

Briefing for negotiators

Strengthening Monitoring, Control and Surveillance (MCS) through the High Seas Biodiversity Treaty

The current draft treaty text does not explicitly and holistically address MCS or set out modalities for ensuring that MCS is a central part of proposals for management measures. As a substantial portion of the draft text remains in brackets, there is still an opportunity to further develop MCS provisions.

1. Require an MCS strategy for ABMT/MPA proposals

Why? To anticipate implementation issues and avoid paper parks.

How? The draft text suggests that States Parties could be required to submit a “monitoring, research and review plan” as part of proposals for ABMTs and MPAs (Article 17(4)). The treaty could further include:

- **Article 17(4)(j):** “A monitoring, control and surveillance strategy that specifies the technological tools and institutional frameworks available to ensure compliance with management measures”.

MCS can also be strengthened by requiring relevant bodies (e.g. the IMO and RFMOs) to provide information regarding their MCS activities and their possible role in enforcing ABMTs as is envisioned in:

- **Article 21(5):** “The relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies [shall] ~~may~~ be invited to report to the Conference of the Parties on the implementation of measures that they have established **and their effectiveness**”.

2. Reinforce MCS obligations and principles

Why? To anchor MCS related-principles into the treaty.

How? The article on general principles and approaches could explicitly include transparency, which would help ensure that it is applied consistently throughout the agreement.

- **Article 5(k):** “the principle of transparency”.

Moreover, it could include specific obligations requiring transparency, e.g.:

- The EU’s proposal to include a provision on a “transparency system for benefit-sharing” in the context of marine genetic resources (**Article 13**);
- The proposal of New Zealand, Australia, Canada, Norway and the Pacific Small Island Developing States to add an article on transparency “in decision making processes and other activities carried out under this Agreement” (**Article 50(bis)**).

Negotiators could also include a new general provision on the implementation of the treaty that

requires States Parties to:

- **Article 53:** “ensure that activities under their jurisdiction or control are conducted consistently with this Agreement and measures established under relevant frameworks, instruments and bodies”.

Last, following the preamble and Part VI of the United Nations Fish Stock Agreement, the treaty could include a new specific provision on compliance and enforcement that would require States to:

- **Article 53:** “ensure compliance with and more effective enforcement of the conservation and management measures adopted” and to “cooperate with sub-regional and regional organisations or arrangements when taking enforcement action”.

3. Develop a strong role for the clearing-house mechanism (Article 51)

Why? To facilitate experience-sharing and capacity building for MCS.

How? The treaty could define a strong MCS role for the clearing-house mechanism by specifying that it shall serve as a platform to enable States Parties to have access to and disseminate information with respect to:

- **Article 51(3):** “data on their monitoring, control and surveillance activities and best practices to match capacity-building needs”.

For more information, see:

Cremers, K., Wright, G., Rochette, J., “Strengthening Monitoring, Control and Surveillance in Areas Beyond National Jurisdiction”, STRONG High Seas Project, 2020.

<https://www.iddri.org/en/publications-and-events/report/strengthening-monitoring-control-and-surveillance-areas-beyond>

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About the STRONG High Seas project

The STRONG High Seas project is a five-year project that aims to strengthen regional ocean governance for the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction. Working with the Secretariat of the Comisión Permanente del Pacífico Sur (CPPS; Permanent Commission for the South Pacific) and the Secretariat of the West and Central Africa Regional Seas Programme (Abidjan Convention), the project will develop and propose targeted measures to support the coordinated development of integrated and ecosystem-based management approaches for ocean governance in areas beyond national jurisdiction (ABNJ). In this project, we carry out transdisciplinary scientific assessments to provide decisionmakers, both in the target regions and globally, with improved knowledge and understanding on high seas biodiversity. We engage with stakeholders from governments, private sector, scientists and civil society to support the design of integrated, cross-sectoral approaches for the conservation and sustainable use of biodiversity in the Southeast Atlantic and Southeast Pacific. We then facilitate the timely delivery of these proposed approaches for potential adoption into the relevant regional policy processes. To enable an interregional exchange, we further ensure dialogue with relevant stakeholders in other marine regions. To this end, we set up a regional stakeholder platform to facilitate joint learning and develop a community of practice. Finally, we explore links and opportunities for regional governance in a new international and legally binding instrument on marine biodiversity in the high seas.

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Coordinator: Institute for Advanced Sustainability Studies (IASS)

Implementing partners: BirdLife International, Institute for Sustainable Development and International Relations (IDDRI), International Ocean Institute (IOI), Universidad Católica del Norte, WWF Colombia, WWF Germany

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