



LDAC Advice

Practical interactions between the BBNJ Agreement and RFMOs/RFABs

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Context

Following the entry into force of the BBNJ Agreement in January 2026, the European Union must now prepare for the next decisive stages of its implementation, including Preparatory Committees and the first Conference of the Parties (COP). These milestones will shape the operational architecture of the Agreement for the years to come. It is therefore essential that the EU establishes, as a matter of urgency, a structured and coordinated approach to its engagement, ensuring that fisheries expertise and stakeholder perspectives are fully integrated into the Union's preparations of its mandates and positions.

The entry into force of the Agreement represents a significant development in global ocean governance. The EU should contribute constructively and ambitiously to its operationalisation, while at the same time ensuring that existing fisheries governance systems — in particular, Regional Fisheries Management Organisations (RFMOs) and Regional Fisheries Advisory Bodies (RFABs) — are fully respected, supported and enabled to function effectively within their mandates.

Article 5 of the BBNJ Agreement states that the 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. However, it will inevitably intersect with fisheries governance and will require structured, informed and sustained engagement from fisheries bodies. This evolving interface must now be shaped carefully through the COP and its subsidiary bodies, in a manner that promotes coherence, avoids duplication, and recognises the long-standing scientific, regulatory and compliance experience of fisheries institutions.

Article 5(2) is balanced by article 8(1) which requires 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.



In a recent response to the call for evidence on an EU Strategy for Fisheries External Action¹, the LDAC supports the EU approach to encourage the swift ratification, strict transposition and harmonized implementation of BBNJ, including provision of adequate funding and contributions to the Global Ocean Programme. The LDAC also urges all the EU MS to follow this lead and ratify the Treaty as soon as possible.

The Long Distance Advisory Council (LDAC) calls both on the European Commission and the EU Member States to approach this implementation phase with institutional coherence, internal consistency and strategic foresight.

To achieve this, it formulates the following RECOMMENDATIONS:

1. The EU should anchor implementation firmly in the requirement for not undermining and horizontal cooperation with relevant bodies in achieving BBNJ objectives

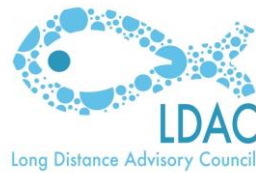
1.1. RFMOs, through the Fish Stocks Agreement, and the BBNJ Agreement both stem from the legal framework established by UNCLOS. They are not hierarchically ordered instruments, nor is one subsidiary to the other. Rather, they form part of a broader, organically developed system of ocean governance that must operate in a coherent and structured manner.

1.2. In all negotiations and COP discussions, the EU should therefore consistently reaffirm that implementation of the BBNJ Agreement must not undermine relevant instruments, frameworks and bodies (IFBs), including RFMOs and the role of FAO. While the Agreement is cross-sectoral in scope and intended to strengthen cooperation, it holds the same legal standing as other relevant maritime conventions, including the Fish Stock Agreement that gives way to the RFMO conventions, and does not establish any hierarchy over them.

1.3. Accordingly, the EU should promote a horizontal model of cooperation in which fisheries management remains within RFMO's competences, together with BBNJ processes, build upon existing fisheries tools, and cooperation arrangements are structured.

¹

https://ldac.eu/images/LDAC_Response_to_EU_Call_for_Evidence_Fisheries_External_Action_15_Sept_2025.pdf



In particular, the EU should:

- reaffirm that RFMOs retain their legally established competences under the principle of non-undermining;
- ensure that consultation mechanisms provide for meaningful, timely and systematic involvement of RFMOs while fully preserving their decision-making competences.

Establishing this clarity at the outset will help prevent institutional friction and ensure long-term coherence in ocean governance.

1.4 The EU should also ensure that it promotes the objectives of the BBNJ Agreement when participating in decision-making at RFMOs as per article 8, paragraph 2 of the Agreement, and seek to ensure that there is effective and coherent cooperation between BBNJ processes and RFMO processes.

2. The EU should ensure early, meaningful RFMO involvement in Area-Based Management Tools (ABMTs)

2.1. Article 22, paragraphs 1(b) and 1(c) of the Agreement provide that the BBNJ CoP may adopt area-based management tools that are compatible with measures adopted by relevant IFBs and may make recommendations to IFBs regarding measures they could adopt. In exercising these functions, the CoP is required to act in cooperation and coordination with relevant IFBs, including RFMOs. In addition, under the ABMT process, there is an obligation to collaborate and consult with IFBs, as well as a requirement to include information on those consultations as part of the ABMT proposal package.

A FAO's recent publication titled '*Fisheries and the BBNJ Agreement – A Guide*'² notes that ABMTs should complement regional and sectoral arrangements and that existing fishery spatial measures, may be recognised as ABMTs.

2.2. The EU should therefore:

- Insist on time-bound consultation processes, designed in a manner that neither impedes the work of competent RFMOs nor the BBNJ Agreement, alongside structured cooperation and coordination with competent RFMOs from the proposal development stage, rather than engagement only at the point of adoption.
- Ensure that RFMO scientific advice, stock distribution data, and spatial management experience are systematically integrated into ABMT design in line with the objectives of the Agreement.

² <https://doi.org/10.4060/cd7986en> - see page 3



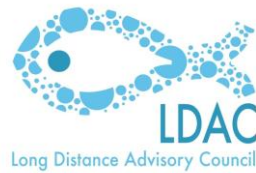
- Promote the recognition of existing fisheries closures, VME protection areas, and other spatial tools adopted under relevant RFMOs as potentially valid contributions to biodiversity objectives under the BBNJ Agreement, in addition to those already established biodiversity contributions from fisheries Other Effective Area-based Conservation Measures (OECMs), while ensuring alignment and consistency with the objectives and criteria established under the Agreement.

2.3. Well-designed ABMTs can enhance ecosystem resilience and long-term stock sustainability. The EU should frame fisheries governance not as an exception to conservation efforts, but as a key delivery mechanism for ecosystem-based management in ABNJ. At the same time, ABMT decisions must consider socio-economic dimensions, including food security, sustainability, and the viability of legitimate fishing activities.

2.4. For the designation of ABMTs, the LDAC considers that cumulative impacts are a key element for the successful implementation of the objectives of the treaty to achieve the objective of conservation and sustainable use of the high seas in ABNJ. The LDAC believes that all environmental, economic, social and cultural impacts of all marine activities (e.g. fishing, cabling, shipping, oil and gas prospecting...) have to be considered when designating ABMTs, and further work must be developed on setting criteria to measure effects of different pressures combined over a habitat or feature to protect. In this sense, existing knowledge as well as traditional knowledge must be taken into account when carrying out such exercise, including for example scientific and ecosystem work underpinning closed areas to fishing in RFMOs/RSCs such as NAFO or NEAFC/OSPAR.

3. The EU should operationalise a robust approach to EIA “equivalency” criteria while avoiding duplication of existing procedures and recognising the work of existing EIA processes as per art 29.4 of the Agreement.

3.1. Environmental Impact Assessments (EIAs) for planned activities under BBNJ introduce structured processes for screening, consultation and review of activities in ABNJ. Article 29 of the Agreement establishes screening or the conduct of an EIA for a planned activity in ABNJ is not required where the potential impacts have already been assessed in accordance with the requirements of another relevant IFB. This exemption applies only where the prior assessment is equivalent to that required under the BBNJ Agreement. It also provides for when the regulations or standards of the relevant RFMO/A arising from the assessment were designed to prevent, mitigate or manage potential impacts below the threshold for environmental impact assessments under Part IV of BBNJ, and they have been complied with.



The FAO guide notes that these activities should be exempt from a BBNJ EIA where an equivalent procedure has been completed under another IFB, such as an RFMO.

3.2. The EU should work proactively to define what constitutes equivalence in practical terms. Many RFMOs already require risk-based impact assessments, particularly for exploratory fisheries or bottom fishing activities. These procedures should be recognised as legitimate and effective if they align with the defined criteria for equivalence.

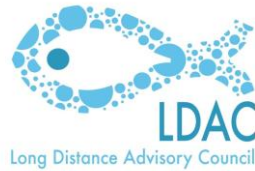
3.3. In forthcoming negotiations, the EU should:

- Promote clear guidance on equivalence criteria;
- Avoid parallel or duplicative review systems;
- Ensure, collectively with relevant parties, that RFMO scientific committees are involved early and have sufficient capacity and support to engage in these processes;
- Align these processes with the EU acquis (e.g., CFP) to guarantee internal legal consistency;
- Advocate proportionality and predictability in consultation requests.

3.4. Fisheries bodies possess decades of experience in mitigation measures such as by-catch reduction, gear innovation and spatial closures. These practices should inform BBNJ EIA standards, rather than being re-assessed in isolation.

3.5. For those cases of international fisheries in the high seas where there is no RFMOs and/or equivalent procedures do not apply, the LDAC would ask the EU to promote the development of a clear set of guidelines internationally agreed in addition to ad hoc procedures for EIAs. This would allow a more coherent and stepwise approach which should take into account capacity and resource constraints of SIDS and small states, while encouraging those State parties who wish so to go further either in their domestic/national legislations or at regional/subregional level by regional groups of states. In this respect, there are already some examples in international law of this approach such as the regulation of deep-sea access in the high seas under the form of FAO guidelines for deep sea fishing bottom trawling.

3.6. In pursuing this approach, the EU should also ensure full consistency with the applicable EU fisheries legislation forming part of the Common Fisheries Policy (CFP), including in particular the SMEFF, the Regulation on the protection of vulnerable marine ecosystems in the high seas or the Deep-Sea Access Regulation. The Union's external positions under the BBNJ framework should remain aligned with, and not inadvertently alter or duplicate, obligations already established under EU fisheries law.



3.7. It is also important to clearly precise what are the links between BBNJ and the UNCLOS Part VI relating with the Continental Shelf, in order to look at impacts produced in the water column from the seafloor as a result of activities on the extended continental shelf, i.e., beyond 200 nautical miles up to 350.

This is particularly important in regard to public perception as protection can be declared on the water but not be applicable in the seabed below. Same applies to the interaction between BBNJ and the Chapter XI convention (ISA) who also is not bound by BBNJ and could develop activities where any form of ABMT exists. It will be important to dedicate time to practical coordination of the work of IFBs under their existing mandates in the early implementation of the BBNJ Agreement.

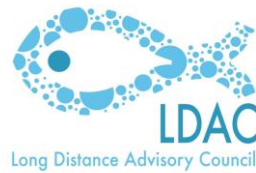
3.8. A holistic approach should be sought in which the environmental impact of all human economic activities (and not only fisheries) are taken into consideration, such as deep-sea mining, submarine cables, offshore energy projects, pharmaceuticals or shipping, among others. Non-fisheries' human activities could undermine the (sustainability) efforts of fisheries-related BBNJ initiatives. Moreover, not all attention should be focused on fisheries as the easy target but the burden should be shared in accordance with the proportionality principle.

4. The EU should shape the Scientific and Technical Body (STB) to reflect multidisciplinary expertise

4.1. The STB will play a central advisory role in reviewing EIAs, advising on ABMTs and supporting implementation. Its composition and modalities are therefore critical. For the STB to work efficiently from inception it needs to build and incorporate the vast knowledge accumulated in the RFMO SCs also providing budgets to make it possible.

4.2. The EU should actively promote a multidisciplinary expertise within the STB that includes fisheries scientists, technical experts in monitoring and control, and socio-economic and legal specialists. Decisions affecting spatial measures or impact assessments in ABNJ cannot rely solely on biodiversity biology; they require understanding of stock dynamics, fishing operations, compliance systems and cumulative impacts.

4.3. The LDAC asks that the STB has a clear and unambiguous terms of reference, indicating composition, competencies and modalities for the operation clearly specified. ensuring presence of multidisciplinary independent experts as indicated above.



5. The EU should safeguard data governance in the Clearing-House Mechanism (CHM)

5.1. The CHM is intended to facilitate transparency and information exchange. While transparency is essential, fisheries data are frequently subject to confidentiality rules under EU/national law and RFMO agreements.

5.2. FAO emphasises that fisheries data sharing depends on agreed protocols and trust, and that confidentiality must be respected.

The EU should:

- Advocate a tiered access and purpose limitation for sensitive fisheries data;
- Ensure interoperability with existing RFMO systems, rather than requiring data migration or duplication;
- Promote aggregated or anonymised reporting formats where appropriate.

5.3. The CHM should facilitate coordination without undermining established fisheries data governance frameworks.

5.4. The LDAC supports that the CHM does not turn into a static website or repository of data submitted by State parties but a dynamic and user-friendly database. It also needs to ensure that data from all relevant marine sectors are duly completed and reflected. Adequate funding must be established for such purpose.

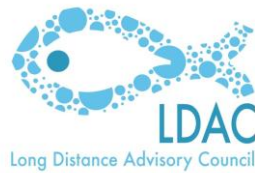
6. The EU should use capacity building to strengthen fisheries governance

6.1. Capacity Building and Transfer of Marine Technology (CBTMT) is a core pillar of BBNJ implementation. FAO highlights that fisheries bodies are both contributors to and beneficiaries of CBTMT.

6.2. The EU should direct capacity-building initiatives toward:

- Strengthening ecosystem monitoring and stock assessment capabilities;
- Enhancing monitoring, control and surveillance systems;
- Promoting interoperability of data systems consistent with FAIR principles.

6.3. CBTMT should reinforce existing fisheries institutions and enable them to engage effectively in BBNJ processes, rather than creating parallel governance structures.



7. The EU should ensure fisheries expertise is embedded in its own delegations and RFMOs have their own voice

7.1. Despite meetings being open to a wide range of stakeholders, fisheries expertise at the level of Contracting Parties and Member States has been limited in BBNJ negotiations to date. According to FAO, their absence risks overlooking important mandates, data, and operational realities. Ensuring that appropriate fisheries knowledge and experience are available within delegations and through engagement with competent fisheries bodies will help support informed decision-making and effective implementation of the Agreement.

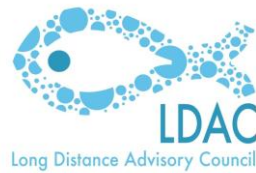
The EU should :

- Include fisheries stakeholders, EU RFMO officials and scientific experts in its BBNJ delegations;
- Ensure structured Directorate-Generals' coordination;
- Consult relevant fisheries stakeholders (including LDAC) before key decisions are taken;
- Encourage RFMOs to establish modalities for discussion of and information sharing on BBNJ issues.
- Encourage that the contributions provided by RFMOs and FAO are fully considered and in line with the mandate agreed by their respective contracting parties / governing bodies.

Where possible, MARE should encourage national delegations of EU MS to the COP to include fisheries officials, or at a minimum delegation preparations and briefings should include consultation with fisheries agencies.

7.2. FAO will play a valuable role, as secretariat of the Regional Fishery Body Secretariats' Network (RSN), in coordinating fisheries knowledge and expertise. Interactions and linkages between the role and competencies of RFMOs will be a realistic challenge and opportunity for international law development. In terms of inter-agency cooperation at national and regional levels, the EU must ensure that subsidiarity principles operates in a way that promotes dialogue and coordination between environment and fisheries administrations, with clear tasks, roles and competencies. The FAO's guide underlines that the BBNJ Agreement cannot create fisheries management measures and shall not undermine existing mandates.

7.3. In view of the above, the EU should actively promote the role of the Regional Fisheries Bodies Secretariats Network (RSN), which includes all RFMOs, to pool resources, ensure inter-RFMO dialogue and ensure a harmonious coordination to tackle issues of common interest and legal obligations which are key for the implementation of BBNJ, including existing conservation and management measures such as ABMT (including VMEs and OECMs).



8. The EU should promote practical cooperation modalities

8.1. The BBNJ Agreement relies heavily on concepts such as cooperation, coordination and consultation. These terms must now be translated into workable procedures.

8.2. The EU should support the development of:

- Clear timelines and minimum information requirements for consultations;
- Formal cooperation arrangements between COP and relevant subsidiary bodies and relevant IFBs;
- Joint review mechanisms that respect mandates;
- Realistic expectations regarding secretariat roles and resource implications.

8.3. Fisheries bodies have decades of experience in compliance systems, monitoring tools and evidence-based decision-making in ABNJ. Their operational knowledge should inform the design of BBNJ compliance and monitoring systems, rather than being treated as separate or secondary.

9. The EU approach for stocks and fisheries not currently covered by RFMOs

9.1. In relation to fish stocks or fisheries activities in areas beyond national jurisdiction that are not currently covered by a competent RFMO, the EU should promote solutions that remain consistent with the existing UNCLOS framework and the dynamic nature of fisheries governance. In such cases, priority should be given to encouraging the establishment or extension of regional or subregional fisheries management arrangements, in accordance with Articles 63 and 64 of UNCLOS and the UN Fish Stocks Agreement.

In relation to this, the LDAC would like to convey the following recommendation/s:

- The objective of the BBNJ is “*to ensure the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, for the present and in the long term*”.
- Notwithstanding the above, it should be noted that, according to FAO recent publication ‘*Fisheries and the BBNJ Agreement – A Guide*’, the BBNJ Agreement in itself, is not a fisheries management treaty, nor can it be considered a “High Seas treaty” as it covers not only the high seas (water column in ABNJ), but also the seabed in ABNJ.



- Nevertheless, the BBNJ Agreement provides tools to support conservation and sustainable use through measures such as area-based management tools, environmental impact assessments and cooperative governance arrangements.
- However, whilst these measures can help address biodiversity risks and promote responsible activities, they must remain distinct from sectoral fisheries management functions.

9.2. Any biodiversity-related measures adopted under BBNJ that may affect fishing activities should recognize the competence of the relevant fisheries authorities.

Concluding remarks

The LDAC believes that the BBNJ Agreement can strengthen biodiversity conservation and sustainable use in ABNJ, provided that its implementation is coherent, legally clear and institutionally realistic.

The European Union is uniquely positioned to shape this process constructively. It should act as a bridge between protection of biodiversity and fisheries management in international waters under an adequate international ocean governance framework driven by knowledge and expertise. By respecting the integrity of RFMO mandates in line with the non-undermining principle, ensuring equivalence of fisheries procedures, safeguarding data governance and promoting practical cooperation modalities, the EU can help build a mutually reinforcing and inclusive system of ocean governance from a multistakeholder perspective. This can be achieved by not undermining RFMOs, promoting coherence and coordination by BBNJ with RFMO/As and strengthening and enhancing cooperation with and promoting cooperation among RFMO/As in the achievement of the objectives of the BBNJ Agreement.

Cooperation should be understood as a reciprocal commitment. RFMOs should be encouraged to engage constructively, within their mandates, in furtherance of the objectives of the Agreement. Likewise, Parties to the Agreement should promote those objectives, where appropriate, when participating in decision-making within such bodies.

In areas where activities are not currently subject to established cooperative arrangements, the EU should support efforts to strengthen cooperation mechanisms and governance arrangements, including, where appropriate, through the development or extension of relevant management frameworks. Such efforts should be pursued in a manner that promotes the conservation and sustainable use of marine biodiversity while maintaining clarity regarding the distinct roles and responsibilities of sectoral bodies.

Fisheries are not peripheral but central to biodiversity objectives in ABNJ. The EU should therefore ensure that this reality is fully reflected in the shaping and implementation of the emerging BBNJ architecture from its outset.