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**GOVERNANCE CHALLENGES, GAPS AND MANAGEMENT  
OPPORTUNITIES IN AREAS BEYOND NATIONAL JURISDICTION**

# Governance Challenges, Gaps and Management Opportunities in Areas Beyond National Jurisdiction

## Executive summary and key messages

### Objective

The objective of this study is to provide a comprehensive mapping and description of the current regulatory landscape of the ocean areas beyond national jurisdiction (ABNJ) and to identify potential gaps and weaknesses in the system and its management. The starting point of this exercise is the 1982 UN Convention on the Law of the Sea (UNCLOS), supplemented by a review of other key conventions and institutions that have mandates in relation to activities in ABNJ. The study also provides an overview of global commitments to conservation and sustainable use of the ocean and marine ecosystems to identify opportunities to enhance their implementation through targeted action in ABNJ.

By increasing the understanding of the legal challenges related to ABNJ, the study seeks to support states and global institutions such as the Global Environment Facility (GEF) to identify and implement activities that can achieve an overall net benefit to the global environment from investments in ABNJ.<sup>1</sup> The study seeks to support the GEF partnership, other organisations and states in identifying key opportunities for future conservation and sustainable utilization of ABNJ in the current GEF 6 and upcoming GEF 7 programs.

### Introduction

The term 'areas beyond national jurisdiction' refers to areas which are beyond the boundaries of any single state. Marine areas beyond national jurisdiction (ABNJ), which comprise 64% of the oceans' surface (and 43% of the world's surface), essentially represent a global commons which contain ecosystems with rich marine resources and biodiversity of significant ecological, socioeconomic, and cultural importance. These areas – the high seas and the international seabed area - and their resources are subject to increasing impacts from ongoing anthropogenic activities and global climate change, and their associated cumulative effects.

Biodiversity in the deep and open (pelagic) ocean, most of which is located beyond national boundaries, provides numerous benefits to society, including food resources, regulation of the Earth's climate and important genetic resources. Life in the deep and open ocean has been found to play a fundamental role in global biogeochemical cycles, including nutrient regeneration and production of oxygen, as well as the maintenance of the Earth's climate through the global carbon cycle. The vast deep-sea realm constitutes the largest source of species and ecosystem diversity on Earth, with significant economic potential in the form of mineral, energy, and living

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<sup>1</sup> GEF-6 Programming Directions (Extract from GEF Assembly Document GEF/A.5/07/Rev.01, May 22, 2014)

resources. Yet, to date, only a small portion of the deep sea and the open ocean has been investigated in detail. The pelagic ocean covers an area of 1.3 billion km<sup>3</sup>, of which only a fraction has been studied in detail.

Over the past decades, human activities in ABNJ have increased exponentially, with negative impacts on ecosystems and biodiversity. These activities include: unsustainable and destructive fishing practices; illegal and unreported fishing; maritime transport and associated noise, ship strikes, pollution, and transport of invasive species. Mineral extraction is on the horizon and could have extensive impacts if not effectively regulated. Of lesser impact are activities such as the laying of underwater cables, marine scientific research and biological prospecting (research and development related to genetic resources). Future threats, some of which are now being realized, include the burgeoning carbon economy and associated activities such as ocean fertilization and carbon sequestration; as well as offshore energy and aquaculture. The current impacts to ecosystems from unsustainable resource exploitation, destruction of habitats and pollution act cumulatively often with global impacts – from ocean acidification to ocean warming, shifting currents, reduced mixing, and decreasing oxygen levels. The impacts of these threats are already apparent and expected to increase, with potential new threats adding to the multitude of stresses impacting biodiversity. Together they have serious implications for the health, productivity and resilience of the global oceans in ABNJ<sup>2</sup> - and by extension to society.

From a governance point of view, ocean areas beyond national jurisdiction present unique challenges. Even if the need for integrated approaches to address the multiple governance and environmental challenges in the open oceans is well understood, there is no state, organization or other institution that bears the overall management responsibility for ABNJ. A number of legal instruments, along with global and regional institutions and initiatives, have been put in place to address and manage issues that are relevant to the protection and preservation of the seas, including in ABNJ. However, the majority of bodies involved in ocean governance typically address only a relatively narrow sectoral activity. Addressing one sector at a time is not effective as activities in ABNJ will almost inevitably have some impact on other ocean uses and activities, as well as on ecosystems and marine biodiversity, as has been stressed in the First World Ocean Assessment:

*“National Governments and regional and global intergovernmental organizations all have their parts to play in regulating those activities. However, each of those many players tends to have a limited view of the ocean that is focused on their own sectoral interests. Without a sound framework in which to work, they may well fail to take into account the ways in which their decisions and actions interact with those of others. Such failures can add to the complexity of the manifold problems that exist.”<sup>3</sup>*

The governance of ABNJ is currently at a political crossroads, in view of the recently initiated UN General Assembly process to develop an international legally binding

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<sup>2</sup> The First Global Integrated Marine Assessment (First World Ocean Assessment), available at: [http://www.un.org/Depts/los/global\\_reporting/WOA\\_RegProcess.htm](http://www.un.org/Depts/los/global_reporting/WOA_RegProcess.htm)

<sup>3</sup> *Ibid.*

instrument under UNCLOS on the conservation and sustainable use of marine biological diversity in areas beyond national jurisdiction (BBNJ)<sup>4</sup>. This is a potentially very important step towards improving coherence, cooperation and coordination and filling certain substantive voids discussed in this report. At the same time, the UN has adopted the 2030 Agenda for Sustainable Development “Transforming Our World” with its 17 Sustainable Development Goals (SDGs), including Goal #14: Conserve and Sustainably Use the Oceans, Sea and Marine Resources for Sustainable Development. Taken together, these developments highlight a growing consensus that improved ocean governance is essential for biodiversity conservation, sustainable development and improved human and ecosystem resilience. However, capacity and technologies to manage human impacts in ABNJ in an integrated manner are still lacking, particularly in developing countries and small-island developing states. Without adequate capacity, countries will not be able to fully participate in negotiating a new international agreement, to implement and comply with its requirements or to achieve the targets for sustainable development in ABNJ. In addition, capacity building will be required for many countries to participate actively in marine scientific research and for the management of activities affecting marine ecosystems in ABNJ.

## Summary of findings

### **UN Convention on the Law of the Sea (UNCLOS)**

UNCLOS is the main jurisdictional framework governing use of the oceans, including ABNJ. It is widely accepted in formal terms and is commonly described as the ‘Constitution for the oceans’. The law of the sea, as codified in UNCLOS, includes two types of jurisdictional areas beyond national jurisdiction: the ‘high seas’ (covering the water column) and ‘the Area’ (covering the seabed beyond the outer continental shelf, sometimes referred to as ‘the deep seabed’).

The regulatory nature and background of these two areas are very different. The legal regime for the high seas is based on ‘freedom of the seas’, meaning all states have the right to access the high seas for specific purposes. The freedom of the high seas has been a cornerstone of the law of the sea for centuries, but has continued to develop. Today this is coupled with a general duty for states to protect and preserve the marine environment, to have due regard for the interests of other states, to conserve living marine resources and to cooperate for these purposes. By contrast, the Area and its resources are specifically declared to be the ‘common heritage of mankind’. Under this regime, which represented one of the key unique aspects of UNCLOS, all resources “are vested in mankind as a whole” (article 137(2)). The regulation of activities in the Area is subject to a very elaborate regime under tight international institutional control through the International Seabed Authority (ISA). This regime, however, is largely confined to seabed mining activities.

The jurisdictional regime of UNCLOS in ABNJ relies heavily on flag states, both in terms of prescription and enforcement. Other states are not given a main role for legislating or enforcing rules in these areas. Indeed, the starting point of UNCLOS is that flag

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<sup>4</sup> UN General Assembly A/69/780 at:  
[http://www.un.org/ga/search/view\\_doc.asp?symbol=A/69/780](http://www.un.org/ga/search/view_doc.asp?symbol=A/69/780)

states have *exclusive* jurisdiction in the high seas, subject only to specific express exceptions (article 92(1)). Moreover, UNCLOS includes few measures to ensure that flag states comply with the applicable rules. More recently, port states are increasingly assuming greater roles for promoting compliance with international rules, such as under the recent FAO Port State Measures Agreement for fishing or various IMO conventions and regional port state control arrangements for shipping.

UNCLOS creates a highly compartmentalized regime under which the jurisdiction of states depends not only on the artificial borders of maritime zones, but also on the activity in question. The rights and obligations of flag, coastal and port states depend on whether the matter concerns navigation, fishing, dumping, marine scientific research etc. with little connectivity between the sectors. Under this framework, each sector focuses on their unique issues, priorities and interests. This design does not easily accommodate more recent needs of, for instance, integrated ecosystem-based approaches or the application of cross-sectoral environmental principles. Increasing human activities in ABNJ emphasize the importance of further efforts to enhance coherence, cooperation and coordination amongst the various sectoral interests and organizations.

UNCLOS is neither static nor complete, nor was it intended to be so. The convention itself does not rule out future developments, even in jurisdictional terms, provided its key principles are respected and maintained. Furthermore, subsequent developments in international law (e.g. in relation to principles of environmental law) need to be taken into account when applying UNCLOS. According to its preamble, matters that are not covered by UNCLOS are governed by “the rules and principles of general international law”.<sup>5</sup> All these considerations suggest that law of the sea, despite the undisputed authority of UNCLOS, is a dynamic field of international law which does not exist in isolation from other international legal processes. For example, there is some scope for using other bases of jurisdiction than those provided for in UNCLOS for asserting jurisdiction over activities in ABNJ, provided that those alternative bases are recognized under international law. Examples include jurisdiction based on nationality (of individuals and corporations), or territoriality (in the form of, for example, port state requirements, import restrictions or other trade limitations relating to activities on or products from ABNJ).

### **Regulatory and institutional developments**

Since the adoption of UNCLOS many international conventions and institutions have been developed to address various aspects of ocean governance, including ABNJ. Substantive law has developed significantly since the adoption of UNCLOS in all sectors resulting in a significant strengthening of the legal framework for the threats associated with shipping, dumping, fisheries, etc. Moreover, developments in other areas of international law, such as the development of principles of international environmental law, have had impacts on how rights and obligations in the law of the sea are to be interpreted and applied.

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<sup>5</sup> UNCLOS Preamble

The table below summarizes the main instruments and institutions that are involved in regulating oceans within and beyond areas of national jurisdiction.

	Shipping	Fisheries	Sea-bed mining	Dumping	Environment/ Biodiversity	Research (MSR)	Land-based
<b>Global rules -jurisdiction</b>	UNCLOS, several parts	UNCLOS/ FSA	UNCLOS/ 1994 IA	UNCLOS Part XII	UNCLOS Part XII	UNCLOS Part XIII	UNCLOS Part XII
<b>Global rules - technical</b>	IMO Conventions	FAO instr.	UNCLOS/ 1994 IA	LDC/LP	CBD, ICRW conservation agreements etc.	-	-
<b>Global body</b>	IMO	FAO	ISA	IMO	UNEP, IWC and others	UNESCO/ IOC	UNEP
<b>Regional bodies/rules</b>	-	RFMOs, CCAMLR	-	OSPAR/ UNEP	Regional seas, NAMMCO etc-		Regional seas

Table: Summary table of key instruments and institutions at different levels

The regulatory developments to date have not significantly challenged the jurisdictional scheme as laid down in UNCLOS. Despite a series of new conventions, instruments and institutions addressing various aspects of ocean usage the regime is still essentially sectoral and based on the jurisdictional apportioning of powers of states in different maritime zones. Rules that apply to ABNJ are principally for flag states to implement and enforce, while obligations of an overarching or ‘horizontal’ nature - such as the conservation of biodiversity – are not well developed regarding ABNJ. The continued sector-based approach means that issues which do *not* fall within any of the sectors identified in UNCLOS are difficult to fit within any of the existing regulatory or institutional responsibilities<sup>6</sup>. This, in turn, has created a significant barrier to developing new rules and solutions for such cross-sectoral issues.

At the policy level, governments have long recognized the need for a more integrated approach to ocean governance, including in ABNJ. Already in 1992 at the United Nations Conference on Environment and Development (UNCED) in Rio de Janeiro, governments called for new approaches to ocean management, “that are integrated in content and are precautionary and anticipatory in ambit.”<sup>7</sup> In 2002, the World Summit on Sustainable Development (WSSD) in Johannesburg adopted further commitments to reduce the rate of biodiversity loss by 2010, to encourage the application of ecosystem approaches to marine management by 2010, to facilitate the establishment of representative MPA networks by 2012, to maintain the productivity and biodiversity of important and vulnerable marine and coastal areas, and to integrate marine and coastal areas management into key sectors.<sup>8</sup> In 2010, parties to

<sup>6</sup> Due to the fact that the matter falls outside the scope of any sector regulated under UNCLOS, because there is disagreement on what sector it belongs to, or because it is multi-sectoral by nature, such as the establishment and management of integrated MPAs, ecosystem-based planning tools, etc.

<sup>7</sup> United Nations Conference on Environment and Development (UNCED) Conservation and Management of Resources for Development Agenda 21: *Programme of Action for Sustainable Development*, Section II, Chapter 17, Protection of the Oceans, all kinds of Seas, Including Enclosed and Semi-enclosed Seas, and Coastal Areas and the Protection, Rational Use and Development of their Living Resources (available at [http://www.un.org/esa/dsd/agenda21/res\\_agenda21\\_17.shtml](http://www.un.org/esa/dsd/agenda21/res_agenda21_17.shtml)).

<sup>8</sup> World Summit on Sustainable Development (WSSD), *Agenda 21 Plan of Implementation*. Johannesburg Declaration on Sustainable Development, A/CONF.199/20, Johannesburg, South Africa, September 2002.

the Convention on Biological Diversity (CBD) adopted the Aichi Biodiversity Targets. Target 11 calls for 10 per cent of coastal and marine areas, especially areas of particular importance for biodiversity and ecosystem services, to be conserved by 2020 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 landscapes and seascapes. Finally, in 2015, the UN General Assembly adopted the Sustainable Development Goals (SDGs). SDG 14 relates to conserving and sustainably using the oceans, seas and marine resources for sustainable development, and includes many targets relevant to ABNJ.<sup>9</sup>

The recently initiated UNGA process to create an international legally-binding BBNJ instrument could thus serve as an important vehicle to update the environmental framework of UNCLOS to integrate modern norms, fill gaps and prompt a more comprehensive approach to mounting environmental challenges. The instrument is to address a package of four key issues: marine genetic resources, including questions on the sharing of benefits; measures such as area-based management tools, including marine protected areas; environmental impact assessments, and capacity building and the transfer of marine technology. During 2016 to 2017, a “preparatory committee” (PrepCom) is to convene at least four times “to make substantive recommendations to the General Assembly on the elements of a draft text of an international legally binding instrument under UNCLOS.”<sup>10</sup> The General Assembly is to decide in 2018 whether and when to convene an intergovernmental conference to finalize the negotiating text, with its decision depending on progress being effectively achieved in the PrepCom.

### **Regulatory, management and implementation gaps**

This study has identified six types of regulatory ‘gaps’ in the ABNJ regime, particularly with regard to imperfections in regulation and/or enforcement or in institutional competences. Because of their different nature, a distinction is made between rules of a ‘jurisdictional’ nature and ‘substantive’ rules.<sup>11</sup>

1. *Absence of rules.* In their strictest sense, regulatory gaps refer to matters that are completely unregulated. UNCLOS does not contain complete jurisdictional voids in this sense as the flag state will always have jurisdiction over activities conducted by its vessels, including in ABNJ. For other states, however, the absence of jurisdiction in ABNJ rules is all the more noticeable as UNCLOS and subsequent conventions include very few rights for states to take action in relation to ABNJ.

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<sup>9</sup> [see Table xx on the SDGs and ABNJ XX].

<sup>10</sup> UN General Assembly (UNGA) Resolution A/RES/69/292 - June 19, 2015.

<sup>11</sup> While there is a broad variety in how new substantive rules may be developed in terms of format, participation and institutions involved, jurisdictional rules (addressing states’ rights and obligations over different sea areas) are ‘norm-creating’ by nature and need to have broad international acceptance and would normally only be altered in global instruments with a jurisdictional mandate, in close coordination with the UNCLOS regime.

As far as substantive rules are concerned there are several important gaps. More recent environmental concerns such as biodiversity conservation, cumulative impacts from multiple stressors on the marine environment, ocean acidification and marine litter keep emerging as are new uses of the oceans including those with climate mitigation potential (geoengineering and ocean fertilization). Ocean noise and the physical impacts of vessels on marine cetaceans and other large animals are additional rising concerns. In the absence of a regulatory framework for addressing emerging concerns, the substantive gaps are likely to grow over time.

Substantive gaps also exist in a geographical sense. While UNCLOS is of universal coverage, regional rules, e.g., in the form of regional fisheries management organizations (RFMOs) or environmental protection conventions for regional seas, have a more limited geographical scope and leave large parts of the oceans uncovered, depending on the activity or species concerned.

2. *Inadequate rules.* The absence of jurisdictional gaps, *sensu stricto*, in the law of the sea does not exclude that there are a number of issues for which the current jurisdictional framework is weak, or so limited that it may be entirely unsuitable for dealing with a particular issue at hand. This study has identified a number of such jurisdictional inadequacies, notably in relation to the high seas freedoms that are not subject to more detailed regulation in UNCLOS or other instruments. The protection of biodiversity in the marine environment from the impacts of high seas fishing activities is one such example of a weak jurisdictional area. Marine scientific research or the construction of installations on the high seas are subject to very limited regulatory guidance, and activities that do not fall within any of the defined activities in UNCLOS are even less regulated in ABNJ. And though the high seas jurisdictional regime relies heavily on the responsibilities of flag states, it includes few mechanisms for any jurisdiction or organization other than the flag state itself to ensure that these responsibilities are actually met.

It was already noted that the sectoral scheme as such is inadequate for addressing matters that fall outside or between the sectors identified in UNCLOS. Over time such issues have increased and a number of important borderline issues have already been identified that are difficult to categorize on the basis of the UNCLOS wording from 1982. A particularly relevant example is whether genetic resources on the seabed should be categorized as part of the Area and therefore part of the common heritage of mankind subject to benefit sharing obligations. Significant differences of view exist between different states and interest groups with respect to this issue.

3. *Rules are not in force or not widely ratified.* Regulatory gaps may also arise where regulation as such is adequate, but rules are not in force or only apply to a very limited number of states. For example, some important IMO conventions, notably the 2004 International Convention for the Control and Management of Ships' Ballast Water and Sediments, have not yet entered into

force.<sup>12</sup> There is also a significant difference in substance between the 1972 Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter or “London Convention” and its more precautionary 1996 “London Protocol”, but the Protocol’s more stringent rules do not bind the parties to the Convention, in view of the basic principle of international law that treaties bind only their parties (unless the treaty is accepted as customary international law or the Protocol can be said to reflect “global rules and standards” under UNCLOS article 210(6)). Where a matter is regulated only by means of regional or national measures, the lack of authority to bind non-parties is an inherent challenge. Mechanisms to compel non-party states to comply are few in ABNJ, but the general environmental obligations of UNCLOS, together with subsequent developments as regards environmental principles, may help to expand the reach of national obligations.

4. *Rules are not implemented and enforced.* A regulatory gap may arise even where the rules exist and apply, but are not followed in practice. The reasons for such a lack of compliance may lie both in the rules themselves (e.g., if they lack effective enforcement provisions) or in the way they are implemented by states and individual operators. There are numerous examples of non-implementation and enforcement failures in the subject area of this study. Marine litter stemming from discharges of garbage and discards of fishing gear into the sea despite the existence of strong requirements in MARPOL are illustrations of a discrepancy between the requirements and their implementation. The absence of effective enforcement mechanisms for illegal fishing and other violations on the high seas are another key challenge that needs to be overcome if the existing regulatory system is to be made more efficient. The port state control schemes applied in shipping and by certain RFMOs are examples of measures by non-flag states to ensure that the international rules are complied with, at least by ships that visit ports in the region concerned. These could be built upon and reinforced. At the same time, further mechanisms are needed to help clarify the responsibilities and processes that apply for states and others who fail to comply with the applicable rules.
5. *Institutional governance gaps.* Regulatory gaps may refer to broader governance matters, such as the lack of regional management organizations for specific or multispecies fisheries for certain geographic areas or regional seas conventions or other bodies to coordinate conservation in areas beyond national jurisdiction, or the mandate of different institutions is too narrow to address pressing issues such as cumulative effects of multiple impacts. There is not a single institution with a responsibility for integrated, multi-sectoral responses to complex issues in the management of ABNJ. Simply put, existing institutions are either concerned with a single sector or do not extend their mandate beyond national jurisdiction. No institution is identified as being responsible for dealing with new or unregulated matters in the oceans. A strict

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<sup>12</sup> The Ballast Water Management Convention will enter into force on 8 September 2017, 13 years after it was adopted at the IMO.

adherence to sector-based mandates means, on the one hand, that multi-functional, integrated protection initiatives currently are excessively heavy to administer. On the other hand, it means that it is difficult to find an institutional ‘home’ for new regulatory issues that arise with new scientific and technological developments or to address the cumulative impact of multiple environmental pressures. The emerging BBNJ Agreement which is currently under development could provide an ongoing platform for addressing ABNJ issues in an integrated multi-sectorial perspective.

6. *Governance principles.* A final category of gaps is the lack, or inconsistent application, of many modern governance principles in sectoral management in ABNJ. A broad range of commitments have been made by states, both under conventional law and ‘soft’ law, to adopt ecosystem approaches, apply the precautionary approach, integrate biodiversity conservation into management and ensure transparent and participatory decision-making processes etc. Some of those principles have even been held to represent customary international law. Yet there remain significant differences in how those principles are applied and understood by states when it comes to activities in ABNJ.

A contribution of the new BBNJ Agreement could be the elaboration of such principles – and tools to operationalize them – that take into account multiple uses of the oceans. Examples of such tools include environmental impact assessments, strategic environmental assessments and area based planning and management tools. Governance principles could also help the new instrument to remain flexible enough to deal with new environmental threats and risks that are not covered by current substantive rules. New threats and risks will continue to surface and there is a need for procedures to accommodate them. In addition, our knowledge of existing threats and opportunities will need to develop if collective management efforts are to be successful in achieving globally agreed goals and targets for conservation and sustainable use.

### **Key messages to the GEF partnership**

This study, as summarized above, points towards a number of key activities that the GEF partnership could consider going forward in the context of conservation, management and sustainable development of marine ecosystems and biodiversity more generally in areas beyond national jurisdiction. The points raised here are neither definitive nor exhaustive. Rather, they are intended to serve as a starting point for a more focused discussion on the GEF’s potential role in ABNJ in GEF-7. In light of the recently concluded UNFCCC Paris Agreement<sup>13</sup> on Climate Change, the UN 2030 Agenda for Sustainable Development<sup>14</sup> and specifically its goal #14 (‘Sustainable Use of the Oceans, Seas and Marine Resources’) and the commencement of the UN negotiations for a new international legally binding instrument for the conservation

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<sup>13</sup> FCCC/CP/2015/L.9, 12 December 2015

<sup>14</sup> United Nations General Assembly resolution A/RES/70/1,

and sustainable use of marine biodiversity beyond national jurisdiction (BBNJ), new initiatives and collective action are needed to support these global goals, targets and commitments.

The current pursuit for a renewed governance framework for ABNJ offers an opportunity for the GEF Partnership, as a unique institution addressing the global environmental commons, to support recipient countries to build capacities and shape global discussions and subsequent action. The GEF can assist in a number of ways, building on its existing activities in Large Marine Ecosystems (LME) and partnerships but also drawing on the efforts already undertaken by regional coalitions that have identified specific ABNJ ecosystem areas, ranging from the Arctic to the Costa Rica Thermal Dome, and from the Sargasso Sea to the South Pacific, Indian Ocean and many more. This report, although not an exhaustive analysis, has identified a need for further projects and programs that:

1. **Enhance knowledge about ABNJ**, *inter alia*, by enhancing the capacity for marine scientific research that can contribute to the study, conservation and sustainable use of marine biodiversity in ABNJ and by broadening the understanding of the interconnections between land-based activities and ABNJ (e.g. ocean acidification, marine litter) and their socio-ecological linkages<sup>15</sup>. This capacity-building could be undertaken as part of existing and new initiatives to improve conservation and management of distinct areas in ABNJ. It could include financial support for technical assistance and training to improve the ability to collect exchange and analyze key data relevant to ocean health, resilience and productivity, to undertake marine scientific research, and to monitor, control and enforce environmental rules and regulations. Knowledge should be made accessible in a manner similar to the current IWLEARN and LME LEARN<sup>16</sup> platforms.
2. **Support the collective identification of key environmental projects in ABNJ** such as ocean monitoring and observatory infrastructure and measures that reduce negative impacts of pollution in ABNJ from any land-based, vessel-based or off-shore sources. Measures should start from the perspective of the impact of pollution on ecosystems in ABNJ and hence be multi-sectoral in nature. Consideration could be given to a long-term ocean sustainability finance mechanism to provide a “blue finance hub” for knowledge, skills and project preparation support that promote safe and sustainable use of resources in the high seas and the seabed taking into account cumulative environmental impacts.
3. **Support further development of innovative area-based tools for integrated ecosystem protection-based management and a blue economy in ABNJ**, in particular tools and approaches such as marine protected areas and large scale

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<sup>15</sup> Granit et.al 2016. A Conceptual Framework for Governing and Managing Key Flows in a Source-To-Sea Continuum. A GEF STAP Information Paper.

<sup>16</sup> The Global Environment Facility (GEF) International Waters Learning Exchange and Resource Network which is currently linking a new Large Marine Ecosystem Learning Network.

marine spatial planning processes to address the combined impacts of multiple stressors on marine biodiversity. In addition, enhance the capacity of relevant LME bodies, Regional Seas Conventions and Action Plans (RSCAPs), and Regional Fisheries Management Organisations (RFMOs) to act as platforms for integrated conservation and management of areas beyond national jurisdiction that are adjacent to their existing regional mandates.

4. **Enhance the ability of flag states, coastal states and port states to implement their existing rights and obligations** under UNCLOS and other relevant international instruments, with a particular focus on protection of the marine environment and conservation of all living marine resources and biodiversity in ABNJ. The role of environmental principles in ABNJ could be particularly highlighted. Other jurisdictional bases for regulating and enforcing activities in ABNJ (through asserting jurisdiction over nationals, ports, markets financial flows etc.) could be explored. Cooperation on legal mechanisms to address compliance and enforcement issues in ABNJ could be promoted.
5. **Build technical capacity amongst Small Island Developing States (SIDS) and Least Developed Countries (LDC)** to participate actively in ABNJ management and governance frameworks and share benefits from development in the ABNJ. This would include developing integrated conservation and management activities to address the interconnectedness of ABNJ and the livelihoods of coastal communities (e.g., by sustainably managing species migrating between coastal areas and ABNJ) and addressing key drivers of habitat degradation and species decline within and beyond national jurisdiction. Support for initiatives to help deliver management and enforcement capabilities of flag and port states, including implementation of the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing and improved traceability against overfishing.