



LEONOR SALGADO BAPTISTA

**MARINE PROTECTED AREAS AS TOOLS FOR ADVANCING SDG 14.c:
INSIGHTS FROM UNOC III AND THE BBNJ AGREEMENT**

Internship Report to obtain a Master's
Degree in Law, in the specialty of Law and
Economics of the Sea

Supervisor:

Dr. Assunção Cristas, Professor of the NOVA School of Law

Internship Supervisors:

Orlando Costa, Head of International Relations and Cooperation Unit at Directorate-
General for Maritime Policy

André Ribeiro, Head of International Relations and Cooperation Unit at Directorate-
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Anti-Plagiarism Statement

In accordance with article 23.º of Regulation nº 737/2024, I hereby declare that I am the sole author of the following Internship Report, and that the use of contributions or texts of others is duly referenced.

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“The sea is everything! It covers seven-tenths of the world’s surface. Its breath is pure and salubrious. It is a vast desert where man is never alone because he feels the constant beat of life around him”

- Jules Verne in “Twenty Thousand Leagues under the Sea”

List of Abbreviations

ABMT	Area-based management tool
ABNJ	Areas Beyond National Jurisdiction
BBNJ Agreement	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
CBD	Convention on Biological Diversity
CBTMT	Capacity-building and transfer of marine technology
CoP	Conference of the Parties
CPLP	Community of Portuguese Language Countries (<i>Comunidade dos Países de Língua Portuguesa</i>)
DGPM	General Directorate of Policy of the Sea (<i>Direção-Geral de Política do Mar</i>)
EEZ	Exclusive Economic Zone
EIA	Environmental Impact Assessment
EU	European Union
GDP	Gross Domestic Product
ISA	International Seabed Authority
ITLOS	International Tribunal for the Law of the Sea
IUCN	International Union for Conservation of Nature
IUU	Illegal, Unreported and Unregulated
MGR	Marine Genetic Resources
MPA	Marine Protected Area
MSP	Marine Spatial Planning

RFMOs	Regional Fisheries Management Organizations
SDG	Sustainable Development Goals
SIDS	Small Islands Developing States
UN	United Nations
UNCLOS	United Nations Convention on the Law of the Sea
UNOC	United Nations Ocean Conference
WTO	World Trade Organization

Characters

The abstract and the resumo have, respectively, 2.399 and 2.493 characters, including spaces, in accordance with the established limit of 2.500 characters each.

The body of this report has 166.656 characters, including notes and spaces, in accordance with the established limit of 200.000 characters.

Abstract

The ocean is the backbone of life on Earth, as it provides food security, climate regulation and livelihoods to millions of people. Yet, it faces constant threats to its health and biodiversity. MPAs have been recognized as one of the most effective conservation methods and, although their coverage has increased over the past decade, it remains limited, particularly in ABNJ. This raises relevant questions as to what extent MPAs can ultimately promote SDG 14.c, a target often overlooked, despite its central role in promoting ocean governance through the implementation of international law.

This report examines the evolving role of MPAs in advancing SDG 14.c, building upon the third UNOC, which took place in June, 2025, and the imminent entry into force of the BBNJ Agreement. Navigating through policies and governance, this report will explore how MPAs can strengthen international legal commitments, governance and capacity-related challenges and opportunities to enhance cooperation, legal coherence and equitable participation in high seas conservation.

Studies suggest that MPAs not only contribute towards biodiversity conservation and climate change mitigation, but they also promote international cooperation, especially regarding management and enforcement of MPAs in ABNJ. Together with UNCLOS, the BBNJ Agreement plays a crucial, although non-exclusive, role in strengthening efforts made towards international legal commitments, such as the 30x30 target and SDG 14. However, their accomplishment requires legal clarity, financing and enhanced international cooperation, particularly to support developing states' participation and to ensure a fair and equitable sharing of benefits of ocean conservation. To address these gaps, this report proposes an innovative governance mechanism, the High Seas MPA Mentorship Alliance (HSMMA), designed to improve cross-sectoral coordination, capacity development and equitable implementation of MPAs in ABNJ.

Through this analysis, advancing SDG 14.c requires not only expanding the current MPAs' network, but also strengthening the governance architectures that underpin them.

Key-words: Marine Protected Areas | Sustainable Development Goal 14.c | BBNJ Agreement | United Nations Ocean Conference | Areas beyond national jurisdiction | High seas conservation | Ocean Governance | Capacity-building | High Seas MPA Mentorship Alliance

Resumo

O oceano é a base da vida na Terra, garantindo segurança alimentar, regulação do clima e subsistência para milhões de pessoas. No entanto, enfrenta ameaças constantes à sua saúde e biodiversidade. As AMPs são reconhecidas como um dos métodos de conservação mais eficazes e, embora a sua implementação tenha aumentado na última década, a mesma permanece limitada, especialmente em alto mar. Surgem questões relevantes quanto à sua capacidade de promover o ODS 14.c, um objetivo frequentemente esquecido, apesar do seu papel central na promoção da governação do oceano através da implementação do direito internacional.

O papel das AMPs no avanço do ODS 14.c é analisado a partir da terceira Conferência dos Oceanos das Nações Unidas, realizada em junho de 2025, e do Acordo BBNJ. Com base em políticas e instrumentos de governação, será explorada de que forma as AMPs reforçam compromissos jurídicos internacionais, tal como os desafios e oportunidades em relação à governação e capacitação para melhorar a cooperação, a coerência jurídica e a participação equitativa na conservação em alto mar.

Estudos sugerem que as AMPs contribuem para a conservação da biodiversidade e a mitigação das alterações climáticas, tal como também promovem a cooperação internacional, em especial no que se refere à gestão e execução de AMPs em alto mar. Juntamente com a UNCLOS, o Acordo BBNJ tem um papel crucial, mas não exclusivo, no fortalecimento de ações para o cumprimento dos compromissos jurídicos internacionais, como o objetivo 30x30 e o ODS 14. Contudo, a sua concretização exige clareza jurídica, financiamento adequado e cooperação internacional, nomeadamente no apoio à participação dos países em desenvolvimento e para assegurar uma divisão justa e equitativa dos benefícios da conservação do oceano. Para colmatar estas lacunas, propõe-se um mecanismo inovador de governação, a High Seas MPA Mentorship Alliance (HSMMA), concebido para melhorar a coordenação intersectorial, a capacitação e a implementação equitativa de AMPs em alto mar.

Através desta análise, conclui-se que avançar o ODS 14.c exige não apenas ampliar a atual rede de AMPs, mas também fortalecer as arquiteturas de governação que as sustentam.

Palavras-chave: Áreas Marinhas Protegidas | Objetivo Desenvolvimento Sustentável 14.c | Acordo BBNJ | Conferência dos Oceanos das Nações Unidas | Áreas além da jurisdição

nacional | Conservação em alto mar | Governança dos oceanos | Capacitação | High Seas
MPA Mentorship Alliance

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1 Internship description

1.1 Internship objective

The purpose of choosing to do an internship after the academic term, was to promote a professional experience where I would be able to accompany the practical side of the theory learned, ultimately providing me with new knowledge and different perspectives on maritime policy.

By doing my internship at the General Directorate of Policy of the Sea, I was able to observe the cooperation needed to find the balance between national policy and international diplomacy. During this internship, I was also exposed to the technical and strategic side of ocean governance, thus allowing me to further understand its practical challenges and opportunities.

1.2 Overview of the host organization

The DGPM is a Portuguese government body in charge of developing, coordinating and implementing policies related to the sea and maritime resources, thus promoting not only the blue economy, but also a sustainable management of the maritime space.

As provided by Decree-Law No. 18/2014 of 4 February (*Decreto-Lei n.º 18/2014, de 4 de fevereiro*), under article 11, the DGPM is responsible for “evaluating and updating the National Ocean Strategy, elaborate and propose the national policy of the sea in its various dimensions, plan and order the maritime space in its different uses and activities, accompany and participate in the development of the Integrated Maritime Policy of the European Union and promote national and international cooperation in maritime affairs”¹.

The DGPM has been an important actor regarding the future of the ocean. It promoted important discussions on marine conservation and international ocean governance during UNOC II, which was co-hosted by Portugal and Kenya. More recently, it has worked together with other ocean related services in order to promote Portugal’s best interests under the BBNJ Agreement. As a body whose key areas of intervention are MSP, MPAs, blue economy, SDG 14, ocean literacy and scientific cooperation, the DGPM has shown active engagement in the development of area-based management tools, such as MPAs, and has promoted capacity-building and technology transfer.

¹ Authors own free translation.

During the internship, I was integrated in the International Relations and Cooperation Unit, which works as a *liaison* with the Office for the Secretary of State for Fisheries and the Sea. In practical terms, this Unit articulates with other ocean related services, in order to produce and compile information, necessary to respond to requests for input from other services.

1.3 My role and responsibilities

As an intern at DGPM, my role often consisted in providing support to other members of the Division. Although some of the specific projects I worked on cannot be disclosed, given their confidential character, I am capable of providing a general overview of my work and the tasks I was entrusted.

During my internship, the International Relations and Cooperation Unit worked on several projects regarding European policies and the sustainable management of the ocean, regarding which, I was required to provide different kinds of contributions.

At first, I would simply attend meetings, in order to get myself familiarized, not only with the projects themselves, but also with the people involved and the important stakeholders. This was an important step, as it allowed me to get an overview of the processes and understand Portugal's position and concerns, especially in meetings regarding the BBNJ Agreement. Meetings attendance later evolved into writing the meetings minutes as well, where I was required to contextualize the scope of the meeting, identify the participating services and their representatives and then register the main points and concerns of each intervention.

In the course of my internship, there were a few meetings about the Integrated Maritime Policy of the European Union, and the DGPM was the Portuguese body responsible for ensuring national representation. Therefore, in order to prepare and align details, the DGPM would schedule coordinating meetings with the other ocean related services. The most important contribution I carried out in this context was the creation of a document that outlined the work that had been developed regarding the Satellite Account for the Sea and the SEAMind Platform.

In addition to this, my Supervisor would also require me to gather information, either to prepare for meetings or to respond to requests for input from other services. This type of work often consisted in research on a specific stakeholder or initiative, which would compel me to further understand those involved and their contributions to ocean policies.

This is a task that I would often perform regarding projects with other countries, namely from CPLP, in order to contextualize existing relations with Portugal, on ocean related subjects.

I also had the opportunity to attend different ocean related events, as part of my internship at the International Relations and Cooperation Unit. I attended the European Ocean Days (online), an event endorsed by the European Commission, which gathered specialists, policymakers and stakeholders from different ocean domains. According to the task distribution of the team, I was responsible for preparing the report from the BlueInvest Day and the Fisheries and Ocean Sciences Seminar.

I also took part in the Final Event for the Blue Growth Programme (in person), which was an event promoted by DGPM to mark the conclusion of a cycle dedicated to the strengthening of a sustainable blue economy, in partnership with Norway, Iceland and Lichtenstein.

On a recurring basis, my Supervisor would also promote some informal discussions with the other team members, whether on a specific point that would come up regarding a project, or because of something on the news, for example, in order to exchange some ideas and to stimulate critical thinking.

Overall, my duties often depended on what type of projects the Unit was working on at the time, but they mostly consisted in meetings attendance and writing the corresponding minutes, research and gathering information.

1.4 Key learnings

This internship allowed me to diversify my knowledge, providing a deeper development of skills in the field of maritime policy. It allowed me to engage with experts and policymakers, who helped me gain a deeper understanding of the complexities involved in the sustainable management of the ocean.

Being able to attend meetings on the BBNJ provided me with a better understanding of how everything works, not only regarding the level of coordination needed among the different national ocean related services, but also how SDG 14.c is being operationalized through BBNJ. It also helped me to grasp the existing tension between conservation and exploitation and gave me some insights on the Portuguese perspective and its concerns, as a result of being an European Union Member State.

Additionally, this internship highlighted something that was also emphasized during the academic term: the importance of communication and collaboration among the different stakeholders. Coordinating the various interests and concerns of all those involved and affected by maritime policy is crucial for its proper functioning and effectiveness. Having had the opportunity to observe the practical aspect of what I was taught, not only confirmed the existence of this inherent difficulty in implementing maritime policy, but also demonstrated the constant interaction aimed at fostering collaboration among the different entities and stakeholders.

The opportunity to observe and understand how the institutions involved in ocean governance operate, the levels of cooperation between them, and the importance of communication with entities from other countries and international organisations, highlights the reality that the ocean and its ecosystems know no borders. This is precisely why collaboration among all actors is essential for the protection of the ocean and the promotion of a sustainable blue economy.

2 Introduction

The Earth is often described as the Blue Planet, referencing the vast ocean areas covering approximately two-thirds of its surface. These areas are home to diverse ecosystems and provide a wide range of support to society, from food security to tourism and leisure. The ocean is also responsible for the production of about 50% of the total amount of oxygen we breathe, absorbs 30% of the total CO₂ emissions and harbours 90% of the excess heat, meaning that human survival is highly dependent on the ocean's health. Despite its importance, the ocean is subject to various threats, including climate change, pollution, overfishing, acidification, habitat destruction and oil spills. In order to address these issues, and others, the UN developed a set of international commitments, known as the Sustainable Development Goals, which work as guidelines to promote economic growth, sustainability, social equity and environmental protection.

An important, but often overlooked target, is SDG 14.c, particularly how the implementation of MPAs can contribute to its achievement. In brief, SDG 14.c encourages the implementation of international law, especially UNCLOS, as means to ensure that both conservation and sustainable use of the ocean are encompassed by a common framework. Similarly to the other targets, SDG 14.c has not been achieved yet, due to difficulties in going from the theory to the practice.

Over the past years, increasing attention has been given to the protection and conservation of the ocean and marine ecosystems, mainly through the implementation of MPAs in areas under national jurisdiction. However, marine life does not follow jurisdictional borders, which means that protection in areas beyond national jurisdiction is essential to achieve conservation goals, such as SDG 14's targets and indicators. Recent efforts under the BBNJ Agreement and UNOC have brought states together to advance the protection of the high seas, particularly by promoting the implementation of MPAs on the high seas. Nevertheless, it is also relevant to examine the length to which the adoption of the BBNJ Agreement can complicate MPAs' role, as its interaction with existing legal and institutional frameworks is still evolving.

In 2022, there was the adoption of the 30x30 goal, which establishes that 30% of the ocean and land must be protected by 2030. To achieve this goal, protective measures must be implemented in areas beyond national jurisdiction, hence the importance of international agreements that address this topic. MPAs on the high seas come with inherent challenges,

which will be further explored in this report, but they have revealed to be an effective tool to achieve the 30x30 target and promote SDG 14.

Current data shows that only about 10% of the world's oceans are covered by MPAs, with only 1.45% being on the high seas. With only 5 years remaining on the clock, there's still a lot of work to be done, but hopefully, with the entry into force of the BBNJ Agreement, this percentage will rapidly grow.

The purpose of this report is to analyse how high seas MPAs can contribute towards advancing SDG 14.c, particularly how the BBNJ Agreement and the current ocean governance landscape may facilitate or complicate this process. The research method included various sources, primarily UNCLOS, the BBNJ Agreement and UNOC, as well as some peer-reviewed documents, legal commentaries and policy assessments. Their study provided the basis for identifying not only governance gaps, but also potential pathways for strengthening international cooperation.

The present report unfolds in several stages. First, an overview of MPAs and SDG 14 will be provided, in order to establish the basis for the discussion. This will be followed by delving into the BBNJ Agreement and UNOC, as they serve as the pillars from which the report is developed, taking into account not only the negotiations for the final text of the BBNJ Agreement, showing the most contended topics, but also the key outcomes of the most recent UNOC, which are relevant to the present discussion. The report concludes by introducing a new governance model, the High Seas MPA Mentorship Alliance, designed to address persistent gaps in legal coherence, coordination and capacity-building, thus supporting a more equitable and effective global framework for high seas conservation.

3 Marine Protected Areas (MPAs)

The protection of the marine environment is an obligation that is established under article 192 of UNCLOS, which can be argued to be one of the most important and powerful provisions of the mentioned legal framework.

Article 192 determines that “States have the obligation to protect and preserve the marine environment”. Given that it does not specify to which states it applies, it is valid to assume that it applies to all states, regardless of whether they are parties to UNCLOS or not². Furthermore, as more states continue to ratify this Convention³, the provision gains more recognition under customary international law, therefore reinforcing its applicability. Additionally, the article employs the verb “have”, highlighting a mandatory obligation, rather than a discretionary one. This requires states to act both in terms of means and results, for the purposes of protecting the marine environment “from *future* damage and ‘preservation’ in the sense of maintaining or improving its *present* condition”⁴.

Another detail that consolidates this provision’s importance is the use of “the” in the expression “the marine environment”. This leads to the idea of a collective and unified environmental interest, something that would have been lost if the expression were “a marine environment”. This subtlety is particularly relevant in international law, where establishing a collective interest can be very challenging. Usually, state responsibility can only be invoked in situations where a certain state action results in an identifiable harm. This means that, violations of collective interests are difficult to establish, unless an individual damage can be demonstrated. Due to this, this provision limits the ability of states to act in ways that may harm the marine environment, as a whole. Accordingly, in May 2024, ITLOS delivered an advisory opinion on a Request submitted by the Commission of SIDS on Climate Change and International Law, where it was unanimously determined that article 192 has a “broad scope encompassing any type of harm or threat to the marine environment”⁵.

² TULLIO Scovazzi - Marine Protected Areas on the High Seas: Some Legal and Policy Considerations. P. 5. Available at <chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.cbd.int/doc/articles/2004/A-00150.pdf>

³ UNCLOS has been ratified by 117 states (list last updated on September 22nd, 2025, available at <https://www.un.org/depts/los/reference_files/chronological_lists_of_ratifications.htm>)

⁴ TANAKA, Yoshifumi – **The International Law of the Sea**, p. 362.

⁵ International Tribunal For The Law Of The Sea, Request for an Advisory Opinion submitted by the Commission of Small Island States on Climate Change and International Law, 21 May 2024. Para. 385, Available at <chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.itlos.org/fileadmin/itlos/documents/cases/31/Advisory_Opinion/C31_Adv_Op_21.05.2024_corr.pdf>

Lastly, the spatial scope of the provision is also an important aspect. The obligation to protect and preserve the marine environment is applicable to all maritime areas, including both the high seas and areas subject to dispute⁶. This means that states cannot use the existence of jurisdictional / territorial disputes as an excuse to avoid compliance with this provision.

The obligation enshrined in article 192 finds a renewed presence in recent global biodiversity commitments. In particular, the 30x30 target adopted in 2022, under the Kunming-Montreal Global Biodiversity Framework, calls for the conservation of at least 30% of the world's ocean and land, by 2030. In light of this, MPAs emerge as a crucial instrument to achieve this target, whilst fulfilling states' obligation to protect and preserve the marine environment.

3.1 Definition of MPAs

Although under the current international legal framework, there is no universally established definition for MPA, some institutions have put forward their own definition. While they may differentiate in particular elements, they all highlight a common goal: the long-term protection of the marine ecosystems.

One of the most commonly accepted definitions is the one provided by IUCN, in 2008, which determines that, a protected area is:

“A clearly defined geographical space, recognised, dedicated and managed, through legal or other effective means, to achieve the long-term conservation of nature with associated ecosystem services and cultural values”⁷.

This definition does not purposely distinguish between maritime or land areas. In 1988, following a resolution from the IUCN's General Assembly, there was a specific definition

⁶ In the South China Sea Arbitration, the Tribunal clarified that article 192, UNCLOS, established a general obligation that operates independently of questions of sovereignty or marine entitlements, therefore being applicable even in areas subject to maritime disputes. This understanding is implicit throughout the Award, as the Tribunal applied article 192 to claims regarding harmful activities and habitat destruction, without resolving issues of sovereignty, thus demonstrating that the environmental duty is considered independently. (See, **South China Sea Arbitration**, 12 July 2016. Para. 927, Available at <[chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://docs.pca-cpa.org/2016/07/PH-CN-20160712-Award.pdf](https://docs.pca-cpa.org/2016/07/PH-CN-20160712-Award.pdf)>)

⁷ DUDLEY, Nigel (Editor) – **Guidelines for Applying Protected Area Management Categories**, pp. 8-9. Available at <[chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://portals.iucn.org/library/sites/library/files/documents/pag-021.pdf](https://portals.iucn.org/library/sites/library/files/documents/pag-021.pdf)>

for MPAs⁸. However, due to some issues with working with different definitions for each geographical location, the IUCN came up with a definition that could be applied to all⁹. This definition emphasizes the primary goal of conservation and it determines that the boundaries should be clearly marked and defined, as well as recognized. This recognition can be accomplished, for example, through listing on the World Database on Protected Areas, which is updated on a monthly basis. Moreover, management of these areas must be active, either through legal instruments or traditional practices. From a maritime perspective, this means that active measures must be adopted in order to avoid the existence of “MPAs on paper”¹⁰. In addition, this definition takes in consideration that the ocean is an important element of people’s lives. Even though the main purpose is protection and conservation, by including “ecosystem services and cultural values”, the IUCN is embracing the multifunctional character of protected areas. They are not only for biodiversity protection, but they also promote cultural identity, support livelihoods (coexistence is possible, as long as conservation remains the primary goal) and build climate resilience.

In its definition, the IUCN has adopted a position that favours a broad scope of application, which can lead to both strengths and limitations. Overall, this definition understands the importance of both legal and non-legal instruments for reaching nature conservation, whilst acknowledging the role of ecosystem services¹¹ and protection of cultural values. This creates a definition that is flexible and adaptable to the different existing contexts across the world.

However, compared to other definitions, this one lacks binding force, which leaves room for inconsistencies in implementation and areas may be established as MPA when in

⁸ The IUCN used to define a MPA as “any area of intertidal or sub-tidal terrain, together with its overlaying 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”.

⁹ LAFFOLEY, Dan [et al.] – Marine Protected Areas. In SHEPPARD, Charles - **World Seas: An Environmental Evaluation. Volume III: Ecological Issues and Environmental Impacts**, p. 554. Available at <https://www.researchgate.net/publication/327971023_Chapter_29_-_Marine_Protected_Areas_In_Sheppard_C_ed_World_Seas_An_Environmental_Evaluation_Volume_III_Ecological_Issues_and_Environmental_Impacts_Elsevier_pp_549-569>

¹⁰ This is a designation often attributed to MPAs that are identified as such, but lack the necessary management measures and resources to effectively protect and preserve the marine ecosystem.

¹¹ Ecosystem services are the benefits that people obtain from ecosystems, and, under the Millennium Ecosystem Assessment, they can be allocated into 4 different categories: provisioning services, which consist in benefits that can be extracted from nature (water and food); regulating services, which maintain and improve the ecosystems’ resilience (carbon storage); supporting services, meaning processes that support the ecosystem (water cycle); cultural services translate into non-material benefits (recreation and tourism). (See, National Wildlife Federation – **Ecosystem Services**, available at <<https://www.nwf.org/Educational-Resources/Wildlife-Guide/Understanding-Conservation/Ecosystem-Services>>)

practice, there are no management measures in place, leading back to the issue of “MPAs on paper”.

Despite these challenges, the IUCN definition of protected area remains as an acceptable understanding of what a protected area should entail. Essentially, its adaptability is crucial to accommodate real in-time changes of ocean governance, as long as the purpose of conservation is not undermined by its coexistence with humans’ sustainable use of resources.

The Biodiversity Committee of the OSPAR Convention has also provided its own definition, which determines that a marine protected area is:

“An area within the maritime area for which protective, conservation, restorative or precautionary measures, consistent with international law have been instituted for the purpose of protecting and conserving species, habitats, ecosystems or ecological processes of the marine environment”¹².

This definition, highlights the instrumental role of MPAs for the protection and conservation of marine biodiversity, meaning that the implementation of MPAs is a means to an end – conservation and protection. Since this definition is presented by the Biodiversity Committee of the OSPAR Convention, its jurisdictional scope is limited to the North-East Atlantic, which corresponds to the maritime area governed by OSPAR. According to the definition of “maritime area” provided by the OSPAR Convention, it goes from the internal waters of the contracting parties, to the high seas. Therefore, this definition has a vast application and even extends to areas beyond national jurisdiction.

Another important element of this definition is the emphasis it puts on conservation, specifically by clearly determining that the goal is the protection and conservation of “species, habitats, ecosystems or ecological processes of the marine environment”, instead of a general expression, such as “long-term conservation of nature”, which is used in the IUCN definition. Although this expression also encompasses species, habitats, ecosystems and ecological processes, by naming them in their definition, the Biodiversity Committee avoids leaving room for a restrictive interpretation of what should be the target of protection and conservation.

¹² OSPAR Recommendation 2003/3, para. 1.1.

Additionally, this definition distinguishes itself from others by listing different measures, each designed for specific concerns and objectives. Protective measures are used to prevent harm or degradation of species, habitats, ecosystems or ecological processes of the marine environment, by eliminating or reducing harmful activities. An example of this is implementation of no-take zones, in order to prevent overfishing and depletion of fish stocks. Conservation measures, on the other hand, aim to maintain the *status quo* of the marine environment and promote monitoring activities. For instance, the development of OSPAR's Ecological Quality Objectives allows Parties to evaluate whether an ecosystem is under human pressure, according to a set of objectives designed specifically to measure progress. If these objectives are not met, then it is not a healthy ecosystem, and OSPAR is responsible for conducting an investigation in order to adopt measures, when necessary, to regulate human activities¹³. Differently, restorative measures' purpose is to repair a damage that has already been done and regenerate the ecosystem. For example, due to growing concerns regarding coral bleaching, measures have been adopted so that the coral population can return to what it was once before. Examples of these measures include the protection of certain fish populations in areas with a rich coral population, because these fish feed on seaweed, which can rapidly grow and suffocate the coral¹⁴. Lastly, precautionary measures are triggered in cases of uncertainty, in order to minimize risks before any harm arising from human activities, or lack thereof, can be proven. A clear and current example is the deep-sea mining moratorium, which advocates for a temporary pause, until scientists can gather more information on the environmental risks and consequences of deep-sea mining¹⁵.

While the OSPAR definition has a regional limitation, it is nevertheless a relevant understanding. First, because it includes the establishment of MPAs in areas beyond national jurisdiction, where the jurisdictional character is often fragmented and / or controversial, given that the high seas are often perceived as belonging to no one and

¹³ OSPAR Commission, org. – Towards Ecosystem Assessment. In **Quality Status Report 2010**, p. 145. Available at <[chrome-extension://efaidnbmnnnibpcajpcgclefindmkaj/https://qsr2010.ospar.org/en/media/chapter_pdf/QSR_Ch11_EN.pdf](https://efaidnbmnnnibpcajpcgclefindmkaj/https://qsr2010.ospar.org/en/media/chapter_pdf/QSR_Ch11_EN.pdf)>

¹⁴ This example was retrieved from a real-life case, in the Line Islands, Kiribati, where scientists believed the coral reef would disappear, after El Niño, in 2016. Ultimately, this did not happen, thanks to the strict protection of herbivore fish populations, who survived the storm and fed on the seaweed that was growing, allowing the coral reef to recuperate. (See ATTENBOROUGH, David; BUTFIELD, Colin – **Oceano: O último reduto selvagem**, p. 66)

¹⁵ **Deep-Sea Mining Moratorium**. Available at <<https://deep-sea-conservation.org/solutions/no-deep-sea-mining/>>

everyone, at the same time. Secondly, unlike broader definitions, it categorizes a set of measures that can be used towards a more tailored and adaptable management, which is crucial in current ocean governance policies.

The third, and last, definition is the one given by the BBNJ Agreement. As it is a recent framework, it encompasses an important perspective, aligned with the more recent trends of ocean governance. Under article 1(9), a marine protected area means:

“A geographically defined marine area that is designated and managed to achieve specific long-term biological diversity conservation objectives and may allow, where appropriate, sustainable use¹⁶ provided it is consistent with the conservation objectives”.

Similarly to the previous definitions, it highlights the main goal behind MPA implementation, which is conservation. However, it does not provide any further enlightenment as to how these conservation objectives are to be achieved. This definition represents the tension between political compromise and normative innovation, as it reaffirms existing concepts and norms (coexistence of long-term conservation and sustainable use), without introducing any disruptive legal innovation. Considering the fact that this definition has been recently developed (2023), this was an important opportunity for states to aim higher than before. Unfortunately, because the BBNJ functions as a step towards legal harmonization, the best way for states to agree with each other, is to keep definitions rather vague. Therefore, this definition is a cautious, and small, step forward, as it is necessary for legal harmonization and compromise, despite the lack of any significant evolution.

Given the existence of multiple definitions, each with their own strengths and gaps, it figures important to reach a universal consensus on a definition that gathers the most important elements. Although these elements are all present in the definitions previously analysed, they are not reunited all in a single definition. For instance, while some recognize the importance of balance between conservation and sustainable use, others focus solely on conservation. Therefore, a suggested definition could be the following:

A clearly defined marine space, established through legal or other effective means, designated for the purposes of long-term conservation of marine biodiversity and

¹⁶ Article 1(13) of the BBNJ Agreement defines sustainable use as “the use of components of biological diversity in a way and at a rate that does not lead to a long-term decline of biological diversity, thereby maintaining its potential to meet the needs and aspirations of present and future generations”.

ecosystems. Its management may include protective, conservation, restorative and precautionary measures, as well as a sustainable use of resources, provided it is compatible and does not compromise conservation objectives.

This proposal reunites the strengths of the aforementioned definitions, whilst maintaining the focus on long-term conservation objectives, similarly to the IUCN's definition. Yet, it goes further by specifying the management measures that can be used, similarly to the OSPAR's definition. Additionally, it extracts from the BBNJ's definition the possibility of sustainable use, without undermining the primary goal.

3.2 Forms and types of MPAs

Every MPA is different from the others, as the marine ecosystem that is being protected may have different needs, which may also change in the course of time, hence the importance of an adaptive management. While in some areas, human activities may be compatible with the long-term protection, in others, there is no space for a sustainable use of resources.

The IUCN has published *The MPA Guide*, which was developed by a group of experts in order to provide a science-based framework on MPAs and their outcomes. It distinguishes 4 different levels of protection: fully protected, where “no extractive or destructive activities are allowed, and all impacts are minimized”¹⁷, also known as no-take zones; highly protected, where “only light extractive activities are allowed, and other impacts are minimized to the extent possible”¹⁸; lightly protected, where “some protection exists but moderate to significant extraction and impacts are allowed”¹⁹; and, minimally protected, where “extensive extraction and other impacts are allowed while still providing some conservation benefit to the area”²⁰. These levels allow scientists to identify the level of protection of each protected area from the seven most common human activities²¹.

As for the types of MPAs, similarly to the lack of a universal definition, there is a multiplicity of classifications across the globe and among specialists. Much like before, the

¹⁷ **The MPA Guide User Manual**, p. 14. Available at <chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://mpa-guide.protectedplanet.net/MPA%20User%20Manual_English_NO_ExGu.pdf>

¹⁸ *Id.*, at 14.

¹⁹ *Id.*, at 14.

²⁰ *Id.*, at 14.

²¹ Even though *The MPA Guide* is not able to include each and every human activity that may have any kind of impact on MPAs and their level of protection, it has chosen the 7 most common. These activities are: (1) mining, mineral, oil and/or gas prospecting or exploitation; (2) dredging and dumping; (3) anchoring; (4) infrastructure; (5) aquaculture; (6) fishing; and (7) non-extractive activities such as recreation and cultural connections.

lack of uniformity has driven the IUCN to attempt a system of categorization, in order to “help standardize descriptions of what constitutes a particular protected area”²². This system can only be applied to an area after it has been established that it qualifies as a protected area, under the IUCN 2008 Guidelines.

Starting with category Ia (strict nature reserve), it represents the strictest level of protection when compared to the other categories. Access to protected areas under this category is very limited and is usually only allowed for the purposes of scientific studies and research, therefore minimizing disturbance. The purpose behind their establishment is to protect biodiversity and geological/geomorphological features, from human disturbance.

In category Ib (wilderness area), the natural condition of the area remains unmodified or slightly modified, and there is no permanent or significant human habitation. They are protected for purposes of natural integrity, free from any disturbance caused by human activities and modern infrastructures. The goal is to ensure that we are able to leave behind an ecosystem with a high degree of intactness, therefore available for future generations.

Regarding category II (national parks), the main goal is the protection of a large area with a functioning ecosystem, to ensure that the ecological processes and native species are able to survive with minimal management intervention, for instance, to control invasive species. Areas under this category also have an important role for educational purposes, thus allowing visitation and nature-based tourism, making this a key feature of this category. A well-known example of a MPA that falls under this category is the Great Barrier Reef Marine Park, in Australia. It protects vast and complex marine ecosystems whilst promoting recreational and tourism activities.

When it comes to category III (natural monument or feature), the idea is not only to protect a specific natural monument, such as submarine caves or a sea mount, but also the associated biodiversity and habitats. They tend to be smaller in size, when compared to other areas, as they focus solely on one or more prominent feature. Regardless of this, they often have a high cultural/natural value, which attracts a higher amount of visitors, as long as it is compatible with the established conservation objectives.

²² DUDLEY, Nigel (Editor) – **Guidelines for Applying Protected Area Management Categories**, p. 11. Available at <chrome-extension://efaidnbmnnnibpcajpcglefindmkaj/https://portals.iucn.org/library/sites/library/files/documents/pag-021.pdf>

Then, there is category IV (habitat/species management area), which focuses on the protection of specific species or habitats. While some areas under this category may need active management, in order to maintain, conserve and restore the ecological value, others do not have such needs.

As for category V (protected landscape/seascape), these are areas where human intervention has had a relevant impact, meaning that, over time, the interaction between humans and nature has shaped an area with a distinctive natural and cultural value, which needs to be protected. This interaction consists in the sustainable use of resources by the local communities, creating an environment where humans coexist with nature, whilst extracting benefits from it, without causing significant harm.

Lastly, areas under category VI (protected area with sustainable use of natural resources) usually cover large areas, where a part is to safeguard its natural condition²³ and the other part is under management for sustainable use, as long as it is compatible with nature conservation. In these areas, fishing is allowed, as well as tourism and other human activities, but subject to strict management, so that sustainable use does not compromise conservation. Ultimately, these areas provide support and livelihood to coastal communities.

It is important to note that, in a broad sense, all categories are equally important and they do not represent any kind of hierarchy. However, some categories might be better suitable than others. “All categories make a contribution to conservation, but objectives should be chosen with respect to the particular situation; not all categories are equally useful in every situation”²⁴.

3.3 MPAs’ importance

The ocean is crucial for sustaining human life however, it is currently facing many threats to the marine environment and biological diversity, in the form of overexploitation, harmful extraction methods, pollution and climate change, amongst others. In 2019, the Global Assessment Report on Biodiversity and Ecosystem Services concluded that around 1 million species were threatened with global extinction²⁵. In order to avoid the loss of

²³ Some countries have deemed appropriate to establish a proportion of two thirds of the area in natural condition.

²⁴ *Id.*, at 24.

²⁵ IPBES - **The Global Assessment Report on Biodiversity and Ecosystem Services**, p. 12. Available at <chrome-extension://efaidnbmnnnibpcajpcgclefindmkaj/https://files.ipbes.net/ipbes-web-prod-public-files/inline/files/ipbes_global_assessment_report_summary_for_policymakers.pdf>

marine biodiversity, scientists recognised that, alongside the adoption of a new treaty to protect the high seas (the BBNJ Agreement) and the elimination of unsustainable fishing activities²⁶, the protection of at least 30% of the ocean (which is aligned with the 30x30 target established in 2022), would be fundamental, in order to prevent further biodiversity loss²⁷.

Due to this, MPAs have presented themselves as the best solution to this problem, provided they are properly implemented and effectively managed. It is undisputed that MPAs primary goal is the protection and conservation of the marine environment and biodiversity. In light of this, experts have distinguished between MPAs that benefit the marine environment and MPAs that focus on the biodiversity itself²⁸. Ultimately, they both contribute to the conservation of marine biological diversity. The difference is that, by protecting the marine environment, the former indirectly benefits biodiversity as well, whereas the latter is solely focused on the conservation of biological diversity.

Some experts also believe that, in order to fully achieve their purpose, MPAs are required to fulfil the following requirements: (1) subject to the highest level of protection, which means a no-take zone; (2) well enforced; (3) older than 10 years; (4) size bigger than 100 km²; and, (5) isolated²⁹. Under this assessment, the South Georgia and South Sandwich Islands is an example of a MPA that is capable of fully achieving biodiversity protection, as it complies with all the requirements.

Although biodiversity protection remains the core purpose of MPAs, they also provide a wide range of complementary benefits, from ecological resilience to socioeconomic gains.

3.3.1 Ecological importance

The ecological contribution of MPAs goes beyond their primary purpose, as they ultimately contribute to improve the functioning and resilience of marine ecosystems as a whole. By

²⁶ Over the past 50 years, overfishing has been one of the main reasons behind the loss of biodiversity in the ocean, as it causes a severe depletion of fish stocks (See **Marine Biodiversity in Dangerous Decline, Finds New Report**, available at <<https://www.nrdc.org/bio/lauren-kubiak/marine-biodiversity-dangerous-decline-finds-new-report>>)

²⁷ LAUREN, Kubiak - **Marine Biodiversity in Dangerous Decline, Finds New Report**. Available at <<https://www.nrdc.org/bio/lauren-kubiak/marine-biodiversity-dangerous-decline-finds-new-report>>

²⁸ Within this category, while some MPAs are species-specific, others seek to protect “rare or fragile ecosystems and the habitat of depleted or endangered species and other marine life in a particular region” (See TANAKA, Yoshifumi – **The International Law of the Sea**, p. 456)

²⁹ LAFFOLEY, Dan [et al.] – Marine Protected Areas. In SHEPPARD, Charles - **World Seas: An Environmental Evaluation. Volume III: Ecological Issues and Environmental Impacts**, p. 5. Available at <https://www.researchgate.net/publication/327971023_Chapter_29_-_Marine_Protected_Areas_In_Sheppard_C_ed_World_Seas_An_Environmental_Evaluation_Volume_III_Ecological_Issues_and_Environmental_Impacts_Elsevier_pp_549-569>

creating areas where human activities are managed and controlled, MPAs serve multiple purposes related, but not limited, to biodiversity protection.

MPAs play an important role regarding scientific research, which allows experts and policymakers to understand the impacts of human activities in these areas. For instance, if we consider no-take zones, they serve as a reference and can provide a baseline for assessing the impacts of human activities in other areas³⁰. MPAs are often subject to changing conditions in the marine ecosystems. “Baseline data and spatial and temporal replication are therefore important to study the effects of protection over space and time”³¹. Additionally, MPAs offer the right conditions for scientists to perform response studies and identify effective strategies, by monitoring the species and the environment’s behaviour, therefore promoting adaptive management.

The protection of blue carbon ecosystems, such as mangroves, seagrasses, salt marshes, and tidal wetlands, is also crucial for ocean resilience, as they are fundamental not only for carbon sequestration and climate regulation, but also for protecting biodiversity and reducing human vulnerabilities to strong weather events, such as storms. MPAs work as an instrument to safeguard these ecosystems that “capture and hold” carbon at a much faster rate than forests and can continue to do so for a very long time³². Blue carbon habitats are also known for their biodiversity hotspots, providing nursery grounds and habitat for migratory species.

The management of marine resources is also an ecological benefit of implementing MPAs, mainly due to the fact that in these areas, the use of marine resources is either prohibited or regulated. This creates an environment where sustainable use is as important as conservation for both current and future generations. Moreover, it creates adequate conditions for the restoration of degraded ecosystems that suffered from overexploitation and harmful extraction methods, for example, which leads to a growth in biodiversity within the MPA. Simultaneously, this can create a spill-over effect, “a term commonly applied to the dispersal of fish and/or larvae from inside a closed area to areas open to

³⁰ **The Benefits of Marine Protected Areas**, p. 19. Available at <chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.dcceew.gov.au/sites/default/files/documents/benefits-mpas.pdf>

³¹ BRUN, Victor [et al.] - **Baseline assessment and early effects of a network of marine protected areas**, p. 2. Available at <https://www.researchgate.net/publication/380074786_Baseline_assessment_and_early_effects_of_a_network_of_marine_protected_areas>

³² NOAA - **What is Blue Carbon?** Available at <<https://oceanservice.noaa.gov/facts/bluecarbon.html>>

fishing³³, which translates into an increase of biodiversity, catch rates and ecosystem services outside the MPA³⁴.

Overall, well-managed MPAs not only enhance biodiversity and promote sustainable use of marine resources, but also play a significant role in climate change mitigation and ocean resilience. Scientific studies and monitoring ensure that the management measures and strategies implemented remain effective and promote adaptive management, necessary in the current reality of a changing ocean. The protection of blue carbon ecosystems safeguards some of the most important carbon sinks in the world, crucial for carbon sequestration, whilst also reducing vulnerabilities of coastal communities. Additionally, the restoration of degraded ecosystems and the consequent spill-over effect create an increase in biodiversity levels and strengthen community resilience.

3.3.2 Socioeconomic importance

Besides their ecological significance, MPAs also generate socioeconomic benefits, which contribute to the development of coastal communities, as MPAs success often depends on balancing conservation efforts with human needs. Exploring the socioeconomic importance of MPAs provides a more comprehensive understanding of what they can offer.

Nowadays, many countries heavily rely on tourism, particularly developing countries, where “the tourism industry has been given priority in the MPAs [...], because it is recognized as one of the pillars for economic growth in the region”³⁵. Marine tourism has the potential to improve living conditions of coastal communities, as it generates more income and job opportunities. However, a study on the Nha Trang Bay MPA, in Vietnam, suggests that marine tourism alone is not enough to secure better livelihoods for coastal communities³⁶.

Despite this, MPAs have become major tourist attractions, as marine tourism encourages a low-impact economic activity compatible with conservation objectives, as long as it is properly managed and there is no risk of overuse, leading to degradation and consequently,

³³ HILBORN, Ray [et al.] - **When does spillover from marine protected areas indicate benefits to fish abundance and catch?** p. 1. Available at <<https://link.springer.com/article/10.1007/s12080-024-00596-2>>

³⁴ **The Benefits of Marine Protected Areas**, pp. 8-9. Available at <chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.dcceew.gov.au/sites/default/files/documents/benefits-mpas.pdf>

³⁵ PHAM, Thuy Thi Thanh - **Tourism in marine protected areas: Can it be considered as an alternative livelihood for local communities?**, p. 6. Available at <<https://www.sciencedirect.com/science/article/pii/S0308597X19303690>>

³⁶ The results conclude that those who work simultaneously in traditional fishing or aquaculture farming and tourism receive a higher income, when compared to those who have chosen one of the above (*Id.*, at 6).

a decline in visitor numbers³⁷. An example of this is the Great Barrier Reef Marine Park, where tourism is the most significant industry, having “contributed \$6.4 billion in value added and over 64,000 jobs to the Australian economy in 2015–16 (direct and indirect)”³⁸.

Additionally, marine tourism promotes public awareness, because visitors are allowed to closely observe biodiversity that has been undisturbed by fishing and other harmful activities, making them more sympathetic towards ocean related initiatives and concerns. Additionally, promoting ocean literacy to children has proven to be an effective measure. As they “learn and share their knowledge with their families and the wider community, they play a significant role in developing community understanding and demand for sustainable management of their marine environments”³⁹.

Many MPAs require a transboundary management, as biodiversity and marine ecosystems often cross national boundaries. Thus, international cooperation is essential in order to effectively manage these MPAs and promote a united front towards achieving conservation goals. Moreover, it bridges the gap between some countries, due to shared scientific research and monitoring, ensuring capacity-building in areas such as enforcement and marine science. MPAs also work as promoters of peacekeeping in conflict zones, since they require diplomacy in order to fulfil the conservation purpose of a MPA⁴⁰. International cooperation in the context of MPAs also has an important role regarding global commitments, as they help countries meeting their obligations under, for instance, SDG 14, the 30x30 target and the BBNJ Agreement.

³⁷ **The Benefits of Marine Protected Areas**, p. 13. Available at <chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.dcceew.gov.au/sites/default/files/documents/benefits-mpas.pdf>

³⁸ O'MAHONY, John [et al.] - **At what price? The economic, social and icon value of the Great Barrier Reef**, p. 7. Available at <chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.barrierreef.org/uploads/deloitte-au-economics-great-barrier-reef-230617.pdf>

³⁹ **The Benefits of Marine Protected Areas**, p. 17. Available at <chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.dcceew.gov.au/sites/default/files/documents/benefits-mpas.pdf>

⁴⁰ An example of environmental diplomacy is The Red Sea Marine Peace Park, a transboundary MPA managed by both Israel and Jordan (See ZBICZ, Dorothy C. – **Marine Transboundary Conservation**. Available at <<https://www.tbpa.net/page.php?ndx=49>>)

4 Sustainable Development Goal 14 (SDG 14)

4.1 Background

In 2015, all 195 United Nations Member States adopted the 2030 Agenda for Sustainable Development, “a plan of action for people, planet and prosperity”⁴¹, which sets out 17 universal goals that establish the commitments of the Member States, working together in a global partnership, towards a sustainable development. The goal was to find an equilibrium between an environmental perspective and economic growth, in an attempt to adopt the position of a neutral viewer. This is built on one of the main challenges society has, where everything must generate economic benefits. Even though these goals have a non-binding nature, policymakers tend to follow them as guidelines and integrate them in their national policies and legislations, therefore demonstrating the impact of SDGs⁴².

The SDGs are built upon the Millennium Development Goals (2000-2015). Although they “provided an important framework for development and significant progress [had been] made”⁴³, much remained to be done, especially in Africa, least developed countries, landlocked developing countries and SIDS. Therefore, the New Agenda is an attempt to go beyond the Millennium Development Goals and “complete what they did not achieve, particularly in reaching the most vulnerable”⁴⁴.

While developing the final text, a debate emerged on the placement of ocean related matters. While some argued that they should have a stand-alone SDG, others thought sufficient to integrate ocean references within the other SDGs⁴⁵. Ultimately, the first vision prevailed, thus creating SDG 14, which provides guidelines to “ensure the conservation and sustainable use of oceans, seas and marine resources”⁴⁶.

The purpose of the 17 SDGs, as is explained in the preamble of the 2030 Agenda, is to stimulate action in 5 major areas which require global attention. These areas are known as the “5 Ps” (People, Planet, Prosperity, Peace and Partnership), and cover various issues, such as poverty, equality, health, education and climate change. However, for the purposes of this report, SDG 14, *Life Bellow Water*, will be the core subject of analysis.

⁴¹ General Assembly resolution 70/1, **Transforming our World: The 2030 Agenda for Sustainable Development**, A/RES/70/1, p. 5. Available at <[21252030 Agenda for Sustainable Development web.pdf](#)>

⁴² HUCK, Winfried – **Sustainable Development Goals: Article-by-Article Commentary** p. 6, para. 17.

⁴³ General Assembly resolution 70/1, **Transforming our World: The 2030 Agenda for Sustainable Development**, A/RES/70/1, p. 9. Available at <[21252030 Agenda for Sustainable Development web.pdf](#)>

⁴⁴ *Id.*, at 9.

⁴⁵ HUCK, Winfried – **Sustainable Development Goals: Article-by-Article Commentary** p. 526, para. 13.

⁴⁶ *Id.*, at 526, para. 15.

4.2 Targets and Indicators

In a world where 70% of the surface is covered by water, it is important to protect “life below water” and promote a sustainable use of marine resources. This is the *rationale* behind the adoption of SDG 14: to protect the ocean from the diverse threats it faces, ranging from high temperatures and ocean acidification, to climate change and loss of biodiversity. In order to do so, there are several targets that Member States are determined to achieve, the progress of each target being measured by the corresponding indicator.

The first target, 14.1, aimed at the significant reduction of all kinds of marine pollution by 2025, focusing on pollution from land-based activities. In order to assess progress on this target, one must measure the level of coastal eutrophication⁴⁷ and the density of plastic debris. There have been significant efforts to achieve this target, with the adoption of major initiatives, such as the UN Plastics Treaty and the European Union’s Single-Use Plastics Directive. Public awareness on the matter has also increased, leading to more people trying to make a change and adopting small habits that prevent marine pollution, especially by reducing plastic consumption on their daily lives. Despite these efforts, we have not been able to fully achieve target 14.1, and unless plastic production is significantly reduced, it will remain out of reach⁴⁸.

Regarding target 14.2, Member States agreed on 2020 as the deadline for “sustainably manage and protect marine and coastal ecosystems to avoid significant adverse impacts, including by strengthening their resilience, and take action for their restoration in order to achieve healthy and productive oceans”⁴⁹. A study was conducted in 2022, for the purposes of assessing the level of progress of the 4 targets meant to be achieved by 2020: targets 14.2, 14.4, 14.5 and 14.6. For the purposes of target 14.2, the authors gathered 152 coastal states and analysed whether or not they have adopted ecosystem-based approaches to manage marine areas. They concluded that only 4 countries (2,6%) were able to meet the target within the time-bound requirement, whilst 17 countries (11,1%) made no progress at all. Also, 53 countries (34,8%) made a good progress, but more than half (51,3%) was still

⁴⁷ Eutrophication is a consequence to excessive nutrients in a body of water. These nutrients are a result of run-off from land and causes significant growth in algae and other aquatic plants, which then die and decompose, ultimately leading to the body of water becoming lifeless. See <https://www.eea.europa.eu/help/glossary/other-eea-terms/eutrophication>

⁴⁸ Ocean Now – **An ocean of plastic: are we on track for SDG 14.1?** Available at <<https://ocean-now.org/projects/an-ocean-of-plastic-are-we-on-track-for-sdg-14-1/>>

⁴⁹ General Assembly resolution 70/1, **Transforming our World: The 2030 Agenda for Sustainable Development**, A/RES/70/1, p. 28. Available at <[21252030 Agenda for Sustainable Development web.pdf](https://www.un.org/en/content/dam/development-dimension/a/res/2015/70/a_res_70_1.pdf)>

making low progress⁵⁰ (Fig. 1). 5 years have passed since the established timeframe, and there is still no significant progress made for the purposes of achieving this target, according to the 2025 Sustainable Development Goals Report.

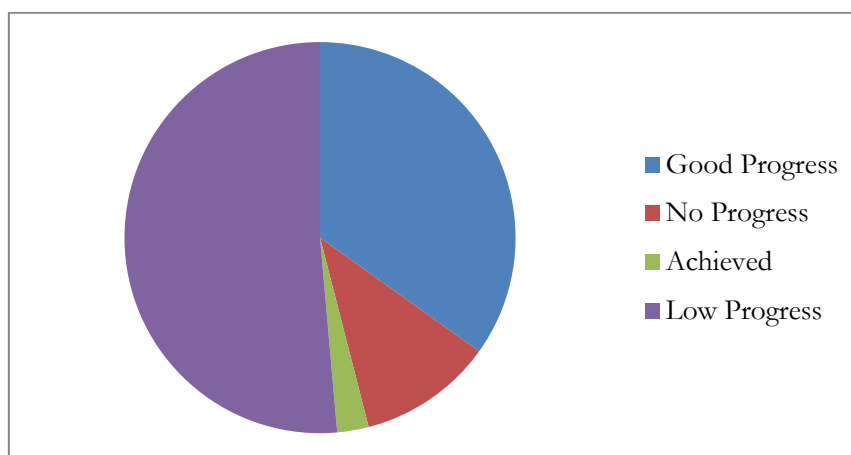


Figure 1 – Graphic representation of level of progress of target 14.2, in 2022

The third target, 14.3, aims at reducing ocean acidification, including through scientific cooperation, by measuring the average marine acidity (pH). The ocean has the ability to absorb large amounts of CO₂ emissions. However, this ability has a threshold that has been surpassed, leading to ocean acidification, which is a change in the oceans chemistry components – lower levels of pH indicate higher levels of ocean acidification. In the 2025 Sustainable Development Goals Report, experts say that the “ocean pH has steadily declined across all ocean basins and seas”⁵¹, at an approximate rate of -0.017 pH units per decade, currently standing at around 8.1. If the goal is to increase pH levels, this means that we are not being able to achieve this target and are, in fact, getting further away each year.

Target 14.4 focuses on fish stocks and also established 2020 as the timeframe to “effectively regulate harvesting and end overfishing, IUU fishing and destructive fishing practices and implement science-based management plans”⁵². The 2022 study assessed the progress made based on the proportion of fish stocks within biologically sustainable levels. From the 152 countries analysed, the authors were only able to collect data from 119 countries. They concluded that, by 2020, only 3 countries (2%) were able to achieve this

⁵⁰ ANDRIAMAHEFAZAFY, Mialy [et al.] – **Sustainable Development Goal 14: To what degree have we achieved the 2020 targets for our oceans?** p. 3. Available at <<https://www.sciencedirect.com/science/article/pii/S0964569122002496>>

⁵¹ United Nations Department of Economic and Social Affairs – **The Sustainable Development Goals Report**, p. 37. Available at <<https://unstats.un.org/sdgs/report/2025/>>

⁵² General Assembly resolution 70/1, **Transforming our World: The 2030 Agenda for Sustainable Development**, A/RES/70/1, p. 28. Available at <[21252030 Agenda for Sustainable Development web.pdf](https://www.un.org/en/content/dam/development-dimension/a/res/2015/70/a_res_70_1.pdf)>

target, and that 37 countries (24,3%) made good progress. However, there were still 74 countries (48,7%) with low progress and 5 countries (3,3%) that showed no progress⁵³ (Fig. 2). More recently, in the 2025 Sustainable Development Goals Report, experts concluded that this target is not only unachieved, but also in a regression.

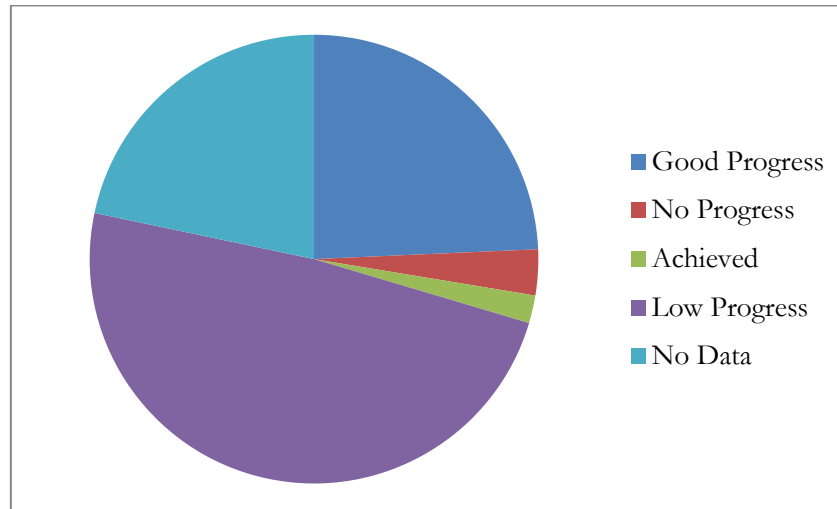


Figure 2 – Graphic representation of the level of progress of target 14.4, in 2022

Regarding target 14.5, the goal was to “conserve at least 10 per cent of coastal and marine areas, consistent with national and international law and based on the best available scientific information”⁵⁴. In order to achieve this target, by 2020, countries would have to implement and strengthen their network of MPAs. The 2022 study showed that this target was the one with the highest rate of achievement, with 28 countries (18,4%), while an equal number showed low progress. However, it is also the target with the highest rate of countries showing no progress (81 countries – 56,3%) and the lowest rate of countries that have made a good progress (15 countries – 9,8%)⁵⁵ (Fig. 3). This lack of achievement raises some concerns, given that this target was not something new, as it was built on the CBD Aichi target 11, from 2011, which also promoted the protection of 10% of marine areas, through the implementation of MPAs, by 2020. Despite increasing efforts, coverage of

⁵³ ANDRIAMAHEFAZAFY, Mialy [et al.] – Sustainable Development Goal 14: To what degree have we achieved the 2020 targets for our oceans? p. 3. Available at <<https://www.sciencedirect.com/science/article/pii/S0964569122002496>>

⁵⁴ General Assembly resolution 70/1, Transforming our World: The 2030 Agenda for Sustainable Development, A/RES/70/1, p. 28. Available at <[21252030 Agenda for Sustainable Development web.pdf](https://www.un.org/en/content/dam/development-dimension/a/res/2015/70/a_res_70_1.pdf)>

⁵⁵ ANDRIAMAHEFAZAFY, Mialy [et al.] – Sustainable Development Goal 14: To what degree have we achieved the 2020 targets for our oceans? p. 4. Available at <<https://www.sciencedirect.com/science/article/pii/S0964569122002496>>

marine areas remains below the global target, at just 9.61%⁵⁶, highlighting that a lot remains to be done, especially in order to attend the 30x30 target.

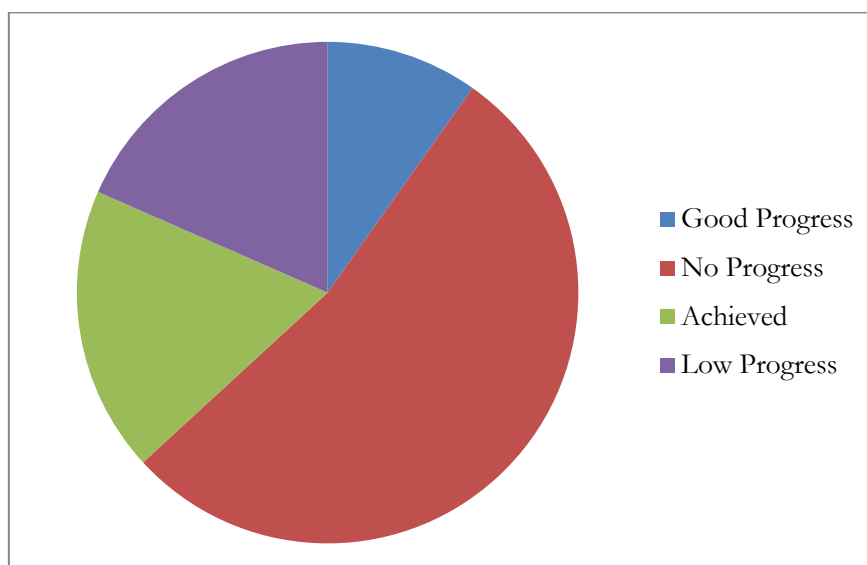


Figure 3 – Graphic representation of the level of progress of target 14.5, in 2022

As for target 14.6, on IUU fishing, the goal was to, by 2020, “prohibit certain forms of fisheries subsidies which contribute to overcapacity and overfishing, eliminate subsidies that contribute to illegal, unreported and unregulated fishing and refrain from introducing new such subsidies”⁵⁷. The 2022 study evaluated the degree of implementation of international instruments aiming to combat IUU fishing and identified that, the majority of countries (61 – 40,1%) made a good progress on accomplishing this target and 24 countries (15,8%) were indeed able to achieve it. However, there were still 30 countries (19,8%) that had no progress and 37 countries (24,3%) with a low progress⁵⁸ (Fig. 4). Efforts are being made to further advance this target, namely through the adoption of key instruments, such as the Agreement on Port State Measures, which is the first binding global treaty that addresses IUU fishing⁵⁹. It entered into force in 2016, thirty days after the 25th ratification, and it currently has 86 Parties⁶⁰. Another example is the Agreement on Fisheries Subsidies

⁵⁶ Protected Planet – Marine Protected Areas. Available at <<https://www.protectedplanet.net/en/thematic-areas/marine-protected-areas>>

⁵⁷ General Assembly resolution 70/1, **Transforming our World: The 2030 Agenda for Sustainable Development**, A/RES/70/1, p. 28. Available at <[21252030 Agenda for Sustainable Development web.pdf](https://www.un.org/en/content/dam/development-dimension/a/res/2015/70/a_res_70_1.pdf)>

⁵⁸ ANDRIAMAHEFAZAFY, Mialy [et al.] – **Sustainable Development Goal 14: To what degree have we achieved the 2020 targets for our oceans?** p. 4. Available at <<https://www.sciencedirect.com/science/article/pii/S0964569122002496>>

⁵⁹ United Nations Department of Economic and Social Affairs – **The Sustainable Development Goals Report**, p. 37. Available at <<https://unstats.un.org/sdgs/report/2025/>>

⁶⁰ FAO – **Treaties Data Base**. Available at <<https://www.fao.org/treaties/results/details/en/c/TRE-000003/>>

of the World Trade Organization, which has not entered into force yet, since it needs the formal acceptance of 2/3 of the WTO Members (111 out of 166), and it currently has 108⁶¹. Even though the 2025 Sustainable Development Goals Report considered that this target was achieved, it also recognized that it requires more action, in the form of “sustained global cooperation and full implementation of international instruments and tools”⁶².

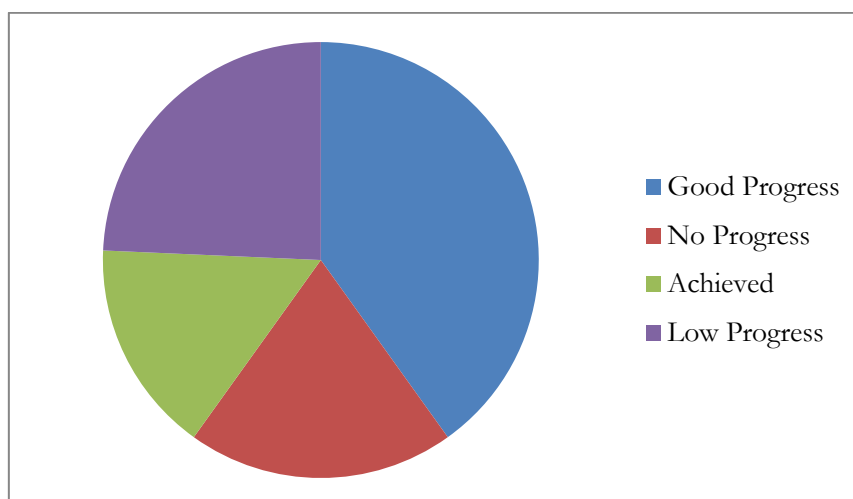


Figure 4 – Graphic representation of the level of progress of target 14.6, in 2022

Then, there is target 14.7, which proposes to “increase the economic benefits to Small Island developing States and least developed countries from the sustainable use of marine resources, including through sustainable management of fisheries, aquaculture and tourism”⁶³. The timeframe to achieve this target is 2030, and it is based on the weight of sustainable fisheries in the GDP of the country. Although there is still a five-year window, based on the data available, “the contribution of sustainable fisheries to GDP is declining worldwide”⁶⁴, as a result of opposite trends between fish stocks (decline) and economies (increase). Despite this global trend, the contribution of sustainable fisheries in SIDS has actually increased from 0,46%, in 2019, to 0,51%, in 2021⁶⁵. Nonetheless, it is not enough

⁶¹ World Trade Organization - **Members submitting acceptance of Agreement on Fisheries Subsidies**. Available at <https://www.wto.org/english/tratop_e/rulesneg_e/fish_e/fish_acceptances_e.htm>

⁶² United Nations Department of Economic and Social Affairs – **The Sustainable Development Goals Report**, p. 37. Available at <<https://unstats.un.org/sdgs/report/2025/>>

⁶³ General Assembly resolution 70/1, **Transforming our World: The 2030 Agenda for Sustainable Development**, A/RES/70/1, p. 28. Available at <[21252030 Agenda for Sustainable Development web.pdf](https://www.un.org/en/content/dam/development-dimension/a/res/2015/70/a_res_70_1.pdf)>

⁶⁴ FAO – **SDGs Indicators Data Portal**. Available at <<https://www.fao.org/sustainable-development-goals-data-portal/data/indicators/1471-value-added-of-sustainable-fisheries/tracking-progress-on-food-and-agriculture-related-sdg-indicators-2022/en>>

⁶⁵ FAO – **SDGs Indicators Data Portal**. Available at <<https://www.fao.org/sustainable-development-goals-data-portal/data/indicators/1471-value-added-of-sustainable-fisheries/tracking-progress-on-food-and-agriculture-related-sdg-indicators-2022/en>>

to consider that this target has been achieved, in accordance with the 2025 Sustainable Development Goals Report.

These first 7 targets of SDG 14 use a numbered sequence that represents the main goals, most of them establishing a timeframe to accomplish a certain goal. On the other hand, the last 3 targets use letters. This difference arises from the fact that the lettered targets are not goals *per se*, but rather means of implementation, as they focus on how the main goals can be achieved⁶⁶.

The first of these final targets is target 14.a, that aims to “increase scientific knowledge, develop research capacity and transfer marine technology [...] in order to improve ocean health and to enhance the contribution of marine biodiversity to the development of developing countries”⁶⁷. The evolution of this target is measured by the amount of research budget allocated to marine technology. Similarly to previous targets, the 2025 Sustainable Development Goals Report has determined that this target is far from being achieved. However, from an optimistic perspective, with the adoption of the BBNJ Agreement, this target may receive an important boost, therefore reaching its objective by 2030.

Regarding target 14.b, the goal is to “provide access for small-scale artisanal fishers to marine resources and markets”⁶⁸, based on the degree of application of different frameworks that promote access rights for small-scale fisheries. Many coastal communities rely on small-scale fisheries for their livelihoods, primarily in the Pacific, therefore underlining the importance of maintaining access to it. Unlike the majority of SDG 14 targets, the 2025 Sustainable Development Goals Report confirms that this target is currently on track to be achieved by 2030⁶⁹.

Lastly, target 14.c wants to “enhance the conservation and sustainable use of oceans and their resources by implementing international law as reflected in [UNCLOS]”⁷⁰. The assessment of this target is made based on the “number of countries making progress in ratifying, accepting and implementing through legal, policy and institutional frameworks,

⁶⁶ OLIVEIRA, Mafalda Paiva de – The Perception of the Ocean Centrality for the Climate Crisis: Awareness, Trends and Perspectives in the Preparation of the 2nd United Nations Ocean Conference. In CRISTAS, Assunção – **Mar e Direito em Contexto**, p. 18.

⁶⁷ General Assembly resolution 70/1, **Transforming our World: The 2030 Agenda for Sustainable Development**, A/RES/70/1, p. 28. Available at <[21252030 Agenda for Sustainable Development web.pdf](#)>

⁶⁸ *Id.*, at 28.

⁶⁹ United Nations Department of Economic and Social Affairs – **The Sustainable Development Goals Report**, p. 45. Available at <<https://unstats.un.org/sdgs/report/2025/>>

⁷⁰ General Assembly resolution 70/1, **Transforming our World: The 2030 Agenda for Sustainable Development**, A/RES/70/1, p. 28. Available at <[21252030 Agenda for Sustainable Development web.pdf](#)>

ocean-related instruments that implement international law, as reflected in the [UNCLOS], for the conservation and sustainable use of the oceans and their resources”⁷¹. Even though the adoption of the BBNJ Agreement is a good step towards the achievement of this target, overall, there has been moderate progress, which is why further action is needed, in order to avoid falling into a state of stagnation, similarly to what has happened with other targets.

In sum, SDG 14 is one of the least developed, when compared to other SDGs, with approximately 20% of target accomplishment and 40% of target regression (Fig. 5). Nevertheless, there have been positive outcomes, such as the recovery of fish stocks from decreasing IUU fishing practices. On the other hand, there are still a lot of concerns regarding ocean acidification, as data shows that the pH levels are declining, instead of increasing. Moreover, even though there has been an increase in the implementation of MPAs, it remains insufficient to achieve the 30x30 target⁷². Ultimately, the development of SDG 14 as a standalone was important to identify the main problems and address priorities. However, that is not enough and “if the will in the multilateral sphere is not sufficient, the oceans will not get the protection they need”⁷³.

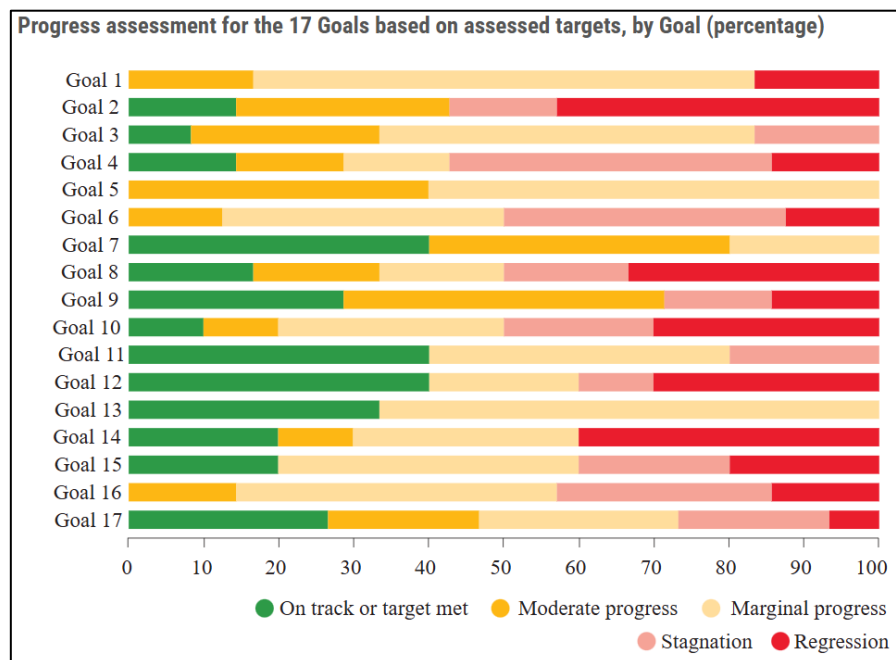


Figure 5 – Level of progress of all 17 SDGs, in 2025 (available at <https://unstats.un.org/sdgs/report/2025/funding-data-and-statistics/>)

⁷¹ United Nations Department of Economic and Social Affairs – **Goal 14: Conserve and sustainably use the oceans, seas and marine resources for sustainable development**. Available at <https://sdgs.un.org/goals/goal14#targets_and_indicators>

⁷² Eurostat – **SDG 14: Life below water (Statistics Explained)**. Available at <https://ec.europa.eu/eurostat/statistics-explained/index.php?title=SDG_14_-_Life_below_water>

⁷³ HUCK, Winfried – **Sustainable Development Goals: Article-by-Article Commentary** p. 553, para. 103.

4.3 Relevance of SDG 14.c

The former chapter introduced the targets under SDG 14, albeit only briefly. As was previously outlined, target 14.c calls for enhancing the conservation and sustainable use of the ocean and its resources through international law, particularly UNCLOS. Unlike other targets under SDG 14, which address specific issues such as overfishing, ocean acidification or pollution, target 14.c provides the legal framework that allows the achievement of those targets, through UNCLOS. Therefore, this target acknowledges that effective and sustainable ocean governance relies upon the implementation of legally binding instruments.

The importance of this target can easily be understood by considering the transboundary nature of marine ecosystems. Fish stocks and currents, for instance, see no jurisdictional boundaries, meaning that conservation cannot be upheld by a single country. If ocean governance was fragmented between individual states, each one would follow different guidelines and establish different priorities, resulting in varying standards of implementation and protection. Ultimately, conflicts could emerge between states regarding the allocation of responsibilities. Target 14.c avoids the development of these issues by emphasizing the need for a comprehensive and holistic legal framework that governs the ocean. This was achieved with the adoption of UNCLOS, which determines the rights and responsibilities of states in their use of the ocean and its resources. It establishes the maritime zones and provides rules on navigation rights and conservation of living resources. UNCLOS also covers the obligations of states to protect and preserve the marine environment and encompasses mechanisms for settlement of disputes.

Another factor that highlights the importance of target 14.c is equity, or lack thereof. For developing countries, particularly SIDS, the ocean represents not only their most important source of livelihoods, but also cultural identity. Given their limited resources, SIDS face three types of inequities: economic (reduced access to ocean related opportunities), environmental (increased vulnerabilities to coastal stressors) and governance (unequal representation). Ultimately, they are unable to assert their interests against powerful bodies, “leading to inequitable outcomes and agreements”⁷⁴. UNCLOS attempts to be objective and address these issues by recognizing the rights of all states, regardless of their size or

⁷⁴ HURLEY Gail, [et al] - **Turning the tide Enhancing ocean equity for Small Island Developing States**. p. 3. Available at < <https://odi.org/en/publications/turning-the-tide-enhancing-ocean-equity-for-small-island-developing-states/>>

power. Therefore, target 14.c goes beyond the conservation of the marine environment – it reinforces equity among all.

Target 14.c also has an increased relevance regarding contemporary and emerging challenges. Since UNCLOS, anthropogenic pressures on the ocean have increased, namely climate change, pollution and harmful extraction methods. Even though UNCLOS remains the foundation, its scope of application should evolve simultaneously to current realities. This idea is represented through the idea of “enhancing” the implementation of international law, which conveys the importance of continuous adaptation of existing frameworks to the needs of the ocean.

Despite its importance, only moderate progress has been made regarding its achievement. This progress is measured in two levels: (1) formal adherence to UNCLOS and its agreements⁷⁵; (2) the extent to which countries transpose their obligations into domestic legislation⁷⁶. This duality is important because ratification alone does not guarantee compliance, but rather the enforcement of national laws and policies covering their commitments. This highlights the difference between theoretical commitments and practical implementation.

In essence, target 14.c not only provides a legal basis for ocean governance, but it also promotes fairness, accountability and cooperation. By anchoring ocean sustainability to international law and measuring progress through a concrete and attainable indicator, this target paves the way towards an adaptive management of the ocean and its resources. Therefore, achieving target 14.c is essential in order to achieve the remaining targets under SDG 14.

4.4 Challenges behind the implementation of SDG 14

The lack of success of SDG 14 reflects the complexity of challenges associated with ocean governance, especially because the core issues that SDG 14 aims to address are also the ones hindering its success, which is why, in 10 years, little progress has been made.

⁷⁵ There are 3 implementing agreements – the Agreement on the implementation of Part XI, the Fish Stocks Agreement and, more recently, the BBNJ Agreement.

⁷⁶ UNEP – **Measuring Progress Special Edition: Disaggregation.** Available at <<https://sdgs.unep.org/article/sdg-indicator-14c1>>

4.4.1 Environmental challenges

While SDG 14 sets out ambitious targets to conserve and sustainably use the marine environment and its resources, constant environmental challenges continue to difficult noticeable progress.

Marine pollution remains one of the greatest threats to ocean health. UNCLOS defines it as the “introduction by man, directly or indirectly, of substances or energy into the marine environment [...] which results or is likely to result in such deleterious effects as harm to living resources and marine life [...]”⁷⁷. Marine pollution is not limited to the plastic debris that end up in the ocean, although this is the most significant type of marine pollution, with approximately 8 million metric tons of plastic being dumped in the ocean annually⁷⁸, leading to the formation of “plastic islands”, such as Great Pacific Garbage Patch. On a smaller scale, there’s not only chemical pollution, which is a result of industrial and agricultural activities and oil spills, but there’s also nutrient pollution (eutrophication). Overall, marine pollution has significant impacts on the marine environment, as it leads to loss of biodiversity, disruption of food chains, habitat destruction and ocean acidification (caused by CO2 absorption but intensified by pollution)⁷⁹.

High water temperatures also raise some concerns, particularly regarding the current coral bleaching levels, as they lead to biodiversity loss and threaten the ocean’s resilience. Although the water temperature is not the sole cause of coral bleaching, it is the one that has the most adverse impacts, when compared to pollution and acidification. We are currently in the middle of the fourth coral bleaching event⁸⁰, which has caused a higher coral mortality than previously expected, with 84% of the world’s coral having been affected⁸¹.

These issues, among others, continue to outpace global efforts, making the goals of SDG 14 harder to achieve without more aggressive efforts.

⁷⁷ Art. 1(4) of UNCLOS

⁷⁸ THIAGARAJAN, C. - **The urgent challenge of ocean pollution: Impacts on marine biodiversity and human health.** p. 2. Available at <https://www.sciencedirect.com/science/article/pii/S2352485524006285>

⁷⁹ *Id.*, at 4-5

⁸⁰ The first one took place in 1998, where 21% of the corals were affected; the second one was in 2010, with 37%; and, the third one, happened between 2014 and 2017, causing bleaching in 68% of the world’s corals (See ATTENBOROUGH, David; BUTFIELD, Colin – **Oceano: O ultimo reduto selvagem**, p. 64).

⁸¹ United Nations Department of Economic and Social Affairs – **The Sustainable Development Goals Report.** p. 37. Available at <https://unstats.un.org/sdgs/report/2025/>

4.4.2 Economic challenges

Although not as visible, the economic factor also plays a major role when it comes to the lack of success of SDG 14, for instance, due to underfunding and marginalisation of small-scale fishers.

Recent reports have confirmed that SDG 14 is one of the least funded among the other SDGs, needing almost \$175 billion per year for achieving each target within the 2030 timeframe⁸². In his statement at UNOC III, Jorge Moreira da Silva confirmed this and added that between 2015 and 2019, only \$10 billion had been allocated to SDG 14, highlighting the need for a fragmented ocean funding, by turning towards strategies such as blended finance, blue bonds, debt for nature swaps and impact investing⁸³.

Overfishing also causes severe economic challenges, besides the obvious environmental one of biodiversity loss. It occurs whenever harvesting fish stocks happens at a faster rate than recovery, therefore leading to their depletion. This phenomena is mainly caused by economic incentives (subsidies that “incentivize overcapacity and lead to overfishing”⁸⁴), high market demand and livelihood pressures (people are highly dependent on fish as a source of income and food, which obstructs the acceptance of restrictions). If these issues are not addressed, achieving SDG 14 (specifically, target 14.4) remains unattainable.

It is also important to underline that the competition between industrial fishing and small-scale fishers is unbalanced, thus increasing inequality and poverty. It's this forced economic vulnerability that poses the economic challenge of marginalized small-scale fishers, as it leaves them with fewer options for sustainable practices, since industrial fishing dominates the market, technology and receives subsidies more easily. The lack of balance between them undermines the sustainable objectives of SDG 14.

These financial barriers prevent the adoption of sustainable practices, as nowadays money still speaks louder than the environment. Without a different mind-set and a stronger enforcement of economic initiatives that promote both a sustainable use of resources, as

⁸² **Inputs to SG's background note for the preparatory meeting for the 2025 UN Ocean Conference: Section IV.1 - Investing in SDG 14.** Available at <[chrome-extension://efaidnbmnnnibpcajpcgglefindmkaj/https://sdgs.un.org/sites/default/files/2024-05/UNOC%20note_FSDO%20comments_rev.pdf](https://efaidnbmnnnibpcajpcgglefindmkaj/https://sdgs.un.org/sites/default/files/2024-05/UNOC%20note_FSDO%20comments_rev.pdf)>

⁸³ This speech was given in the context of the Ocean Action Panel 3, 'Mobilizing finance for ocean actions in support of Sustainable Development Goal 14, and is available at <<https://www.unops.org/news-and-stories/speeches/mobilizing-finance-for-ocean-actions-in-support-of-sdg14>>

⁸⁴ VILLASANTE, Sebastián [et al.] - **Strengthening European Union fisheries by removing harmful subsidies.** Available at <<https://www.sciencedirect.com/science/article/pii/S0308597X21004954>>

well as support for those that face disadvantages, SDG 14 will remain an ideal, rather than a reality.

4.4.3 Political challenges

The effectiveness of SDG 14 is highly dependent on political will and cooperation among the different countries. However, issues such as governance gaps in ABNJ, weak enforcement and monitoring, and maritime disputes inherently undermine SDG 14.

Political challenges are often linked with economic limitations, as is the case of monitoring issues, which are a common result of insufficient funding. The SDG monitoring framework was established in 2016, and at the time, the data available was significantly low across every goal. That is no longer the case, as “SDG data availability shows encouraging overall progress between 2019 and 2025”⁸⁵, in spite of some existing gaps in key areas, such as SDG 14 (Fig. 6), which directly affects monitoring efforts. The 2025 Sustainable Development Goals Report identifies “the fragile financial foundation upon which global data systems rest” as the vulnerability behind monitoring issues⁸⁶.

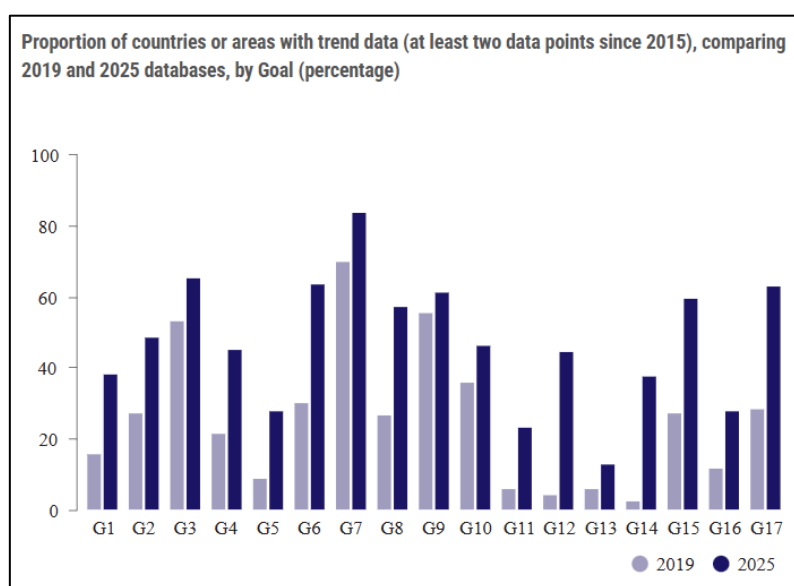


Figure 6 – Evolution of data availability across all SDGs (available at <https://unstats.un.org/sdgs/report/2025/funding-data-and-statistics/>)

Another important issue relates to the lack of governance in ABNJ. These areas make up for around 60% of the world’s waters, where the enforcement of laws is weak, due to the

⁸⁵ United Nations Department of Economic and Social Affairs – **The Sustainable Development Goals Report**, p. 37. Available at <https://unstats.un.org/sdgs/report/2025/>

⁸⁶ *Id.*, at 37

fact that no country has sovereignty or sovereign rights in the high seas. Consequently, there is little control over unsustainable practices such as overfishing, IUU fishing and deep-sea mining, therefore hindering the advancement of SDG 14. However, recent legal developments, such as the adoption of the BBNJ Agreement, aim at better regulating these areas in order to protect and conserve marine resources. Ultimately, the success of this agreement, similarly to UNCLOS, depends on adequate enforcement, another long-standing challenge that continues to prevent SDG 14's progress. Although countries ratify these agreements, thus expressing their commitment to comply with them, they often lack both the capacity and will to enforce them.

Cooperation is also an essential element in order to achieve SDG 14, particularly regarding transboundary MPAs, as countries need to work together. However, maritime disputes can undermine cooperation efforts on marine management, allowing unsustainable activities to take place with no regulation. While the Red Sea Marine Peace Park promotes environmental peace between Israel and Jordan, given their shared MPA, the territorial disputes in the South China Sea (where multiple countries claim overlapping maritime zones) have a heavy impact on conservation efforts, given that uncertain jurisdiction leads to weak enforcement and overexploitation of marine resources. The lack of cooperation in areas such as the South China Sea, with rich biodiversity, threatens the effectiveness of SDG 14.

Overall, the lack of progress of SDG 14 is not limited to environmental and economic constraints. The political dimension also plays an important role, as progress requires commitment, effort and cooperation. The success of SDG 14 depends on the ability of states and stakeholders to overcome fragmentation and promote the common benefits regarding the sustainable management of the ocean and its resources.

5 The BBNJ Agreement

5.1 Background and importance of BBNJ

Across history, the ocean has been subject to different schools of thought, regarding its control. During the Roman Empire, the Mediterranean was considered *Mare Nostrum*, since it was surrounded by Roman territory. Centuries later, during the Age of Discovery, when countries had conflicting interests of ocean ownership, two other notions emerged. On one side, John Selden advanced the idea of *Mare Clausum*, according to which the ocean should be closed to those who did not control them. In contrast, Hugo Grotius argued for a *Mare Liberum*, the principle of freedom of the seas, which then became the norm. However, the lack of a comprehensive set of rules was obvious, as tensions began to appear with, for example, fishing rights and access to offshore resources. In 1945, the Truman Proclamation was a major turning point in international relations, as President Truman claimed exclusive rights over the continental shelf, which contained essential oil and gas needed for post-II World War reconstruction⁸⁷. This declaration created a precedent for other countries to claim exclusive rights on the continental shelf as well, while other countries, in South America, expressed their disagreement, as their continental shelf was narrower. This was known as the Santiago Declaration, in which countries, similarly to what the United States had done, claimed 200 nautical miles, where they had sovereignty and jurisdiction⁸⁸. This led to economic losses on fishing activities, as fishermen were no longer allowed to fish in the area within the 200 nautical miles claimed.

In order to solve these disputes, among others, between 1973 and 1982, during the Third Conference on the Law of the Sea, the UN agreed on the adoption of a framework that would formally codify and clarify some rules that were already in practice, such as the delimitation of the maritime zones. This framework would also include the vision introduced by Arvid Pardo in 1967, of the principle of the “common heritage of mankind”. In his speech to the UN General Assembly, the Maltese Ambassador argued that the deep

⁸⁷ EBSCO – **Truman Proclamations**. Available at <<https://www.ebsco.com/research-starters/mining-and-mineral-resources/truman-proclamations>>

⁸⁸ UN – **Declaration on the maritime zone**. Available at <<chrome-extension://efaidnbmnnnibpcajpcglefindmkaj/https://treaties.un.org/doc/publication/unts/volume%201006/volume-1006-i-14758-english.pdf>>

seabed and its resources should not be subject to unilateral appropriation, but rather managed for the benefit of all humanity, including future generations⁸⁹.

Negotiations culminated with the adoption of UNCLOS, commonly known as “The Constitution of the Oceans”, which opened for signature in 1982 and entered into force 12 years later, in 1994. Nowadays, it remains the most complex, comprehensive and multilateral treaty ever signed, with 117 ratifications as of December 2025⁹⁰, and yet, a vast ocean area is still “lawless”, as ABNJ constitute around 60% of the world’s ocean (high seas and the area), meaning that the majority of the ocean’s surface belongs to no one and everyone – they are a global common.

Despite its holistic character, UNCLOS has left some gaps regarding the protection of biodiversity beyond national jurisdiction. For instance, even though UNCLOS included the principle of “common heritage of mankind” for the seabed, it did not extend it to biodiversity in the water column beyond national jurisdiction. Therefore, the need for a specific framework to address UNCLOS’ limitations led 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” or simply, the BBNJ Agreement.

Different factors determined the urgency behind the adoption of the BBNJ Agreement, namely the recognized importance of ecosystem services provided by the high seas. Additionally, the marine environment has suffered severe changes as a result of anthropogenic disturbance, such as fishing, pollution and climate change. The increasing scientific and economic prominence of marine genetic resources also favoured the adoption of a framework that would regulate their use in a way that would benefit everyone. Another motivation behind the adoption of the BBNJ Agreement is the ambition of fulfilling SDG 14. This Agreement materializes efforts into achieving target

⁸⁹ United Nations General Assembly, 22nd Session, 1967, p. 17, para. 13. Available at <chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.un.org/Depts/los/convention_agreements/texts/pardo_ga1967.pdf>

⁹⁰ DOALOS - **Chronological lists of ratifications of, accessions and successions to the Convention and the related Agreements.** Available at <https://www.un.org/depts/los/reference_files/chronological_lists_of_ratifications.htm>

14.c, which promotes the implementation of legal framework on the conservation and protection of marine resources⁹¹.

The first milestone on the development of the BBNJ Agreement goes back to 2004, when the UN decided to “establish an 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”⁹². In its 4th meeting, the Working Group agreed on a set of matters that should be covered by the new agreement, known as the 2011 package: marine genetic resources; area-based management tools, including MPAs; environmental impact assessments; and, capacity-building and technology transfer⁹³.

However, it was only in 2023, during the 5th Session of the Intergovernmental Conference, when all present delegations recognized the urgency of adopting the BBNJ Agreement, given the increasing pressure on the ocean, caused by scientific and technological developments⁹⁴. This was something that UNCLOS alone could not regulate and, on March 4, 2023, the text of the BBNJ was successfully negotiated, marking the second milestone towards integrated ocean governance⁹⁵.

Although the BBNJ Agreement was open for signature on 20 September, 2023, it has not, yet, entered into force. According to article 68(1), it shall enter into force 120 days after the 60th ratification and, as of 19 September 2025, this requirement has been fulfilled⁹⁶. This means that the BBNJ Agreement is set to entry into force on 17 January 2026, binding those who have ratified it.

⁹¹ GAMEIRO, Maria Inês – Biodiversity Beyond National Jurisdiction: 40 years later, the BBNJ Agreement. In KOWALSKI, Mateus; ANTUNES, João Gil (Editors) – **Portugal and the Constitution for the Ocean**. pp. 59-60

⁹² General Assembly resolution 59/24, **Oceans and the law of the sea**, A/RES/59/24 (February 4, 2005), pp. 13-14, para. 73

⁹³ United Nations General Assembly, 66th Session, **Letter dated 30 June 2011 from the Co-Chairs of the Ad Hoc Open-ended Informal Working Group to the President of the General Assembly**, A/66/119 (June 30, 2011). Available at <<https://docs.un.org/en/A/66/119>>

⁹⁴ GAMEIRO, Maria Inês – Biodiversity Beyond National Jurisdiction: 40 years later, the BBNJ Agreement. In KOWALSKI, Mateus; ANTUNES, João Gil (Editors) – **Portugal and the Constitution for the Ocean**. P. 58

⁹⁵ United Nations General Assembly, **Report of the intergovernmental conference on an international legally binding instrument 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 fifth session**, A/CONF.232/2023/5. para. 19 Available at <<https://docs.un.org/en/a/conf.232/2023/5>>

⁹⁶ UN Treaty Collection - **Status of 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**. Available at <https://treaties.un.org/PAGES/ViewDetails.aspx?chapter=21&clang=en&mtdsg_no=XXI-10&src=TREATY>

5.2 Key provisions – the 2011 package

The negotiations leading to the BBNJ Agreement were long and complex, but eventually successful. A key milestone was the approval of the 2011 package, in which States agreed on the 4 core subjects to be addressed, thus forming the foundation on which parties to the BBNJ Agreement will be able to advance the protection of biodiversity beyond national jurisdiction.

Even though the 2011 package is framed around 4 crucial themes, the analysis presented here focuses on Part III of the BBNJ Agreement, on measures such as area-based management tools, including marine protected areas. The remaining subjects will also be discussed, however briefly, for the purposes of providing an overview of the BBNJ Agreement.

5.2.1 Marine Genetic Resources

Part II of the BBNJ Agreement is focused on marine genetic resources which, according to article 1(8), of the BBNJ Agreement, can be defined as “any material of marine plant, animal, microbial or other origin containing functional units of hereditary of actual or potential value”. The value behind these resources “is not the physical substance itself, but the genetic information contained in the resource”⁹⁷. Nowadays, the importance and relevance of these resources lies within their multiplicity of uses, which includes pharmaceuticals, cosmetics, food, industrial processes and scientific research⁹⁸. The BBNJ Agreement establishes a legal framework that regulates the access and utilization of both marine genetic resources and digital sequence information (DSI)⁹⁹, as well as the fair and equitable sharing of benefits derived from them (article 14(1)).

The main goal of encompassing marine genetic resources in the BBNJ Agreement was to develop a mechanism that would promote a fair and equitable sharing of benefits, both monetary and non-monetary, given the fact that only a small number of States has the capacity to access these resources, through their own means. The topic of marine genetic resources was identified as a priority for the BBNJ Agreement, particularly by developing countries, as they are the ones facing more difficulties accessing marine genetic resources,

⁹⁷ GAMEIRO, Maria Inês – Biodiversity Beyond National Jurisdiction: 40 years later, the BBNJ Agreement. In KOWALSKI, Mateus; ANTUNES, João Gil (Editors) – **Portugal and the Constitution for the Ocean**. p. 63

⁹⁸ DOSI – **Marine Genetic Resources**. Available at <<https://www.dosi-project.org/marine-genetic-resources/>>

⁹⁹ The BBNJ Agreement does not provide a definition of DSI. However, in accordance with the “IUCN BBNJ Policy Brief - Digital Sequence Information (DSI) as a means of financing under the BBNJ Agreement”, it can be broadly defined as the digitalized information of a marine genetic resource.

thus emphasizing the division between developed and developing countries¹⁰⁰. This was overcome by the decoupling solution, which is one of the two phases that compose the monetary benefit-sharing provisions. As article 14(6) establishes, each developed State Party shall make annual contributions to a fund, which is 50% of their assessed contributions to the BBNJ core budget¹⁰¹. This method of payment is called the “decoupled payment system”, because the payments are not based on the market value of marine genetic resources. The second phase of the monetary benefit-sharing provisions consists of adapting the payment system, within the modalities provided by article 14(7), based on recommendations by the Access and Benefit-sharing Committee to the Conference of the Parties (article 15(3)(c)).

Regarding non-monetary benefits, article 14(2) provides a non-exhaustive list of how these benefits can be shared among State Parties, who must follow a notification system, in order to ensure their compliance with the rules established by the Agreement, namely the obligation to cooperate, incorporated in article 11(3)¹⁰². The notification system is established by article 12, according to which Parties shall engage with the Clearing-House Mechanism, an institution established under the CBD, for the purposes of promoting and facilitating technical and scientific cooperation. Upon notification, the CHM shall generate, automatically, a “BBNJ” batch identifier, which will be used to develop a bi-annual aggregate report on access to marine genetic resources, delivered to the access and benefit-sharing committee. Subsequently, this committee can make recommendations to the BBNJ CoP¹⁰³ on various matters, including the modalities on monetary benefit-sharing.

However, scientists have shared some concerns regarding the notification system, particularly regarding the administrative burden, which may discourage and hinder

¹⁰⁰ BLASIAK, Robert [et al.] - **Corporate control and global governance of marine genetic resources**, p. 4. Available at <<https://www.science.org/doi/10.1126/sciadv.aar5237>>

¹⁰¹ Assessed contributions are annual payments by States into the regular budget, which are determined by a scale of contributions adopted by the General Assembly each year.

¹⁰² Article 11(3) determines that “[c]ollection *in situ* of marine genetic resources of areas beyond national jurisdiction shall be carried out with due regard for the rights and legitimate interests of coastal States in areas within their national jurisdiction and with due regard for the interests of other States in areas beyond national jurisdiction, in accordance with the Convention. To this end, Parties shall endeavour to cooperate, as appropriate, including through specific modalities for the operation of the Clearing-House Mechanism determined under article 51, with a view to implementing this Agreement”.

¹⁰³ The BBNJ CoP is the main decision-making body under the BBNJ Agreement. It also oversees implementation and provides space for cooperation among states and institutions.

scientific research, as well as the delicate issue of determining how far the cooperation duty goes in terms of what information can be shared¹⁰⁴.

The regulation of use of marine genetic resources in ABNJ is extremely important, thus its inclusion in the BBNJ Agreement. Consequently, they became one of the most complex issues subject to negotiations, as consensus was often hard to reach. For instance, one of these disputes included whether or not fishing or fishing-related activities should be included on the material scope of the BBNJ Agreement. Eventually, negotiators decided to exclude fishing activities from the application of the BBNJ, “except where such fish or other living marine resources are regulated as utilization” (article 10(2)). Other discussions included determining whether or not monetary benefits should be included in benefit-sharing and then, what type monitoring mechanism should be implemented, as well as if provisions on marine genetic resources should also be applicable to DSI¹⁰⁵.

Even though negotiators were able to find a compromise in most of the issues raised during negotiations, there are still some details to be decided or adapted in the future, namely during the first BBNJ CoP, which is set to take place within a year after the entry into force of the BBNJ Agreement.

5.2.2 Area-based Management Tools, including MPAs

Protecting the marine biodiversity has been an objective for over 10 years, with ambitious targets being established overtime. In 2010, the Aichi Biodiversity Target 11 called on states to protect 10% of coastal and marine areas by 2020. This target was then reinforced with the adoption of SDG 14.5 and, in 2022, states agreed on the more ambitious 30x30 target, aiming to protect 30% of the world’s ocean by 2030.

However, progress to achieve these targets has been uneven. Although the amount of MPAs within national waters has increased, protection in ABNJ remains minimal, with approximately 1% of MPAs’ implementation on the high seas¹⁰⁶. The possibility to implement MPAs on the high seas was not an innovation introduced by the BBNJ

¹⁰⁴ GAMEIRO, Maria Inês – Biodiversity Beyond National Jurisdiction: 40 years later, the BBNJ Agreement. In KOWALSKI, Mateus; ANTUNES, João Gil (Editors) – **Portugal and the Constitution for the Ocean**. p. 64

¹⁰⁵ KACHELRIESS, Daniel – **The High Seas Biodiversity Treaty: An introduction to 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**. p. 11-13 Available at <<chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://iucn.org/sites/default/files/2024-01/iucn-bbnj-treaty-policy-brief.pdf>>

¹⁰⁶ Marine Conservation Institute – **Marine Protection Atlas: High Seas**. Available at <<https://mpatlas.org/countries/HS/>>

Agreement, but it is something that only existed within a few regional frameworks, namely the OSPAR Convention. This highlights the lack of a comprehensive legal framework that regulates the establishment of MPAs in ABNJ, which make up nearly 2/3 of the ocean. Given this fundamental absence, the targets previously mentioned have remained unattainable, hence the need for an instrument capable of regulating the implementation of MPAs on the high seas, something that UNCLOS alone does not encompass.

Part III of the BBNJ Agreement responds to this gap, by providing both substantive and procedural rules. Substantive rules are important to “clarify criteria for the identification of areas requiring protection through the establishment of area-based management tools, including MPAs”¹⁰⁷, while the procedural rules are meant to guide State Parties on their establishment on the high seas.

The main objective of this Part, as stated in article 17, BBNJ, is the conservation and sustainable use of marine resources, through area-based management tools, including MPAs, whilst promoting cooperation, food security and support for developing states. According to article 1(1), of the BBNJ Agreement, an area-based management tool refers to an instrument, including an MPA, applied to a “geographically defined area through which one or several sectors or activities are managed with the aim of achieving particular conservation and sustainable use objectives in accordance with [the] Agreement”. The importance of MPAs’ role is not only underlined by this definition, due to the fact it explicitly includes MPAs as a type of area based management tool¹⁰⁸, but also how conservation and sustainable use is to be achieved through “well connected networks of marine protected areas”¹⁰⁹.

It is, therefore, important to address the key processes and institutions that are included in the BBNJ Agreement, in order to implement area-based management tools, including marine protected areas, on the high seas (Fig. 7).

¹⁰⁷ TANAKA, Yoshifumi – **The International Law of the Sea**, p. 453

¹⁰⁸ KACHELRIESS, Daniel – **The High Seas Biodiversity Treaty: An introduction to 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**. p. 16 Available at <chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://iucn.org/sites/default/files/2024-01/iucn-bbnj-treaty-policy-brief.pdf>

¹⁰⁹ Article 17(a), BBNJ Agreement

The process begins with the proponent Party or Parties submitting a written proposal based on the best available scientific knowledge to the Secretariat¹¹⁰, who will then make it publicly available and transmit it to the Scientific and Technical Body¹¹¹, for a preliminary review, which will assess if the proposal contains the necessary elements. The outcome of this preliminary review will then be returned to the proponent Party or Parties, who will re-submit the proposal to the Secretariat. Following this, the Secretariat will facilitate consultations, which, according to article 21(1), of the BBNJ Agreement, “shall be inclusive, transparent and open to all relevant stakeholders”. The contributions received shall be made publicly available by the Secretariat, and taken into account by the proponent, who will revise the proposal accordingly. This proposal is then submitted to the Scientific and Technical Body, which will assess the proposal and make a recommendation to the BBNJ CoP. Based on the final proposal and the recommendations received, under article 22(1), the BBNJ CoP can adopt the following positions: establish the requested area-based management tool; decide to adopt measures that are compatible with the ones adopted by other competent bodies; or, recommend to these bodies the adoption of relevant measures¹¹².

¹¹⁰ The Secretariat facilitates cooperation and communication with other organizations and relevant bodies implemented by the BBNJ Agreement. Its responsibilities are listed in article 50(4), BBNJ.

¹¹¹ The Scientific and Technical Body provides scientific and technical support to the BBNJ CoP, by performing different tasks attributed under the BBNJ Agreement (article 49, BBNJ).

¹¹² Article 22(1), BBNJ: “1. The Conference of the Parties, on the basis of the final proposal and the draft management plan, taking into account the contributions and scientific input received during the consultation process established under this Part, and the scientific advice and recommendations of the Scientific and Technical Body:

- (a) Shall take decisions on the establishment of area-based management tools, including marine protected areas, and related measures;
- (b) May take decisions on measures compatible with those adopted by relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies, in cooperation and coordination with those instruments, frameworks and bodies;
- (c) May, where proposed measures are within the competences of other global, regional, subregional or sectoral bodies, make recommendations to Parties to this Agreement and to global, regional, subregional and sectoral bodies to promote the adoption - 20 - of relevant measures through such instruments, frameworks and bodies, in accordance with their respective mandates.”

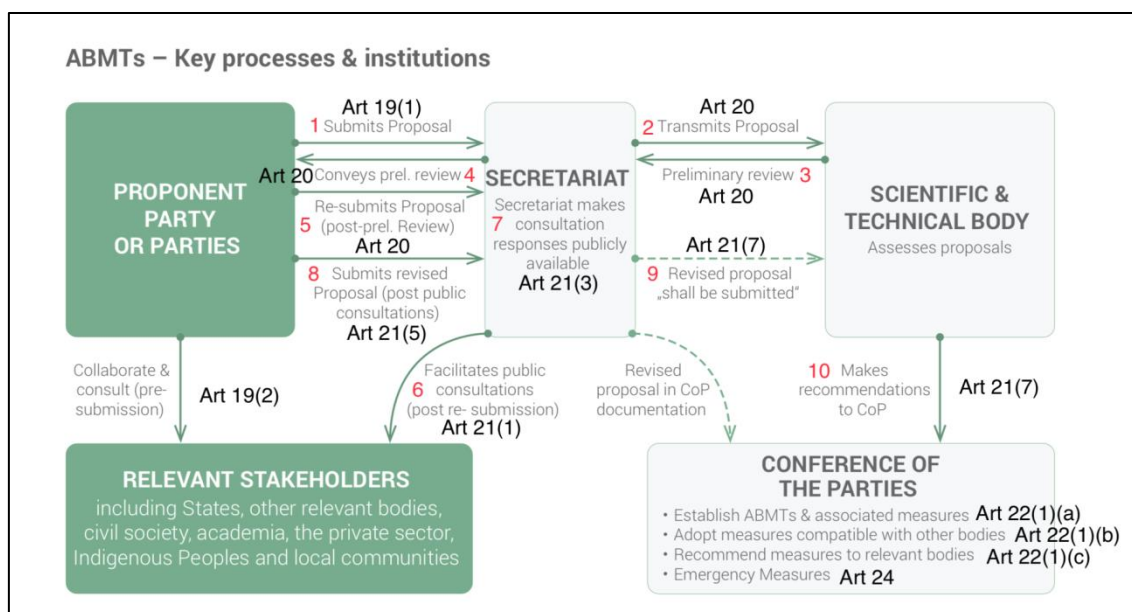


Figure 7 – Key processes and institutions established by Part III of the BBNJ Agreement. Source: The High Seas Biodiversity Treaty: An introduction to Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction (articles and procedural order added by the author)

When making decisions or recommendations, the BBNJ CoP generally follows the rule of consensus, according to article 23(1), BBNJ. However, in situations where it could not be reached, Parties vote on whether or not all efforts to reach consensus were attempted, by a majority of two-thirds. If this majority agrees that all efforts have been exhausted, then consensus is no longer needed, and the BBNJ CoP votes on a majority of $\frac{3}{4}$.

Article 26, BBNJ, establishes an obligation to monitor and review the implementation of area-based management tools, including MPAs. This obligation is entrusted to the Scientific and Technical Body, who shall take into account the reports made by the Parties. The purpose of these reviews is to assess the effectiveness and progress in achieving their objectives. Based on this, the BBNJ CoP then decides on whether adjustments are necessary, regarding the amendment, extension or revocation of the area-based management tool. Similarly to when Parties submit their written proposal to the Secretariat, article 26(5), BBNJ, determines that the decisions made by the BBNJ CoP must be based on the best scientific knowledge available, as well as relevant traditional knowledge of Indigenous People and local communities, whilst promoting a precautionary and ecosystem approach.

During negotiations, Part III was one of the most contentious chapters, therefore requiring major compromises, in order to reach this final text¹¹³. One of the discussions between delegations concerned the allocation of competence for the establishment of area-based management tools. While some considered that the BBNJ CoP had full competence, others thought that these decisions should remain with already existing instruments, frameworks and bodies (IFBs). The solution to this is established in article 22(1), according to which the BBNJ CoP has competence to establish area-based management tools, whilst cooperating and consulting the relevant frameworks and bodies¹¹⁴. This solution is aligned with the “not undermine” clause, introduced in resolution 72/249, where the General Assembly “recognizes that [negotiations] and its result should not undermine existing relevant legal instruments and frameworks and relevant global, regional and sectoral bodies”¹¹⁵. Some states, including the United States and Russia, feared a duplication or conflict with the already established bodies, while others, such as the EU, considered that these bodies had been unsuccessful to deliver adequate conservation¹¹⁶.

Another topic that was subject to negotiations was the majority necessary for decision-making. Some delegations were in favour of consensus only, which would difficult the implementation of area-based management tools, as consensus is often hard to achieve. Other delegations thought this would be an unnecessary burden, therefore a majority voting would suffice. This solution would contribute to avoid situations of gridlock¹¹⁷. Ultimately, as previously established, the final text decided on a compromise between the

¹¹³ KACHELRIESS, Daniel – **The High Seas Biodiversity Treaty: An introduction to 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**. p. 18 Available at <chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://iucn.org/sites/default/files/2024-01/iucn-bbnj-treaty-policy-brief.pdf>

¹¹⁴ KANTAI, Tallash [et al.] -Summary of the Resumed Fifth Session of the Intergovernmental Conference on an International Legally Binding Instrument under the UN Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biodiversity of Areas Beyond National Jurisdiction: 20 February – 4 March 2023. p. 8. Available at <<https://enb.iisd.org/marine-biodiversity-beyond-national-jurisdiction-bbnj-igc5-resumed-summary>>

¹¹⁵ General Assembly resolution 72/249, **International legally binding instrument 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**, A/RES/72/249. p. 2, para. 7. Available at <<https://docs.un.org/en/A/RES/72/249>>

¹¹⁶ MORGERA, Elisa [et al.] -Summary of the First Session of the Intergovernmental Conference on an International Legally Binding Instrument under the UN Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biodiversity of Areas Beyond National Jurisdiction: 4-17 September 2018. p. 6-7. Available at <<https://enb.iisd.org/events/1st-session-intergovernmental-conference-igc-international-legally-binding-instrument-12>>

¹¹⁷ KACHELRIESS, Daniel – **The High Seas Biodiversity Treaty: An introduction to 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**. p. 18 Available at <chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://iucn.org/sites/default/files/2024-01/iucn-bbnj-treaty-policy-brief.pdf>

two views: general rule of consensus and a majority of $\frac{3}{4}$ whenever consensus is not reached.

Negotiations also raised some questions about the possibility of opting-out of a new MPA. This reflected the difficulty in finding equilibrium between the purpose behind the implementation of the BBNJ Agreement and the individual interests of states. This possibility was introduced as a way to prevent blockages by a small number of States, allowing them to decide whether or not they wish to comply with the establishment of the new MPA¹¹⁸. The final text of the BBNJ Agreement included this possibility in article 23(4), accompanied by several constraints, in order to discourage Parties. These constraints include elaborate written justifications, based on a limiting grounds; the obligation to adopt alternative measures; and, regularly report on their implementation to the BBNJ CoP. The decision to opt-out expires within 3 years, but may be renewed by the objecting Party, through a written notification to the Secretariat, which must explain again the reason for objecting.

During the later stages of negotiations, a new element was introduced: emergency measures. The purpose behind their inclusion was well received by delegations in general but, a regional group expressed some concerns. According to them, the creation of area-based management tools was not an adequate solution to solve an emergency¹¹⁹. They were nevertheless included in the final text, under article 24, BBNJ, “when a natural phenomenon or human-caused disaster has caused, or is likely to cause, serious or irreversible harm to marine biological diversity”.

Despite the possibility of MPAs on the high seas already existing under OSPAR, Part III of the BBNJ Agreement presents itself as a major innovation regarding efforts to safeguard marine biodiversity in ABNJ. These provisions represent the results of ambitious and contested negotiations, as they establish, for the first time, a global mechanism for area-based management tools, including MPAs, in ABNJ.

¹¹⁸ GAMEIRO, Maria Inês – Biodiversity Beyond National Jurisdiction: 40 years later, the BBNJ Agreement. In KOWALSKI, Mateus; ANTUNES, João Gil (Editors) – **Portugal and the Constitution for the Ocean**. p. 66

¹¹⁹ KANTAI, Tallash [et al.] - Summary of the Resumed Fifth Session of the Intergovernmental Conference on an International Legally Binding Instrument under the UN Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biodiversity of Areas Beyond National Jurisdiction: 20 February – 4 March 2023. p. 8. Available at <<https://enb.iisd.org/marine-biodiversity-beyond-national-jurisdiction-bbnj-igc5-resumed-summary>>

5.2.3 Environmental Impact Assessments (EIAs)

UNCLOS determines, in article 194(2), that states shall adopt the necessary measures to avoid polluting not only other states and their environment, but also ABNJ¹²⁰. In order to avoid transboundary risks, UNCLOS also establishes that states shall perform an assessment of potential effects of activities whenever there may be environmental consequences to their activities¹²¹. Although these provisions constitute the basis for EIAs, there are no standard requirements for their application. Therefore, Part IV of the BBNJ Agreement, which follows the idea of precaution established by article 7(e), BBNJ, operationalizes another gap left by UNCLOS, by delving into EIAs, their process, requirements and impacts on decision-making.

Article 1(7), BBNJ, defines EIAs as “a process to identify and evaluate the potential impacts of an activity to inform decision-making”. Before the adoption of the final text, delegations discussed whether this process should be internationalized or not. Some states, particularly developed, preferred a process performed by the states themselves, arguing that the state under whose jurisdiction the activity was to take place, should evaluate the environmental risks associated with it. On the other hand, developing states argued that if the activity was to take place in an international space, then it required an international process for decision-making¹²². Delegations then decided that EIAs should be performed by the states themselves.

The rules established by the BBNJ Agreement, regarding EIAs, also take into account the “not undermine” clause, by differentiating between 3 possible scenarios: activities in ABNJ; activities within national jurisdiction that may have potential effects in ABNJ; and, activities that are covered by other IFBs. Each of these scenarios has a different (although potentially overlapping) process.

¹²⁰ Article 194(2), UNCLOS: “States shall take all measures necessary to ensure that activities under their jurisdiction or control are so conducted as not to cause damage by pollution to other States and their environment, and that pollution arising from incidents or activities under their jurisdiction or control does not spread beyond the areas where they exercise sovereign rights in accordance with this Convention.”

¹²¹ Article 206, UNCLOS: “When States have reasonable grounds for believing that planned activities under their jurisdiction or control may cause substantial pollution of or significant and harmful changes to the marine environment, they shall, as far as practicable, assess the potential effects of such activities on the marine environment and shall communicate reports of the results of such assessments in the manner provided in article 205.”

¹²² GAMEIRO, Maria Inês – Biodiversity Beyond National Jurisdiction: 40 years later, the BBNJ Agreement. In KOWALSKI, Mateus; ANTUNES, João Gil (Editors) – **Portugal and the Constitution for the Ocean**. p. 67

For activities in ABNJ, the Party that has jurisdiction or control over the planned activity¹²³ has to determine if any of the thresholds established in article 30(1), BBNJ, are met. In case of an affirmative response, the Party must conduct a screening, in order to assess if a full EIA is required, or not. In situations where there are no “reasonable grounds for believing that the activity may cause substantial pollution or significant and harmful changes to the marine environment”, the Party is simply obligated to make the relevant information publicly available through the Clearing-House Mechanism. Other states are allowed to express their concerns regarding the decision to not conduct a full EIA, in which case the Scientific and Technological Body intervenes and makes a recommendation to the Party that made the decision, after evaluating the activities’ impacts.

On the other hand, if, after the screening, the Party determines that a full EIA is necessary, then they shall follow the remaining steps established in article 31(1), BBNJ. The scope of the EIA must not only include key environmental and any associated impacts, but also be determined on the basis of the best scientific knowledge available and relevant traditional knowledge of Indigenous Peoples and local communities. The BBNJ Agreement also requires that the EIA includes cumulative impacts and identifies measures to prevent, mitigate and manage potential adverse effects. Moreover, Parties are required to promote consultation and public notification of a planned activity, particularly to the potentially most affected states. Also, Parties must prepare an EIA draft report, published through the Clearing-House Mechanism during consultation. After this process, if the Party decides to approve the planned activity, it is also required to monitor it and its effects, pursuant to article 35, BBNJ.

Regarding the scenario where an activity is to be conducted within national jurisdiction, but may have consequences in ABNJ, the Party may choose to conduct the EIA in accordance with the BBNJ Agreement, and follow the aforementioned process, or follow its national process, in which case the Party needs to comply with article 28(2) and (3), BBNJ.

Lastly, if the activity is already covered by other IFBs, the Party must determine if the potential impacts of the activity have already been assessed in accordance with the IFBs

¹²³ The use of this expression in Part IV indicates that, once the BBNJ Agreement enters into force, ongoing activities are unlikely to trigger the implementation of these provisions (See, KACHELRIESS, Daniel – **The High Seas Biodiversity Treaty: An introduction to 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.** p. 23 Available at <<chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://iucn.org/sites/default/files/2024-01/iucn-bbnj-treaty-policy-brief.pdf>>)

requirements and if the assessment conducted is equivalent to the one implemented by the BBNJ Agreement or that the regulations and standards of the IFB have been designed to prevent, mitigate or manage the potential impacts below the threshold established by the BBNJ Agreement. If these elements are present, even though there is no need to conduct a new screening, monitoring and review are still necessary.

5.2.4 Capacity-building and technology transfer

Similarly to the provisions on EIAs, Part V of the BBNJ Agreement can be interpreted as an extension of Part XIV of UNCLOS – “the forgotten chapter”¹²⁴ – by strengthening its approach. In order to operationalize UNCLOS, which only covered general goals and how to achieve them, the BBNJ Agreement created a monitoring and review process, established a committee and a funding mechanism.

When compared to the previous core subjects of the BBNJ Agreement, Part V was the least disputed among negotiators, although there were some discussions regarding the modalities for marine technology transfer and possible issues with the intellectual property rights regime. Nevertheless, it was the first group of provisions where negotiators reached an agreement, which “can be seen as a demonstration of a general convergence of opinion around the essential nature of CBTMT for implementing the new treaty”¹²⁵.

As provided by Part V, the main goal of CBTMT is to assist parties, particularly developing states, in the implementation of the BBNJ Agreement, by promoting cooperation among all Parties, at all levels and in all forms. Therefore, Part V constitutes both an obligation and a means of implementation for achieving the objectives set out in the other parts¹²⁶.

The process for CBTMT starts with a needs-assessment performed by the developing state, which may be facilitated by the CHM and the CBTMT Committee. Based on their capabilities, other Parties will ensure capacity-building for developing states and contribute to the transfer of marine technology. The BBNJ Agreement then sets out additional modalities for the transfer of marine technology and contributes with an example list of types of capacity-building. This is subject to monitoring and review, carried out by the CBTMT Committee, which also receives reports on

¹²⁴ GAMEIRO, Maria Inês – Biodiversity Beyond National Jurisdiction: 40 years later, the BBNJ Agreement. In KOWALSKI, Mateus; ANTUNES, João Gil (Editors) – **Portugal and the Constitution for the Ocean**. p. 68

¹²⁵ HARDEN-DAVIES, Harriet [et al.] - **First to finish, what comes next? Putting Capacity Building and the Transfer of Marine Technology under the BBNJ Agreement into practice**. p. 1. Available at <<https://www.nature.com/articles/s44183-023-00039-1>>

¹²⁶ KACHELRIESS, Daniel – **The High Seas Biodiversity Treaty: An introduction to 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**. p. 26 Available at <chrome-extension://efaidnbmnnnibpcjpcglclefindmkaj/https://iucn.org/sites/default/files/2024-01/iucn-bbnj-treaty-policy-brief.pdf>

implementation drafted by the Parties. The CBTMT Committee submits these reports and makes recommendations to the BBNJ CoP, according to which it will review, assess and provide guidance on implementation. Regarding the funding mechanism, the CBTMT Committee is responsible for identifying and mobilizing funds for the purposes of capacity-building and transfer of marine technology.

5.3 How the BBNJ Agreement enables MPAs to advance SDG 14.c

The purpose of the following chapter is to draw together the main arguments addressed across the previous chapters, in order to conclude the extent to which the BBNJ Agreement, particularly Part III, contributes to the implementation of SDG 14.c, which calls for strengthening conservation and sustainability, by implementing the rule of law at sea reflected in UNCLOS.

As the most recent implementing agreement under UNCLOS, the BBNJ Agreement represents an important milestone in developing a comprehensive legal framework for the protection of marine biodiversity in ABNJ, “through effective implementation of the relevant provisions of UNCLOS and further international cooperation and coordination”¹²⁷. Accordingly, the BBNJ Agreement constitutes a mechanism that has allowed policymakers to advance from political commitments into operational tools. This is particularly clear with Part III, on area-based management tools, including MPAs, described as one of the most significant developments for marine conservation, as it promotes the implementation of MPAs on the high seas. In doing so, the BBNJ Agreement not only closes a governance gap left by UNCLOS, but also addresses fragmentation concerns, derived from existing regional frameworks.

The rules provided by the BBNJ Agreement on ABMT, including MPAs, promote cooperation among the different parties and international organizations, thus incorporating the cooperative spirit envisioned by UNCLOS¹²⁸. They also operationalize both the

¹²⁷ Global Environmental Facility – **Biodiversity Beyond National Jurisdiction**. Available at <<https://www.thegef.org/what-we-do/topics/biodiversity-beyond-national-jurisdiction>>

¹²⁸ In its preamble, UNCLOS recognizes that its implementation will contribute to further advance cooperation among States. This is reinforced throughout its provisions, where UNCLOS requires States to cooperate, in order to achieve a common goal. This is particularly evident in Part XII, on the “Protection and Preservation of the Marine Environment”. For instance, under article 194, “States shall take, individually or jointly, as appropriate, all measures consistent with this Convention that are necessary to prevent, reduce and control pollution of the marine environment”. The principle of cooperation is, therefore, enshrined as a legal obligation in environmental protection.

precautionary and ecosystem-based approaches, principles which were implicit in UNCLOS, but not fully implemented¹²⁹.

The BBNJ Agreement is, therefore, seen as an evolution in international law, which is able to advance SDG 14.c, as it makes ocean governance more concrete, participatory and science-based. Part III, in particular, contributes to building the ocean's resilience, biodiversity growth and sustainable use of marine resources, whilst symbolically reinforcing the role of international legal frameworks aiming to solve global common challenges.

Nonetheless, the extent to which the BBNJ Agreement strengthens MPAs as governance tools remains uncertain. Some scholars argue that fragmentation risks persist, due to overlapping competences between the BBNJ Agreement and other regimes¹³⁰. Additionally, the successful implementation of MPAs under the BBNJ Agreement is highly dependent on adequate funding, political will and international coordination, meaning that, ultimately, the BBNJ Agreement's real contribution to SDG 14.c depends on its implementation, and not merely on its existence.

¹²⁹ The precautionary principle is present in article 194, behind the idea of adopting the necessary measures to prevent marine pollution, which applies a precautionary logic where States are required to act in order to prevent harm. The ecosystem-based approach builds on the idea that management must consider the ecosystem as whole, not just species or sectors. An example of this approach is present in article 61(4), which determines that, when determining the allowable catch in the EEZ, States shall take in consideration the possible effects on other species, which are associated or dependent upon the harvested species.

¹³⁰ The relationship between the BBNJ Agreement and existing bodies may raise points of tension. For instance, in the case of deep seabed mining, its ongoing development and geographical jurisdiction overlap between the BBNJ Agreement and ISA, could lead to duplication of efforts in environmental protection, raising concerns about regulatory fragmentation. Similar challenges may arise regarding RFMOs, since the BBNJ Agreement does not override existing institutions. This means that measures adopted by the BBNJ CoP are not binding on RFMOs members, making integration between the two regimes difficult. (See POUPONNEAU, Angelique [et al.] – **The BBNJ Agreement : from Fragmentation to Coordination across multiple regimes**. Available at <<https://oceanequityresearch.org/publications/the-bbnj-agreement-from-fragmentation-to-coordination-across-multiple-regimes-information-paper/>>)

6 United Nations Ocean Conference III

As a mechanism to accelerate progress regarding SDG 14, the UN promotes, every few years, a meeting where Member States discuss the state of the ocean and other ocean related subjects relevant to the conservation and protection of the marine environment and its resources. This meeting is known as the United Nations Ocean Conference (UNOC).

The first meeting took place in 2017, in New York, co-hosted by Fiji and Sweden, followed by a second meeting in 2022¹³¹, in Lisbon, co-hosted by Portugal and Kenya. The most recent meeting (UNOC III) happened in June of the current year, in Nice, with France and Costa Rica as the co-hosts. The next UNOC is scheduled for 2028, 2 years before the time limit established by the 2030 Agenda, with South Korea and Chile having formally expressed their intention to serve as co-hosts.

UNOC III has been described as the largest conference yet, having had 12.000 delegates present, 175 countries represented, 64 heads of state and 115 ministers participating¹³². These numbers illustrate the political significance of the Conference, as it elevates ocean related matters to a global priority and creates opportunities to achieve a high-level consensus among the leaders of the world's countries, thus creating political momentum.

The theme of this year's Conference was "Accelerating action and mobilizing all actors to conserve and sustainably use the ocean"¹³³ and, according to General Assembly resolution 78/128, this encompasses various objectives. Overall, the goal is to promote conservation and sustainable use of the ocean and marine resources, through the effective implementation of SDG 14 and its targets. In order to do so, not only must the relevant stakeholders participate in the discussions and decision-making processes, but also partnerships must be formed for the purposes of cooperation, sharing knowledge and identifying and overcoming SDG 14 challenges. Moreover, UNOC III supports the integration of women in the participatory processes and invites Member States to share

¹³¹ The second meeting was initially scheduled to take place in 2020. However, due to constraints caused by COVID-19, it had to be postponed to 2022

¹³² Bird Life International – **Major Win for Our Ocean: Third UN Ocean Conference closes with wave of commitments**. Available at <<https://www.birdlife.org/news/2025/06/16/major-win-for-our-ocean-third-un-ocean-conference-closes-with-wave-of-commitments/>>

¹³³ General Assembly resolution 78/128, **2025 United Nations Conference to Support the Implementation of Sustainable Development Goal 14: Conserve and sustainably use the oceans, seas and marine resources for sustainable development**, para. 5. Available at <<https://docs.un.org/en/a/res/78/128>>

their progress in implementing their voluntary commitments, whilst advocating for new commitments¹³⁴.

In response to paragraph 23 of resolution 78/128, the Secretary-General, in coordination with the two Presidents of UNOC III, prepared a background note with a list of potential themes for the ocean action panels, representing the organizational structure of UNOC III, with each panel dedicated to a specific area of ocean governance and innovation¹³⁵.

The ocean action panel 10, “Enhancing the conservation and sustainable use of oceans and their resources by implementing international law as reflected in the UNCLOS”, will be the main focus of this report, considering its direct relation to target 14.c.

6.1 Key moments and outcomes

This year’s Conference is considered a promising evolution from the previous UNOC, where discussions were largely focused on strengthening the link between the ocean and climate change. At the time, there were ongoing efforts for the implementation of an “international legally binding instrument under [UNCLOS] on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction”¹³⁶ – the BBNJ Agreement. UNOC III consolidated the negotiations efforts and reflected the transition from negotiation to implementation. Within 3 years, the international community

¹³⁴ General Assembly resolution 78/128, **2025 United Nations Conference to Support the Implementation of Sustainable Development Goal 14: Conserve and sustainably use the oceans, seas and marine resources for sustainable development**, para. 4. Available at <<https://docs.un.org/en/a/res/78/128>>

¹³⁵ The final list of the 10 ocean action panels is the following:

- (1) Conserving, sustainably managing and restoring marine and coastal ecosystems including deep-sea ecosystems
- (2) Increasing ocean-related scientific cooperation, knowledge, capacity building, marine technology and education to strengthen the science-policy interface for ocean health
- (3) Mobilizing finance for ocean actions in the support of SDG14
- (4) Preventing and significantly reducing marine pollution of all kinds, in particular from land-based activities
- (5) Fostering sustainable fisheries management including supporting small-scale fishers
- (6) Advancing sustainable ocean-based economies, sustainable maritime transport and coastal community resilience leaving no one behind
- (7) Leveraging ocean, climate and biodiversity interlinkages
- (8) Promoting and supporting all forms of cooperation, especially at the regional and sub regional level
- (9) Promoting the role of sustainable food from the ocean for poverty eradication and food security
- (10) Enhancing the conservation and sustainable use of oceans and their resources by implementing international law as reflected in the UNCLOS

¹³⁶ United Nations - **Interactive dialogue 7: Enhancing the conservation and sustainable use of oceans and their resources by implementing international law, as reflected in the United Nations Convention on the Law of the Sea**, para. 5. Available at <[chrome-extension://efaidnbmninnibpcapjpcglcfindmkaj/https://sdgs.un.org/sites/default/files/2022-05/ID_7_Conservation_and_sustainable_use_of_oceans.pdf?_gl=1*1iri86y*_ga*MTM0NDUzNjE0My4xNzIxNTg3ODQw*_ga_TK9BQL5X7Z*cze3NjI5OTA3NzYkbzI0JGcxJHhQxNzYyOTkwODkwJGo2JGwwJGgw](https://sdgs.un.org/sites/default/files/2022-05/ID_7_Conservation_and_sustainable_use_of_oceans.pdf?_gl=1*1iri86y*_ga*MTM0NDUzNjE0My4xNzIxNTg3ODQw*_ga_TK9BQL5X7Z*cze3NjI5OTA3NzYkbzI0JGcxJHhQxNzYyOTkwODkwJGo2JGwwJGgw)>

not only adopted a final text, but also secured the necessary ratifications for its entry into force.

This evolution is also present in the thematic focus of UNOC III, which further promoted the effective implementation of international law of the sea, particularly through the operationalization of the BBNJ Agreement, whereas UNOC II emphasized the importance of mobilizing both partnerships and funds. In this sense, UNOC III represented growth in the global ocean agenda, switching the focus from normative discussions to the legal realization.

Building on this transition, the OAP 10 provided an opportunity for panellists and delegates to reflect on the current rule of law on ocean governance and to exchange perspectives on its effective implementation. Accordingly, discussions focused on the continued relevance of UNCLOS as the legal foundation for ocean governance, whilst recognizing the BBNJ Agreement as an important milestone that promotes multilateral cooperation. Panellists highlighted that the BBNJ Agreement – a result of lengthy negotiations between states, scientists and the civil society – illustrates how international law is not static, but continues to evolve, in order to respond to emerging challenges originating from the climate-biodiversity-ocean nexus.

Although it was questioned whether the current international legal framework remained adequate to address these interconnected crises, the general consensus described UNCLOS as a “timeless” framework, capable of adaptation through its implementing agreements, particularly the BBNJ Agreement. Due to this, panellists and delegates urged for a rapid ratification of the BBNJ Agreement, which at the time had reached 50 ratifications, underscoring its role in achieving SDG 14, especially target 14.c, on the implementation of international law for ocean sustainability, as well as other goals, such as 30x30 target.

The panel also presented two complementary avenues for advancing SDG 14.c. First, is the role of international courts and tribunals, as they are instrumental for the clarification of obligations under UNCLOS¹³⁷. Secondly, the importance of maintaining the momentum on the BBNJ implementation, particularly through the implementation of MPAs in ABNJ. Several states have already begun the preparatory work necessary to develop the scientific and technical basis for MPAs’ proposals. These efforts not only showcase states’

¹³⁷ Although advisory opinions are not legally binding, they still have a significant normative authority, as they function as an interpretation of UNCLOS, providing clarity, coherence and predictability.

commitment towards international law, but also illustrate the role of MPAs as a mechanism through which the principles of UNCLOS and the BBNJ Agreement can be implemented, ultimately contributing to advancing SDG 14.c.

The discussions and interventions culminated in the adoption, “by consensus, of a brief, concise, action oriented and intergovernmentally agreed declaration focusing on areas of accelerated and collective action to support the implementation of Goal 14”¹³⁸, entitled “Our ocean, our future: united for urgent action”. This declaration, together with the voluntary commitments put forward by the stakeholders, is known as the “Nice Ocean Action Plan”.

This declaration stresses the need for safeguarding a healthy and resilient ocean as the foundation for life on earth and highlights the importance of the effective implementation of SDG 14, in line with the existing international legal framework, thus reinforcing the importance of goal 14.c. Moreover, the “Nice Ocean Action Plan” prompts States to ratify the BBNJ Agreement, as an important step towards strengthening multilateral ocean governance.

The declaration further highlights that, for the purposes of addressing the global emergency of climate-biodiversity-ocean nexus, it is crucial to promote and enhance global cooperation. The goal is to avoid duplication of efforts, lack of coherence among stakeholders and promote effective partnerships. The voluntary commitments that accompany this declaration illustrate this ambition, as several of them focus on the establishment or expansion of MPAs, capacity-building for BBNJ implementation and the inclusion of UNCLOS principles in national ocean policies. Together, these initiatives represent the practical realization of commitments discussed in OAP 10 and, once again, emphasize the progress from discussion into action.

6.2 UNOC III as a catalyst for advancing SDG 14.c through MPAs

UNOC III is the first significant multilateral milestone following the adoption of the BBNJ Agreement, highlighting its central role in transforming the recent legal developments into political action. Whereas the BBNJ Agreement constitutes the legal foundation for ocean governance in ABNJ, the Conference is the enabling mechanism that mobilizes states and stakeholders.

¹³⁸ United Nations - **Our ocean, our future: united for urgent action**, p. 1. Available at <<https://docs.un.org/en/A/CONF.230/2025/L.1>>

Shifting the global agenda from creation to implementation is precisely the spirit behind SDG 14.c, which is clearly reinforced by UNOC III. The Nice Ocean Action Plan calls for accelerated action in international law implementation and explicitly urges states to ratify the BBNJ Agreement¹³⁹, thus embodying the purpose of effective implementation of SDG 14.c.

Advancing SDG 14.c requires states to effectively implement Part XII of UNCLOS, which mandates states to “prevent, reduce and control the pollution of the marine environment from any source, [as well as] to protect and preserve rare or fragile ecosystems and the habitats of depleted, threatened or endangered species and other forms of marine life”¹⁴⁰. The implementation of MPAs under the BBNJ Agreement allows states to fulfil their global legal commitments, given that MPAs on the high seas provide a spatial mechanism that significantly contributes to operationalize the rule of law at sea. UNOC III has, therefore, framed MPAs both as conservation tools¹⁴¹ and instruments that translate international legal commitments into practice¹⁴².

In order to implement the rule of law as reflected in UNCLOS, and its implementing agreements, it is crucial to strengthen governance coherence. MPAs often have a transboundary character, leading to overlapping legal and institutional regimes. During OAP 10, panellists and delegates reminded the international community that the implementation of SDG 14.c also requires enhanced cross-institutional coordination, in order to avoid fragmentation and promote complementarity between the stakeholders involved in implementing and managing MPAs¹⁴³. Accordingly, UNOC III placed MPAs as focal points around which cooperation, information exchange and shared scientific assessments need to coexist.

¹³⁹ United Nations - **Our ocean, our future: united for urgent action**, p. 26. Available at <<https://docs.un.org/en/A/CONF.230/2025/L.1>>

¹⁴⁰ United Nations – **Ocean Action panel 10: Enhancing the conservation and sustainable use of oceans and their resources by implementing international law as reflected in the United Nations Convention on the Law of the Sea**, para. 4. Available at <chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://sdgs.un.org/sites/default/files/2025-05/25-00825%20ATT%20Formatted%20%20OAP10%20Law%20of%20the%20Sea%20REV.pdf>

¹⁴¹ United Nations - **Our ocean, our future: united for urgent action**, p. 30(h). Available at <<https://docs.un.org/en/A/CONF.230/2025/L.1>>

¹⁴² United Nations - **Our ocean, our future: united for urgent action**, p. 10. Available at <<https://docs.un.org/en/A/CONF.230/2025/L.1>>

¹⁴³ United Nations – **Ocean Action panel 10: Enhancing the conservation and sustainable use of oceans and their resources by implementing international law as reflected in the United Nations Convention on the Law of the Sea**, para. 42 and 53. Available at <chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://sdgs.un.org/sites/default/files/2025-05/25-00825%20ATT%20Formatted%20%20OAP10%20Law%20of%20the%20Sea%20REV.pdf>

Besides addressing the opportunities of MPAs, UNOC III also identified some major gaps regarding their implementation and management. These gaps raise particular concerns on SIDS, developing states and landlocked developing states, who have pinpointed their difficulty in achieving international goals to insufficient scientific capacity, limited access to technology and inadequate funding¹⁴⁴. From their perspective, UNOC III can serve as a launching moment to adopt practical steps aiming to overcome some, if not all, of these issues, by promoting partnerships and cross-sectoral cooperation¹⁴⁵.

The voluntary commitments adopted during UNOC III are also very important, as many pledges are focused on supporting the 30x30 target and advancing scientific, financial or technical contributions for MPAs' implementation and management¹⁴⁶. Although they are non-binding, they nevertheless operate as soft law that reinforces existing obligations under UNCLOS and the BBNJ Agreement. By complying with their voluntary commitments, states and stakeholders internalize international legal norms and promote national and regional MPAs initiatives, showing evidences of both political will and practical engagement. Ultimately, voluntary commitments contribute to concrete MPAs initiatives that further advance SDG 14.c.

Overall, UNOC III not only shows how MPAs serve as a bridge between international law and practical ocean governance, but also amplifies recent legal developments, by mobilizing political support, fostering governance coherence and strengthening the necessary conditions for effective implementation of MPAs, the BBNJ Agreement, UNCLOS and SDG 14.c.

¹⁴⁴ United Nations – **Ocean Action panel 10: Enhancing the conservation and sustainable use of oceans and their resources by implementing international law as reflected in the United Nations Convention on the Law of the Sea**, para. 27. Available at <[chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://sdgs.un.org/sites/default/files/2025-05/25-00825%20ATT%20Formatted%20%20OAP10%20Law%20of%20the%20Sea%20REV.pdf](https://sdgs.un.org/sites/default/files/2025-05/25-00825%20ATT%20Formatted%20%20OAP10%20Law%20of%20the%20Sea%20REV.pdf)>

¹⁴⁵ United Nations – **Ocean Action panel 10: Enhancing the conservation and sustainable use of oceans and their resources by implementing international law as reflected in the United Nations Convention on the Law of the Sea**, para. 72. Available at <[chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://sdgs.un.org/sites/default/files/2025-05/25-00825%20ATT%20Formatted%20%20OAP10%20Law%20of%20the%20Sea%20REV.pdf](https://sdgs.un.org/sites/default/files/2025-05/25-00825%20ATT%20Formatted%20%20OAP10%20Law%20of%20the%20Sea%20REV.pdf)>

¹⁴⁶ The voluntary commitments are available at <<https://sdgs.un.org/partnerships/action-networks/ocean-commitments>>

7 The evolving role of MPAs in advancing SDG 14.c

7.1 MPAs as instruments for implementing international ocean law

Previous chapters have already established that MPAs serve as a mechanism through which states are able to fulfil their core obligations under UNCLOS, particularly the protection and preservation of the marine environment and conservation of living resources. In this sense, MPAs translate broad legal commitments into designated spaces with clear management rules, therefore constituting the direct implementation of norms such as precaution, ecosystem-based and cooperation.

The operational role of MPAs on the implementation of international ocean law is further reinforced by the BBNJ Agreement, which recognizes that MPAs not only have a central role on biodiversity conservation in ABNJ, but also operationalize EIA requirements, capacity-building commitments and equitable benefit-sharing principles. Therefore, MPAs established under the BBNJ Agreement form the intersection between established principles of ocean law and emerging governance frameworks and institutions.

7.2 Key challenges to effective implementation

The implementation of MPAs is increasingly prominent, and is expected to grow even more after the entry into force of the BBNJ Agreement, which governs the implementation of MPAs on the high seas. Despite this encouraging momentum, the effective establishment and enforcement of MPAs still faces significant governance, legal and institutional challenges.

One of the biggest difficulties is rooted in fragmentation: mandates overlap and are often inconsistent across sectors and regimes, undermining coherent efforts for the protection of the marine environment and resources. Achieving SDG 14.c “should be in accordance with, reinforce and not duplicate or undermine existing legal instruments, arrangements, processes, mechanisms or entities”¹⁴⁷. RFMO’s, ISA and regional conventions often have legitimacy to act on the same geographical space, which further complicates the establishment and enforcement of MPAs, especially in ABNJ. In this regard, a study conducted on the hydrothermal vent fields of the Mid Atlantic Ridge and the South-West Indian Ridge, identified the two main factors that prevent an effective implementation of

¹⁴⁷ United Nations - **Our ocean, our future: united for urgent action**, p. 4. Available at <<https://docs.un.org/en/A/CONF.230/2025/L.1>>

MPAs, caused by fragmentation: “On the one hand, the non-universal application of the treaties that allow for the establishment of ABMTs in the areas under analysis which are only binding upon their parties; [o]n the other hand, the non-cross-sectoral nature of the protection and conservation measures adopted under these treaties”¹⁴⁸.

The effective implementation of MPAs on the high seas is also constricted by unequal state capacity. As was highlighted during OAP 10, in UNOC III, several countries lack the scientific, technological and financial resources necessary for the implementation and monitoring of MPAs. The BBNJ Agreement takes this disparity in consideration by establishing provisions on capacity-building and technology transfer, hoping to reduce the distance between developed and developing countries.

There are also several issues regarding enforcement, with continued IUU fishing practices, lack of surveillance infrastructures and inconsistent political will¹⁴⁹, which hinder the ability of MPAs fulfilling their conservational and legal goals. Additionally, in order for global commitments to be effectively implemented by states, there is a need for domestic legislation that transposes those commitments into the national legal order, therefore erasing implementation gaps.

Ultimately, achieving SDG 14.c requires not only more MPAs, but more effective, equitable and coordinated governance systems surrounding them.

7.3 Opportunities to strengthen SDG 14.c through MPAs

Despite these challenges, the emerging international landscape provides an opportunity for MPAs to advance SDG 14.c. The adoption of the BBNJ Agreement is a crucial development that aims to harmonize the legal framework and coordinate fragmented regimes. Its provisions for the protection of biodiversity in ABNJ significantly improve MPAs functioning, whilst advocating for an expansion of MPAs’ network.

Moreover, the political momentum generated by UNOC III is also crucial for strengthening SDG 14.c through MPAs. Together with voluntary commitments and partnerships, it improves cross-sector coordination and facilitates the alignment between

¹⁴⁸ ARDITO, Giovanni [et al.] – **Overlapping and fragmentation in the protection and conservation of the marine environment in areas beyond national jurisdiction**, p. 13. Available at <<https://www.frontiersin.org/journals/marine-science/articles/10.3389/fmars.2022.1094266/full>>

¹⁴⁹ United Nations - **Our ocean, our future: united for urgent action**, p. 23. Available at <<https://docs.un.org/en/A/CONF.230/2025/L.1>>

national and global efforts. Simultaneously, technology advancements create new possibilities to effective enforcement and adaptive management. Monitoring, control and surveillance technologies have had a significant development, particularly with artificial intelligence and satellite technology, therefore surpassing traditional practices¹⁵⁰. Furthermore, with a stronger integration of Indigenous, local and traditional knowledge, new opportunities arise to enhance social legitimacy, support equity and improve ecological outcomes¹⁵¹.

Overall, these opportunities underscore how MPAs represent more than conservation tools, but also as platforms that enhance the implementation of international ocean law, thus promoting SDG 14.c.

7.4 Policy Recommendations

7.4.1 Strengthening legal frameworks

One of the first priorities for advancing SDG 14.c is the consolidation of international legal frameworks at a national level and ensuring that they have a universal character. The more countries ratify a legal instrument, the easier it is to achieve legal coherence across the world¹⁵². The BBNJ Agreement has not achieved this yet, as it only has 75 ratifications, but it nevertheless introduces an innovative global mechanism for the establishment of MPAs in ABNJ. However, its success ultimately depends on a coherent integration of its provisions with sectoral regimes and consistent implementation by states.

Regarding the subject at hand, strengthening legal frameworks requires ensuring coherence between MPAs established under the BBNJ regime and measures adopted by other bodies, such as RFMOs and ISA, in order to avoid fragmentation issues, as was explained in chapter 7.2. It is also important to develop cross-sectoral legal tools, at a national and regional level, which will promote unified responses to cumulative impacts and overlapping human activities.

¹⁵⁰ CREMERS, Klaudija [et al.] – **Monitoring, control and surveillance of future high seas MPAs: what role for emerging technologies?**, p. 5. Available at <<https://www.iddri.org/en/publications-and-events/study/monitoring-control-and-surveillance-future-high-seas-mpas-what-role>>

¹⁵¹ United Nations – **Ocean Action panel 10: Enhancing the conservation and sustainable use of oceans and their resources by implementing international law as reflected in the United Nations Convention on the Law of the Sea**, para. 54. Available at <<chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://sdgs.un.org/sites/default/files/2025-05/25-00825%20ATT%20Formatted%20%20OAP10%20Law%20of%20the%20Sea%20REV.pdf>>

¹⁵² UNCLOS is an example of the relevance of broad ratification for ensuring the universal character of legal frameworks. Although not all 195 states have ratified it, its acceptance by 170 states significantly enhances its global applicability and contributes to its recognition as the primary legal framework governing the ocean as the “Constitution for the Oceans”.

In sum, strengthening legal frameworks calls for new rules, as well as a better alignment between existing institutions and national capacities. Yet, legal coherence alone is insufficient, as many states still lack the necessary expertise, experience and institutional stability needed to implement the obligations they adopt.

7.4.2 Enhancing international collaboration

Given the inherent transboundary nature of high seas governance, collaboration between states and stakeholders is essential, in order to effectively implement MPAs and achieve SDG 14.c within the established timeframe. Although the BBNJ Agreement emphasizes cooperation, some states are still at a disadvantage when it comes to participation and decision-making. Their lack of resources can hinder their capacity to submit proposals of high seas MPAs and engage in monitoring and scientific activities.

For the purposes of promoting more balance between states, enhancing international collaboration should involve a deepened regional collaboration with partnerships, particularly through initiatives that endorse capacity-building and knowledge exchange, ultimately promoting a harmonization of data-sharing and encouraging cross-sectoral dialogue.

Through collaboration, there is space for a more equitable sharing of benefits, as is advertised by the BBNJ Agreement, whilst reducing fragmentation and capacity disparities. This collaboration needs, however, to be durable and capable of pairing states that complement each other through their strengths, ensuring a long-term support.

7.4.3 Promoting innovation, research and equity

Innovation and adaptation is also important, in order to improve the *status quo* of ocean governance, particularly regarding the design, monitoring and effectiveness of MPAs on the high seas. However, innovation is not limited to technologies, although they do play an important role.

New governance models, research partnerships and equity-centred approaches can reduce inequality and enhance global participation. For instance, promoting an equitable distribution of benefits, enhancing research groups on MPAs effectiveness and investing in long-term knowledge generation, heavily contributes towards ensuring that all states are capable of creating and managing MPAs in ABNJ, and not only those with sufficient resources.

7.5 High-Seas MPA Mentorship Alliance (HSMMA)

Existing mechanisms remain insufficient to ensure the effective implementation of MPAs in ABNJ, as the aforementioned challenges continue to exist. Despite the significant progress that has been achieved with the BBNJ Agreement and regional initiatives, there are still several gaps that need to be addressed. This requires not only stronger frameworks and cooperation, but also a new model that is tailored to be durable, equitable and tailored to the specific needs of implementing MPAs.

In response to these gaps, this report proposes a new governance model – the High Seas MPA Mentorship Alliance (hereafter referred to as “the Alliance”). This Alliance would constitute a governance mechanism built on innovation and partnership, designed to operationalize SDG 14.c by pairing states with complementary strengths and capacities for the establishment, management and long-term monitoring of MPAs in ABNJ. Under this proposed model, the Alliance would focus exclusively on MPAs in ABNJ and would group at least one developed state MPA agency with one or more least developed state, SIDS or landlocked developing state¹⁵³, in a reciprocal multi-year mentorship. These groups would constitute a “pod”, each with established responsibilities, resources and an agreed timeline to follow.

7.5.1 Purpose and *rationale*

Although there already exist regional programs with a similar purpose and having proven their value for national and regional MPA networks, their scope of applicability falls short of implementing MPAs on the high seas, where governance still faces some challenges. Building on this assessment, the governance model proposed in this report aims to combine the strengths of existing approaches with a targeted, equity-centred framework, tailored to the legal and practical challenges of ABNJ.

The proposed Alliance would allow states within the same pod to co-design, implement, monitor and manage proposals for MPAs in ABNJ¹⁵⁴. This way, it would promote a structured long-term cooperation between states throughout all stages of MPA implementation, including the integration of BBNJ decisions into national legal frameworks and strengthening capacity-building.

¹⁵³ The allocation of states to each classification follows the list published by the United Nations, which is available at https://www.un.org/en/development/desa/policy/wesp/wesp_current/2014wesp_country_classification.pdf

¹⁵⁴ Recalling article 19(1), BBNJ Agreement, it is expressly allowed for state parties to submit their proposals either individually or collectively.

The *rationale* for proposing the HSMMA is grounded in three main issues: capacity disparities, uneven participation and insufficient cooperation. First, many SIDS, landlocked developing states and developing states still lack the necessary expertise and resources necessary for high seas governance, with most capacity-building efforts depending on short-term investments. Second, different state participation levels exacerbate fragmentation, which causes an unbalance in scientific data and legal inputs, risking a limited representativity and unequal influence of states in decision-making moments. Lastly, current initiatives for capacity-building are either project-based or short-term, preventing significant cooperation and knowledge transfer.

If implemented, the Alliance would directly respond to the main challenges previously identified. The creation of the mentorship pods would reduce governance fragmentation and facilitate coordination by ensuring that everyone was able to participate in meetings and communicate cross-sectorally, ultimately reducing contradictory measures and fragmented decision-making. This proposed governance model would, therefore, support states with the biggest capacity gaps, granting them the opportunity to participate in BBNJ processes and having equitable access to scientific data. Consequently, they would benefit from their partners' technological and institutional strengths, leading to higher levels of compliance and monitoring.

7.5.2 Functioning of the Alliance

Under the governance model proposed by this report, the HSMMA would operate as a voluntary, intergovernmental alliance, composed of different mentorship pods, which would group at least one developed state with advanced scientific, legal and monitoring capacity, with a developing state, particularly SIDS, LDCs or developing landlocked state, with identified capacity needs.

Within the governance model proposed, the constitution of each pod would be based on ensuring a reciprocal partnership that combines capacity and knowledge. Countries within the same pod would not have to be geographically close, although it could be beneficial in situations where they already share ecological, economic and cultural connections to an ocean basin. Additionally, participation in the same regional conventions or networks could further facilitate cooperation and coordination.

For illustration purposes, Portugal, a developed country, and Cabo Verde, SIDS, would work as a pod under this proposed model, each contributing with a special set of skill and

knowledge. Portugal has strong marine science institutions and an active role in ocean diplomacy, including UNOC. On the other hand, Cabo Verde has a strong commitment to marine conservation, but limited capacity, with high exposure to climate and biodiversity impacts. If paired in a pod, Portugal could build Cabo Verde's scientific and legal capacity while Cabo Verde could contribute with relevant local ecological knowledge, sustainable practices and regional representation. Together, these states could, in principle, manage an Atlantic high seas MPA, under the regime of the BBNJ Agreement.

Each pod would be governed by standardized MoUs, which would include each state's rights and responsibilities, duration, governance rules and dispute resolution provisions. Additionally, the proposed model for the Alliance would advocate for regular staff secondments, co-development of management plans and proposals and shared enforcement obligations.

Safeguards to avoid abusive behaviour would have to be employed. Although reciprocity is a key element of this new governance model, the developed country would nevertheless be at an advantage point, in comparison to the developing country. In order to balance their positions, all data and published research would be co-owned, unless otherwise agreed, and, on a first moment, the primary objectives for the pods programme would be defined by the developing state, in order to avoid the developed state to establish a goal that would be out of reach for the developing state.

The success of the mentorship pod would be assessed based on a set of indicators, which would measure the level of compliance with SDG 14.c. These could be, for instance, the number of MPAs proposal drafted and submitted to the BBNJ Secretariat, of formalized secondments and staff trained, as well as the number of data sets shared and co-authored publications.

The Alliance conceived under this new governance model would also require a funding mechanism to support its functioning. Although potential funding could come from bilateral donors and philanthropy, there is also the possibility of using the financial mechanism established under the BBNJ Agreement. Assuming both states have ratified it (which is the case of Portugal and Cabo Verde), the BBNJ Agreement creates a funding source which is set to be allocated towards capacity-building projects, whether through the

special fund or the Global Environmental Facility trust fund¹⁵⁵. Under the proposed Alliance, these funds could be allocated towards mentorship-based capacity-building activities connected to the establishment and management of high seas MPAs.

7.5.3 Differentiation from existing initiatives

Initiatives such as the Commonwealth Blue Charter Project Incubator or Caribbean MPA mentorship programs already provide with mechanisms for partnerships, shared training and fast-tracking proposals. However, they are not the best suited for high seas governance, given their regional nature and project-based investment.

In this sense, the governance model proposed for the Alliance introduces new elements, aiming to fill in the gaps identified in existing initiatives. Instead of short-term training, the proposed Alliance is designed to provide continuity and long-term mentorships, better suited for its express mandate of implementing and managing MPAs under the BBNJ Agreement. Additionally, whilst traditional capacity-building is often based on funding cycles and donors, the HSMMA would create partnerships anchored in mutual benefits and reciprocity, which would allow developing states to have access to resources that they normally would not have, strengthening their compliance to international legal frameworks. One of the main gaps identified in the literature is governance fragmentation and, by pairing states that interact with multiple global and regional bodies, the Alliance would contribute towards bridging sectoral divisions and reducing duplication of efforts.

By strengthening legal frameworks, enhancing collaboration and promoting innovation and research, the HSMMA would be able to provide a practical tool for advancing SDG 14.c through the implementation of MPAs in the high seas. Not only would it transform abstract commitments into achievable outcomes, whilst ensuring that the benefits of the BBNJ Agreement are shared equitably among states, but it would also fulfil UNOC III's spirit of promoting and strengthening partnerships. The HSMMA would, therefore, represent a new model of cooperative governance, moving beyond capacity-building as charity and toward capacity-building as partnership.

¹⁵⁵ Article 52, BBNJ Agreement, determines that the financial mechanism includes a voluntary trust fund, established by the BBNJ CoP, a special fund and the Global Environment Facility trust fund. The voluntary trust fund's aim is to facilitate participation of developing states, therefore being inapplicable for the Alliance. However, paragraph 6 says that "the special fund and the Global Environment Facility trust fund shall be utilized in order to: (a) fund capacity-building projects under this Agreement, including effective projects on the conservation and sustainable use of marine biological biodiversity and activities and programmes, including training related to the transfer of marine technology".

8 Conclusion

Protecting the ocean has become even more imperative throughout the years. As scientific knowledge and political momentum grow, MPAs have emerged as crucial instruments for safeguarding the marine ecosystems and its resources, supporting ocean resilience and promoting sustainability. Nonetheless, their contribution towards SDG 14.c extends beyond conservation outcomes, as they also embody the implementation of international law, strengthen cooperation and enhance institutional coherence across the global ocean governance framework.

The entry into force of the BBNJ Agreement represents a major step forward in filling the governance gaps in ABNJ, particularly with the provisions for the establishment and management of MPAs on the high seas and the promotion equitable participations among states. Together with the voluntary commitments adopted at UNOC III, this new legal landscape provides an unprecedented opportunity to operationalize SDG 14.c. However, fragmented structures, uneven state capacity, overlapping mandates, limited enforcement and lack of effective cross-sectoral cooperation, continue to hinder effective implementation.

Therefore, achieving SDG 14.c requires not only the expansion of MPAs networks, as well as strengthening the legal and institutional foundations that enable MPAs to function. Strong domestic legislation, universal commitment and inclusive decision-making processes are key elements of a stable and coherent system. Equally important are capacity-building and technology transfer mechanisms, which ensure that developing states can have a meaningful participation in high seas governance.

Accordingly, innovative and equity-driven approaches are necessary to complement existing structures. The High Seas MPA Mentorship Alliance proposed in this report offers such model. By fostering long-term partnerships between developed states and SIDS, LDCs and landlocked developing states, the HSMMA seeks to reduce capacity asymmetries, improve cross-sectoral coordination and support more effective management and enforcement of MPAs in ABNJ. It would emphasize mentorship and reciprocity, thus promoting both equity and functionality.

Ultimately, as UNOC III affirms, advancing SDG 14.c requires moving from discussion towards action. High seas MPAs can serve as powerful tools for this transformation, but only if supported by coherent legal frameworks, strengthened institutions and fair

opportunities for all states. With renewed political will, improved cooperation and innovative governance, the international community has the tools to go beyond theory and commitments, towards a more resilient, equitable and legally grounded future for the global ocean.

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