



# An International Instrument on Conservation and Sustainable Use of Biodiversity in Marine Areas beyond National Jurisdiction

Exploring Different Elements to Consider

PAPER V

Understanding Area-based Management Tools and Marine Protected  
Areas\*

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Commissioned by the German Federal Agency for Nature Conservation with funds from  
the German Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety.



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\* DISCLAIMER: The views expressed in this paper do not necessarily reflect those of the German Federal Agency for Nature Conservation or the German Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety.



## 1. Background

At the 2012 United Nations Conference on Sustainable Development (Rio+20), States committed to address, on an urgent basis, building on the work of the Ad Hoc Open-ended Informal Working Group and before the end of the sixty-fourth session of the General Assembly, the issue of the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, including by taking a decision on the development of an international instrument under the United Nations Convention on the Law of the Sea.<sup>1</sup> This commitment was recalled and reaffirmed by the United Nations General Assembly (UNGA) in its 67<sup>th</sup> and 68<sup>th</sup> session.<sup>2</sup> In its resolution 68/70, the UNGA also requested the United Nations 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. The UNGA also requested the Working Group to report on the scope and content of its recommendations shall help to prepare for the decision to be taken at the 69<sup>th</sup> session of the UNGA in 2015, whether to start the negotiation of an international instrument on the conservation and sustainable use of biodiversity in areas beyond national jurisdiction (ABNJ).

The International Union for Conservation of Nature (IUCN) in collaboration with different partners has prepared a series of policy briefs to provide technical input to the ongoing ABNJ discussions, and thereby support the UNGA decision-making process. As indicated in **Paper I** one of the issues to be addressed could be, among other things, area-based management tools (ABMTs), including marine protected areas (MPAs)<sup>4</sup>. In this context, the following **Paper V** aims to create a general understanding of ABMTs, and explain their role in the context of ABNJ.

Protection of beautiful seascapes, cultural, archaeological, or historic sites;  
Recreation and public enjoyment;  
Separation of uses to prevent accidents, collisions or conflicts of use;  
Environmental monitoring and assessment; and  
Scientific research.<sup>6</sup>

Furthermore, they can be

Sectoral (e.g. focusing on fishing, shipping, mining);  
Multi-sectoral; or  
Cross-sectoral (i.e. covering all human activities).<sup>7</sup>

For the purposes of this paper, ABMTs are divided into three main categories: sectoral tools, marine protected areas and marine spatial planning. Sectoral area-based tools traditionally aim to achieve better resource management, but may have some indirect or direct biodiversity benefits. MPAs prioritize conservation objectives and aim to achieve comprehensive management of a specific area.<sup>8</sup> MSP aims to coordinate actions, separate conflicting uses and optimize the use of marine space to achieve sustainable development of the ocean and its resources.<sup>9</sup>

### 3. Sectoral Area-based Management Tools

Through several global and regional sectoral organisations, possibilities exist to provide enhanced protection to specific areas in ABNJ through the adoption of area-based management tools for the activities falling under their organisational mandate.

The International Maritime Organisation (IMO) may more strictly regulate vessel discharges in certain areas through the designation of Special Areas under the International Convention for the Prevention of Pollution from Ships (MARPOL). The IMO can also designate Particularly Sensitive Sea Areas (PSSAs), in which specific measures can be used to control maritime activities, such as routing measures, strict application of MARPOL discharge and equipment requirements for ships, such as oil tankers, and installation of Vessel Traffic Services.<sup>10</sup>

The International Whaling Commission (IWC) may establish whale sanctuaries, as it has already done in the Indian and Southern Oceans.<sup>11</sup>

With respect to seabed mining, the International Seabed Authority (ISA) may designate Areas of Particular Environmental Interest,<sup>12</sup> Preservation Reference Zones (where mining is prohibited to ensure representative and stable biota of the seabed in order to assess any

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<sup>6</sup> UN Secretary General. 2007. **Oceans and the Law of Sea** and

changes in the flora and fauna of the marine environment), or Impact Reference Zones (to assess the effect of a c } v š Œ š } Œ [ • š ] Å ] š ] • } v š Z . u Œ ] v v Å ] Œ } v u v š •

At the regional level, regional fisheries management organizations (RFMOs) generally have the competence to establish closed areas and/or to adopt effort and gear restrictions to enhance fisheries conservation and management. Some RFMOs but not all have the explicit mandate, as called for in the UN Fish Stocks Agreement,<sup>13</sup> to adopt measures to protect biodiversity in the marine environment.

#### 4. Marine Protected Areas

MPAs are not the same as no-take marine reserves. MPAs may have a variety of objectives and stringency in regulation, ranging from strictly protected scientific reserves and wilderness areas, to areas aiming to protect large scale ecological processes or particular species or habitats, to seascapes with low-level traditional or non-industrial use of natural resources compatible with nature conservation.<sup>14</sup>

There is no universally accepted definition of MPAs. The UNCLOS does not contain any formal definition of MPAs, but it contains in Part XII the general obligation of States to Z % Œ } š š v % Œ • Œ š Z u Œ ] v v Å ] Œ } v u v š • } v š Z . u Œ ] v v Å ] Œ } v u v š •

Article 192 is, though, in part, measures Z v • • Œ Ç š } % Œ } š š v % Œ } š Z Œ ( } Œ u • } ( Article ] 194.5 ) ( [

rare or fragile ecosystems as well as the habitat of depleted, threatened or endangered species and

The most commonly used definition comes from IUCN, which defines a protected area as Z o Œ o Ç defined geographical space, recognized, dedicated and managed, through legal or other effective means, to achieve the long-term conservation of nature with associated ecosystem services and μ o š μ Œ o

<sup>15</sup> Specifically, an MPA is understood as

any area of intertidal or subtidal terrain,  
together with its overlying water and associated flora, fauna, historical and cultural features,  
which has been reserved by law or other effective means  
to protect part or all of the enclosed environment.<sup>16</sup>



balances economic development with environmental conservation and utilizes spatial and non-spatial tools in order to achieve social and economic objectives.

## List of Papers

Paper I: Introduction on Scope, Parameters and Feasibility

Paper II: Enhancing Cooperation and Coordination

Paper III: Options and Approaches for Access and Benefit-sharing

Paper IV: Governance Principles

Paper V: Understanding Area-based Management Tools and Marine Protected Areas

Paper VI: Options and Approaches for Establishing and Managing MPAs

Paper VII: Relation between Environmental Impact Assessments, Strategic Environmental Assessments and Marine Spatial Planning

Paper VIII: Options for Environmental Impact Assessment Elements

Paper IX: Technology Transfer and Capacity-building

Paper X: Existing Regulatory, Institutional and General Governance Gaps

Paper XI: Basic Ideas for a Possible Institutional Structure

Paper XII: International Procedures to Ensure Science-based Decision-making

Paper XIII: Compliance and Verification Mechanisms