



COSTA RICA AND MONACO JOIN SUBMISSION

ON MARINE PROTECTED AREAS

31 August 2016

The significance of area based management tools for the conservation and sustainable use of marine biodiversity of areas beyond national jurisdictions has been fully recognized by UN Member States, which included them as one of the elements of the 2011 “package”.

In this regard, and in response to the invitation of H.E. Ambassador Eden Charles, chair of the Preparatory Committee, for delegations to submit their views on the elements of an international legally binding instrument under the United Nations Convention on the Law of the Sea (UNCLOS), the Governments of Costa Rica and Monaco have the honor of submitting their views regarding Area Based Management Tools (ABMTs), **specifically a proposal for a process to create marine protected areas (MPAs)** in areas beyond national jurisdiction (ABNJ). We hope this submission can help further the discussion.

1. Relevance of MPA

The Governments of Costa Rica and Monaco consider that MPAs are an appropriate tool for the conservation and sustainable use of living and non-living resources and of marine biological diversity in ABNJ. Furthermore, the enhancement of good governance and of international coordination, as well as the identification, designation and creation of a network of ecologically representative, well-connected and effectively managed MPAs and/or marine reserves in ABNJ could contribute to address a gap in ocean governance and improve the sustainable management of marine resources.

Since the adoption of the United Nations Convention on the Law of the Sea, several other Instruments have increasingly included the ecosystem approach in their frame of reference. This approach requires managers and decision makers to regulate marine uses and activities with ecological considerations in mind. Following this conceptual approach to ocean management, there is a range of ecosystem based tools that should improve conservation of ecosystems and species in areas beyond national jurisdictions.

Different resolutions and plans of action have reiterated the importance of marine protected areas, as an area-based management tool, and urged for the creation and consolidation of MPA networks; for example, the Plan of Implementation of the World Summit on Sustainable Development (Johannesburg, 2002); the 2010 Conference of the Parties of the Convention on Biological Diversity (CBD), and Aichi Target 11; the outcome document of the Rio+20 Conference on Sustainable Development, “The Future We Want.” and Target 14.5 of the United Nations’ 2030 Agenda for Sustainable Development.

Scientific studies have shown that marine protected areas are key to:

- help maintaining / increasing biodiversity by protecting areas with rare species,
- increasing biomass of marine living resources by reducing the anthropogenic stressors to their habitat, and
- building resilience to climate change by “enhancing local resilience of populations and ecosystems” and acting as “buffers against climate-related stress.”

These benefits depend, however, on the size of the MPA and the level of protection that it affords. Large, fully-protected marine reserves have been shown to deliver the greatest conservation benefits. However, MPAs, as well as other ABMTs should be established when and where they are needed and according to standardized criteria.

2. MPA Process/Framework

The Chair’s indicative suggestions of clusters of issues and questions pose the following overarching question: **“What might a process for the designation of area-based management tools, including marine protected areas, in areas beyond national jurisdiction look like?”**

Costa Rica and Monaco believe that a successful process for the designation, establishment and management of MPAs in ABNJ should:

A) Reaffirm the duties of States to cooperate and to protect and preserve the marine environment as well as the need to establish a network of ecologically representative, well-connected and effectively managed MPAs, including marine reserves, in ABNJ, in order to enhance good governance and international coordination, and in accordance with the following guiding principles/approaches:

- precautionary approach
- ecosystem approach
- transparency
- best available scientific information (science based approach)
- adaptive conservation management
- sustainable and equitable use of natural resources

B) Establish an institutional framework which should include:

- a. A process through which States Parties can propose the establishment of a MPA
- b. A scientific advisory body to: (i) advise on the compatibility and relevance of potential MPAs with the Implementing Agreement’s scientific criteria, in accordance with best available science and; (ii) assist in the identification of a

network of representative MPAs. This body should draw input from existing processes, including scientific evaluations carried out by existing regional and sectoral organizations.

- c. A process through which the Parties to the Implementing Agreement can consider and eventually establish proposed MPAs.
 - d. A unit in charge of administrative duties (this important duty could be performed by DOALOS).
- C) Adopt scientific criteria. This step can benefit from existing criteria from such processes as the description of Ecologically or Biologically Significant Marine Areas (EBSAs) under the Convention on Biological Diversity, the identification of Vulnerable Marine Ecosystems (VMEs) under the United Nations Food and Agriculture Organization's International Guidelines for the Management of Deep-sea Fisheries in the High Seas, or the designation of Particularly Sensitive Sea Areas (PSSAs) by the International Maritime Organization.
- D) Establish a mechanism through which States Parties, individually or collectively, may propose potential MPAs. MPA proposals submitted through this mechanism should always include at least: (i) the spatial boundaries of the MPA; (ii) an evaluation of the current state of the marine ecosystem and a description of ongoing human activities in that area (iii) a statement of the conservation objectives to be achieved by establishing the MPA; (iv) elements of the management measures through which those objectives will be achieved and of the plan for monitoring and review of the MPA once established.
- E) Provide the following steps for the proponents of a new MPA:
- Request that the unit in charge of administrative duties (Secretariat) notify all States, relevant international, regional and sectoral bodies with mandates and competences related to the objectives of the MPA, where such bodies exist. These will have a time-bound period within which to submit comments regarding the proposal, including any elements of the proposal with the potential to undermine their respective mandates and competencies. This will be undertaken with the objective of not undermining existing relevant legal instruments and frameworks and relevant global, regional and sectoral bodies;
 - Also request that the Secretariat make the proposal publically available so that other stakeholders may submit comments within the same time-bound period, to make sure that best available scientific information is duly taken into consideration;
 - Further request the Secretariat to compile all feedback and forward it back to the proponent;

- Submit the final proposal to the competent scientific advisory body established under the Implementing Agreement, which should advise on the proposal's compatibility with the Implementing Agreement's scientific criteria, as well as make other recommendations to ensure that its objectives are achievable and its management plan is calibrated to achieve those objectives.
 - After consideration by the scientific advisory body, submit the proposal to the Conference of Parties for its adoption.
- F) Create a mechanism through which States can consider and address the comments received during this time-bound open and public consultation, including the recommendations of the scientific advisory body, amend the proposal and/or provide additional details, as needed, and evaluate deliberate and decide upon MPA proposals.
- G) Ensure that the MPA, once established, is implemented to the fullest extent possible. To achieve this:
- a. States Parties should have primary responsibility for implementing the MPA management measures with respect to activities under their jurisdiction or control (i.e. as a flag State/port State) within a time-bound period.
 - b. The Secretariat should notify relevant existing bodies and States that are not parties to the Implementing Agreement of the decision to establish a new MPA as well as its objectives, management measures and the monitoring and review plan. Such States and bodies should be requested to implement all appropriate measures within their respective jurisdictions and competencies to further advance the achievement of the objectives of the MPA. States Parties should work within the relevant organizations of which they are members to develop and implement such measures.
 - c. The MPA shall be adequately monitored and States Parties shall ensure compliance with management measures.
- H) Require that the MPA's progress towards meeting its objectives be reviewed at set intervals and include a report on progress made by States Parties and within other relevant organizations.