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# Marine protected areas (MPAs) as tool for protecting the deep seabed

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## Definitions and delimitations

- The deep seabed
  - The area that at any given time is beyond the continental shelves of coastal states
- Marine protected area
  - An area that is geographically defined and in which human activities are generally prohibited
  - Necessity of defining the purposes for which the MPA is established
  - Prohibitions only in so far as activities negatively affect the attainment of purposes
- Delimitation – not cover regional initiatives? (Ringbom)

## Why MPAs for the deep seabed?

- The ultimate frontier on earth in terms of our knowledge and potential uses
  - Rather regulate specific activities?
  - Consequences of activities in the water column and at the surface
- Long-term protection of biodiversity hotspots or areas essential for ecosystem services
  - Deep sea coldwater coral reefs
  - Hydrothermal vents Habitats for species (the Saragasso Sea)
- Securing protection of a range of representative habitats
  - CBD 2020 (Aichi) target 11:

## Aichi target 11

at least ...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...

- Current MPAs on the high seas:
  - Focus on single issues
  - The disconnect between uses of the water column and issues of the seabed

## Mapping potential MPAs – the role of ISA

- Ensure that activities are carried out:
  - in accordance with part IX (art. 139.1)
  - for the benefit of mankind as a whole (art. 140)
- Promote and encourage marine scientific research; coordinate and disseminate findings (art. 143.2)
- Obligation to protect the environment (art. 145)
  - The protection and conservation of the natural resources of the Area and the prevention of damage to the flora and fauna of the marine environment (see 165.2(e))
  - Identification of areas of particular environmental interest
- ITLOS Seabed Chamber advisory opinion of 2011

## Mapping potential MPAs – states and private parties

- The role and responsibility of states
  - Ensure that activities are carried out: in accordance with part IX (art. 139.1) and for the benefit of mankind as a whole (art. 140)
  - Promote international cooperation in marine scientific research (art. 143.3)
  - Delimitation of continental shelves
- The role and responsibility of private parties
  - Exploration for mineral resources in the Area; EIAs and environmental baselines, reserved areas
- ITLOS Seabed Chamber advisory opinion of 2011

# Mapping potential MPAs – the role of international institutions

- CBD as coordinating biodiversity-related initiatives
  - Currently, some 5 per cent of coastal areas are protected, while very little of the open oceans are protected
  - Ecologically or Biologically Significant Marine Areas (EBSAs)
- FAO: Vulnerable Marine Ecosystems (VMEs), and RFMOs
- IMO: Particularly Sensitive Sea Areas (PSSAs)
- Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES)?
- UN Ocean – facilitate coordination
- IUCN and Networks of researchers

## Establishment of MPAs

- Main challenge: bridging the disconnect between the surface, the water column and the seabed
  - Activity-specific MPAs vs. general MPAs
- The UNCLOS process regarding conservation beyond national jurisdiction
- Outcome of the Ad Hoc WG
- PrepCom mandate: omission of ref to UNCLOS XII
  - International legally binding instrument, conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction
  - Marine protected areas specifically mentioned
  - Emphasis on consensus

## Conclusions of Chair after PrepCom 1

The Chair notes the different views that were expressed on the **level of protection** to be accorded to marine protected areas. Different views were also expressed on the **mechanism to designate** those areas, including on whether to adopt a global or regional approach or a combination of both. The Chair encourages further discussions on these issues as well as on issues relating to **management, monitoring, control and surveillance and enforcement**.

- Noteworthy: the focus on MPAs rather than on other area-based management tools

## MPAs: dilemmas regarding scope and content

- Geographic: Introduce MPAs for areas
  - where exploration licences have been issued
  - for areas of importance to fisheries
  - for areas of importance to shipping
  - for areas of military importance
  - for areas containing cables and pipelines
- Activities regulated
  - Not affect or preclude the implementation of other treaties, but act as a global umbrella and promote coherence among existing regional and sectoral structures
  - Implications for rights and duties of non-parties to the Agreement