



## 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

2024/Factsheet 3

# Measures such as area-based management tools, including marine protected areas

## Introduction

The [Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas beyond National Jurisdiction](#) (“BBNJ Agreement”) was adopted on 19 June 2023. It addresses a package of issues under the overall objective of ensuring the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, for the present and in the long term, through effective implementation of the relevant provisions of the [United Nations Convention on the Law of the Sea](#) and further international cooperation and coordination.

These issues are:

- I marine genetic resources, including the fair and equitable sharing of benefits;
- II measures such as area-based management tools, including marine protected areas;
- III environmental impact assessments; and
- IV capacity-building and the transfer of marine technology.

This factsheet focuses on **measures such as area-based management tools (“ABMTs”), including marine protected areas (“MPAs”)** (Part III of the BBNJ Agreement).

ABMTs, including MPAs, are used to manage sectors or activities in geographically defined areas with the aim of achieving specific conservation and sustainable use objectives. Such tools can be used to protect habitats and species and can help to restore ecosystem resilience and productivity.

## What are the objectives of the Agreement in relation to area-based management tools, including marine protected areas?

The BBNJ Agreement has several objectives in relation to ABMTs, including MPAs, namely to:

- Conserve and sustainably use areas requiring protection, including through the establishment of a comprehensive system of ABMTs, with networks of MPAs;
- Strengthen cooperation and coordination in the use of ABMTs, including MPAs, among States, relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies ("IFBs");

- Protect, preserve, restore and maintain biological diversity and ecosystems, and strengthen resilience to stressors;
- Support food security and other socioeconomic objectives, including to protect cultural values; and
- Support developing States Parties through capacity-building and the development and transfer of marine technology in relation to ABMTs, including MPAs.

## What are area-based management tools and marine protected areas?

The Agreement defines an **area-based management tool** as "a tool, including a marine protected area, for 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 this Agreement".

The Agreement also defines a **marine protected area** as "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 use provided it is consistent with the conservation objectives".



## What is the process for establishing area-based management tools, including marine protected areas, under the Agreement?

- 1 Parties to the Agreement, individually or collectively, submit a proposal regarding the establishment of an MPA or other ABMTs, to the secretariat established under the Agreement.
- 2 The proposal is made publicly available, undergoes preliminary review by the Scientific and Technical Body established under the Agreement, and, taking into account the preliminary review, is retransmitted by the proponent to the secretariat for notification to Parties and for making it publicly available.
- 3 Consultations on the proposal take place and are to be inclusive, transparent and open to all relevant stakeholders, including States, IFBs, civil society, the scientific community and Indigenous Peoples and local communities.
- 4 The proponent considers the contributions received during the consultation period, revises the proposal, as appropriate, and submits it to the Scientific and Technical Body for assessment and recommendation to the Conference of the Parties to the Agreement.
- 5 The Conference of the Parties takes a decision on the establishment of the MPA or other ABMTs and related measures, may decide on measures compatible with those adopted by relevant IFBs, and may make recommendations where proposed measures are within the competence of other IFBs.

## What must be included in a proposal?

Proposals for the establishment of ABMTs, including MPAs, with regard to identified areas must include several elements, including the following:

- A geographic or spatial description of the area that is the subject of the proposal by reference to the indicative criteria specified in Annex I to the Agreement;
- Information on any of the criteria specified in Annex I;
- Human activities in the area and their possible impact, if any;
- A description of the state of the marine environment and biological diversity, as well as the conservation and, where appropriate, sustainable use objectives to be applied;
- A draft management plan encompassing the proposed measures and proposed monitoring, research and review activities;
- The duration of the proposed area and measures, if any;
- Information on any consultations undertaken with States, including adjacent coastal States and/or relevant IFBs;
- Information on ABMTs, including MPAs, implemented under relevant IFBs; and
- Relevant scientific input and, where available, traditional knowledge of Indigenous Peoples and local communities.

## Relationship with relevant instruments, frameworks and bodies and existing measures

In taking decisions on the establishment of ABMTs, including MPAs, and related measures, the Conference of the Parties is required to respect the competences of, and not undermine, relevant IFBs.

The Conference of the Parties may take decisions on measures compatible with those adopted by relevant IFBs, in cooperation and coordination with those IFBs.

Where proposed measures are within the competences of other global, regional, subregional and sectoral bodies, the Conference of the Parties may make recommendations to Parties to the Agreement and to those bodies to promote the adoption of relevant measures through such IFBs, in accordance with their respective mandates.

The Conference of the Parties will make arrangements for regular consultations to enhance cooperation and coordination with and among relevant IFBs with regard to ABMTs, including MPAs, as well as coordination with regard to related measures adopted under such IFBs.

To further international cooperation and coordination with respect to the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, the Conference of the Parties may consider developing a mechanism regarding existing ABMTs, including MPAs, adopted by relevant IFBs.

If a relevant IFB is established or its competence is amended, any ABMT, including an MPA, or related measure adopted by the Conference of the Parties falling within the competence of that IFB, either wholly or in part, will remain in force until the Conference of the Parties reviews and decides, in close cooperation and coordination with that IFB, to maintain, amend or revoke the MPA or other ABMTs, and related measures, as appropriate.

## **Area-based management tools, including marine protected areas, under the Agreement and areas within national jurisdiction of coastal States**

The establishment by the Conference of the Parties of ABMTs, including MPAs, shall not include any areas within the national jurisdiction of coastal States, nor shall the Conference of the Parties consider for decision proposals for the establishment of such ABMTs, including MPAs.

During consultations on proposals for the establishment of ABMTs, including MPAs, States, in particular adjacent coastal States, will be notified and invited to submit views on the merits and geographic scope of the proposal, any relevant scientific input, information on any existing

measures or activities in adjacent or related areas within and beyond national jurisdiction, and views on the potential implications of the proposal for areas within national jurisdiction.

Where proposed measures affect areas that are entirely surrounded by the exclusive economic zones of States, proponents are required to undertake targeted and proactive consultations with those States, consider their views on the proposed measures, provide written responses and, where appropriate, revise proposed measures accordingly.

Decisions and recommendations adopted by the Conference of the Parties must not undermine the effectiveness of measures adopted in respect of areas within national jurisdiction and must be made with due regard for the rights and obligations of all States.

Where proposed measures would or could reasonably be expected to affect the superjacent water above the seabed and subsoil of submarine areas over which a coastal State exercises sovereign rights, such measures shall have due regard to the sovereign rights of such coastal States. Consultations must be undertaken to that end.

Where an ABMT, including an MPA, is established and then falls, either wholly or in part, within the national jurisdiction of a coastal State, the part within national jurisdiction will immediately cease to be in force. The part remaining in areas beyond national jurisdiction will remain in force until the Conference of the Parties, at its next meeting, reviews and decides whether to amend or revoke it, as necessary.



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## Other elements regarding area-based management tools, including marine protected areas

**Opt-out:** Parties may make an objection in writing with respect to a decision by the Conference of the Parties on ABMTs, including MPAs, in certain circumstances. Such decisions are otherwise binding on all Parties.

**Implementation:** Parties must ensure that activities under their jurisdiction or control that take place in areas beyond national jurisdiction are conducted consistently with the decisions adopted by the Conference of the Parties.

**Non-parties:** Parties are required to encourage States entitled to become parties to the Agreement to adopt measures supporting the decisions and recommendations of the Conference of the Parties on ABMTs, including MPAs.

**Emergency measures:** The Conference of the Parties will adopt measures in areas beyond national jurisdiction, to be applied on an emergency basis, if necessary, when a natural phenomenon or human-caused disaster has caused, or is likely to cause, serious or irreversible harm to marine biological diversity of areas beyond national jurisdiction.

**Monitoring and review:** Parties must report to the Conference of the Parties on the implementation of ABMTs, including MPAs, established under the Agreement and related measures. The Scientific and Technical Body will monitor and periodically review ABMTs, including MPAs, and related measures, and provide advice and recommendations to the Conference of the Parties.

**Amendment, extension and revocation:** Following review by the Scientific and Technical Body, the Conference of the Parties will, as necessary, take decisions or recommendations on the amendment, extension or revocation of ABMTs, including MPAs, and any related measures.

## Contact

For further information on the BBNJ Agreement, including with respect to [capacity-building and technical assistance](#) available to States in becoming parties to the Agreement and in relation to its implementation, contact the Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs of the United Nations:

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## Disclaimer

The present factsheet is intended to promote a better understanding of the BBNJ Agreement and does not purport to be exhaustive. It should be read in conjunction with the full text of the Agreement, the certified true copy of which is available on the website of the United Nations Treaty Collection (<https://treaties.un.org/>)



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