

Marine Biodiversity & Protected Areas

NeFo CBD fact sheet in preparation of COP 13, 13/2016



Atlantic trumpetfish and yellowfin grouper, Erik Meesters/Wageningen Marine Research (CC BY-NC 4.0)

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The State of Marine Biodiversity

Marine environments are generally more difficult to access than their terrestrial counterparts, and are therefore relatively less studied and understood. In 2005, the United Nations General Assembly (UNGA) set up a process specifically 'to improve understanding of the oceans and to develop a global mechanism for delivering science-based information to decision makers and public' (UNGA Resolution 57/141, 2005). This process¹ resulted in the first [World Ocean Assessment](#)² (WOA) in 2015, in which the state of the ocean was analysed in a systematic way from drivers and pressures to state and impact. It concludes that human pressures impact the entire marine environment - directly and indirectly, sometimes in a concentrated way, sometimes across wide distributions, and that they also impact human societies and economies (WOA 2015, chap. 54). The overall conclusions on biodiversity (WOA 2015, chap 52) highlight that 'the ocean's diversity of species, communities and habitats is far from completely sampled', but that appropriate measures and their implementation can contribute to mitigating or avoiding detrimental trends nonetheless.

Main Marine Biodiversity Issues for Consideration at COP 13

Policy measures to protect marine biodiversity can be found under the auspices of the Convention on Biological Diversity (CBD), including the [Aichi Biodiversity Targets](#) adopted as part of its [Strategic Plan for Biodiversity 2011-2020](#). The implementation of the Strategic Plan is underway via National Biodiversity Strategies and Action Plans (NBSAPs) and progress in its implementation will be presented at the 13th Convention of the Parties (COP 13, Cancun, Mexico, December 2016).

At COP 13, marine and coastal biodiversity will be addressed as separate item on the agenda (see UNEP/CBD/COP/13/1/Add.1/Rev.1, item 15) and below we focus on selected elements of this item. Marine biodiversity will also be of high importance in discussing mainstreaming biodiversity in fisheries (item 10) and, in a more synthesized way, in the items on progress (item 9) and strategic actions (item 10) related to implementation of the Strategic Plan for Biodiversity 2011-2020 and achieving the Aichi Biodiversity Targets. Item 10 also includes consideration of [2030 Agenda for Sustainable Development](#) with its [Sustainable Development Goals](#) (SDGs), and SDG 14 to '*conserve and sustainably use the oceans, seas and marine resources for sustainable development*'.

The draft decisions that the COP negotiate about at its 13th meeting are presented in UNEP/CBD/COP/13/2, and many are based on recommendations made by the Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA) at its most recent meeting (SBSTTA-20, April 2016). These recommendations can be found in the [final meeting report](#).

¹ Entitled 'A Regular Process for Global Reporting and Assessment of the State of the Marine Environment, including Socio-economic Aspects (Regular Process)'

² See also this (German-language) analysis by NeFo <http://www.biodiv-netzwerk.de/de/presse/world-ocean-assessment-forschung-geht-tiefe-un-bleibt-lieber-oberflache>

The main points to be discussed at the upcoming COP for agenda item 15 are:

- **Ecologically or biologically significant marine areas (EBSA) designation** for three regions, incl. options for enhancing scientific methodologies and approaches used in EBSA description (based on SBSTTA recommendation XX/3).
- **Voluntary work plan on biodiversity in cold water areas**, incl. its adoption into the CBD's work programme, and an invitation to address monitoring and research needs (based on SBSTTA recommendation XX/4).
- **Addressing impacts of marine debris and anthropogenic underwater noise**, incl. via facilitation by the Secretariat of collaboration on issues outlined in voluntary practical guidance annex (based on SBSTTA recommendation XX/5).
- **Marine Spatial Planning and training initiatives** (based on SBSTTA recommendation XX/6).

For a brief introduction to the issues of marine debris and anthropogenic underwater noise, please see a previous [NeFo Fact Sheet](#)³. Below, aspects regarding EBSAs and possible protection of marine areas are discussed.

Update on the EBSA process

Ecologically or biologically significant marine areas are 'special areas in the ocean that serve important purposes, in one way or another, to support the healthy functioning of oceans and the many services that it provides'⁴. COP 9 (2008, Germany) decided on scientific criteria⁵ for identifying EBSAs **in need of protection** (CBD, [2012 EBSA brochure](#); emphasis added). At the request of COP 10 (2010, Japan), a series of regional workshops was then held to apply these scientific criteria to facilitate the description of EBSAs. Workshop results were transmitted by SBSTTA to COP 11 and COP 12, which each approved numerous EBSA descriptions.

Since the last COP (COP 12 in Korea, 2014), three more regional workshops were held to identify further EBSAs for the following regions:

- North-East Indian Ocean⁶ (Colombo, Sri Lanka, 2015); 10 EBSAs
- North-West Indian Ocean and Adjacent Gulf Areas⁷ (Dubai, United Arab Emirates, 2015); 31 EBSAs
- Seas of East Asia⁸ (Xiamen, China, 2015); 36 EBSAs

³ Marquard L, 2016, NeFo CBD Fact Sheet in preparation of CBD-SBSTTA-20, 9/2016: The Conservation of Marine and Coastal Biodiversity

⁴ See <https://www.cbd.int/ebsa/about>

⁵ Decision IX/20, annex I: **1.** Uniqueness or Rarity; **2.** Special importance for life history; stages of species; **3.** Importance for threatened, endangered or declining species and/or habitats; **4.** Vulnerability, Fragility, Sensitivity, or Slow recovery; **5.** Biological Productivity; **6.** Biological Diversity; **7.** Naturalness

⁶ Report contained in UNEP/CBD/SBSTTA/20/INF/22.

⁷ Report contained in UNEP/CBD/SBSTTA/20/INF/23.

⁸ Report contained in UNEP/CBD/SBSTTA/20/INF/24.

This resulted in a list of 77 sites⁹ in total which are proposed by SBSTTA-20 to COP 13 for approval and subsequent uptake into the registry of already described EBSAs, as well as for transmission to various governments and international organisations.

Thus at COP 13, a major aspect will likely be the discussion of EBSAs again, as many regional workshops have now been held (with the associated EBSA description) and follow-up procedures are on the table for negotiation. Indeed, procedures for a continued and refined description process are outlined in agenda item 15. In addition to encouraging national governments to proceed with their own descriptions at the national level, the draft decisions for item 15 also suggest practical options¹⁰ for enhancing the EBSA description mechanism. The setting up of an informal advisory group is suggested, which should report progress and submit peer-reviewed outputs to SBSTTA before the next COP.

Protected Areas

The identification of a site as EBSA carries no legal implications¹¹ and therefore provides no protection of these areas *per se*. The intention surrounding the EBSA process, however, was to support the protection of these areas^{12,13}.

The draft decisions state that numerous UN Organisations, regional and subregional processes have used the EBSA information (UNEP/CBD/COP/13/2, item 15 para. 4), but no analysis seems to have been carried out (yet) to map which (parts of) EBSAs have received what level of protection, and under which conditions the identification as EBSA has led to successful protection. It seems likely that some countries use the EBSA designations to support conservation priority setting more than others, but this is difficult to ascertain without a systematic analysis.

Furthermore, the designation of an EBSA or of any area as being a marine protected area MPA can represent vastly different levels of protection. Thus, while MPA coverage increases worldwide, critics also note the existence of so-called 'paper parks' (where protection exists mainly on paper) and MPAs in areas so remote that the conservation benefits of their designation are limited because human access and impacts are relatively low in these areas anyway¹⁴. This is consistent with an important challenge for biodiversity, outlined in the WOA, that biodiversity hotspots are usually

⁹ UNEP/CBD/COP/13/2, p76-99, in an addendum to annex 2 of the draft decisions for item 15.

¹⁰ This text still in brackets.

¹¹ According to decision X/29, paragraph 26 of the COP, the application of the EBSA criteria is a scientific and technical exercise.

¹² E.g. in 2014, COP 12 had encouraged the CBD member states to make use of the EBSA concept in spatial planning and in the development of representative networks of marine protected areas.

¹³ [CBD Secretariat 2012 EBSA brochure](#) says 'Convention on Biological Diversity (COP 9) adopted the following scientific criteria for identifying ecologically or biologically significant marine areas **in need of protection** in open-ocean waters and deep-sea habitats'. *Emphasis added.*

¹⁴ [MPA news Vol. 18, No. 1, 2016](#)

where humans tend to concentrate their activities, just like on land. This may be due either to the special physical features giving rise to the high biodiversity levels, or to the high biotic diversity they can access there and want to use (WOA, chap 52).

Large increases in MPA surface area coverage were made in mid-2016, e.g. via the expansion of the Papahānaumokuākea Marine National Monument off the coast of Hawaii¹⁵, and decision to designate a 1.55 million km² protected areas in the Antarctic's Ross Sea¹⁶. Furthermore, a new global target - 30% of each marine habitat to be highly protected - was approved by IUCN members (which include 90 state bodies and 133 federal agencies along with NGOs and other affiliates¹⁷) at the IUCN World Conservation Congress held in Hawaii in September 2016¹⁴. It will be interesting to see whether this newly set goal has any impact within the CBD discussions and future targets.

Aichi target 11 progress

In the review of progress towards achieving the Aichi targets (UNEP/CBD/COP/13/8/add.2), the National Biodiversity Strategies and Action Plans (NBSAPs) of Parties are reviewed for whether or not they contain national targets and commitments relevant to the Aichi targets. Aichi target 11 states that *'By 2020, at least 17 per cent of terrestrial and inland water, and 10 per cent of coastal and marine areas, especially areas of particular importance for biodiversity and ecosystem services, are conserved through effectively and equitably managed ecologically representative and well connected systems of protected areas and other effective area-based conservation measures, and integrated into the wider landscape and seascape'*.

A recent [global-scale review of protected areas](#) (IUCN & UNEP-WCMC, 2016) stated that 10,2% of marine and coastal areas within national jurisdiction (within so-called Exclusive Economic Zones, EEZ, of 200nm from shore) and ca. 4% of the global ocean are protected.

At the national scale, only 21% of NBSAPs analysed by the CBD suggest Aichi target 11 is likely to be met by the 2020 deadline, while 67% state that progress is ongoing but insufficient to make the 2020 deadline. Progress towards this target is the most positive among the targets but the document also notes that emphasis in NBSAPs is mainly on the terrestrial aspect, and that the qualitative aspects beyond the quantitative target of percentage area coverage are poorly represented¹⁸.

¹⁵ <https://www.whitehouse.gov/the-press-office/2016/08/26/fact-sheet-president-obama-create-worlds-largest-marine-protected-area>

¹⁶ <https://www.ccamlr.org/en/news/2016/ccamlr-create-worlds-largest-marine-protected-area>

¹⁷ <https://www.iucn.org/secretariat/membership/about/union/members/who-are-our-members>

¹⁸ UNEP/CBD/COP/13/8/add.2

Biodiversity Beyond National Jurisdiction

Cumulative anthropogenic pressures on marine biodiversity are intense in both EEZ and ABNJ (Selig et al 2014). They range from shipping to marine pollution to deep sea fishing and mining¹⁹, with climate and fishing being the most dominant pressures (Halpern et al 2008; Selig et al 2014). In addition, there is no comprehensive legal instrument and or clear governance for these areas. ABNJs comprise both the water column and the seabed in areas that are usually distant from coasts, making for an additional challenge to management since monitoring and enforcement of protection measures are more difficult.

States are required to protect these areas under the UN Convention on the Law of the Sea²⁰ (UNCLOS). Some examples of spatial protection of ABNJ exist (Ardron et al 2008 table 1a, and the new Ross Sea MPA will add to this) and certain sectors have some specific regulations at the global level via UNCLOS: shipping, waste dumping and fishing, for instance, but limitations exist in the effectiveness of these regulations. Other sectors are not regulated - such as bioprospecting, marine scientific research, and military activities (Ardron et al 2008). Thus current governance of ABNJs²¹ is very piece-meal and different sectors and management priorities are covered by different agreements, usually without much integration. Discussions on governance gaps and the possible need for a new legal agreement on ABNJs have been ongoing for about one decade. In 2015 the [Ad Hoc Open-ended Informal Working Group](#) ('BBNJ Working Group', created by the UNGA to consider these issues) recommended to UNGA that it open negotiations to establish an international legally binding instrument for ABNJs. Following this, the UNGA created a [preparatory committee](#) (PrepCom²²) tasked to develop recommendations of draft text of such a legal instrument between 2016 and 2017. The UNGA will then decide by the end of its 72nd session (Sept 2018) on whether and when to convene an intergovernmental conference to elaborate a new instrument, based on PrepCom's work. Strengthening existing regional approaches in parallel to the development of an effective global ABNJ approach would probably improve progress towards Aichi targets, be it before or after the 2020 deadline.

¹⁹ <https://www.thegef.org/topics/areas-beyond-national-jurisdiction>

²⁰ UNCLOS, in particular Articles 116 to 120 on conservation and management of the living resources of the high seas and other relevant articles.

²¹ commonly called the 'high seas', although technically ABNJs comprise the High Seas (water column) and the Area (seabed)

²² 'Preparatory Committee established by General Assembly resolution 69/292: Development of 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 '

Literature and further reading

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For further information on the NeFo project and team, please visit www.biodiversity.de