stakeholders, including on messages and outreach, to avoid working at cross-purposes or overwhelm key partners;
- Embed the BBNJ Agreement in other fora’ processes where possible e.g., CBD Parties could include the BBNJ Agreement in their National Biodiversity Strategy and Action Plans (NBSAPs); and
- Avoid pursuing only MPAs and consider other tools in the ABMT toolkit.

On the finance aspects, stakeholders are advised to:

- Develop the steps still needed to operationalize BBNJ financial mechanism and the list of uses for funding from the BBNJ Special Fund and the GEF;
- Transition the narrative from the costs of MPAs to MPAs as investment opportunities, by monetizing natural capital assets such as blue carbon and emphasizing the cost of degradation and loss, rather than focusing on the cost of conservation; and
- Formulate resource mobilization goals in advance of UNOC3 to avoid bottlenecks.

On future proofing the Agreement, stakeholders are advised to:

- Integrate equity as an important factor that needs to be considered now across the discussion, in particular on funding, composition of STB, inclusion of Traditional Knowledge (TK), and meaningful codesign of proposals to ensure successful implementation;
- Develop mechanisms to future-proof ABMTs, including MPAs in ABNJ that consider approaches to enhance climate resilience, new activities, climate-driven shifts in distribution, food availability or currents, or increasing cumulative effects;
- Support the creation of larger representative networks of ABMTs rather than only individual ABNJ sites, and diversify the objectives for their designation, e.g. species or habitats;
- Anticipate how climate change, but also the potential availability of new technology and knowledge, may impact the establishment and efficiency of such ABMTs;
- Articulate the three-dimensionality and connectivity of ocean space to be embraced by conservation efforts, moving away from traditional shallow water- or seabed-focused interventions; and
- Consider how to enhance the dynamic aspects of conservation measures to improve their suitability and effectiveness in a fast-changing environment.



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