

Summary for Decision-Makers

**Regional Ocean  
Governance of Areas  
Beyond National  
Jurisdiction**

Lessons Learnt  
and Ways Forward

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## ViSdP

Prof. Dr Ortwin Renn, Managing Scientific Director

December 2019. © Cover Photo: Matt Howard (248418)/Unsplash

# 1. Report Summary

The vast ocean that lies beyond the jurisdiction of any nation represents nearly half of the Earth's surface and hosts a significant portion of global biodiversity. In recent years, human activities in marine areas beyond national jurisdiction (ABNJ) have expanded and intensified.

Recognising shortcomings in the existing governance framework, States have begun formal negotiations for a new international treaty to conserve and sustainably use the biodiversity of ABNJ.<sup>1</sup> A new agreement will pave the way for the implementation of management tools to safeguard marine biodiversity, including the designation of marine protected areas (MPAs).

Many States and stakeholders have also begun to take action at the regional level. The development of regional initiatives for the protection of the marine environment has long been a cornerstone of international environmental policies, providing an appropriate scale for the implementation of an ecosystem approach to conservation and management and facilitating political consensus among those sharing similar history, culture and interests. Ongoing initiatives aiming to strengthen governance of ABNJ through cooperation at the regional level include:

1. The “**Collective Arrangement for the North-East Atlantic**”, whereby the OSPAR Commission and the North East Atlantic Fisheries Commission (NEAFC) seek to strengthen cooperation between organisations with a management mandate in the region.
2. The **Sargasso Sea Commission**, which is mandated to exercise a stewardship role for the diverse and productive ecosystem in the ABNJ surrounding the island of Bermuda by working through existing legal agreements and competent management bodies.<sup>2</sup>
3. The **Pelagos Sanctuary for Mediterranean Marine Mammals**, established by France, Italy and Monaco to protect the eight resident cetacean species in the area.
4. The **Antarctic Treaty System (ATS)**, under which parties have agreed to develop a representative system of MPAs and have designated the world's largest MPA in the Ross Sea.
5. Cooperation through **Regional Fisheries Management Organisations** to work towards implementing an ecosystem-based approach to fisheries management, accounting for impacts on non-target species and associated ecosystems, as well as on target stocks.

<sup>1</sup> ABNJ comprise both the water column (“high seas”) and the seabed (“the Area”) beyond notional jurisdiction.

<sup>2</sup> The SSC was established pursuant to the Hamilton Declaration (2014), a non-binding political declaration adopted and signed by Bermuda, Azores, Bahamas, British Virgin Islands, Canada, Cayman Islands, Monaco, the UK and the US.

- Cooperation on marine science through the identification of **Ecologically or biologically significant marine areas** (EBSAs) under the **Convention on Biological Diversity**.

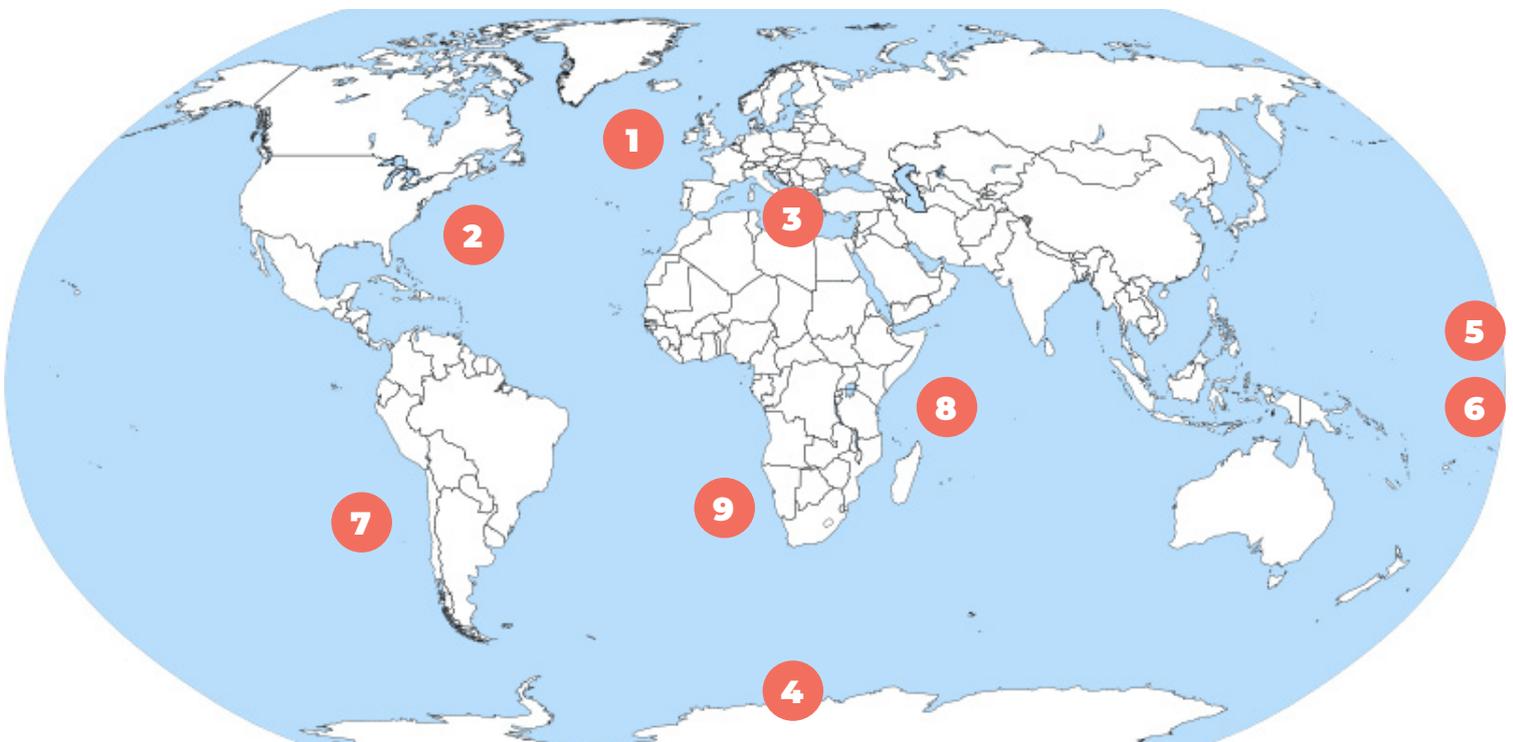
Other regions are now progressively including ABNJ in their priorities and work plans, including in:

- The South Pacific, where Parties to the **Permanent Commission for the South Pacific** (CPPS) have committed to promoting coordinated action;<sup>3</sup>

- The Western Indian Ocean, where Contracting Parties to the **Nairobi Convention** adopted a decision urging States to “cooperate in improving the governance of areas beyond national jurisdiction, building on existing regional institutions”.<sup>4</sup>

- The Southeast Atlantic, where Contracting Parties to the Abidjan Convention have established a working group to study all aspects of the conservation and sustainable use of marine biodiversity in ABNJ.<sup>5</sup>

**Figure: Map of ongoing initiatives to strengthen regional governance of ABNJ.**  
(Source: ESRI (2008): Countries of the World 2008)



3 Pursuant to the *Galapagos Commitment for the XXI Century* (adopted at the 8th Meeting of Ministers of Foreign Affairs, Puerto Ayora, Galápagos, Ecuador, 17 August 2012).  
 4 Decision CP8/10 (2015)  
 5 Following Decision CP 11/10 adopted in 2014.

## 2. Key Findings and Lessons Learnt

States and observers are actively considering the possible role of regional cooperation in a new agreement, which may be twofold: firstly, strong regional governance mechanisms can underpin an ambitious and effective international treaty; and secondly, regional initiatives could play a role in facilitating coordination and cooperation between States, institutions and stakeholders. Ongoing efforts provide a number of useful lessons learnt that can facilitate further development of regional initiatives and inform the negotiation of an efficient and effective new international treaty:

1. **The need for effective mechanisms for cooperation and coordination** between organisations with a management mandate in ABNJ, e.g. through development of formal MoUs and exchange mechanisms, new institutional structures, or regional stakeholder platforms to provide a forum for States, stakeholders and competent regional and global management organisations to cooperate towards harmonised and integrated management.
2. **The role played by champions and leaders** with the political will to drive the process and garner support for improved management. The initial steps towards the development of regional initiatives for ABNJ governance are often taken by one or more champion States, organisations or stakeholders.
3. **The importance of developing a dynamic science-policy interface** that can provide policy-relevant scientific information to decision makers and stakeholders. Marine policy making is closely tied to marine science: uncertainties and gaps of knowledge stifle the process, while a favourable scientific context can make regional organisations and Contracting Parties more inclined to address ABNJ issues.
4. **The need to strengthen the international legal framework** through a new international legally binding instrument on ABNJ, bringing coherence to a fragmented and ineffective governance regime, providing additional support for improved cross-sectoral cooperation and fresh impetus for the establishment or strengthening of regional integration mechanisms.

## Overview of selected regional initiatives

Initiative	Type	Key enabling conditions	Key challenges
<b>Collective Arrangement for the North-East Atlantic</b>	MoU/ cooperation arrangement	Strong existing institutions with overlapping memberships and a history of cooperation.	Has proved time and labour intensive. Organisations have different mandates, processes, capacities and sometimes complex and mutually incompatible meeting cycles.
<b>Sargasso Sea Commission</b>	NGO	Concerted effort on behalf of civil society and the scientific community. Government of Bermuda acting as a vocal and supportive champion for the initiative.	Few competent organisations in the region through which to pursue management measures. Limited progress in terms of concrete management action.
<b>Pelagos Sanctuary</b>	Multilateral MPA	Small number of motivated parties aiming to address specific goals and conservation values.	Concerns regarding efficacy and implementation of management and conservation measures. Longstanding plans to submit the Sanctuary as an IMO 'Particularly Sensitive Sea Area (PSSA) have not yet come to fruition.
<b>Antarctic Treaty System</b>	International treaty	Multilateral environmental treaty system incorporating modern governance principles. Strong, high-level political commitment to establish MPAs.	Diplomatic negotiations required to reach consensus are increasingly fraught and recent meetings have failed to establish the additional MPAs necessary for the creation of a network.
<b>Regional cooperation on fisheries closures</b>	RFMO	Legal obligations in UNFSA to establish and cooperate through RFMOs and UNGA resolutions obliging States to take action on bottom fisheries.	States have frequently acted counter to the advice of RFMO scientific bodies. RFMO effectiveness appears to be highly dependent on external factors and there has been limited integration of broader biodiversity concerns. Reluctance on the part of many States and RFMOs to close high seas areas to protect vulnerable marine ecosystems (VMEs) and gaps remain in the implementation of the UNGA bottom fisheries resolutions.
<b>Ecologically or biologically significant marine areas (EBSAs)</b>	International scientific process	Collaborative scientific process established under the auspices of an international treaty with near-universal participation. Mobilisation of the scientific community.	Parties to the CBD are encouraged to take action based on EBSA information, but there is no obligation to do so and no defined process for developing appropriate management actions. Early experience suggests EBSAs are yet to spur action within the various sectoral organisations.



# About the STRONG High Seas Project

The STRONG High Seas project is a five-year project that aims to strengthen regional ocean governance for the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction. Working with the Secretariat of the Comisión Permanente del Pacífico Sur (CPPS; Permanent Commission for the South Pacific) and the Secretariat of the West and Central Africa Regional Seas Programme (Abidjan Convention), the project will develop and propose targeted measures to support the coordinated development of integrated and ecosystem-based management approaches for ocean governance in areas beyond national jurisdiction (ABNJ).

In this project, we carry out transdisciplinary scientific assessments to provide decision-makers, both in the target regions and globally, with improved knowledge and

understanding on high seas biodiversity. We engage with stakeholders from governments, private sector, scientists and civil society to support the design of integrated, cross-sectoral approaches for the conservation and sustainable use of biodiversity in the Southeast Atlantic and Southeast Pacific. We then facilitate the timely delivery of these proposed approaches for potential adoption into the relevant regional policy processes. To enable an interregional exchange, we further ensure dialogue with relevant stakeholders in other marine regions. To this end, we set up a regional stakeholder platform to facilitate joint learning and develop a community of practice. Finally, we explore links and opportunities for regional governance in a new international and legally-binding instrument on marine biodiversity in the high seas.

**Project duration:** June 2017 – May 2022

**Coordinator:** Institute for Advanced Sustainability Studies (IASS)

**Implementing partners:** BirdLife International, Institute for Sustainable Development and International Relations (IDDRI), International Ocean Institute (IOI), Universidad Católica del Norte, WWF Colombia, WWF Germany

**Regional partners:** Secretariat of the Comisión Permanente del Pacífico Sur (CPPS), Secretariat of the Abidjan Convention

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Partners of the STRONG High Seas project:



ABIDJAN CONVENTION  
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IDDRI



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