

RECOMMENDATION 25/13

ON PROMOTING THE OBJECTIVES OF IOTC THROUGH COOPERATION WITH THE BBNJ AGREEMENT (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)

Keywords: BBNJ Agreement, biodiversity, areas beyond national jurisdiction, high seas, area-based management tools, capacity-building; transfer of marine technology, IOTC competences

The Indian Ocean Tuna Commission (IOTC),

RECOGNISING the adoption of 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) on 19 June 2023;

RECALLING that the BBNJ Agreement “shall be interpreted and applied in a manner that does not undermine relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies and that promotes coherence and coordination with those instruments, frameworks and bodies” (Article 5(2) BBNJ Agreement);

FURTHER RECALLING that Parties of the BBNJ Agreement shall be guided by a set of principles and approaches;

RECOGNISING that Parties of the BBNJ Agreement “shall cooperate under the BBNJ Agreement for the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, including through strengthening and enhancing cooperation with and promoting cooperation among relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies in the achievement of the objectives of [the BBNJ Agreement]” (Article 8(1) BBNJ Agreement);

RECALLING that the Conference of the Parties of the BBNJ Agreement has the competence to take decisions on the establishment of area-based management tools, including marine protected areas, and related measures in the high seas (Article 22(1)(a) BBNJ Agreement);

FURTHER RECALLING that the Conference of the Parties of the BBNJ Agreement “may take decisions on measures compatible with those adopted by relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies, in cooperation and coordination with those instruments, frameworks and bodies” (Article 22(1)(b) BBNJ Agreement);

FURTHER RECALLING that the Conference of the Parties of the BBNJ Agreement “may, where proposed measures are within the competences of other global, regional, subregional or sectoral bodies, make recommendations to Parties to this Agreement and to global, regional, subregional and sectoral bodies to promote the adoption of relevant measures through such instruments, frameworks and bodies, in accordance with their respective mandates” (Article 22(1)(c) BBNJ Agreement);

NOTING that the Conference of the Parties of the BBNJ Agreement “shall respect the competences of, and not undermine, relevant legal instruments and frameworks and relevant global, regional, subregional and sectoral bodies” (Article 22(2) BBNJ Agreement);

EMPHASISING that the Indian Ocean Tuna Commission is the relevant regional and sectoral body with the competence to adopt binding conservation and management measures for IOTC species;



NOTING that engagement of the IOTC with the BBNJ Agreement is important to ensure the IOTC effectively achieves its objectives;

NOTING that Part V and Annex II of the BBNJ Agreement provide for capacity-building and transfer of marine technology initiatives, which may include “increasing cooperative links between regional institutions, for example, North-South and South-South collaboration and collaboration among [...] regional fisheries management organizations” and “the establishment or strengthening of the institutional capacities of relevant national and regional organizations and institutions”;

RECOMMENDS, in accordance with paragraph 8 of Article IX of the IOTC Agreement, the following:

DEFINITIONS

1. For the purpose of this Recommendation:
 - a) “CPCs” means Contracting Parties or Cooperating Non-Contracting Parties to the IOTC Agreement.
 - b) “IOTC Species” means all species of fish listed in Annex B of the IOTC Agreement and present in the IOTC area of competence.
 - c) “BBNJ Agreement” means 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 adopted on 19 June 2023.
 - d) “BBNJ COP” means the Conference of the Parties of the BBNJ Agreement.
 - e) “BBNJ Secretariat” means the Secretariat of the BBNJ COP, once it has been established.
 - f) “BBNJ Clearing-House Mechanism” means the Clearing-House Mechanism pursuant to Article 51 of the BBNJ Agreement.
 - g) “BBNJ Scientific and Technical Body” means the Scientific and Technical Body established under Article 49 of the BBNJ Agreement.
 - h) “Area-based management tool” or “ABMT” means 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 the BBNJ Agreement as defined by Article 1(1) of the BBNJ Agreement.
 - i) “Marine protected area” means 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 as defined by Article 1(9) of the BBNJ Agreement.
 - j) “EEZ” means the Exclusive Economic Zone as defined in Article 55 of the United Nations Convention on the Law of the Sea.

PARTICIPATION OF CPCs IN THE BBNJ AGREEMENT

2. CPCs are encouraged to:
 - a) sign, ratify, approve, accept or accede to the BBNJ Agreement;



- b) participate in the Preparatory Commission to prepare the entry into force of the BBNJ Agreement, the first meeting of the BBNJ COP, future BBNJ COPs and relevant meetings of its subsidiary bodies and improve coordination mechanisms within the IOTC area of competence with a view to ensuring that the perspective of IOTC is reflected in the discussions and work of the BBNJ COP and its subsidiary bodies, where appropriate;
 - c) collaborate with other CPCs and interested Parties to the BBNJ Agreement in relation to the development of proposals for ABMTs within the IOTC area of competence;
 - d) respond to invitations to consult on specific proposals for ABMTs which are relevant to IOTC;
 - e) access and use the BBNJ Clearing-House Mechanism to provide and retrieve data and information relevant to the conservation and management of IOTC Species, as appropriate and subject to the modalities for the operation of the Clearing-House Mechanism.
3. In implementing paragraph 2 of this Recommendation, CPCs should endeavour to ensure that the competence and work of IOTC is duly taken into account in the framework of the BBNJ Agreement, where appropriate, and should endeavour to explore all possible ways in which the Commission could take an active role in the discussions leading up to the implementation of the BBNJ Agreement.

TASKS OF THE SECRETARIAT

4. Noting the ongoing work and subject to the outcomes of the Preparatory Commission to prepare the entry into force of the BBNJ Agreement and the first meeting of the BBNJ COP, the IOTC Executive Secretary should, as appropriate, establish a mechanism, including formal communication channels, with the BBNJ Secretariat, once established, to:
- a) identify and collect information and data relevant to the work of IOTC from the BBNJ Clearing-House Mechanism, including on suitable opportunities for capacity-building and the transfer of marine technology;
 - b) submit to the BBNJ Clearing-House Mechanism, with the consent of the Commission, requests for suitable capacity-building and the transfer of marine technology and opportunities with respect thereto, including research collaboration and training opportunities, information on sources and availability of technological information and data for the transfer of marine technology, opportunities for facilitated access to marine technology and the availability of funding;
 - c) receive invitations to provide information to the BBNJ COP on the implementation of measures that IOTC has adopted to achieve the objectives of ABMTs;
 - d) provide and disseminate information on IOTC conservation and management measures and, with the consent of the Commission and subject to confidentiality requirements, on monitoring, control and surveillance tools that could be of relevance in monitoring and ensuring compliance with ABMTs, through the BBNJ Clearing-House Mechanism;
 - e) receive notifications and invitations from the BBNJ Secretariat to participate in the consultation and assessment of proposals for ABMTs in the IOTC area of competence under Article 20(2)(b) BBNJ Agreement and emergency measures under Article 24(2) BBNJ Agreement;



- f) participate, with a mandate adopted by the Commission, in the consultation and assessment of proposals for ABMTs referred to in subparagraph e);
- g) receive recommendations to adopt ABMTs and other relevant measures within the competence of the IOTC from the BBNJ COP under Article 22(1)(c) BBNJ Agreement and communicate the Commission's position on such recommendations;
- h) monitor and provide periodic updates to CPCs on compliance mechanisms regarding ABMTs established in the framework of the BBNJ Agreement that might have implications for IOTC conservation and management measures;
- i) in collaboration with the IOTC Scientific Committee and with the approval of the Commission, provide input to the BBNJ Scientific and Technical Body regarding scientific work of the IOTC relevant to the implementation of the BBNJ Agreement ; and
- j) facilitate engagement with the IOTC Scientific Committee and its subsidiary bodies to ensure that measures and processes under the BBNJ Agreement consider potential impacts on IOTC Species and incorporate appropriate scientific input.

5. The IOTC Executive Secretary should, as appropriate, notify CPCs of:

- a) any relevant and suitable opportunities for capacity-building and the transfer of marine technology identified pursuant to paragraph 4;
- b) any relevant developments regarding proposals for ABMTs in the IOTC area of competence, including decisions of the BBNJ COP;
- c) any notification and invitation received from the BBNJ Secretariat concerning a consultation and assessment under paragraph 4 e);
- d) any recommendations of the BBNJ COP under paragraph 4 g).

ROLE OF THE COMMISSION

6. At its annual Sessions, the Commission should, as appropriate:

- a) hold discussions and take positions, as appropriate, regarding relevant proposals for ABMTs under Article 21(2)(b) BBNJ Agreement and emergency measures under Article 24(2) BBNJ Agreement;
- b) hold discussions and take positions, as appropriate, regarding recommendations from the BBNJ COP under Article 22(1)(c) BBNJ Agreement to adopt ABMTs and other relevant measures within the competence of the IOTC, if any; and
- c) provide the IOTC Executive Secretary, on a case-by-case basis and as appropriate, with mandates and instructions under paragraph 4 d) to g).

7. The Commission is encouraged to consider whether the BBNJ Agreement should be a standing agenda item at its annual Sessions

SCIENTIFIC WORK AND RECOMMENDATIONS

8. CPCs are encouraged to undertake research on conservation and sustainable use of marine biological diversity and ecosystems in the high seas of the IOTC area of competence, in particular with respect to threatened and endangered species and those vulnerable to fisheries under the competence of the IOTC.



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9. CPCs are encouraged to make the results of any research pursuant to paragraph 8 available to the IOTC Scientific Committee and the IOTC Working Party on Ecosystems and Bycatch.
10. The IOTC Scientific Committee is encouraged to make use of relevant information as published through the BBNJ Clearing-House Mechanism and should support the Secretariat in the timely implementation of paragraph 4(i) of this Recommendation.

FINAL PROVISIONS

11. The Commission should review this Recommendation at its annual Sessions and consider adopting it as a Resolution.