Research for PECH Committee - Regional Ocean Governance in Europe: the Role of Fisheries
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This document was requested by the European Parliament’s Committee on Fisheries.

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Research for PECH Committee - Regional ocean governance in Europe: the role of fisheries

Abstract

This study requested by the European Parliament (PECH Committee) examines regional ocean governance in the European regional seas in the context of fisheries. It assesses key regional organisations (the Regional Fisheries Management Organisations (RFMOs) and Regional Seas Conventions (RSCs)) examining the mechanisms by which they cooperate and coordinate as well as their outcomes, within the context of EU policy.
7.2. Mechanism to regulate coordination and cooperation

7.3. Mutual reinforcement between fisheries regulation and relevant EU policies

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<tr>
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<th>Description</th>
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<tr>
<td>ABNJ</td>
<td>Areas beyond national jurisdiction</td>
</tr>
<tr>
<td>ACCOBAMS</td>
<td>Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and contiguous Atlantic Area</td>
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<tr>
<td>ASCOBANS</td>
<td>Agreement on the Conservation of Small Cetaceans in the Baltic, North East Atlantic, Irish and North Seas</td>
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<td>BBNJ</td>
<td>Biological Diversity in areas beyond national jurisdiction</td>
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<td>BC</td>
<td>Barcelona Convention</td>
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<td>BSAC</td>
<td>Baltic Sea Advisory Council</td>
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<td>BSSAP</td>
<td>Black Sea Strategic Action Plan</td>
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<td>BSC</td>
<td>Black Sea Commission</td>
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<td>BSC PS</td>
<td>Black Sea Commission Permanent Secretariat</td>
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<tr>
<td>CBD</td>
<td>Convention on Biological Diversity</td>
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<td>CCRF</td>
<td>Code of Conduct for Responsible Fisheries</td>
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<td>CFP</td>
<td>Common Fisheries Policy</td>
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<td>CIS</td>
<td>Common Implementation Strategy</td>
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<td>CITES</td>
<td>Convention on International Trade in Endangered Species of Wild Fauna and Flora</td>
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<td>CMS</td>
<td>Convention on Migratory Species</td>
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<td>COFI</td>
<td>Committee on Fisheries</td>
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<tr>
<td>COP</td>
<td>Conference of the Parties</td>
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<td>CP</td>
<td>Contracting Party</td>
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<td>CNCPs</td>
<td>Cooperating non-Contracting Parties</td>
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<td>CPMR</td>
<td>Conference of Peripheral Maritime Regions</td>
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<td>EAF</td>
<td>Ecosystem Approach to Fisheries</td>
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<td>EBSA</td>
<td>Ecologically and Biologically Significant Areas</td>
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<td>EC</td>
<td>European Commission</td>
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<td>EcAP</td>
<td>Ecosystem Approach</td>
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<td>EcoQos</td>
<td>Ecological Quality Objectives</td>
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<td>EEA</td>
<td>European Environmental Agency</td>
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<td>EEZ</td>
<td>Exclusive Economic Zone</td>
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<td>EFCA</td>
<td>European Fisheries Control Agency</td>
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<td>EMBLAS</td>
<td>Improving Environmental Monitoring in the Black Sea</td>
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<td>EMFF</td>
<td>European Maritime and Fisheries Fund</td>
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<td>EO</td>
<td>Ecological Objectives</td>
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<td>EU</td>
<td>European Union</td>
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<td>Acronym</td>
<td>Description</td>
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<tr>
<td>FAO</td>
<td>Food and Agriculture Organisation of the United Nations</td>
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<td>FRAs</td>
<td>Fisheries Restricted Areas</td>
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<td>GES</td>
<td>Good Environmental Status</td>
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<td>GES/EO</td>
<td>Good Environmental Status/Ecological Objective</td>
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<td>GFCM</td>
<td>General Fisheries Commission for the Mediterranean</td>
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<td>GPA</td>
<td>Global Programme of Action for Protection of the Marine Environment from Land-based Activities</td>
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<td>HELCOM</td>
<td>Helsinki Commission</td>
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<td>HELCOM BSAP</td>
<td>HELCOM Baltic Sea Action Plan</td>
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<td>HELCOM FISH/ENV</td>
<td>HELCOM Fisheries and Environment Forum</td>
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<td>HELCOM GEAR</td>
<td>HELCOM Group for Implementation of the Ecosystem Approach</td>
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<td>HSC</td>
<td>Hazardous Substances Committee</td>
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<td>IBSFC</td>
<td>International Baltic Sea Fisheries Commission</td>
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<td>ICCAT</td>
<td>International Commission for the Conservation of Atlantic Tunas</td>
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<td>ICES</td>
<td>International Council for the Exploration of the Sea</td>
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<td>ICG-MSFD</td>
<td>Intersessional Correspondence Group on the MSFD</td>
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<td>ICPDR</td>
<td>International Commission for the Protection of the Danube River</td>
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<td>ICRW</td>
<td>International Convention for the Regulation of Whaling</td>
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<td>ICW</td>
<td>International Whaling Committee</td>
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<td>ICZM</td>
<td>Integrated Coastal Zone Management</td>
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<td>ISA</td>
<td>International Seabed Authority</td>
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<td>IMO</td>
<td>International Maritime Organization</td>
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<td>IUCN</td>
<td>International Union for the Conservation of Nature</td>
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<tr>
<td>IUU</td>
<td>Illegal, Unreported and Unregulated (fishing)</td>
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<td>JDP</td>
<td>Joint Development Plan</td>
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<td>LME</td>
<td>Large Marine Ecosystems</td>
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<td>London Convention</td>
<td>Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter</td>
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<td>MAP</td>
<td>Mediterranean Action Plan</td>
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<td>MARPOL</td>
<td>International Convention for the Prevention of Pollution from Ships</td>
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<td>MCRS</td>
<td>Minimum Conservation Reference Size</td>
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<td>MDG</td>
<td>Millennium Development Goals</td>
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<td>Mediterranean Advisory Council</td>
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<td>MedPAN</td>
<td>Network of Marine Protected Areas managers in the Mediterranean</td>
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<td>Acronym</td>
<td>Full Form</td>
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<td>MEDPOL</td>
<td>Programme for the Assessment and Control of Pollution in the Mediterranean Region (United Nations Environmental Programme - UNEP)</td>
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<td>Memorandum of Understanding</td>
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<td>MPA</td>
<td>Marine Protected Area</td>
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<td>MS</td>
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<td>MSY</td>
<td>Maximum Sustainable Yield</td>
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<td>NAMMCO</td>
<td>North Atlantic Marine Mammal Commission</td>
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<td>NGOs</td>
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<td>OIC</td>
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<td>OSPAR</td>
<td>OSPAR Commission Protecting and conserving the North-East Atlantic and its resources</td>
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<td>OSPAR CoG</td>
<td>OSPAR Coordination Group</td>
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<td>PECMAS</td>
<td>Permanent Committee on Management and Science (NEAFC)</td>
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<td>PoMs</td>
<td>Programmes of Measures</td>
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<td>Persistent Organic Pollutants</td>
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<td>QSR</td>
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<td>RAC</td>
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<td>RAC/SPA</td>
<td>Regional Activity Centre for Specially Protected Areas</td>
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<td>REMPEC</td>
<td>Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea</td>
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<td>RFMO</td>
<td>Regional Fisheries Management Organisation</td>
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<td>RFB</td>
<td>Regional Fisheries Body</td>
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<td>RSCs</td>
<td>Regional Seas Conventions</td>
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<td>RSP</td>
<td>Regional Seas Programme</td>
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<td>SDG</td>
<td>Sustainable Development Goals</td>
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<td>SPAs</td>
<td>Specially Protected Areas</td>
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<td>SSB</td>
<td>Spawning Stock Biomass</td>
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<td>TAC</td>
<td>Total Allowable Catch</td>
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<td>Acronym</td>
<td>Description</td>
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<tr>
<td>TBT</td>
<td>Tributyltin</td>
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<td>TFEU</td>
<td>Treaty on the Functioning of the European Union</td>
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<td>UfM</td>
<td>Union for the Mediterranean</td>
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<td>UN</td>
<td>United Nations</td>
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<td>UN Convention on the Law of the Sea</td>
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<td>UNEP</td>
<td>United Nations Environment Programme</td>
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<td>UNEP/MAP</td>
<td>United Nations Environmental Programme / Mediterranean Action Plan</td>
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<td>UNFSA</td>
<td>UN Fish Stocks Agreement</td>
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<tr>
<td>UNGA</td>
<td>UN General Assembly</td>
</tr>
<tr>
<td>UN/FAO GFCM</td>
<td>United Nations Food and Agriculture Organization, General Fisheries Commission for the Mediterranean</td>
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<tr>
<td>VME</td>
<td>Vulnerable marine ecosystem</td>
</tr>
<tr>
<td>WGBFAS</td>
<td>Baltic Fisheries Assessment Working Group</td>
</tr>
<tr>
<td>WGBS</td>
<td>GFMC Working Group on the Black Sea</td>
</tr>
<tr>
<td>WGGMABS</td>
<td>Working Group on Risks of Maritime Activities in the Baltic Sea</td>
</tr>
<tr>
<td>WGIAB</td>
<td>Working Group on Integrated Assessments of the Baltic Sea</td>
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<tr>
<td>WWF</td>
<td>World Wide Fund for Nature</td>
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GLOSSARY

**Coordination and cooperation:** Processes where organisations are organising themselves with the aim to work together with other organisations and the actions where organisations are actually working or acting together for a common objective.

**Ecosystem approach:** The ecosystem approach, as defined by the Convention on Biological Diversity, is a strategy for the integrated management of land, water and living resources that promotes conservation and sustainable use in an equitable way.

**European regional seas:** For the purpose of this study these cover the North-east Atlantic, Mediterranean Sea, Baltic Sea and the Black Sea.

**Fisheries conservation:** Measures to conserve one or more species of living marine resources that are adopted and applied consistent with the relevant rules of international law.

**Fisheries management:** The integrated process of information gathering, analysis, planning, consultation, decision-making, allocation of resources and formulation and implementation, with enforcement as necessary, of regulations or rules which govern fisheries activities in order to ensure the continued productivity of the resources and the accomplishment of other fisheries objectives.

**Ocean governance:** In the absence of an internationally agreed definition of (regional) ocean governance, this study assumes the term to include all rules, institutions, processes, agreements, arrangements and activities carried out to manage the use of oceans and seas in an international context.

**Regional Fisheries Bodies:** Mechanism by which states or organisations party to an international fisheries agreement or arrangement work together towards the conservation, management and/or development of fisheries. Their mandates vary, with some having an advisory mandate and providing advice, decisions or coordinating mechanisms that are not legally binding.

**Regional Seas Programme:** The United Nations Environment Programme (UNEP) Regional Seas Programme is an international collaborative approach with the aim to address the degradation of the seas by engaging neighbouring countries in a collaboration to support the achievement of international environmental and development targets. Regional consortia of contracting party countries are referred to as Regional Seas Programmes or, where applicable, Regional Seas Conventions.

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2 Interpretation based on Article 1(b) of the UN Straddling Stocks Agreement.
and Action Plans, which is the mechanism by which the programmes deliver their activities\(^5\).

\(^5\) Website UN Regional Seas, available at: [http://www.unep.org/regionalseas/](http://www.unep.org/regionalseas/)
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EXECUTIVE SUMMARY

Objective and scope

The aim of the study is to provide the Members of the European Parliament’s Committee on Fisheries (PECH Committee) with a clear description of the role of fisheries in regional ocean governance in the European regional seas. Regional Fisheries Management Organisations (RFMOs) and Regional Seas Conventions (RSCs) are key actors in the (direct and indirect) regulation of fisheries. The study focuses on regional ocean governance of fisheries in the four European regional seas, i.e. the North East Atlantic Ocean, the Mediterranean Sea, the Baltic Sea and the Black Sea. It describes the competences of regional organisations and assesses the mechanisms of cooperation and coordination among these organisations, together with their main outcomes. These descriptions are considered in view of the context provided by key EU policies such as the Common Fisheries Policy (CFP), the EU Regulation (EC) No 1005/2008 to prevent, deter and eliminate illegal unreported and unregulated fishing (IUU Regulation), the Marine Strategy Framework Directive (MSFD) and the Maritime Spatial Planning Directive (MSPD).

The EU is well placed to shape international ocean governance given its experience in developing a sustainable approach to ocean management. With the current trend towards increased regionalisation of ocean governance, however, many questions and issues remain, particularly relating to roles, overlapping attributes, gaps and cooperation mechanisms between key regional and international institutions.

Methodology

Research for the study took the form of an analysis of relevant websites and documents, as well as a series of consultations with key actors. The research objective was most appropriately addressed by analysing documents under the RSCs and the RFMOs, including agreements, meeting documents and reports, together with the organisations websites, policy articles and other publications. Interviews were conducted with selected officials (RSCs and RFMOs) and fisheries’ stakeholders active in ocean governance in the different European regional seas (these interviews are referred to as ‘consultation’).

Regional ocean governance in the European regional seas

At EU and global level, there is a strong commitment to integrating traditional and new ocean uses. This study addresses regional ocean governance in the European regional seas, touching upon the attributes, points of difference and cooperation between two main regional organisations: RFMOs and RSCs. RFMOs are a subset of Regional Fisheries Bodies (RFBs), which brings together states or organisations party to an international fisheries agreement or arrangement to work together towards the conservation, management and/or development of fisheries. On the other hand, through OSPAR, HELCOM and or Regional Seas Programme (RSP), countries join RSCs and associated action plans. The RSP’s objective is to address the accelerating degradation of the world’s oceans and coastal areas through a ‘shared seas’ approach.

The report provides a brief overview of the key regional institutions, international instruments and EU policies. In the absence of an internationally agreed definition of (regional) ocean governance, the research assumes the term to include all rules, institutions, processes, agreements, arrangements and activities carried out to manage the use of oceans and seas in an international context.
There is a wide range of global instruments regulating different aspects of ocean governance, for which the UN Convention on the Law of the Sea (UNCLOS) provides the overarching framework. At the EU level, the main policy addressing ocean governance in relation to fisheries is the CFP. Under the CFP Regulation, the EU has the exclusive competence in the area of fisheries conservation. Consequently, the EC is party to the RFMOs (which have a fisheries mandate), while both the EC and individual Member States are parties to the RSCs, whose substantive competence relates to the environment (shared competence). The CFP has broadened over the years, such as through the introduction of the ecosystem-based approach to fisheries management. This broadening of the CFP results in an increasingly shared objective with other key EU policies, such as the MSFD that aims to achieve Good Environmental Status of European marine waters by the year 2020. The CFP Regulation emphasises the need of the CFP to contribute to these objectives. In addition, the MSPD, which is relatively new, further complements the MSFD through the coordination and promotion of the sustainability of various economic use of the marine environment.

The main part of the report describes the regional ocean governance structures for fisheries in the four regional seas in Europe. More specifically, it discusses the characteristics of, and main pressures in, each of the European regional seas. In addition, it provides a general overview of the key institutions concerned, examining their policies, mandates, organisation and the mechanisms for cooperation and coordination in the management of fisheries.

**North East Atlantic Region**

In the North East Atlantic Ocean, fishing activities are a key pressure, due to fishing intensity and a range of impacts on the marine environment. Other pressures include maritime traffic transport, land-based sources pollution and offshore activities. The competent fisheries management organisation is the North-East Atlantic Fisheries Commission (NEAFC), which mainly regulates fishing activities within the areas beyond national jurisdictions (ABNJ). The International Commission for the Conservation of Atlantic Tunas (ICCAT) holds the competence in regulating the fishing of tuna and tuna-like fish species, whereas the North Atlantic Salmon Conservation Organization (NASCO) covers Atlantic salmon fishing. NEAFC defers to the decisions of ICCAT and NASCO for their respective regulated species. The majority of the fishing activities of fish stocks regulated by NEAFC take place within the waters under national jurisdiction, meaning that in practice the coastal states (the CFP) have a major role in the decision-making process in relation to these stocks leaving NEAFC with a limited role in decision-making in respect of the management of these stocks.

The Commission protecting and conserving the North-East Atlantic and its resources (OSPAR) is the RSC for the region and aims to establish an ecosystem approach to an integrated management of human activities in the oceans. OSPAR holds an advisory role on the status of fish communities and impacts of fisheries on species and habitats, as well as indirectly addressing fisheries management by assessing indicators that cover fish, such as community structures, length, bycatch of mammals etc. under the MSFD. While NEAFC historically focused on the management of target species, it now broadened its focus to also cover the effects of fisheries on the other parts of the marine ecosystem and on the protection of biodiversity. On the other hand, the OSPAR Commission acts as a regional advocate for addressing the environmental impacts of fisheries management, e.g. by producing Quality Status Reports on the marine environment and highlighting impacts of fisheries on marine species and habitats within the North East Atlantic – however, it does not have competence for fisheries management. This offers NEAFC and OSPAR the opportunity to act as two complementary organisations.

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6 This region is commonly referred to as the North Eastern Atlantic, such as under the RSC OSPAR Commission. However, the North Eastern Atlantic covers the sub-region ‘Arctic waters’ which apart from the Faroe Islands (Denmark) does not cover any waters under EU jurisdiction. Hence, the analysis the focus lay more on all other OSPAR sub-regions, which are referred to here as all North East Atlantic waters.
Although they have different (non-overlapping) legal mandates, they show overlap in their overall objectives\(^7\). OSPAR and NEAFC established an MoU in 2008 – which was complemented by a collective arrangement in 2014. The collective arrangements can be considered a good example of improvement of the information sharing within the existing mandates– resulting into increased cooperation at the national and regional level. As highlighted during the consultation the collective arrangement can be considered an example that enhanced information sharing, based on the existing mandates, can significantly improve the process of ocean governance. Coordination between the secretariats as such is not considered sufficient as the Contracting Parties are actually the driving force in the information sharing process. This process can result in an ‘upward spiral’ where mutual information sharing at the national and regional level is intensified.

**The Mediterranean Sea**

Key pressures in the Mediterranean region are fisheries, together with land-based pollution and tourism. The competent fisheries management organisation is the General Fisheries Commission for the Mediterranean (GFCM), which aims to ensure the conservation and sustainable use of marine living resources, at the biological, social, economic and environmental level. In addition to the GFCM, ICCAT holds the competence in regulating fishing of tuna and tuna-like fish species. The GFCM adopts ICCAT decisions on tuna.

The Barcelona Convention, whose Secretariat is provided by the United Nations Environment Programme/Mediterranean Action Plan (UNEP/MAP), constitutes another important regional framework, however without a mandate to regulate fisheries. Its main objective is to achieve Good Environmental Status (GES) in the Mediterranean Sea. Through action plans and Protocols to the Barcelona Convention, UNEP/MAP is active in the areas of pollution, biodiversity, Integrated Coastal Zone Management ICZM, sustainable consumption and production, and climate change adaptation. The GFCM actively cooperates with UNEP/MAP to achieve a more efficient management of the fisheries. In 2012, an MoU was concluded between UNEP/MAP and the GFCM, reflecting the need for an ecosystem-based approach to the conservation of marine ecosystems and the sustainable use of marine living resources. As a result of this cooperation, in 2013 a GFCM Resolution on area-based fisheries management, initiating a multi-year process on area-based management was adopted.

The GFCM can be considered a good example of RFMOs’ move from managing only target species to pursuing an ecosystem approach to fisheries. The GFCM engages in several activities in relation to fisheries, covering stock assessment and the fishing fleet, as well as protection of red coral and Marine Protected Areas (MPAs). This broadened mandate has required increased cooperation with other intergovernmental bodies with similar or complementary mandates, as well as the acknowledgement of the competences of those bodies. Both the GFCM and UNEP/MAP have a strong focus on cooperation and have established several MoUs with a broad range of relevant actors in relation to fisheries and/or the marine environment. UNEP/MAP, together with the EU, developed a Roadmap for healthy and productive oceans, linking the global Sustainable Development Goals relevant for oceans to a practical implementation approach in the Mediterranean Sea. This Roadmap could serve as a blueprint for other regions as it sets out a conceptual framework to strengthen coherence and identify synergies, with the objective of achieving more effective regional cooperation in the oceans.

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The Baltic Sea

In the Baltic Sea, key pressures in addition to fisheries include eutrophication and pollution by hazardous substances. There is no active RFMO in the Baltic Sea. HELCOM does not have decision-making competence with respect to fisheries governance in relation to CFP, but, rather, deals with environment issues having indirect and direct impacts on fisheries HELCOM has the role of ‘a caretaker’ in terms of environmental monitoring and protection. While it is not an ‘independent’ topic within HELCOM’s Baltic Sea Action Plan (BSAP), several actions focus on fisheries, with a greater number of measures than that related to any other human activity8. This is especially true for the Ecological Objectives set for HELCOM’s priority areas (biodiversity and hazardous substances) that cover fisheries. HELCOM has also established a working group specifically dedicated to ecosystem-based sustainable fisheries (HELCOM-FISH). The absence of an active RFMO in the Baltic Sea creates a different context for cooperation and coordination than that seen in the other European regional seas. The CFP applies to all Baltic coastal states and their fishing activity (with the exception of Russia). In 2009, the EU and Russia agreed to cooperate on fisheries and marine conservation in the Baltic Sea.

HELCOM plays a strong role in coordinating implementation across the EU Member States and Russia, and provides added value through its work under the BSAP and established networks and relationships. There is both formal and informal coordination between the HELCOM and the EU institutions and other related projects/forums. In the Baltic Sea, much effort has been put into establishing platforms for information sharing, coordination and cooperation. HELCOM-FISH, which set a platform to discuss the interlinkages between fisheries and environmental management, is considered to be a promising model for collaboration between the Member States and the EC, allowing discussions on substantive matters related to fisheries and environmental management. Building on the EU’s exclusive competence in relation to fisheries, HELCOM-FISH creates added value by addressing topics and issues which cannot be dealt with by other bodies (for lack of resources or capacity) and harnesses its key strength, i.e. the ability to organise meetings and bring relevant people together. Similarly, BALTISH aims to strengthen and improve EU Member State coordination and cooperation in fisheries management in the Baltic Sea by providing a permanent forum, responsible for policy formulation and development of joint recommendation. As stated in the BALTISH MoU: ‘BALTISH is a platform to strengthen and improve the Members States coordination and cooperation in fisheries management in the Baltic Sea: (i) to develop cooperation with other key stakeholders relevant to the Baltic Sea Fisheries; (ii) to constitute a forum for exchanging ideas, views and information to facilitate joint actions and various concrete projects aiming at achieving sustainable fisheries in the Baltic Sea Region; (iii) to base its’ activities on the principles for regionalization as provided in the Basic Regulation of the EU CFP and in particular Article 18’. It also considers input from other key stakeholders significant for fisheries, such as the Baltic Sea Advisory Council (BSAC), the International Council for the Exploration of the Sea (ICES) and HELCOM.

The Black Sea

The Black Sea faces particular transboundary challenges, including eutrophication resulting from agriculture, industry and untreated sewage, contamination from harmful substances (especially oil products), the introduction of alien species, and fishing activities. The geographical mandate of the GFCM extends to the Black Sea. Despite increased activity since the establishment of the Working Group on the Black Sea in 2011, specifically addressing fisheries issues in the region, the overall effectiveness of its role is weakened as only three of the riparian

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countries are Contracting Parties to the GFCM (Romania, Bulgaria and Turkey), with Ukraine and Georgia granted the status of Cooperating Non-Contracting Parties in 2015, together with the fact that Russia attends solely in an ‘observer’ capacity. The Bucharest Convention provides for a regional cooperation framework in the Black Sea with the objective of protecting the Black Sea against pollution. The Convention was followed by the establishment of the Black Sea Strategic Action Plan for the Environmental Protection and Rehabilitation of the Black Sea (BSSAP) and the Black Sea Integrated Monitoring and Assessment Programme (BSIMAP), with a focus on the rehabilitation and protection of the sea, using an ecosystem approach and aligning with the provisions of the MSFD to resolve transboundary environmental issues. BSSAP advises the Black Sea Commission (BSC) on matters ranging from pollution monitoring and assessment to fisheries and other marine living resources.

All six riparian Black Sea countries are Contracting Parties to the Bucharest Convention, which is implemented by the BSC. However, the EU has only a status of observer and, despite efforts made in several occasions it is unlikely that it will become a party. Attempts to agree on a legally binding document on fisheries and conservation of living resources failed. There are some initiatives to encourage cooperation on fisheries at the regional level but these are still in infancy and often informal. Cooperation among the riparian countries remains the most crucial element for fisheries governance in the Black Sea

Conclusions and recommendations

There is significant overlap in the types of pressures and challenges across the regions. Therefore, there is much opportunity for cooperation and sharing lessons learned on common topics of interest. However, more importantly, the review of the situation in each of the European regional seas indicates that the regions significantly differ in terms of the institutional and political structures dealing with these pressures and challenges. In other words, while some best practices in terms of ocean governance can be shared across regions, this requires adaptation to the specificities of each region. In this context, the establishment of coordination and cooperation mechanisms is of utmost importance between the key actors, as they deal with overlapping objectives and regulate activities that can, positively or negatively, impact each other’s objectives. The effectiveness of regional ocean governance depends to a large extent on the manner in which content is given to such coordination and cooperation processes.

- **Complementary substantive and geographical competences.**
  The key actors, directly or indirectly regulating fisheries, have complementary substantive and geographical competences, with which they aim to achieve overlapping objectives. Despite the overlap in environmental issues and fisheries issues, the many different actors, institutions, implementation mechanisms etc. there is no ‘recipe’ that fits to all four regional seas. Ocean governance of fisheries can be improved by strengthening and developing the process of information sharing, which can be done within the existing mandates. There is no human activity within the seas and oceans that is not, or cannot be, controlled by the existing mechanisms. This means that the current types of mechanisms (as the RFMOs and the RSCs) can be considered sufficient, and no new types, such as overall coordinating or overseeing authorities or organisations, are needed. This is not to say that the current organisations could not be strengthened or that gaps in certain regions could be filled.

- **Mechanisms to regulate coordination and cooperation**
  The partial overlap between the overall objectives of the regional organisations, their members and/or their geographical scope points to the need to further develop coordination and cooperation efforts. Formal agreements, such as MoUs are considered a tool to enable the coordination and cooperation process, with specific organisations and
institutionalise processes to improve the knowledge of the relevant activities in the region and to foster synergies, while at the same time avoiding duplication or negative impacts. From the chapters discussing the European regional seas, it follows that the organisations take an active role in institutionalising such processes. Although the MoUs reflect different levels of detail, in general they include provisions linked to conservation and management measures, data collection and exchange, monitoring, surveillance and control. The EU could encourage and facilitate the process of institutionalising coordination and cooperation through the development of global minimum standards, also relevant to non-EU parties to the RFMO, to improve their overall coherence, while leaving room for adaptation to the regional context.

- **Mutual reinforcement between fisheries regulation and relevant EU policies**

The process of cooperation and coordination at the regional level should be viewed in light of the building blocks provided by key EU policies, such as the CFP, the IUU Regulation, the MSFD and the MSPD. Under the CFP Regulation, the EU has the competence to adopt relevant rules and regulations. It has itself broadened over the years, such as through the introduction of the ecosystem-based approach to fisheries management. With the goals of fisheries management and the protection of the marine environment setting for larger interfaces, they have become inextricably connected and mutually reinforcing. In addition to facilitating the process of institutionalising coordination and cooperation, the EU should maintain its important role in progressively tackling key content relevant for the governability of its environment policy, integrated maritime policy, CFP and maritime transport policy and promote the use of these EU standards at the global level.
1. INTRODUCTION

This study requested by the European Parliament (PECH Committee) examines regional ocean governance in the European regional seas in the context of fisheries. It assesses key regional organisations (the Regional Fisheries Management Organisations (RFMOs) and Regional Seas Conventions (RSCs)) examining the mechanisms by which they cooperate and coordinate as well as their outcomes, within the context of EU policy.

1.1. Objectives and scope

Competing spatial claims, increasing conflict between maritime activities, and the need to achieve good environmental status (GES) in the European regional seas fuel the ongoing debate about the regionalisation of ocean governance. A variety of responses to new and unresolved environmental challenges in respect of ocean use has created a piecemeal approach to the governance of marine regions. The applicable framework includes policies developed by global institutions, in particular the United Nations (UN) and its Food and Agriculture Organization (FAO), regional organisations, notably the RFMOs and RSCs, and the EU, in particular the Common Fisheries Policy (CFP), including the EU Regulation (EC) No 1005/2008 to prevent, deter and eliminate illegal, unreported and unregulated fishing (IUU Regulation), the Marine Strategy Framework Directive (MSFD) and the Maritime Spatial Planning Directive (MSPD). Marine regions share the same issues and conditions, and therefore, constitute an appropriate level at which to tackle common issues. While European seas collectively face multiple problems, the existing institutional and legal arrangements encourage greater regionalisation of ocean governance. This raises questions about the effectiveness of the current system, particularly its ability to create unnecessary overlap or its failure to harness synergies in the area of fisheries management.

In November 2016, the EC and the EU High Representative of the Union for Foreign Affairs and Security Policy presented a joint agenda for the future of the oceans. The Joint Communication ‘proposes ways the EU can step up and play a stronger role at global and regional level in shaping the way oceans are managed and used’\(^9\). It concluded that ‘the EU is well placed to shape international ocean governance on the basis of its experience in developing a sustainable approach to ocean management, notably through its environment policy (in particular its MSFD), integrated maritime policy (in particular its Maritime Spatial Planning Directive), reformed CFP, action against IUU fishing and its maritime transport policy’\(^10\).

The EC and the High Representative, supported by the international consensus that the ocean governance framework needs strengthening, have defined several improvement actions, including ‘Promoting regional fisheries management and cooperation in key ocean areas to fill regional governance gaps’\(^11\). Ocean governance is high on the agenda and while the focus may be on international governance, the regional level is also crucial. In this context, this research paper provides an analysis of regional ocean governance in the European regional

\(^9\) European Commission, Maritime Affairs, available at: http://ec.europa.eu/maritimeaffairs/policy/ocean-governance_en The website notes that the Joint Communication is an integral part of the EU’s response to the United Nations 2030 Agenda for Sustainable Development, in particular Sustainable Development Goal 14 ‘to conserve and sustainably use the oceans, seas and marine resources’. It is based on the political mandate given to Commissioner Vella by President Juncker ‘to engage in shaping international ocean governance in the UN, in other unilateral fora and bilaterally with key global partners’.


seas, with a focus on the role of fisheries. Where appropriate, it also examines the application of ocean governance in the areas beyond national jurisdiction (ABNJ)\textsuperscript{12}. As per the Terms of Reference, this study covers the following regions: ‘1. the European Atlantic Ocean, 2. the Mediterranean Sea; and 3. the Baltic Sea’. For reason of completeness and comparison the ‘Black Sea region’ was added to the report. As regards the ‘European Atlantic Ocean’, this area is commonly referred to as the North East Atlantic, including under the RSC OSPAR Commission. However, the North East Atlantic also includes the sub-region ‘Arctic waters’ which apart from the Faroe Islands (Denmark) does not cover any waters under EU jurisdiction. Hence, this report focuses on all other OSPAR sub-regions, which are referred to here as all North East Atlantic waters.

1.2. **Methodology**

This study is based on an analysis of recent documents and a series of consultations. Official documents under the RSCs and the RFMOs, including agreements, meeting documents and reports, were a key source of information, together with EU websites and reports, policy articles and other publications. A series of interviews was carried out with selected officials (RSCs and RFMOs) and fisheries stakeholders active in ocean governance in the different European regional seas. Where included, the results of these interviews are presented in italics. This study gathered information from January-June 2017.

<table>
<thead>
<tr>
<th>Consultation with key actors</th>
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<tr>
<td>NEAFC</td>
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<td>ICCAT</td>
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<td>UNEP/MAP</td>
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<td>MEDAC</td>
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<td>GFCM</td>
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<tr>
<td>GFCM Working Group for the Black Sea (WGBS)</td>
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<td>Black Sea Commission (BSC)</td>
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<td>HELCOM</td>
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<td>Baltic Sea Advisory Council (BSAC)</td>
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<td>Europêche</td>
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<td>OSPAR</td>
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\textsuperscript{12} See for example the definition provided by www.commonoceans.org, providing that ‘the ABNJ comprise the high seas and the seabed beyond the (extended) continental shelf of coastal states’. The website of UNEP mentions that ‘five Regional Seas Conventions currently include Areas Beyond National Jurisdiction (ABNJ) under their geographical coverages’, including the OSPAR Convention and the Barcelona Convention; See also: http://web.unep.org/regionalseas/what-we-do/conservation-biodiversity-areas-beyond-national-jurisdiction-bbjn\textsuperscript{1}\]
1.3. **Structure of the research paper**

The introductory chapter presents the objectives and scope of the study, and the research methodology.

Chapter 2 outlines the background to regional ocean governance in the European regional seas, as well as key international instruments and EU policy and legislation most relevant to ocean governance in respect of fisheries.

The following four chapters present the assessment of regional ocean governance for fisheries in the four European regional seas, i.e. the North East Atlantic region (Chapter 3); the Mediterranean Sea (Chapter 4); Baltic Sea (Chapter 5) and the Black Sea (Chapter 6). Each chapter examines the mechanisms of cooperation and coordination between the key actors in the European regional seas, both among the organisations themselves and with the EU institutions, and describe the main outcomes. The chapters also identify challenges and good practices.

Chapter 7 discusses the overall findings, ending with recommendations on the extent to which the EU can and should build on RFMOs and RSCs to strengthen regional ocean governance, particularly for fisheries.
2. REGIONAL OCEAN GOVERNANCE: INSTITUTIONS AND RELEVANT EU POLICIES IN THE EUROPEAN REGIONAL SEAS

KEY FINDINGS

- In the absence of an internationally agreed definition of (regional) ocean governance, the research assumes the term to include all rules, institutions, processes, agreements, arrangements and activities carried out to manage the use of oceans and seas in an international context.
- The two main types of institutions relevant to ocean governance for fisheries at the regional level are the Regional Fisheries Bodies (RFBs) and the Regional Seas Conventions (RSCs).
- The RFBs are the mechanism by which States or organisations that are party to an international fisheries agreement or arrangement work together towards the conservation, management and/or development of fisheries.
- The RSCs address the degradation of marine areas through a ‘shared seas’ approach, namely through engaging neighbouring countries in comprehensive and specific action with the aim to protect their shared marine environment.
- There is a wide range of global instruments regulating different aspects of ocean governance, for which the United Nations Convention on the Law of the Sea provides the overarching framework.
- The main EU policy in relation to this study is the Common Fisheries Policy (CFP), on the basis of which the EC has exclusive competence in the area of fisheries conservation. Consequently, the EC is party to the Regional Fisheries Management Organisations (RFMOs) (which have a fisheries mandate), while both the EC and individual Member States are parties to the RSCs, whose substantive competence relates to the environment (shared competence).
- The new CFP has an increased focus on regionalisation, which contributes to the implementation process at regional level and adapts governance structures to the specific needs of regional seas.
- The Marine Strategy Framework Directive (MSFD) aims to achieve Good Environmental Status (GES) of European marine waters by the year 2020 through an ecosystem-based approach to the management of human activities and by taking an integrated, coordinated approach at regional and sub-regional level. The CFP Regulation emphasises the need for the CFP to contribute to these objectives.
- The Maritime Spatial Planning Directive (MSPD) complements the MSFD as it coordinates and promotes the sustainability of various economic use of the marine environment. However, aspects of terrestrial planning remain fully the responsibility of the Member States.

2.1. Regional Ocean governance

There is no internationally agreed definition of (regional) ocean governance. The term ‘governance’ is described as ‘a term-of-art that is open to many definitions and often appears as an umbrella or catch-all term’\(^\text{13}\). The general concept of ‘governance’ is used to describe an

evolving process and a way of governing where the role of traditional, centralised governments is complemented by a network of public and private actors. Governance – rather than the government – implies inclusive decision-making and implementation. In its recent publication on Regional Oceans Governance, the UN Environment Programme (UNEP) uses the World Bank definition of governance: ‘the structures, functions, processes, and organisational traditions that have been put in place within the context of a programme’s authorising environment to define and achieve objectives in an effective and transparent manner’. The definition used by Van Tatenhove, by contrast, emphasises the need to build relationships, seeing governance as ‘about the rules of collective decision-making in settings where there are a plurality of actors or organisations and where no formal control system can dictate the terms of the relationship between these actors and organisations’. However, despite a maturing body of specialist academic commentary, the concept of ocean governance ‘remains very much an open-ended hypothesis from a legal perspective’.

The term ‘ocean governance’ is more precisely described by the European Commission (EC) as including rules, institutions, processes, agreements, arrangements and activities carried out to manage the use of oceans and seas in an international context. Throughout this research, the term ‘ocean governance’ is used in this sense, albeit with a focus on the regional rather than international context.

Recent decades have seen an emerging trend towards regionalisation of international environmental principles. Regionalisation has been described as adding value to the system of governance without being ‘limited to bureaucratic decentralisation involving relocation of central government’s decision making apparatus to regional offices. Some elements of devolved responsibility are necessary’. In relation to the marine environment, this trend is reflected at the level of regional seas, in the RSCs’ policies and action plans, and in RFMOs’ activities targeting sustainable management of fish stocks. For fisheries, such regionalisation has led to the establishment of spatially defined scales of management which devolve decision-making and create more responsive and adaptable management processes.

EU policy increasingly incorporates regional measures into its ocean governance framework, understanding that policies which can accommodate specific regional conditions are more effective, simpler and more efficient from a technical, economic and ecological standpoint. Regions can – and do - play a role in sharing information, coordinating action and pooling resources, with some pointing to the need for regions to play a greater role in ocean governance.

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14 The term refers to ‘a change in the meaning of government, referring to a new process of governing, or a changed condition of ordered rule; or the new method by which society is governed’) Rhodes (1997), Understanding Governance: Policy Networks, Governance, Reflexivity and Accountability.
22 Maier, N. and Markus T. (2013), Dividing the common pond: regionalising EU ocean governance.
23 Ibid.
2.2. RMFOs and RSCs

In June 2015, the EU launched a public consultation on international ocean governance to identify actions it could take to strengthen international governance of oceans and seas in order to promote sustainable blue growth for the development of coastal regions and the maritime economy. The consultation yielded a consensus on the importance of the role played by RSCs and RFMOs in the protection of the marine environment and the sustainable management of fish stocks.

In relation to the RSCs, perceived shortcomings included the ‘geographical fragmentation, lack of implementation, lack of capacity and the lack of coordination between entities … and limited scope of their action, e.g. in ABNJs’. While most respondents recognised the positive role and functioning of RFMOs, some highlighted the persistence of over-exploitation and IUU fishing. According to the stakeholders, both structures could address issues such as marine pollution more effectively if they were better coordinated, with references made to memoranda of understanding (MoUs) between OSPAR and NEAFC, and between UNEP/MAP/Barcelona Convention and the General Fisheries Commission for the Mediterranean (GFCM) as examples of good practice.

This research paper examines the role of the RFMOs and RSCs active in the European regional seas, paying particular attention to their coordination and cooperation mechanisms in relation to the management of fisheries. Overall, these organisations were established under a global framework and play an important role in the European regional seas. While most global RSCs are supported or coordinated by UNEP two out of Europe’s four RSCs (OSPAR and HELCOM) developed independently of UNEP. Regional fishery bodies are intergovernmental bodies through which States cooperate on the management of fisheries in specific regions, some of which were established under the framework of the FAO (GFCM). The following are active (or have their geographical area) in the European regional seas:

<table>
<thead>
<tr>
<th>European Regional Sea</th>
<th>RSC</th>
<th>RFMO</th>
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<tbody>
<tr>
<td>Bold both high and coastal state maritime zones</td>
<td>High seas with possible extension to coastal state maritime zones</td>
<td></td>
</tr>
<tr>
<td>Baltic Sea</td>
<td>HELCOM</td>
<td>No RFMO</td>
</tr>
<tr>
<td>Black Sea</td>
<td>Bucharest Convention (or Black Sea Convention)</td>
<td>GFCM</td>
</tr>
<tr>
<td>Mediterranean Sea</td>
<td>Barcelona Convention</td>
<td>ICCAT</td>
</tr>
<tr>
<td>North East Atlantic</td>
<td>OSPAR Convention</td>
<td>ICCAT North Atlantic Salmon Conservation Organisation (NASCO)</td>
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</tbody>
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25 Ibid.
26 Ibid.
27 It is noted that ICCAT is listed only in relation to the NEA and the Mediterranean. Application in the Baltic and Black Sea could be covered on the basis of the notion of "adjacent seas" in the ICCAT Convention, however limited reference to actual application has been identified. Any catches of ICCAT species in any of the adjacent seas must be reported to ICCAT, although catches in Baltic and Black sea may be infrequent.
28 It is noted that the mandates of NEAFAC relate to their Regulatory Areas – however can be extended over coastal state maritime zones within their Convention Areas upon request by the relevant coastal state(s).
• Regional Fisheries Management Organisations (RFMOs)

RFMOs are the mechanism by which states or organisations party to an international fisheries agreement or arrangement work together towards the conservation, management and/or development of fisheries. The mandates of RFMOs vary, with some having an advisory mandate and providing advice, decisions or coordinating mechanisms that are not legally binding. RFMOs are a sub-set of RFMOs with a management mandate and the ability to impose legally binding decisions on their members. RFMOs are subject to regular independent performance reviews which assess the effectiveness of their operations and share best practice among the wider RFMO community.

As the primary means of establishing cooperation between and among all fishing countries (including coastal states), RFMOs play an important role in the global system of fisheries governance. The objective of an RFMO is to provide an effective forum for international cooperation in order to enable states to agree on conservation and management measures for those fisheries. The fisheries conservation and management measures adopted by an RFMO are based on scientific and technical advice provided by a scientific body and other technical subsidiary bodies, and are legally binding on its members. The main RFMO body (often a ‘Fisheries Commission’) generally decides by consensus (or by majority voting), and the measures are often subject to an ex-post objection procedure. The measures thus adopted on the conservation and management of fisheries are legally binding on RFMO members (with the exception of those who objected). For the EU, this commonly means that RFMO measures must be enacted into EU law.

The mandates of RFMOs vary. Some focus on particular species with high migration ranges, such as tuna, throughout defined geographical areas (so-called tuna RFMOs, of which ICCAT is an example). Others have mandates relating to all of the fish stocks that occur in a defined geographical area (referred to as ‘non-tuna RFMOs’, such as GFCM and NEAFC) except those fish stocks covered by more specialised RFMOs (e.g. NEAFC and NASCO). The competences and functions of RFMOs may cover a range of activities including the collection, analysis and dissemination of information and data, coordination of fisheries management to joint schemes and mechanisms, serving as a technical and policy forum, and taking decisions on the conservation, management, development and responsible use of the resources in question.

There are significant differences in the geographical mandates of RFMOs, with some applying to both high seas and coastal state maritime zones (covering ICCAT, GFCM and NASCO) and others applying mainly to high seas (such as the NEAFC). There are also RFMOs and RFMOs that cover only coastal state maritime zones. States or entities such as the EU participate in RFMOs (including the GFCM, ICCAT, NASCO and NEAFC). In most cases the EU acts as a contracting party for all

29 FAO explains the difference between an RFB and a regional fisheries arrangement is the establishment of a Secretariat for the former, that operates under a governing body of Member States, while the latter does not.
30 FAO, What are Regional Fisheries Bodies (RFBs)? available at: http://www.fao.org/fishery/topic/16800/en
33 FAO, What are Regional Fisheries Bodies (RFBs)? available at: http://www.fao.org/fishery/topic/16800/en
34 High seas is the term used for the open seas beyond national jurisdictions. Ships sailing in the high seas are under the jurisdiction of their flag state.
35 UNEP (2016), Regional Oceans Governance, Making Regional Seas Programmes, Regional Fisheries Bodies and Large, Marine Ecosystem Mechanisms Work Better Together, Nairobi, Kenya. p. 35.
Member States, although individual countries\textsuperscript{36} will also have a representative if they have overseas territories in these waters\textsuperscript{37} \textsuperscript{38}.

The role, obligations and status of RFBs (including RFMOs) in fisheries governance is growing steadily, based on ‘the current international fisheries instruments; the expanding number of new RFBs established or under negotiations in the recent years; the strengthened cooperative action among RFBs with common interests; and the innovative policy, legal and institutional reforms that many RFBs are taking, mainly in an effort to rebuild depleted stocks or prevent further decline\textsuperscript{39}. Many RFBs are taking steps to strengthen fisheries governance through the adoption of management measures based on the EcAp and the precautionary approach. At the same time, they strengthen international cooperation, promote transparency, attempt to engage non-members and enhance monitoring, control and surveillance (MCS) measures\textsuperscript{40}.

- **Regional Seas Conventions (RSCs)**

There are different types of Regional Seas Programmes (RSP): some are directly administered by UNEP, which serves as Secretariat (e.g. the Mediterranean region); whereas others were developed independently but are associated with the UNEP RSP (e.g. the Black Sea); and finally, the RSP network includes independent programmes (not established under the auspices of UNEP), such as OSPAR and HELCOM which are invited to participate in the RSP global meetings. The UNEP RSP is also invited to participate in the respective meetings of these Regional Seas programmes (e.g. the Baltic Sea and North-East Atlantic regions)\textsuperscript{41}.

The RSP was launched by UNEP in 1974. Under the framework of the RSP, more than 143 countries have joined 18 RSCs and action plans\textsuperscript{42}. The RSP’s objective is to address the accelerating degradation of the world’s oceans and coastal areas through a ‘shared seas’ approach, namely ‘by engaging neighbouring countries in comprehensive and specific actions to protect their common marine environment’\textsuperscript{43}. RSCs endeavour ‘to effectively apply an ecosystem approach in the management of the marine and coastal environment in order to protect and restore the health, productivity and resilience of oceans and marine ecosystems, and to maintain their biodiversity, enabling their conservation and sustainable use for present and future generations’\textsuperscript{44}. As a result, they cover a broad range of topics according to the regional characteristics and needs, such as marine litter, land-based pollution, eutrophication, coastal zone management, offshore industry and shipping.

### 2.3. International instruments

With the focus of this study on fisheries within regional ocean governance in the European regional seas, this section discusses the key global instruments regulating fisheries as they constitute the framework to the regional initiatives. When considering ocean governance at a global level, the UN Convention on the Law of the Sea (UNCLOS) is the overarching framework as well as its two Implementing Agreements – including the Fish Stocks Agreement which

\textsuperscript{36} For example, France is a Contracting Party to ICCAT in relation to St-Pierre at Miquelon.

\textsuperscript{37} European Parliament (2015), Beyond the European Seas. The external dimension of the Common Fisheries Policy, Brussels, p. 8. For instance, both the UK and France are represented in ICCAAT, in addition to the EU.

\textsuperscript{38} All EU Member States that are coastal States to the Mediterranean are Members of the GFCM alongside the EU. Participation in the GFCM is therefore an exception to the general rule.


\textsuperscript{40} Ibid.

\textsuperscript{41} UNEP (2016), Regional Oceans Governance, Making Regional Seas Programmes, Regional Fisheries Bodies and Large, Marine Ecosystem Mechanisms Work Better Together, Nairobi, Kenya. p. 3 and 24.

\textsuperscript{42} UNEP, Regional Seas - overview, available at: \text{http://web.unep.org/regionalseas/who-we-are/overview}

\textsuperscript{43} Ibid.

\textsuperscript{44} UNEP, Regional Seas strategy, available at: \text{http://web.unep.org/regionalseas/who-we-are/strategy}
seeks to promote cooperation between coastal states and high seas fishing states through the use of RFMO to conserve and manage fish stocks. The envisaged Implementation Agreement on marine biodiversity in areas beyond national jurisdiction will eventually be part of this cornerstone as well. UNCLOS, with 168 parties including the European Union (EU), deals with a wide range of ocean affairs and serves often as a unifying framework for more detailed international instruments regarding the conservation and management of marine living resources. Key global instruments regulating different aspects of ocean governance include:

- Deep-Sea Mining Agreement
- Fish Stocks Agreement
- International Convention for the Prevention of Pollution from Ships (MARPOL)
- Convention on Biological Diversity (CBD) and its two Protocols.
- Global Programme of Action for Protection of the Marine Environment from Land-based Activities (GPA)
- FAO Compliance Agreement
- FAO Port State Measures Agreement

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45 See United Nations General Assembly Resolution 69/292, of 6 July 2015; which established a Preparatory Committee (PrepCom) as a further step in the so-called ‘BBNJ Process’ (biodiversity in areas beyond national jurisdiction).


51 IMO is the ‘competent international organisation’ for shipping under UNCLOS.


57 Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, Rome, 22 November 2009. In force 5 June 2016; <www.fao.org/Legal>
Regional ocean governance in Europe: the role of fisheries

- FAO Code of Conduct for Responsible Fisheries (CCRF)\textsuperscript{57}.
- FAO International Plans of Action, in particular on IUU fishing.
- International Convention for the Regulation of Whaling

UNCLOS recognises ‘the competence of pre-existing global and regional instruments and bodies to impose obligations on states to cooperate and agree on regulations’, often referring to them as ‘the competent international organisation’\textsuperscript{58}. That is to say, the instruments and bodies working under the auspices of the UN in this field recognise that pre-existing bodies and instruments will also have competence in certain circumstances (because of topic, geography or otherwise.) This approach provides room for new bodies to be established and new mandates to be developed\textsuperscript{59}. Parties to UNCLOS can therefore be bound by the regulations adopted by the competent international organisations by ‘rules of reference’, i.e. in ratifying UNCLOS, a party also becomes bound to the rules referred to therein. For example, where rules of reference relate to fisheries, references to ‘competent’ organisations are intended to cover the FAO and RFMOs primarily\textsuperscript{60}. In addition, the UN General Assembly (UNGA) is entitled to undertake a review of developments relating to ocean affairs. In 2011, for example, the UNGA instructed the Working Group to study the conservation and sustainable use of marine biological diversity in areas beyond national jurisdiction (BBNJ). On the basis of this study, it was decided\textsuperscript{61} that a legally binding instrument shall be developed under UNCLOS for this purpose\textsuperscript{62}. The Global Ocean Commission\textsuperscript{63}, set up in 2013, outlines in its 2016 report eight proposals to address the deterioration of the state of the oceans and seas\textsuperscript{64}. The Commission argues that the current ocean governance arrangements ‘do not ensure sufficient protection for high seas’ biological diversity, nor do they foster the sustainable and equitable use of marine living resources’ and governance reforms are needed to break this vicious cycle\textsuperscript{65}. Specific attention was paid to the ‘weak, fragmented and outdated nature of existing high seas governance’\textsuperscript{66}. After the first meeting on the BBNJ in 2006, in 2016 the UNGA established a preparatory committee to make substantive recommendations on the elements of a draft text of a legally binding instrument under UNCLOS\textsuperscript{67}.

Global concerns about the legal framework for the protection of marine biodiversity in areas beyond national jurisdiction led to the 2004 establishment by UNGA of the ‘Ad hoc open-ended informal Working Group to study issues relating to the conservation and sustainable use of

\begin{footnotesize}
\begin{enumerate}
\item Available at: \url{http://www.fao.org/docrep/005/v9878e/v9878e00.htm}, last accessed 17 February 2017.
\item UNEP, Regional Oceans Governance, p. 15 (UNEP 2016). Available at: \url{https://www.cbd.int/doc/meetings/mar/soiom-2016-01/other/soiom-2016-01-unep-06-en.pdf}
\item UNEP, Regional Oceans Governance, p. 15-16 (UNEP 2016). Available at: \url{https://www.cbd.int/doc/meetings/mar/soiom-2016-01/other/soiom-2016-01-unep-06-en.pdf}
\item Global Ocean Commission. Available at: \url{http://www.some.ox.ac.uk/research/global-ocean-commission/}. The Global Ocean Commission was an international initiative that launched in February 2013 and delivered its final report in February 2016. The Commission worked to raise awareness of, and promote action to address, the degradation of the ocean and to help to restore it to full health and productivity. Its focus was on the high seas, the vast ocean areas that lie beyond the EEZs of individual states.
\item Global Ocean Commission Summary Report 2014, From Decline to Recovery – A Rescue Package for the Global Ocean, p. 15.
\end{enumerate}
\end{footnotesize}
marine biological diversity beyond areas of national jurisdiction’ (BBNJ Working Group)\(^{68}\). In its Resolution 69/292\(^{69}\), the UNGA decided that an international legally binding instrument on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ) should be developed under UNCLOS. To that end, a Preparatory Committee has been established, tasked with preparing substantive recommendations to the UNGA on the elements of a draft text of such an instrument\(^ {70} \).

Within the global context, the Millennium Development Goals (MDGs) with an original target date of 2015, also address ocean governance. The MDGs were subject to criticism for their strong focus on the social agenda over the environmental dimension. Even though one of the MDGs concerned environmental sustainability, the maritime element was largely absent. By contrast, the post-2015 development agenda equally covers social and environmental issues, including the state of the seas and oceans\(^ {71} \). Goal No. 14 concerns the conservation and sustainable use of the oceans, seas and marine resources\(^ {72} \).

The UNGA and the FAO are responsible for the global instruments that govern fisheries internationally. A second global instrument, the International Convention for the Regulation of Whaling (ICRW)\(^ {73} \), concerns the conservation and management of large whale species. UNCLOS again provides the legal framework for the conservation and management of living marine resources. While coastal states have sovereign rights in their exclusive economic zones (EEZs) to explore, exploit, conserve and manage their natural resources, they are obliged to ensure that living resources are not endangered by over-exploitation\(^ {74} \) and cooperate on fish stocks occurring in the EEZs of two or more seas\(^ {75} \). Within each EEZ, a coastal state can enforce its fishing laws. The UN Fish Stocks Agreement (UNFSA)\(^ {76} \) seeks to implement the relevant provisions of UNCLOS by further detailing how conservation and management of straddling and highly migratory fish stocks is to be achieved. This agreement, along with others developed by the FAO, is implemented through the fisheries’ regulations adopted individually or collectively by states or regions, including through RFMOs.

The FAO has adopted two legally binding instruments (the Compliance Agreement\(^ {77} \) and the Port State Measures Agreement\(^ {78} \)) through its Committee on Fisheries (COFI)\(^ {79} \). COFI has developed several non-legally binding instruments, most significantly the Code of Conduct for Responsible Fisheries (CCRF)\(^ {80} \) which works with UNCLOS, the Compliance Agreement and the UNFSA to provide practical guidance to FAO Members, and which is also complimented by

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\(^{68}\) UNGA Resolution 59/24 of 17 November 2004, with reference to UNEP/CBD/COP/7/21(annex). Available at: https://documents-dds-ny.un.org/doc/UNDOC/GEN/N04/477/64/PDF/N0447764.pdf?OpenElement


\(^{71}\) Larkin, J. and Sanchez Groeneweg, M., The Hague Institute for Global Justice 2016, Integrating Oceans Governance into the 2030 Agenda for Sustainable Development.

\(^{72}\) UN Sustainable Development Goals. Available at: http://www.un.org/sustainabledevelopment/oceans/


\(^{74}\) Article 63 UNCLOS.


\(^{77}\) Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, adopted 22 November 2009, entry into force on 5 June 2016. Available at http://www.fao.org/documents/card/en/c/915655b8-e31c-479b-bf07-30c9ba21e4b7/005/v9878e/v9878e00.htm

\(^{78}\) For more information on COFI see http://www.fao.org/fishery/about/cofi/en

numerous documents. Other non-legally binding instruments developed by the FAO include:

- International Guidelines for the Ecolabelling of Fish and Fisheries Products from Marine Capture Fisheries (2005).
- Recommendations on a Global Record of Fishing Vessels (2010).

While the most relevant instruments in the context of this study are those specifically related to fisheries, the main international framework agreement on biodiversity, the CBD is also central given it is the primary instrument within this field, with the CBD's jurisdiction covering the areas within the limits of jurisdiction of the contracting parties. It also applies in the case of ‘processes and activities, regardless of where their effects occur’ carried out under its jurisdiction or control, within the area of its national jurisdiction or beyond the limits of national jurisdiction. Contracting parties are obliged to implement the CBD with respect to the marine environment in a manner consistent with the rights and obligations of states under UNCLOS.

The ‘Ecosystem Approach to Fisheries’ (EAF) was adopted by the FAO Technical Consultation on Ecosystem-based Fisheries Management in 2002. The EAF is understood as the effort ‘to balance diverse societal objectives by taking into account the knowledge and uncertainties about biotic, abiotic and human components of ecosystems and their interactions, and applying an integrated approach to fisheries within ecologically meaningful boundaries’. With several actors involved in its implementation, the RFMOs are required to undertake actions such as identification of key ecosystems, collection of information, organising specific working and advisory groups; agreement on non-binding measures, and discussing collaboration with the RSCs. The instruments and bodies established to address fisheries and listed above also have a role to play in addressing concerns about the biodiversity of marine animals.

### 2.4. EU policies relevant to fisheries in the regional seas

Sustainable management of the oceans' future is a key priority for the EC. A central principle in EU law requires that environmental considerations be integrated into the definition and development of EU policies and activities, in particular with a view to promoting sustainable development (Article 11 of the Treaty on the Functioning of the European Union, TFEU). As outlined earlier, the EU contributes to shaping international ocean governance, and this section

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81 Namely, Technical Guidelines for Responsible Fisheries, Guidelines to Reduce Sea Turtle Mortality in Fishing Operations (2009) and four International Plans of Action (IPOAs) (on reducing incidental catch of seabirds in longline fisheries (1999); management of fishing capacity (1999); management and conservation of sharks (1999); and IUU fishing (2001))


83 Article 4(a) CBD Convention.

84 Article 4(b) CBD Convention.

85 Article 22(2) CBD Convention.


discusses the main EU policies dealing directly with fisheries and the marine environment, i.e. the CFP, the IUU Regulation, the MSFD and the MSPD.

- **The Common Fisheries Policy (CFP)**

The CFP is a ‘set of rules for managing European fishing fleets and conserving fish stocks, designed to manage a common resource and provide equal access to EU waters and fishing grounds’, allowing fair competition. Competence at the EU level has two dimensions: internal competence, referring to matters internal to the EU, and external competence, which mainly deals with relations with third States and the capacity of the EU to make treaties, both in general and in relation to fisheries. With respect to the EU as a party to the UNCLOS, Member States have transferred competence to it with regard to the conservation and management of the sea fishing resources (...) which applies to waters under national fisheries jurisdiction and to the high seas. The EU thus has competence to adopt the relevant rules and regulations and to enter into external undertakings with third States or competent international organisations. Member States cannot exercise the competence that they have transferred to the EU.

‘Fisheries conservation’ is an exclusive EU competence, as provided in Article 3(1)(d) of the TFEU, which states that the EU ‘shall have exclusive competence in ... the conservation of marine biological resources under the common fisheries policy’. The term ‘marine biological resources’ is defined in the CFP Basic Regulation No 1380/2013 as ‘available and accessible living marine aquatic species, including anadromous and catadromous species during their marine life’, or simply referred to as ‘fisheries resources’. Although the EU has exclusive competence for fisheries conservation, the CFP gives Member States the opportunity to play an active role in designing fisheries conservation measures (so-called regionalisation), delegating some powers to the Member States, including Articles 11, 19 and 20 of the CFP Basic Regulation.

Since its original inception in the early 1970s, the CFP has undergone significant changes, the most recent taking effect on 1 January 2014. Major developments since 2002 include the introduction of the ecosystem-based approach to fisheries management to the CFP, which now forms the basis of all fisheries management plans. A more sophisticated implementation of this approach is the result of the process of strengthening regional ocean governance, itself closely intertwined with further regionalisation of the CFP. The year 2002 moreover saw the establishment of the Regional Advisory Councils (RACs), now renamed ‘Advisory Councils (AC)’, and the European Fisheries Control Agency (EFCA).

There are currently seven Advisory Councils, mainly organised along specific areas. The ACs are so-called stakeholder-led organisations with the objective to provide recommendations on issues of fisheries management to the Commission and the EU Member States. The CFP Basic Regulation sets out requirements for its composition – including ‘organisations representing

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90 R. Churchill and D. Owen (2010), The EC Common Fisheries Policy, Oxford University Press, Chapter 5.
91 EU Declaration available at: [http://www.un.org/depts/los/convention_agreements/convention_declarations.htm#European Community Declaration made upon formal confirmation](http://www.un.org/depts/los/convention_agreements/convention_declarations.htm#European Community Declaration made upon formal confirmation)
92 Article 3 TFEU contains an exhaustive list of exclusive competences, including ‘the conservation of marine biological resources under the Common Fisheries Policy’. Article 4 TFEU states that shared competences relate to areas that are not referred to in Articles 3 and 6 TFEU. This provision applies to, among others, ‘agriculture and fisheries, excluding the conservation of marine biological resources’.
95 These are the Baltic Sea AC; the Long Distance AC; the Mediterranean AC; the North Sea AC; the North-western waters AC; the Pelagic Stocks AC; and the South-western waters AC.
the fisheries, and, where appropriate, aquaculture operations, and the representatives of the processing and marketing sectors; and other interest groups affected by the CFP (e.g. environmental organisations and consumer groups)\textsuperscript{96}. Further details are provided in a Delegated Regulation on the functioning of the ACs\textsuperscript{97}.

The Basic Regulation of 2013 allows for delegated empowerment of Member States in order to enable them to cooperate on issues of common interest. Member States can make joint recommendations to the Commission which then formulates delegated regulations/acts. One requirement in connection with this process is for the ACs to be consulted. The European Parliament is also consulted before the delegated acts enter into force. The Lisbon Treaty establishes the level of co-decision between the European Council and European Parliament. Once the overarching legislative acts are in place and adopted through such co-decision (i.e. the Basic Regulation, the multiannual management plans and the regulation on technical conservation measures), a framework will be available for Member States to work together to develop joint recommendations. TACs and quotas are not subject to co-decision but are decided annually by the Council. According to Article 44 of Regulation 1380/2013 the Commission, where relevant, shall consult the ACs. They shall also be consulted on the Joint Recommendations referred to in Article 18.

The 2005 \textit{Thematic Strategy on the Protection and Conservation of the Marine Environment}\textsuperscript{98}, in describing its efforts on integration, refers to the reform of the CFP and its environmental remediation measures which should benefit biodiversity and allow for the development of synergies with the RACs. As part of the public consultation associated with the 2013 reform, the Commission referred to a move towards regionalisation as a central change. This process was considered ‘specifically relevant for the future use of technical measures as management tools in regionalisation, since part of the problem of the effectiveness of the technical measures is related to the governance structure they operate in\textsuperscript{99}. The new CFP has an increased focus on regionalisation and provides for more extensive stakeholder consultation. The key pillars of the CFP include:

- CFP (or Basic) Regulation (Regulation (EU) 1380/2013).

The CFP Basic Regulation covers activities in relation to the conservation and management of fisheries\textsuperscript{100} in EU waters and by Union vessels outside Union waters, or by Member State nationals without prejudice to flag state responsibilities\textsuperscript{101}. It sets out rules on access to Union waters and measures for the conservation and sustainable exploitation of marine biological resources, including specific measures such as multi-annual plans and the management of fishing capacity.

\textsuperscript{96} Article 45(1) of the CFP Basic Regulation.
\textsuperscript{97} Commission Delegated Regulation (EU) 2015/242 of 9 October 2014 laying down detailed rules on the functioning of the Advisory Councils under the Common Fisheries Policy.
\textsuperscript{100} Article 1(1)(a) of Regulation (EU) 1380/2013.
\textsuperscript{101} Article 1(2) of Regulation (EU) 1380/2013 provides that the CFP shall cover the activities referred to where they are carried out: (a) on the territory of Member States to which the Treaty applies; (b) in Union waters, including by fishing vessels flying the flag of, and registered in, third countries; (c) by Union fishing vessels outside Union waters; or (d) by nationals of Member States, without prejudice to the primary responsibility of the flag State.
Part VI of the CFP Regulation covers the external policy dimension of the CFP. After setting out the objectives of the external policy, Title I discusses 'International fisheries organisations', in particular RFMOs. Title II regulates 'Sustainable fisheries partnership agreements', while Title III concerns the 'management of stocks of common interest'. With more than one-quarter of the fish caught by European fishing boats outside EU waters, this policy is of considerable importance. The EU is a large fisheries power, with not only the world’s biggest market for fisheries products, but also an extensive fleet with a combined capacity of 1.6 million gross tonnes\(^1\)\(^{102}\). It is therefore very much in the interest of the EU to actively promote better international governance of oceans, including sustainable fisheries.

To ensure coherence of the sustainable exploitation, management and conservation of marine biological resources and the marine environment, the external fisheries relations must follow the objectives set out by Article 2 of the CFP Regulation, such as the application of the precautionary approach to fisheries management. According to Article 3, the CFP shall be guided by various principles of good governance, such as 'the clear definition of responsibilities at the Union, regional, national and local levels; and taking into account of regional specificities, through a regionalised approach'\(^1\)\(^{103}\).

The CFP Regulation underlines the need for Member States to cooperate at the regional level 'in order to adopt joint recommendations and other instruments for the development and implementation of conservation measures and measures affecting fishing activity in areas protected by environmental law'\(^1\)\(^{104}\). In a framework of regional cooperation 'the Commission should only adopt conservation measures through implementing acts or delegated acts where all Member States concerned in a region agree on a joint recommendation'\(^1\)\(^{105}\). Article 18, under Title III on 'Regionalisation' regulates regional cooperation on conservation measures. The CFP Regulation also sets out that the Union shall ‘actively support and contribute to the activities of international organisations dealing with fisheries, including RFMOs’\(^1\)\(^{106}\). It goes on to state that the position of the EU in international organisations dealing with fisheries, and in RFMOs, is based on the best available scientific advice, thereby ensuring that the management of fisheries resources is in accordance with the objectives established by Article 2 of the Regulation\(^1\)\(^{107}\). The Union ‘shall seek to lead the process of strengthening the performance of RFMOs so as to better enable them to conserve and manage marine living resources under their purview’\(^1\)\(^{108}\). Finally, Article 29(4) on EU activities in international fisheries organisations lays down the obligation ‘to foster cooperation among RFMOs, and consistency between their respective regulatory frameworks’. The EU shall support the development of scientific knowledge, and provide advice to ensure that recommendations are based on the best available scientific advice.

The effectiveness of the CFP greatly depends on EU Member States ensuring that its rules are followed in practice. Regulation 1224/2009 establishes a system for the control, inspection and enforcement by national authorities of the rules of the CFP\(^1\)\(^{109}\). Regulation 404/2011 requires the mandatory use of IMO numbers from 1 January 2016 for EU ships (or ships controlled by Community operators under a charter agreement) of more than 100 gross tonnes or 24 metres in length operating exclusively in EU waters and for EU vessels of more than 15

\(^{103}\) Article 3 Regulation (EU) 1380/2013 on the CFP.
\(^{104}\) Recital 39 to Regulation (EU) No 1380/2013 on the CFP.
\(^{105}\) Ibid.
\(^{106}\) Article 29(1) Regulation (EU) No 1380/2013 on the CFP.
\(^{107}\) Article 29(2). Specific reference is made to Article 2(2) on the application of the precautionary principle, as well as Article 2(5)(c) providing that the CFP shall provide conditions for economically viable and competitive fishing capture and the processing industry.
\(^{108}\) Article 29(1) Regulation (EU) No 1380/2013 on the CFP.
metres in length operating outside Community waters. Non-EU countries are also subject to this obligation.

EFCA has the objective to organise the ‘operational coordination of fisheries control and inspection activities by the Member States and to assist them to cooperate so as to comply with the rules of the CFP in order to ensure its effective and uniform application’110. This includes the coordination of the implementation of the international scheme of joint fisheries inspection in the EU.

There have been efforts towards greater involvement of stakeholders in the implementation of the CFP, as well as towards management at a more regional level. Advisory Councils (ACs) (previously RACs under the earlier CFP Basic Regulation) provided fishermen with ‘a greater say in decisions affecting them.’ The RACs consisted of ‘fishermen, scientific experts, representatives of other sectors related to fisheries and aquaculture, regional and national authorities, environmental groups and consumers’111.

ACs were given an enhanced role under the new CFP Basic Regulation112. While the previous instalment of the CFP Basic Regulation allowed Member States and the EC to consult the RACs to seek advice on various issues, the updated Regulation obliges Member States and the EC to consult ACs, as well as copper-fastening the process to be followed with respect to the advice provided113. ACs are composed of ´organisations representing the fisheries and, where appropriate, aquaculture operators, and representatives of the processing and marketing sectors’ as well as ´other interest groups affected by the CFP (e.g. environmental organisations and consumer groups)´114.

**The IUU Regulation**

The CFP Regulation makes frequent reference to the problem of illegal, unreported and unregulated (IUU) fishing. The concept of IUU fishing - which consists of the three components described below115 - is complex and affects many stakeholders, from the individual artisanal fisheries in national waters, to fishing fleets in Exclusive Economic Zones (EEZs)116 and the high seas, and fish processors and fisheries’ managers in developed and developing countries117.

- **Illegal fishing** activity is usually expressed as fishing without a licence in an EEZ. This can apply to national vessels, to vessels licensed to fish in an adjacent area that have crossed the boundary into another area, and to vessels fishing on the high seas that cross the boundary for the same purpose. However, there are other types of illegal fishing activity.

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112 Regulation (EU) No 1380/2013. Article 43 of the CFP Regulation establishes an AC for the Black Sea (the other regional seas already being covered).
113 For example, Article 44 of the CFP Regulation (on the tasks of ACs) provides that the ACs ‘shall be consulted on joint recommendations pursuant to Article 18 [on regionalisation] and that they may also be consulted by the Commission and by Member States in respect of other measures. Their advice shall be taken into account. Those consultations shall be without prejudice to the consultation of STECF or other scientific bodies’.
114 Article 45 Regulation (EU) No 1380/2013 on the CFP.
116 EEZ under the Law of the Sea is a sea area over which a state has sovereign rights for exploration and use of marine resources, including fisheries. It stretches 200 nm from the coast (baselines).
117 Institute for European Environmental Policy (2011), An independent review of the EU illegal, unreported and unregulated regulations.
fishing which may be undertaken by otherwise legally licensed vessels. Licensed vessels may still fish illegally by contravening the terms and conditions of their licence, for example using illegal gear, catching fish over the allocated quota, fishing in closed areas and/or seasons, exceeding by-catch limits, non- or partial reporting of data, or submission of erroneous data.

- **Unreported fishing**: Misreporting, or failing to report, catch and other data may constitute both illegal and unreported fishing. The description in the FAO’s IPOA-IUU\(^{118}\) indicates that unreported fishing may not necessarily be illegal, although it should also be considered as such where reporting obligations form part of national laws and regulations or licence conditions.

- **Unregulated fishing** is described in the IPOA-IUU as including fishing on the high seas by ‘free riders’, i.e. vessels of flag States that are non-members of RFMOs.

The CFP Regulation provides that the EU should cooperate with third countries and international organisations to improve compliance with international measures and combat IUU fishing\(^ {119}\). The eradication of IUU fishing is listed as one of the specific objectives of the external policy\(^ {120}\). For this purpose, the EU – including through the EFCA – shall cooperate with international organisations dealing with fisheries, including RFMOs\(^ {121}\).


The IUU Regulation seeks to prevent IUU fisheries products from third countries entering the EU market. This restriction of imports is accomplished by establishing a system based on the following measures: port state control of third country vessels; Community Alert System; Community IUU vessel list based on those identified by RFMOs; non-cooperating third countries list; catch certification requirements for all fisheries products; and enforcement measures and sanctions.

- **Marine Strategy Framework Directive (MSFD)**

The MSFD\(^ {122}\) followed the 2005 *Thematic Strategy on the Protection and Conservation of the Marine Environment*\(^ {123}\), which highlighted the overall governance framework as a key issue\(^ {124}\). The MSFD aims to achieve GES of European marine waters by the year 2020 through an ecosystem-based approach to the management of human activities and an integrated, coordinated, approach at regional and sub-regional level\(^ {125}\).

\(^{118}\) International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing, FAO 2001.

\(^{119}\) Recital 50 of Regulation (EU) No 1380/2013 on the CFP.

\(^{120}\) Article 28 (2)(e) Regulation (EU) No 1380/2013 on the CFP.

\(^{121}\) Article 30 Regulation (EU) No 1380/2013 on the CFP.


\(^{125}\) Article 1(1) of Directive 2008/56/EC.
As such, the MSFD complements and provides the overarching framework for a number of other key Directives, including the Habitats Directive\(^{126}\), the Birds Directive\(^{127}\) and the Water Framework Directive\(^{128}\). As is often the case with European environmental legislation, success in reaching the goal set by the MSFD will strongly depend on the degree of cooperation among Member States (either directly or through regional organisations) to address transboundary pollution effects and other pressures, including those stemming from human activities, or to exchange good practices in setting protection and prevention measures and monitoring progress.

Annex 1 to the MSFD establishes 11 qualitative descriptors for determining GES. Although all are interrelated, two of these descriptors refer explicitly to fish:

- Populations of all commercially exploited fish and shellfish are within safe biological limits, exhibiting a population age and size distribution that is indicative of a healthy stock (3); and
- Contaminants in fish and other seafood for human consumption do not exceed levels established by Community legislation or other relevant standards (9).

Long before the MSFD was developed and adopted, Member States acknowledged the need to coordinate action among themselves and with non-EU Member States to protect the marine environment and conserve its biodiversity. The issue was addressed through the creation of the four RSCs that cover all of the marine waters of the EU, i.e. HELCOM, the OSPAR Commission, UNEP/MAP, and the Black Sea Commission, which have continuously strengthened their capacities and influence, and repeatedly demonstrated the need for a coordinated intergovernmental approach to the protection of the marine environment at the regional level.

While the core requirement of the MSFD to develop a marine strategy is the responsibility of the individual Member States, Article 5(2) of the MSFD clearly states that the development and implementation of its different components should encompass a coherent and coordinated approach within each marine region and sub-region and across the different European marine regions. In addition, Article 6 provides the legal basis for the involvement of the RSCs in the implementation of the MSFD. It recognises the contribution of these existing structures to facilitating coherence across and between the Member States of a single marine region, as well as with third countries sharing the same marine waters and, where appropriate, landlocked countries in the catchment area of the same marine region or sub-region. The MSFD also requires coordination with the activities of the RSCs for most of the milestones set out for development of marine strategies. The box below summarises the requirement for the Member States to take into account, build upon or integrate the RSCs’ work when implementing the MSFD.

- Member States are required to take into account assessments carried out jointly in the context of RSCs when preparing the initial assessment and to ensure that the methodologies used are consistent across the marine regions or sub-regions and transboundary impacts are considered (Articles 8(2) and 8(3)).
- The Commission should consult with RSCs when developing standards and methodological criteria on GES (Article 9(3)).

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• Member States must ensure that their environmental targets are compatible with the objectives to which the EU and the Member States have committed under relevant international agreements (including regional agreements) (Article 10(1)).

• When developing monitoring programmes, Member States should build upon and ensure compatibility with relevant provisions laid down under international agreements (Article 11(1)).

• When devising their Programmes of Measures (PoMs), Member States should integrate the relevant measures required under international agreements, in particular spatial protection measures (Article 13(4)).

In line with the CFP move towards an approach geared towards the sustainability of fisheries and aquaculture, the CFP Regulation and the MSFD acknowledge the complementarity and synergies between the two policies. The CFP Regulation provides that ‘the CFP should contribute to the protection of the marine environment, to the sustainable management of all commercially exploited species, and in particular to the achievement of GES by 2020, as set out in Article 1(1) of the MSFD’129. The MSFD underlines that ‘should contribute to coherence between different policies and foster the integration of environmental concerns into other policies, such as the Common Fisheries Policy’130, while the Common Fisheries Policy […] should take into account the environmental impacts of fishing and the objectives of this Directive’.

• **The Maritime Spatial Planning Directive (MSPD)**

The MSPD131 was adopted in 2014 as a key implementation tool of the MSFD, part of the EU cross-cutting Integrated Maritime Policy132. The MSPD works ‘across borders and sectors to ensure that human activities at sea take place in an efficient, safe and sustainable way.’133 The MSPD takes an ecosystem based approach, directed towards reducing and managing the collective pressure of maritime activities in a given sea area, while also maintaining good environmental status (GES). The main benefits of the MSPD are envisaged to be: (1) reduced conflicts; (2) higher rate of investments; (3) increased cross-border cooperation and (4) environmental protection.134 The EU supports the implementation of the MSPD through several avenues such as:

• Technical support through the Assistance Mechanisms for maritime spatial planning (MSP)135;

• Funding maritime spatial planning cross-border projects (e.g. Plan Bothnia; BaltSeaPlan; TPEA; ADRIPLAN; SIMCELT; Baltic SCOPE; MARSPLAN; SIMNORAT; SIMWESTMED; SUPREME)136

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129 Recital 11 of Regulation (EU) No 1380/2013 on the CFP.
130 Recitals 9 and 40 of Directive 2008/56/EC.
134 Ibid.
In the European Commission Joint Communication on the Future of our Oceans (2016), three priority areas are mentioned, one of which is connected to the MSPD, namely 'reducing human pressure on the oceans and creating the conditions for a sustainable blue economy'. The MSPD can therefore organise the marine uses within a particular marine area, including 'the designation, management and networking of MPAs'.

The growth of particular sectors, such as offshore wind development, shipping, coastal tourism and the protection of marine areas, contributed to the increased popularity and use of MSPD. With respect to traditional maritime activities, such as fisheries, the MSPD has the capability to create synergies with other sectors and work towards a multi-use of marine space.

The MSPD is relatively new; Member States had to transpose the Directive and nominate their Competent Authority by 2016 and must establish maritime spatial plans by 2021. These are maps of marine areas, which 'set out, on a spatial and temporal basis, the types of marine activities that will take place in different areas of the sea'. Also, in 2017, the EC, together with relevant actors, will develop proposals for international guidelines for the promotion of MSP. However, while the MSPD is a useful framework to coordinate and improve the sustainability of various economic uses of the marine environment, the Directive does not cover integrated coastal zone management (ICZM) issues, i.e. aspects linked to terrestrial planning are excluded from the scope, including when applied ‘to coastal waters or parts thereof’. The Directive only requires the Member States to 'take into account' the land-sea interface as part of their MSP. Aspects linked to coastal zone management are only subject to the 2002 Council Recommendation on ICZM. The EU has also ratified the Protocol on Integrated Coastal Zone Management in the Mediterranean, concluded under the Barcelona Convention. In other words, all aspects linked to coastal zone management, including planning, falls chiefly under the competence of the individual Member States.

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141 Recital 17 of the MSPD.

3. NORTH EAST ATLANTIC

KEY FINDINGS

- Key pressures include fishing activities in particular overfishing, bottom trawling, discards and the capture of non-target species). Other pressures include maritime traffic transport, land-based sources pollution and offshore activities.

- The North-East Atlantic Fisheries Commission (NEAFC) is the competent Regional Fisheries Management Organisation (RFMO) within the North East Atlantic; it mainly regulates fishing activities within the high seas beyond national jurisdictions, including the protection of vulnerable marine ecosystems (VMEs) through the closing of marine areas. The International Commission for the Conservation of Atlantic Tunas (ICCAT) holds the competence in regulating the fishing of tuna and tuna-like fish species as well as any shark species associated with such fisheries, whereas the North Atlantic Salmon Conservation Organisation (NASCO) covers Atlantic salmon fisheries. NEACF defers to the decisions made by ICCAT and NASCO.

- The majority of the fishing activities of fish stocks regulated by NEAFC take place within the waters under national jurisdiction, meaning that the coastal states (in practice the Common Fisheries Policy (CFP)) have a major role in the decisions-making process in relation to these stocks leaving NEAFC with a limited role in decision-making in respect of the management of these stocks.

- The work of the OSPAR Commission aims to establish an ecosystem approach to an integrated management of human activities in the oceans. While NEAFC historically focused on the management of target species, it now broadened its focus to also cover the effects of fisheries on the other parts of the marine ecosystem and on the protection of biodiversity. Conversely, the OSPAR Commission acts as a regional advocate for fisheries management, e.g. by producing Quality Status Reports on the marine environment and highlighting impacts of fisheries on marine species and habitats within the North East Atlantic – however, it is not involved in fisheries management as such. This makes the NEACF and OSPAR two complementary organisations. Although they have different (non-overlapping) legal mandates, they show overlap in their overall activities\textsuperscript{143}. OSPAR and NEAFC established an MoU in 2008 – which was complemented by a collective arrangement in 2014.

- The collective arrangements can be considered a good example of improvement of the information sharing within the existing mandates- resulting into increased cooperation at the national and regional level.

- As highlighted during the consultation the collective arrangement can be considered an example that enhanced information sharing, based on the existing mandates, can significantly improve the process of ocean governance. Coordination between the secretariats as such is not considered sufficient as the Contracting Parties are actually the driving force in the information sharing process. This process can result in an ‘upward spiral’ where mutual information sharing at the national and regional level is intensified.

This chapter focuses on the North East Atlantic, starting with a brief overview of its characteristics, together with the main pressures or human activities that currently affect the area. The

following sections assess the role played by fisheries in regional ocean governance. It describes the key institutions (including the RFMOs and RSCs that are applicable) as well their mechanisms of cooperation and coordination in the context of fisheries management. Where relevant, interaction with selected EU policies that are relevant to fisheries is discussed.

### 3.1. Characteristics and main pressures

As discussed in the introduction, this area is commonly referred to as the North Eastern Atlantic, including under the RSC OSPAR Commission. However, the North Eastern Atlantic also includes the sub-region ‘Arctic waters’ which apart from the Faroe Islands (Denmark) does not cover any waters under EU jurisdiction. Hence, this report focuses on all other OSPAR sub-regions, which are referred to here as all North East Atlantic waters.

Overall, the North East Atlantic Ocean\(^\text{144}\) covers a large area along the west coast of Europe. It comprises a wide range of underwater topography, from deep ocean basins in the open Atlantic, to shallow shelf seas\(^\text{145}\). Coastal habitats include rocky shores, sand dunes, estuaries and even fjordic sea lochs in the North. Fish fauna in the region are particularly diverse and some important habitats can be found for migratory birds\(^\text{146}\). The area can be separated into three sub-regions, a division which is also applied by the OSPAR Commission: the greater North Sea; the Celtic Seas; and the Bay of Biscay and Iberian Coast\(^\text{147}\).

Marine biodiversity is significantly impacted and threatened by fishing activities, such as overfishing, bottom trawling, discards and catch of non-target species. The European Environment Agency (EEA) pointed to the lack of sustainable fisheries management as a factor that contributes to a number of endangered species in the North East Atlantic area\(^\text{148}\). It underlined that the problem is caused by the lack of catch data, information about the impacts of fisheries on other organisms and the insufficient amount of monitoring programmes for the sustainable management of fish stocks within the region\(^\text{149}\).

Fisheries notwithstanding, the North East Atlantic experiences marine pollution from various human activities. For example, eutrophication, contaminants such as hazardous substances, radioactive substances, offshore substances and dumping of waste.\(^\text{150}\) Nutrient enrichment and pollution originating from agricultural discharges and urban waste water cause eutrophication and the contamination of marine waters\(^\text{151}\). However, these pressures mostly occur in the North Sea and in the shallow waters along the western European coast; therefore, they are not an ecological concern in the open ocean\(^\text{152}\). Urban waste water is a serious issue in the Greater North Sea, given that it is surrounded by densely populated, highly industrialised countries\(^\text{153}\). Agricultural activities contribute significantly to nutrient enrichment, given that

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\(^{144}\) Mostly, this region is referred to as the ‘North Eastern Atlantic’, including under the RSC OSPAR Commission. However, the North Eastern Atlantic also includes the sub-region ‘Arctic waters’ which apart from the Faroe Islands (Denmark) does not cover any waters under EU jurisdiction. Hence, the analysis the focus lay more on all other OSPAR sub-regions, which are referred to here as all North East Atlantic waters.


\(^{147}\) Ibid.


\(^{149}\) Ibid.


\(^{151}\) Internal working document on Member State reporting under Article 8 of the MSFD (pressures reference list).


\(^{153}\) Ibid.
the coastal zones of the Greater North Sea and Bay of Biscay are farmed intensively\textsuperscript{154}. Offshore activities, such as oil and gas exploitation and renewable energy structures, are also important to the North East Atlantic region. These activities usually coincide with offshore construction activities and the laying of underwater pipelines, which if not properly regulated, can lead to damage or removal of underwater habitats, and noise and light pollution, disturbing marine species and causing marine pollution\textsuperscript{155,156}.

Most of these pressures and their related impacts are addressed by the OSPAR Commission (whose role within regional governance of fisheries is only advisory and discussed in more detail in the next section) in the North East Atlantic. OSPAR has established a North East Atlantic Environment Strategy (NEAE Strategy) for 2010 to 2020, during which time it aims to address the major threats in the its region.

Table 1 provides an overview of the different pressures and their regulating institutions in view of their mandates and geographical competence. Table 2 presents a similar overview, focusing on the main impacts caused by these pressures.

**Table 1: North East Atlantic Region: key uses of the European regional seas that require regulation**

<table>
<thead>
<tr>
<th>Key use</th>
<th>Institution</th>
<th>Substantive competence</th>
<th>Geographical competence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fisheries</td>
<td>North East Atlantic Fisheries Commission (NEAFC)</td>
<td>• Ensure the long-term conservation and optimum utilization of the fishery resources within its area of competence, providing sustainable economic, environmental and social benefits\textsuperscript{157}. • Protection of VMEs through closed areas\textsuperscript{158}.</td>
<td>High seas and national waters\textsuperscript{159}.</td>
</tr>
<tr>
<td></td>
<td>International Commission for the Conservation of Atlantic Tunas (ICCAT)</td>
<td>• Cooperation with the aim of management and conservation of tuna and related species at levels of maximum sustainable yield; • Study on the populations of tuna and tuna-like fish; • Recommendations designed to maintain the populations of tuna and tuna-like fish; • Allocation fishing possibilities; • Compilation of data for other fish species that are caught during tuna fishing (&quot;bycatch&quot;, principally sharks) in the Convention area.</td>
<td>All waters of the Atlantic Ocean, including the adjacent Seas\textsuperscript{160}.</td>
</tr>
</tbody>
</table>

\textsuperscript{154} Internal working document on Member State reporting under Article 8 of the MSFD (pressures reference list).
\textsuperscript{155} European Environment Agency, The North-east Atlantic Ocean.
\textsuperscript{156} Internal working document on Member State reporting under Article 8 of the MSFD (pressures reference list).
\textsuperscript{157} Article 2 Convention on future multilateral cooperation in North East Atlantic fisheries.
\textsuperscript{158} A map of ‘NEAFC Regulatory Area Showing Existing Fishing Areas and All Closures’ is available at: https://www.neafc.org/page/closures
\textsuperscript{159} FAO, North-East Atlantic Fisheries Commission (NEAFC), available at: http://www.fao.org/fishery/rfb/neafc/en
\textsuperscript{160} The scope also covers those parts of the Atlantic and Arctic Oceans and their dependent seas which lie north of 36\degree north latitude and between 42\degree west longitude and 51\degree east longitude, but excluding areas described under Article 1(a)(1) (i) and (ii)).
<table>
<thead>
<tr>
<th>Key use</th>
<th>Institution</th>
<th>Substantive competence</th>
<th>Geographical competence</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(North Atlantic Salmon Conservation Organization) NASCO</td>
<td>• Contribute through consultation and cooperation to the conservation, restoration, enhancement and rational management of salmon stocks&lt;sup&gt;161&lt;/sup&gt;.</td>
<td>National waters (after 12 nm from the baseline) and high seas&lt;sup&gt;162&lt;/sup&gt;.</td>
</tr>
<tr>
<td></td>
<td>OSPAR Commission</td>
<td>• Established a list of threatened and/or declining species and habitats used for setting priorities for further conservation and marine biodiversity protection;</td>
<td>The internal waters and the territorial seas of the Contracting Parties, the sea beyond and adjacent to the territorial sea under the jurisdiction of the coastal state to the extent recognised by international law, and the high seas, including the bed of all those waters and its sub-soil&lt;sup&gt;165&lt;/sup&gt;.</td>
</tr>
<tr>
<td></td>
<td>Atlantic Arc Commission - Fisheries and Aquaculture working group:</td>
<td>• Promote sustainable and innovative exploitation of marine resources;</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>• Promote dialogue between all users of the North Sea to facilitate policy integration.</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>Atlantic Arc Commission - Fisheries and Aquaculture working group:</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>• Follow up the implementation of the Common Fisheries Policy.</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>• Identify common challenges and</td>
<td></td>
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</tbody>
</table>

<sup>161</sup> Article 3(2) of the Convention.

<sup>162</sup> Article 2(1) provides that: Fishing of salmon is prohibited beyond areas of fisheries jurisdiction of coastal States. Article 2(2) continues that: Within areas of fisheries jurisdiction of coastal States, fishing of salmon is prohibited beyond 12 nautical miles from the baselines from which the breadth of the territorial sea is measured, except in the following areas: (a) in the West Greenland Commission area, up to 40 nautical miles from the baselines; and (b) in the North East Atlantic Commission area, within the area of fisheries jurisdiction of the Faroe Islands.

<sup>163</sup> Art. 2, Annex V, available at: <https://www.ospar.org/work-areas/bdc>


<sup>165</sup> The limits provided by Article 1(a)(i) and (ii) include (i) those parts of the Atlantic and Arctic Oceans and their dependent seas which lie north of 36° north latitude and between 42° west longitude and 51° east longitude, but excluding: (1) the Baltic Sea and the Belts lying to the south and east of lines drawn from Hasenore Head to Gníben Point, from Korsø to Spødsbjerg and from Gilbjerg Head to Kullen, (2) the Mediterranean Sea and its dependent seas as far as the point of intersection of the parallel of 36° north latitude and the meridian of 5° west longitude; (ii) that part of the Atlantic Ocean north of 59° north latitude and between 44° west longitude and 42° west longitude.
## Regional ocean governance in Europe: the role of fisheries

<table>
<thead>
<tr>
<th>Key use</th>
<th>Institution</th>
<th>Substantive competence</th>
<th>Geographical competence</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Fisheries and Aquaculture working group)¹⁶⁶ ¹⁶⁷</td>
<td>OSPAR Commission</td>
<td>Developed guidance on environmental considerations for the development of offshore wind farms; Put voluntary guidelines for the shipping industry in place; Monitors the development of offshore installations and maintains the OSPAR Oil &amp; Gas Offshore inventory¹⁶⁸. Regulates pollution from operational activities; Established bans on leaving platforms in the sea after their operational life.</td>
<td>As above</td>
</tr>
<tr>
<td>Transport, energy and industry</td>
<td>CPMR - North Sea Commission and Atlantic Arc Commission - Transport Working Groups</td>
<td>North Sea Commission – Transport Working Group Support measures and incentives to promote clean transport incl. clean shipping Atlantic Arc Commission – Transport Working Group: Promote a more balanced development of the transport networks in the EU Follow up the implementation of the Atlantic Corridor and support the development of the Motorways of the Sea with a view to encourage sustainable and efficient transport in the Atlantic Area. North Sea Commission – Energy and Climate Change Working Group Focusing on: (1) promoting innovations and growth in low-carbon technology in various sectors; (2) develop a hydrogen strategy (3) North Sea grid.</td>
<td>As above</td>
</tr>
</tbody>
</table>


¹⁶⁸ OSPAR Commission, work areas, available at: [https://www.ospar.org/work-areas](https://www.ospar.org/work-areas)
### Key use

<table>
<thead>
<tr>
<th>Institution</th>
<th>Substantive competence</th>
<th>Geographical competence</th>
</tr>
</thead>
</table>
| CPMR North Sea Commission – Culture and Tourism working group | North Sea Commission – Culture and Tourism working group:  
- Development of sustainable North Sea tourism;  
- Identify opportunities for culture and tourism and provide cooperation framework.\(^{169}\) | As above |
| CPMR North Sea Commission – Culture and Tourism working group | Atlantic Arc Commission – Atlantic Tourism and Culture working group  
- Foster cooperation between the Atlantic Regions in the sector of tourism and culture | As above |

### Table 2: North East Atlantic region: key human impacts on the European regional seas that require regulation

<table>
<thead>
<tr>
<th>Key impact</th>
<th>Institution</th>
<th>Substantive competence</th>
<th>Geographical competence</th>
</tr>
</thead>
</table>
| Environmental impacts | **OSPAR Commission** | - Monitoring and assessment;  
- Management of specific human pressures\(^{170}\); | As above in Table 1. |
| | **North Atlantic Marine Mammal Commission (NAMMCO)** | Contribute through regional consultation and cooperation to the conservation, rational management and study of marine mammals in the North Atlantic\(^{171}\). | North Atlantic Ocean\(^{172}\). |
| Pollution | **OSPAR Commission** | - Regulate pollution activity and take all possible steps to prevent and eliminate pollution and take and shall take the necessary measures to protect the maritime area against the adverse effects of human activities so as to safeguard human health and to conserve marine ecosystems and, when practicable, restore marine areas which have been adversely affected;  
- Cooperate in adopting programmes and measures for | As above in Table 1. |

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\(^{169}\) CPMR North Sea Commission, available at: https://cpmr-northsea.org/policy-work/attractive-sustainable-communities/culture-tourism-working-group/


\(^{171}\) Article 2 of the Agreement on Cooperation in Research, Conservation and Management of Marine Mammals in the North Atlantic.

\(^{172}\) Ibid.
3.2. Fisheries and ocean governance

This section describes the key actors within fisheries and ocean governance in the North East Atlantic, highlighting their interactions as well as links to relevant EU policy affecting fisheries.

<table>
<thead>
<tr>
<th>Key impact</th>
<th>Institution</th>
<th>Substantive competence</th>
<th>Geographical competence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Climate change</td>
<td>CPMR (North Sea Commission)</td>
<td>Tackling climate change is a priority focus of the North Sea Commission’s North Sea Region 2020 Strategy</td>
<td>As above in Table 1.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>RSC/RFMO</th>
<th>Substantive competence</th>
<th>Geographical competence</th>
</tr>
</thead>
<tbody>
<tr>
<td>RSC</td>
<td>OSPAR Convention Protect the North-East Atlantic’s marine environment.</td>
<td>The internal waters and the territorial seas of the Contracting Parties, the sea beyond and adjacent to the territorial sea under the jurisdiction of the coastal state to the extent recognised by international law, and the high seas, including the bed of all those waters and its sub-soil.</td>
</tr>
<tr>
<td>RFMO</td>
<td>NEAFC Ensure the long-term conservation and the optimum utilization of the fisheries resources, within its area of competence, providing sustainable economic, environmental and social benefits.</td>
<td>High seas are covered by the ‘Regulatory area’ (those parts of the Atlantic and Arctic Oceans and their dependent seas which lie north of 36° North latitude and between 42° west longitude and 51° east longitude, but excluding areas described under Article 1(a)(1) (i) and (ii)). The ‘Convention Area’ means the areas: (1) within those parts of the Atlantic and Arctic Oceans and their dependent seas which lie north of 36° north latitude and between 42° west longitude and 51° east longitude, but excluding: (i) the Baltic Sea and the Belts lying to the south and east of lines drawn from Hasenore Head to Gniben Point, from Korshage to Spodsbjerg and from Gilbjerg Head to Kullen, (2) the Mediterranean Sea and its dependent seas as far as the point of intersection of the parallel of 36° north latitude and the meridian of 5° 36’ west longitude; (ii) that part of the Atlantic Ocean north of 59° north latitude and between 44° west longitude and 42° west longitude.</td>
</tr>
</tbody>
</table>
The North-East Atlantic Fisheries Commission (NEAFC)

The North-East Atlantic Fisheries Commission (NEAFC) is the RFMO for the North East Atlantic; it is also the main competent body for fisheries management in the North East Atlantic region (apart from tuna and salmon fisheries\(^ {182} \)). Its contracting parties include Denmark (with respect to the Faroe Islands and Greenland), the EU, Iceland, Norway and the Russian Federation\(^ {183} \). With fisheries being an exclusive competence to the EU, the EU represents the EU Member States.

The NEAFC was established by the 1980 Convention on Future Multilateral Cooperation in the North-East Atlantic Fisheries, replacing the 1959 North-East Atlantic Fisheries Convention\(^ {184} \). The NEAFC’s objective is to ensure the long-term conservation and optimum utilisation of the fisheries resources in the Convention area, providing sustainable economic, environmental and social benefits\(^ {185} \). To this end, it provides a forum for the Contracting Parties to adopt management measures for various fish stocks, together with control measures to ensure their proper implementation.

The substantive competence of the NEAFC applies to the ‘regulatory area’ (high seas) primarily; nevertheless, it can be extended into coastal states’ maritime zones within their convention

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\(^{178}\) UNEP (2016), Regional Oceans Governance, Making Regional Seas Programmes, Regional Fishery Bodies and Large, Marine Ecosystem Mechanisms Work Better Together, Nairobi, Kenya. p. 35.

\(^{179}\) Article I International Convention for the Conservation of Atlantic Tunas (ICCAT).

\(^{180}\) Article 2(2) of the Convention.

\(^{181}\) Article 2(1) provides that: Fishing of salmon is prohibited beyond areas of fisheries jurisdiction of coastal States. Article 2(2) continues that: Within areas of fisheries jurisdiction of coastal States, fishing of salmon is prohibited beyond 12 nautical miles from the baselines from which the breadth of the territorial sea is measured, except in the following areas: (a) in the West Greenland Commission area, up to 40 nautical miles from the baselines; and (b) in the North East Atlantic Commission area, within the area of fisheries jurisdiction of the Faroe Islands.

\(^{182}\) The management of tuna and tuna-like species, as well as Atlantic salmon species, fall under the mandates of ICCAT and NASCO respectively (discussed below).


\(^{185}\) Ibid.
area at the request of the relevant coastal state (Convention area). The main fish stocks that are regulated by the NEAFC are herring, blue whiting, mackerel, redfish, haddock and deep-sea species. The majority of the fishing activities of these species takes place within the waters under national jurisdiction. This means that in practice decisions on stocks within the jurisdiction of NEAFC Contracting Parties are taken mainly by a Coastal State. The 2006 Performance Review of NEAFC, in this regard, noted that in the case of the Regulatory Area, while NEAFC has a decision-making role in terms of the management of resources, in practice decisions on a number of stocks are made outside NEAFC. This leaves NEAFC with a limited residual role in decision-making in respect of the management of stocks.

Recommendations can be made on the basis of Articles 5 and 6 of the Convention. The decision making procedure is set out in Article 3(9) of the Convention. According to Article 5, the Commission shall make recommendations concerning fisheries conducted beyond the areas under jurisdiction of Contracting Parties. These recommendations shall be adopted by a qualified majority. In exercising this option, the Commission is obliged to ensure consistency between any recommendation that applies to a stock or group of stocks occurring both within an area under the jurisdiction of a contracting party and beyond, or any recommendation that would have an effect through species inter-relationships on a stock or group of stocks occurring in whole or in part within an area under the jurisdiction of a contracting party. Consistency must be ensured between the measures and the decisions taken by the Contracting Parties for the management and conservation of that stock, or group of stocks, with respect to fisheries within the area under its jurisdiction.

Article 6 provides that the Commission can make recommendations concerning fisheries conducted within an area under jurisdiction of a Contracting Party, provided that the Contracting Party in question so requests and the recommendation receives its affirmative vote. Contracting parties have the possibility to object to recommendations and thereby be unbound by them.

It was mentioned during the consultation that objections to recommendations by contracting parties are in principle not made to avoid quotas or restrictions, but largely for reasons linked to incompatibility with implementation of policies of the contracting party or a misfit with existing measures established by the contracting party. An example is the 2010 Recommendation regarding a ban prohibiting discards in the NEAFC regulatory area, which is not binding on the EU. As in 2015 the Commission adopted its own discard ban and landing obligation for the North Sea.

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186 UNEP (2016), Regional Oceans Governance, Making Regional Seas Programmes, Regional Fishery Bodies and Large, Marine Ecosystem Mechanisms Work Better Together, Nairobi, Kenya. p. 35.
189 Ibid.
190 Ibid.
191 Decisions are to be adopted by simple majority unless a qualified majority is specifically required. The adoption of recommendations on management measures (Article 5 (2)), the adoption of control measures (Article 8(1)) and on the collection of statistical information (Article 9(1)) that apply to areas beyond the fisheries jurisdiction of the Contracting Parties shall be adopted by qualified majority. See also the Performance Review Panel Report of the North East Atlantic Fisheries Commission, NEAFC (2006), p. 43-44.
192 Article 5(2)(a) of the Convention on future multilateral cooperation in North East Atlantic Fisheries.
193 Ibid.
194 Article 6(1) of the Convention on future multilateral cooperation in North East Atlantic Fisheries.
196 Rec 16 2010: Discards ban 2010 (Recommendation by the North-East Atlantic Fisheries Commission in accordance with Article 5 of the Convention on future multilateral cooperation in the North-East Atlantic Fisheries at its annual meeting in November 2009 for a ban on discards in the NEAFC Regulatory Area, available at: https://www.neafc.org/rec/2010/16
The EU as contracting party agreed to comply with its recommendations and with other actions. Within the decision making process of NEAFC, the role of the EU is similar to the role and function of the other contracting parties - presenting one position. After the adoption of recommendations, EU legal acts aim to transpose the output of the NEAFC directly\(^\text{198}\). NEAFC’s committees and working groups are composed of experts from NEAFC Contracting Parties. Throughout the course of a given year, these groups meet to discuss and take decisions about their respective areas of competence. As a contracting party to the NEAFC, the EU is represented by the EC during meetings and in negotiations.

The NEAFC moreover adopts measures to protect other parts of the marine ecosystem from the potential negative impacts of fisheries. Examples of technical measures introduced by the NEAFC Commission include\(^\text{199}\):

- The regulation of fishing gear and appliances, including mesh size limitations.
- The establishment of closed seasons and closed areas, mostly based on the identification of Vulnerable Marine Ecosystems (VME)\(^\text{200}\).
- The improvement and increase of fisheries resources, including limits on the use of certain types of fishing gear.
- The establishment of total allowable catch and allocation to contracting parties.
- The regulation of the amount of fishing effort and allocation to contracting parties.

In addition to the establishment of conservation and management measures, NEAFC implements a ‘Scheme of Control and Enforcement’, which covers inspection at sea; implementation of vessel monitoring systems; port state control measures; ensuring compliance by non-contracting party vessels; and the establishment of procedures to combat IUU fishing\(^\text{201}\). The NEAFC considers IUU fishing to be a serious threat to biodiversity and aims to combat those activities through monitoring, control or surveillance (MCS) measures\(^\text{202}\).

Within the EU, the European Fisheries Control Agency (EFCA) coordinates the implementation of the EU’s obligations as a contracting party, as defined in the NEAFC Convention and the NEAFC scheme of control and enforcement. The EFCA supports the EU Member States with ensuring the effective implementation of the NEAFC recommendations. It provides an organisational framework for, and operational control of, activities within the NEAFC regulatory area, developed in collaboration with the relevant Member States – referred to as the Joint Development Plan (JDP)\(^\text{203}\).

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\(^{199}\) Article 7 of the Convention on future multilateral cooperation in North East Atlantic Fisheries.

\(^{200}\) North East Atlantic Fisheries Commission, Managing Fisheries, available at: http://www.neafc.org/managing_fisheries


\(^{202}\) North East Atlantic Fisheries Commission, IUU Fishing and MCS Effort, available at: http://www.neafc.org/mcs

\(^{203}\) Since 2009, several Member States participated in the NEAFC JDP and collaborated in the implementation of NEAFC rules through a system of joint sea campaigns. These campaigns are planned on an annual basis, implemented and assessed collaboratively, between the Member States, the EC and the EFCA. European Fisheries Control Agency, NEAFC, available at: http://www.efca.europa.eu/en/content/neafc
The OSPAR Commission

The OSPAR Commission was adopted in 1992. It is an intergovernmental organisation in which 15 States and the EU cooperate to protect the North East Atlantic’s marine environment. OSPAR started on the basis of the 1972 Oslo Convention against dumping and was broadened by the 1974 Paris Convention to cover land-based sources and the offshore industry. These Conventions were unified, updated and extended by the 1992 Convention for the Protection of the Marine Environment of the North-East Atlantic, also referred to as the OSPAR Convention, which had an ecosystem and biodiversity focus primarily. This was strengthened, in turn, by its amendment through Annex V ‘On the Protection and Conservation of the Ecosystems and Biological Diversity of the Maritime Area’ in 1998. OSPAR operates independently of UNEP, meaning that it acts as an independent programme even while cooperating and coordinating with the other RSPs204.

OSPAR’s substantive competence covers the protection of the North East Atlantic’s marine environment205. The EU became a party to OSPAR in 1997206. OSPAR also signed an MoU with the EEA in 1998, focusing on data and information exchange, joint Work Programmes, cooperation on the OSPAR Action Plan, harmonised reporting procedures and monitoring techniques.

One of the objectives of OSPAR is to aid MSFD implementation within the region, by supporting regional coordination and collaboration among Member States. The OSPAR Commission has outlined its responsibility to facilitate the coordinated and coherent implementation of the regional components of the MSFD, and to remind the Contracting Parties that it is in their interest to simultaneously promote the objectives of the OSPAR Commission and the relevant EU legislation and to ensure maximum synergy where possible, within OSPAR’s North East Atlantic Environment Strategy for 2010-2020207, emphasising that ‘the objective to achieve or maintain Good Environmental Status in the marine environment by 2020 concurs with and supports the aims of OSPAR’208.

In 2010, a roadmap was agreed to support MSFD implementation within the OSPAR maritime area. It’s primarily focus was on developing common indicators for the MSFD descriptors across its Member States. These common indicators facilitate the streamlined monitoring activities and measures under the MSFD within the marine region, in addition to facilitating regional data and information exchange209. The implementation of the MSFD in OSPAR is led by the OSPAR Coordination Group (CoG), and the Intersessional Correspondence Group on

204 UNEP (2016), Regional Oceans Governance, Making Regional Seas Programmes, Regional Fishery Bodies and Large, Marine Ecosystem Mechanisms Work Better Together, Nairobi, Kenya. p. 3.
205 The ‘Protection and Conservation of the Ecosystems and Biological Diversity of the Maritime Area’ (defined by its Annex V from 1998), is a regional implementation of some of the objectives of the Convention on Biological Diversity (CBD). OSPAR, On the Protection and Conservation of the Ecosystems and Biological Diversity of the Maritime Area, available at: https://www.ospar.org/site/assets/files/1169/pages_from_ospar_convention_a5.pdf
the MSFD (ICG-MSFD)\textsuperscript{210}. A key product to support Member States in their reporting under the MSFD is the Intermediate Assessment of the state of the North East Atlantic.\textsuperscript{211}

OSPAR supports the implementation of the MSFD in order to achieve GES by 2020, by integrating MSFD-linked objectives into its own strategy. OSPAR has defined Ecological Quality Objectives (EcoQOs) to be achieved within the region. These are intended to support the application of the ecosystem approach, as part of its North East Atlantic Environment Strategy for 2010–2020\textsuperscript{212}. EcoQOs specify ‘the desired state of an ecological component or mechanism and can take the form of targets (which there is a commitment to reach) or limits (which should not be breached). An EcoQO may be defined in relation to a pre-selected ‘reference level’ and not in absolute terms’\textsuperscript{213}. There are two EcoQOs that directly address fisheries; one EcoQO aims to achieve ‘Fish stocks at biologically safe levels’, which is linked to maintaining spawning stock biomass (SSB) above precautionary reference points for commercial fish stocks. These reference points have been defined by the ICES, whereas the other EcoQO aims to ‘Increase proportion of large fish in the fish community’\textsuperscript{214}. The fisheries-related EcoQOs have a close link to the MSFD Descriptors\textsuperscript{215}. The other EcoQOs have an indirect link to fisheries by addressing the environmental impact of fisheries, e.g. by-catch\textsuperscript{216}. Fisheries management measures are required to achieve those EcoQOs that relate to fisheries directly. However, these do not lie within OSPAR’s competence. Measures will have to be taken under both the MSFD and the CFP to achieve these EcoQOs – as well as in cooperation with the RFMOs.

3.3. Cooperation and coordination

After discussing the key institutions, this section presents interesting examples of cooperation and coordination between the RFMOs and the RSCs (or a lack thereof) as well as with other relevant institutions in the context of fisheries management.

NEAFC and OSPAR

OSPAR and the NEAFC cover the same geographical area within the North East Atlantic Region. NEAFC was founded in 1982, whereas OSPAR was founded in 1992. According to Article 4(1) of Annex V to the OSPAR Convention, no programme or measure concerning fisheries management should be adopted under OSPAR, given that these competencies lie with other international bodies. Hence, OSPAR has no substantive competence in fisheries management in the NEA because this competency lies with NEAFC.

The NEAFC and OSPAR signed a MoU in 2008, which was based on their complementary competences in respectively fisheries management and environmental protection in the North East Atlantic. The MoU underlines their shared interest in conserving the living resources, in

\textsuperscript{210} Several of its projects and documents relate to the MSFD directly. Some provide advice on monitoring (E.g. ‘Identification of ecological monitoring parameters to assess Good Environmental Status of marine waters: An inventory in all OSPAR Contracting Parties that implement the MSFD’ (2011)), whereas others give specific advice on assessing GES for various descriptors (D5, D7, D8, D10, D11).

\textsuperscript{211} Website OSPAR, available at : https://www.ospar.org/work-areas/cross-cutting-issues/intermediate-assessment-2017-resources


\textsuperscript{214} OSPAR Commission (2010), The OSPAR System of Ecological Quality Objectives for the North Sea, London.

\textsuperscript{215} Descriptor 3 on ‘Commercial fish and shellfish activities’, with the indirect objectives relating to “Descriptors aiming to protect biodiversity” (i.e. Descriptor 1 Biological diversity, Descriptor 4 Food webs, Descriptor 6 Seabed integrity). European Commission, D3 Implementation, Processes and activities under the implementation, available at: http://mcc.jrc.ec.europa.eu/dev.py?N=2180=368&titre_chap=D3%Fisheries&titre_page=Implementation

particular for areas that lie beyond national jurisdiction. In addition to fisheries management, the NEAFC is responsible to consider the impact of fisheries on other marine species and ecosystems and to adopt, where necessary, conservation measures to address those impacts. On the other hand, the MoU recognises that OSPAR has the competency for addressing pollution, including the inputs of hazardous substances and other human activities that negatively impact marine biodiversity and habitats, in addition to regularly publishing joint assessments on environmental quality. It lies within OSPAR’s competence to protect threatened and vulnerable marine species and to implement MPAs in collaboration with its contracting parties. The NEAFC applies the precautionary approach when developing and implementing its fisheries regulation measures, whereas OSPAR applies the ecosystem approach when developing and implementing conservation measures and activities. OSPAR retains the right to raise any actions or issues that it considers to be important for fisheries management with the responsible regional or national authorities. The sustainable management of fisheries is one such topic, given that OSPAR promotes the ecosystem approach when exploiting marine resources. In addition to the 2008 MoU, a collective arrangement was agreed between NEAFC and OSPAR in 2014 (see illustrative box 1).

Illustrative Box 1: A collective arrangement in the North East Atlantic region – part 1

OSPAR has the competence to establish MPAs in areas beyond national jurisdiction. However, the RSC has a limited mandate to regulate human activities within areas beyond national jurisdiction. Therefore, it needs to collaborate with other international organisations responsible for the management of the various other activities (i.e. IMO, ISA and RMFOs).

OSPAR identified the need to cooperate with other organisations that have a mandate in the North Eastern Atlantic high seas, in order to effectively manage the area and to designate MPAs. OSPAR invited these organisations to discuss future cooperation and coordination; the initial meeting was held in Madeira in March 2010.

NEAFC, having competence to manage fisheries in areas beyond national jurisdiction, such as regulating and limiting bottom fishing and even implement fishing bans in a number of areas, participated in this discussion. Other partners included were the FAO, the Intergovernmental Oceanographic Commission of UNESCO (IOC-UNESCO), ICCAT, the International Council for the Exploration of the Sea (ICES), the International Seabed Authority (ISA) and the International Whaling Commission (IWC). Furthermore, a number of organisations were invited, but did not attend the meetings, such as the Agreement on the Conservation of Small Cetaceans in the Baltic, North East Atlantic, Irish and North Seas (ASCOBANS), the IMO, the North Atlantic Marine Mammal Commission (NAMMCO) and the North Atlantic Salmon Conservation Organisation (NASCO).

From the consultations conducted for this study it followed that ‘information sharing’ is the main objective of the collective arrangement. It is considered crucial that the organisations active in the same geographical areas are aware of activities - and their potential impacts – conducted by other organisations. For example, where the NEAFC would set up measures

217 Memorandum of Understanding between the North East Atlantic Fisheries Commission (NEAFC) and the OSPAR Commission, available at: https://www.ospar.org/site/assets/files/1357/mou_neafc_ospar.pdf
218 Ibid.
219 Ibid.
220 OSPAR website: http://www.ospar.org/work-areas/bdc/marine-protected-areas
to protect certain types of coral, it would be relevant for the ISA to be aware of existing measures as not to allow any mining activities negatively impacting these protection measures. The implementation of the process of information sharing, and the taking into consideration of the shared information, under the collective arrangement is considered to create an ‘upward spiral’. Improved information sharing and coordination at the regional level results in the need for increased information sharing and cooperation at the national level. Increased information sharing and cooperation at the national level, at its turn, will again lead to even more cooperation at the regional level.

A ‘collective arrangement between competent international organisations on cooperation and coordination regarding selected areas in areas beyond national jurisdiction in the North-East Atlantic’ was adopted in 2014, but so far only NEAFC and the OSPAR Commission are parties to it. This collective arrangement represents an informal framework of the exchange of information and cooperation regarding mutual interests\(^\text{224}\), while taking the regional sea as a starting point for the information sharing process.

Even though the majority of responses proffered during these meetings was considered to be majorly positive, a collective agreement between all partners was not established. OSPAR and NEAFC have stated, in a document entitled: ‘On the process of Forming a Cooperative Mechanism Between NEAFC and OSPAR’, that even though the response to the Madeira process had been generally positive overall … the Madeira process only lead to the adoption of a bilateral collective arrangement, which could be amended if necessary if new participants would join in the future\(^\text{225}\). It was stated that the IMO and ISA, in particular, showed positive efforts in contributing to the process and that negotiations are still ongoing\(^\text{226}\).

Nevertheless, it has also been suggested that these processes are very time- and labour-intensive, especially for such large, global organisations that often have complex and incompatible annual meeting cycles. These organisations act at different levels. OSPAR and NEAFC, the parties to the collective arrangement, act at the regional level, whereas organisations, such as ISA and IMO act at the global level. This requires that if the latter become party to the collective arrangement, they would equally need to consider other regional initiatives and efforts in this regard.

Illustrative Box 2: A collective arrangement in the North East Atlantic region – part 2

The collective arrangement - aiming for a high level of information sharing between relevant actors - requires ‘the cooperation and coordination of competent international organisations regarding selected areas in areas beyond national jurisdiction in the North-East Atlantic should be based on applicable internationally agreed principles, standards and norms; Memoranda of Understanding and other bilateral cooperation arrangements between competent international organisations; scientific evidence; and relevant binding and non-binding international instruments\(^\text{227}\).

Article 5 of the collective arrangement provides that, within the framework of their respective mandate, principles and rules, ‘the competent international organisations should cooperate and seek coordination to ensure that suitable measures for the conservation and management of these areas are implemented, informed, where appropriate, by conservation objectives established for these areas’.

Article 6 provides the means to achieve this objective. The organisations should:


\(^{226}\) Ibid.

\(^{227}\) Art. 4 of the Collective Arrangement between competent international organisations on cooperation and coordination regarding selected areas in areas beyond national jurisdiction in the North-East Atlantic.
As follows from Article 6, a formal exchange of information takes place on an annual basis. The collective arrangement however also provides a forum to informally exchange information. It ensures that the organisations in the region are aware of the activities undertaken by the different organisations and can act upon this information. Even without other organisations being Contracting Parties to the collective arrangement, their participation, e.g. through an observer status, is relevant to the process of information sharing.

**International Commission for the Conservation of Atlantic Tunas (ICCAT)**

The International Commission for the Conservation of Atlantic Tunas (ICCAT), established pursuant to the 1969 ICCAT Convention, is the RFMO that has the competence for the conservation of tuna and tuna-like species in the Atlantic Ocean and in its adjacent seas, including the EEZ of contracting parties. The ICCAT Convention Area comprises both high seas and coastal State maritime zones. The EU (joining ICCAT in 1986, but until this became effective in 1997, the individual EU Member States were Contracting Parties) is one of 51 contracting parties to ICCAT.

ICCAT regulates tuna fisheries resources (state, trends, measures to maintain population and enable a maximum sustainable catch, dissemination and communication activities). It compiles fisheries statistics, coordinates research, develops scientific-based management advice, provides a mechanism for the contracting parties to agree on management measures, and publishes reports. Conservation and management recommendations and measures are adopted on the basis of Articles VIII and IX of the Convention. Recommendations that apply to the high seas shall equally be applied by the contracting parties to tuna in the EEZ.

The 2016 independent review of ICCAT concludes that ‘while cooperation with non-tuna RFMOs whose regulatory areas overlap with the ICCAT Convention area is of importance to ICCAT, formalised cooperation has so far not been established with any of these’. However, ICCAT

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229 ICCAT, Convention Area, available at: https://www.iccat.int/en/convarea.htm


231 ICCAT website, available at: https://iccat.int/en/

'seems to cooperate most closely with NEAFC, in order to ensure compatibility between their conservation and management measures on sharks'.

A form of cooperation equivalent to an MoU between ICCAT and OSPAR is currently being considered. ICCAT states that 'the Secretariats of OSPAR and ICCAT have discussed and developed guidelines for potential cooperation and collaboration, in line with the guidelines already agreed between ICCAT and CITES’ in a 2015 document on collaboration with other international organisations.

It was underlined during the consultation that ICCAT seeks cooperation is cases where the problems are similar and cooperation should lead to mutual benefits – while avoiding to enter into agreements for the sake of agreements. It was also noted that the EU plays a crucial role in supporting the functioning of the organisation.

**North Atlantic Salmon Conservation Organisation (NASCO)**

NASCO is another RFMO, in addition to ICCAT, that has the competence to manage a specific fish stock within a set geographical area, namely Atlantic salmon. NASCO is an international organisation that was established by an inter-governmental Convention in 1984. Its objective is 'to conserve, restore, enhance and rationally manage Atlantic salmon through international cooperation taking account of the best available scientific information'. Parties to NASCO include Canada, Denmark (Faroe Islands & Greenland), the European Union, Norway, the Russian Federation and the United States of America. France (St. Pierre & Miquelon) attends NASCO's meetings as an observer.

The OSPAR Commission and NASCO agreed a MoU in 2013, in which NASCO agreed to protect salmon stocks in the North Atlantic Ocean, to rationally manage those stocks and to support the scientific analysis of the stocks. For its part, the OSPAR Commission has agreed to ‘take necessary measures to protect the maritime area against adverse effects of human activities’ and to apply the ecosystem-based approach. In addition, both have agreed to invite each other to meetings of common interest as observers, and to support data and information exchanges between the two organisations.

**The International Council for the Exploration of the Seas (ICES)**

ICES plays a strong role within regional fisheries management in the North East Atlantic, given that it provides important scientific advice and recommendations for fisheries management and collaborates with all key partners within the region.

ICES and NEAFC signed an MoU in 1998, to strengthen both their collaboration and the exchange of scientific knowledge on marine fish stocks in the NEA. ICES collaborates directly with the NEAFC’s Permanent Committee on Management and Science (PECMAS), which is

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233 Ibid.
234 Freestone et al. 2014.
236 North Atlantic Salmon Conservation Organization website, available at: [http://www.nasco.int/about.html](http://www.nasco.int/about.html)
237 Ibid.
responsible for assessing the scientific aspects of fisheries management, including fishing impacts on vulnerable ecosystems. PECMAS determines the need to consult ICES on certain issues and identifies and communicates research needs to ICES. The scientific advice provided by ICES, in turn, supports the NEAFC and supports its recommendations. For example, the NEAFC designates VMEs and areas closed for fisheries based on scientific advice provided by ICES.

ICES also holds an MoU with the OSPAR Commission, which includes an annual programme of work on scientific information and advice provided to OSPAR by ICES. As part of the agreement, both parties meet regularly to exchange information, and collaborate on scientific information exchange and incorporation of scientific advice into regional programmes of marine environmental management. The ICES Secretariat will serve as a data centre for data collected under the Co-ordinated Environmental Monitoring Programme (CEMP) under the OSPAR Joint Assessment and Monitoring Programme (JAMP), which cover data on contaminants, data on biological monitoring and nutrients and eutrophication. Furthermore, the ICES data centre will deal with the data collection of CEMP’s contracting parties, data management and archiving.

Moreover, an MoU was signed between the European Commission (DG MARE) and ICES in 1987 and it has since been renewed annually. ICES supports the EU by providing scientific advice about over 220 fish stocks annually and responds to special requests related to fisheries’ impacts on biodiversity, in particular those linked to the implementation of the MSFD. ICES further actively contributes to the implementation of the MSFD, given that leading the organisation and the development and implementation of MSFD Descriptor 3 Commercial fish and shellfish lies within its competence. For example, ICES has developed methodological frameworks for the evaluation of GES for Descriptor 3. ICES facilitates meetings and workshops between representatives of the EU Commission, the Joint Research Centre, the EEA and OSPAR as part of this development and implementation.


243 Ibid.


4. THE MEDITERRANEAN SEA

KEY FINDINGS

- Key pressures in the Mediterranean region are fisheries, together with land-based pollution and tourism.

- The General Fisheries Commission for the Mediterranean (GFCM) is the competent Regional Fisheries Management Organisation (RFMO) within the Mediterranean, with the International Commission for the Conservation of Atlantic Tunas (ICCAT) holding specific competence in regulating fishing of tuna and tuna-like fish species.

- The Barcelona Convention, whose Secretariat is provided by the United Nations Environment Programme/Mediterranean Action Plan (UNEP/MAP), constitutes another important regional framework, however without a mandate to regulate fisheries. Its main objective is to achieve Good Environmental Status (GES) in the Mediterranean Sea. Through action plans and Protocols to the Barcelona Convention, UNEP/MAP is active in the areas of pollution, biodiversity, Integrated Coastal Zone Management (ICZM), sustainable consumption and production, and climate change adaptation.

- The GFCM actively cooperates with UNEP/MAP to achieve a more efficient management of the fisheries and the conservation their marine ecosystems. In 2012, an MoU was concluded between UNEP/MAP and the GFCM, reflecting the need for an ecosystem-based approach to the conservation of marine ecosystems and the sustainable use of marine living resources. As a result of this cooperation, in 2013 a GFCM Resolution on area-based fisheries management, initiating a multi-year process on area-based management was adopted.

- The GFCM can be considered a good example of RFMOs’ move from managing only target species to pursuing an ecosystem approach to fisheries. The GFCM engages in several activities in relation to fisheries, covering stock assessment and the fishing fleet, as well as protection of red coral and MPAs. This broadened mandate, stemming from an amendment of the legal framework of the GFCM in 2014, has required increased cooperation with other intergovernmental bodies with similar or complementary mandates, as well as the acknowledgement of the competences of those bodies.

- Both the GFCM and UNEP/MAP have a strong focus on cooperation and have established several MoUs with a broad range of relevant actors in relation to fisheries and/or the marine environment.

- UNEP/MAP, together with the EU, developed a Roadmap for healthy and productive oceans, linking the global Sustainable Development Goals relevant for oceans to a practical implementation approach in the Mediterranean Sea. This Roadmap could serve as a blueprint for other regions as it sets out a conceptual framework to strengthen coherence and identify synergies, with the objective of achieving more effective regional cooperation in the oceans.

- The GFCM adopted a mid-term strategy in 2016 which aims at implementing and tailoring SDG 14 targets and indicators to Mediterranean and Black Sea specificities.

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249 Chapter 2 of the Roadmap 2017 for Healthy and Productive Oceans.
This chapter focuses on the Mediterranean Sea, starting with a brief overview of its main characteristics and the main pressures or human activities that currently affect the area. The subsequent sections assess the role played by fisheries in regional ocean governance. The chapter describes the key institutions (including the relevant RFMOs and RSCs), together with their mechanisms of cooperation and coordination in respect of fisheries management. Where relevant, interaction with selected EU policies that are relevant to fisheries is also discussed.

4.1. Characteristics and main pressures

The Mediterranean Sea spreads along the European south coast and is the largest of the semi-enclosed European seas, at 2.5 million km². Twenty-two countries, the majority of which are non-EU Member States, are located on the Mediterranean Sea shores. The area can be separated into four sub-regions: the Western Mediterranean Sea, the Central Mediterranean and Ionian Sea, the Adriatic Sea and the Aegean/Levantine Sea. The Mediterranean Sea is largely oligotrophic, i.e. poor in plant nutrients, but it is home to a very rich biodiversity, a large proportion of which is composed of endemic species. From a socioeconomic point of view, the Mediterranean Sea faces several challenges, such as food security for both agriculture and fisheries, which is amplified by climate change and demographic growth. Nearly half a billion people live in the region, of which about one-third is in the coastal regions. The area also faces issues associated with its resilience to crisis (such as unemployment or migration). All of these factors combine to increase the pressure on the marine environment and its resources.

The sizable population of the Mediterranean coastal regions contributes directly to the levels of pollution from land-based sources. Likewise, while pollution from heavy metals has decreased, local marine pollution remains an issue. Urban activities, industry and agriculture are considered the main causes of pollution, through the introduction of hazardous compounds and eutrophication in coastal areas.

One of the main pressures typically associated with the Mediterranean Sea is tourism, which is usually concentrated in the coastal areas. Massive tourism has had effects on the urban development of the Mediterranean coastline and contributes to high rates of maritime traffic and transport, with marine litter being a direct effect of tourism. This region also has one of the world's busiest shipping routes, with shipping and related port operations contributing to the introduction of invasive alien species, physical loss and damage, marine litter and underwater noise. Other important causes of pressure in the Mediterranean Sea include aquaculture and marine hydrocarbon extraction for oil and gas.

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251 Clockwise: Spain, France, Monaco, Italy, Slovenia, Croatia, Bosnia and Herzegovina, Montenegro, Albania, Greece, Turkey, Cyprus, Syria, Lebanon, Israel, Palestine, Egypt, Libya, Tunisia, Algeria, Morocco, and Malta.
255 Ibid.
258 Ibid.
Fisheries are also a key challenge in the Mediterranean Sea. According to a recent report, about 85% of the Mediterranean (and Black Sea) stocks assessed are fished at biologically unsustainable levels. About 80% of the total number of vessels are small-scale (up to 12m), which employ the highest number of fishermen (60%) but which lack an integrated strategy for their monitoring, management and sustainable development. By-catch is another important challenge for fisheries, given that 230,000 tonnes of fish per year are discarded in the Mediterranean Sea (18% of total catch), mainly due to bottom trawls.

Table 3 provides an overview of the different pressures and their regulating institutions in view of their mandates and geographical competence. Table 4 presents a similar overview, focusing on the main impacts caused by these pressures.

### Table 3: Mediterranean: key uses of the European regional seas that require regulation

<table>
<thead>
<tr>
<th>Key use</th>
<th>Institution</th>
<th>Substantive competence</th>
<th>Geographical competence</th>
</tr>
</thead>
</table>
| Fisheries     | GFCM        | • Review the state of resources and fisheries, and the economic and social aspects of the fishing industry and recommend appropriate measures for its development;  
• Formulate and recommend measures for conservation and rational management of living marine resources, and implement those recommendations;  
• Encourage, recommend, coordinate and undertake training, research and development activities in all aspects of fisheries | All marine waters of the Mediterranean Sea and the Black Sea |
|               | UNEP/MAP    | • Pursue the protection of the marine environment and the natural resources of the Mediterranean Sea;  
• Protection of biological diversity and species of wild fauna and flora | The maritime waters of the Mediterranean Sea proper. The Protocols to this Convention may extend the geographical coverage to which that particular Protocol applies |

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260 Ibid.
262 GFCM, About GFCM, available at: [http://www.gfcm.org/about/](http://www.gfcm.org/about/)
264 Article 4(2) and 10 of the 2004 Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean.
265 Article 1(1) and 1(3) of the 2004 Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean. This includes its gulfs and seas, bounded to the west by the meridian passing through Cape Spartel lighthouse, at the entrance of the Straits of Gibraltar, and to the east by the southern limits of the Straits of the Dardanelles between Mehmetcik and Kumkale lighthouses.
<table>
<thead>
<tr>
<th>Key use</th>
<th>Institution</th>
<th>Substantive competence</th>
<th>Geographical competence</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Mediterranean Advisory Council (MEDAC)</td>
<td>• Preparation of opinions on fisheries management and socioeconomic aspects in support of the fisheries sector, to be submitted to the Member States and the European institutions to achieve the objectives of the CFP</td>
<td>The maritime waters of the Mediterranean Sea to the east of the meridian of 5°36' West longitude</td>
</tr>
<tr>
<td></td>
<td>CPRM, Inter-Mediterranean Commission - Task Force on Fisheries and Aquaculture</td>
<td>• Promote the competitiveness and sustainability of the fisheries and aquaculture sector; • Monitor the implementation of the CFP; • Boost financial support to the fisheries and aquaculture sector; • Promote fisheries and aquaculture in emerging strategies and initiatives; • Foster education and training in the fisheries and aquaculture sector</td>
<td>Commission members can be regional or sub-national authorities from the Mediterranean basin, from EU or non-EU countries</td>
</tr>
<tr>
<td></td>
<td>ICCAT Commission</td>
<td>• Cooperation with the aim of managing and conserving tuna and related species at levels of MSY; • Studies on the populations of tuna and tuna-like fish; • Recommendations designed to maintain the populations of tuna and tuna-like fish; • Allocation of fishing possibilities; • Compilation of data for other fish species that are caught during tuna fishing ('bycatch', principally sharks) in the Convention area. Shark species are regulated by ICCAT and have a slightly different status from other bycatch fish species</td>
<td>All waters of the Atlantic Ocean, including the adjacent seas</td>
</tr>
<tr>
<td></td>
<td>Transporta- tion and Energy Industry</td>
<td>Union for the Mediterranean (UfM)</td>
<td>• Facilitate transport and mobility over land and sea; • Reinforce structured regional</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Geographical scope is within the European Mediterranean region</td>
</tr>
</tbody>
</table>

267 CPRM website: [https://cpmr.org/imc-launching-task-force-on-fisheries-aquaculture/](https://cpmr.org/imc-launching-task-force-on-fisheries-aquaculture/)
268 CPRM website: [http://cpmr-intermed.org/who-we-are/become-a-member/](http://cpmr-intermed.org/who-we-are/become-a-member/)
269 There are some ICCAT shark target fisheries (e.g. pelagic longline targeting blue shark).
270 Article 1 of the ICCAT Convention.
## Regional ocean governance in Europe: the role of fisheries

### Key use

<table>
<thead>
<tr>
<th>Institution</th>
<th>Substantive competence</th>
<th>Geographical competence</th>
</tr>
</thead>
<tbody>
<tr>
<td>CPMR, Inter-Mediterranean Commission – Working Group on Transport and Integrated Maritime Policy and Working Group on Water and Energy</td>
<td>• Transport/accessibility policies, promotion of land sea interactions in the sectoral priorities of the Mediterranean area, sustainable maritime transport, work on marine data and regions’ access to funds; • Adapt to energy challenges and promote the potential of renewable energies and energy efficiency in the Mediterranean</td>
<td>Countries bordering the Mediterranean Sea</td>
</tr>
<tr>
<td>CPMR, Inter-Mediterranean Commission</td>
<td>• Participate in several projects such as: Horizontal Project on Sustainable Tourism; MITOMED+ (Models of Integrated Tourism in the Mediterranean Plus); Interreg Med Co-Evolve project, etc.</td>
<td>As above</td>
</tr>
</tbody>
</table>

### Tourism

<table>
<thead>
<tr>
<th>Institution</th>
<th>Substantive competence</th>
<th>Geographical competence</th>
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</thead>
<tbody>
<tr>
<td>CPMR, Inter-Mediterranean Commission</td>
<td>• Participate in several projects such as: Horizontal Project on Sustainable Tourism; MITOMED+ (Models of Integrated Tourism in the Mediterranean Plus); Interreg Med Co-Evolve project, etc.</td>
<td>As above</td>
</tr>
</tbody>
</table>

### Table 4: Mediterranean: key human impacts on the European regional seas that require regulation

<table>
<thead>
<tr>
<th>Key impact</th>
<th>Institution</th>
<th>Substantive competence</th>
<th>Geographical competence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Environmental impacts</td>
<td>GFCM</td>
<td>• Identify sensitive indicators of GES in the most harmonised way possible</td>
<td>As per Table 3</td>
</tr>
<tr>
<td>Environmental impacts</td>
<td>UNEP/MAP</td>
<td>• Protect, preserve and manage in a sustainable and environmentally sound way: (i) areas of particular natural or cultural value, notably by the establishment of specially protected areas and (ii) threatened or endangered species of flora and fauna</td>
<td>As per Table 3</td>
</tr>
</tbody>
</table>

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273 CPMR, Intermediterranean Commission, available at: [http://cpmr-intermed.org/who-we-are/become-a-member/](http://cpmr-intermed.org/who-we-are/become-a-member/)


<table>
<thead>
<tr>
<th>Key impact</th>
<th>Institution</th>
<th>Substantive competence</th>
<th>Geographical competence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pollution</td>
<td>UNEP/MAP</td>
<td>• Provide effective support to the Contracting Parties to implement the five pollution-related Protocols of the Barcelona Convention(^\text{277})</td>
<td>As per Table 3</td>
</tr>
<tr>
<td></td>
<td>UfM</td>
<td>• Contribute to de-pollution and pollution prevention efforts in the region(^\text{278})</td>
<td>As per Table 3</td>
</tr>
</tbody>
</table>
| Climate Change | UNEP/MAP | • Adopt measures to prevent and/or reduce the effects of natural hazards and, in particular, climate change, with respect to the ICZM Protocol to the Barcelona Convention;  
• Strengthen the resilience of the Mediterranean natural and socio-economic systems to climate change by promoting integrated adaptation approaches and better understanding of impacts;  
• Reduce anthropogenic pressure on coastal and marine areas to maintain their contribution to climate change adaptation\(^\text{279}\)                                                                                                                                                                                                                     | As per Table 3           |
|            | UfM - Climate Change Expert Group | • Enhance regional dialogue and catalyse the identification, support and development of specific projects and initiatives, both in mitigation and adaptation\(^\text{280}\)                                                                                                                                                                                                                           | As per Table 3           |

\(^{277}\) Ibid.  
4.2. Fisheries and ocean governance

This section describes the key actors within fisheries and ocean governance in the Mediterranean Sea, highlighting their interactions and links to relevant EU policy affecting fisheries.

<table>
<thead>
<tr>
<th>RSC/RFMO</th>
<th>Substantive competence</th>
<th>Geographical competence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mediterranean Sea</td>
<td>Pursue the protection of the marine environment and the natural resources of the Mediterranean Sea. Protection of biological diversity and species of wild fauna and flora&lt;sup&gt;281&lt;/sup&gt;</td>
<td>Mediterranean Sea&lt;sup&gt;282&lt;/sup&gt;. The Protocols to this Convention may extend the geographical coverage to which that particular Protocol applies&lt;sup&gt;283&lt;/sup&gt;</td>
</tr>
<tr>
<td>RSC</td>
<td>UNEP/MAP</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Conservation of tunas and tuna-like species in the Atlantic Ocean and its adjacent seas</td>
<td>All waters of the Atlantic Ocean, including its adjacent seas (Convention area)&lt;sup&gt;284&lt;/sup&gt;</td>
</tr>
<tr>
<td>RFMO</td>
<td>GFCM</td>
<td>All marine waters of the Mediterranean Sea and the Black Sea&lt;sup&gt;285&lt;/sup&gt;</td>
</tr>
</tbody>
</table>

**General Fisheries Council for the Mediterranean (GFCM)**

The main competent body for fisheries management in the Mediterranean region is the GFCM, an RFMO established under the FAO in 1952<sup>287</sup>, lastly amended in 2014. The 2014 renewed institutional framework of the GFCM is considered 'a response to a new generation of challenges currently affecting sustainable fisheries in the region [of which] its premise is a subregional approach to fisheries management, reinforced by a strong network of partner organizations that collaborate based on several MoU and with the support of the GFCM FWP to carry out the increasing technical activities'<sup>288</sup>. Overall, the GFCM aims to protect and use living

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<sup>281</sup> Article 4(2) and 10 of the 2004 Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean.

<sup>282</sup> Article 1(2) of the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean, Barcelona, 10 June 1995. In force since 9 July 2004, (Barcelona Convention) ‘www.unepmap.org’ addresses the maritime waters of the Mediterranean Sea proper, including its gulfs and seas, bounded to the west by the meridian passing through Cape Spartel lighthouse, at the entrance of the Straits of Gibraltar, and to the east by the southern limits of the Straits of the Dardanelles between Mehmetcik and Kumkale lighthouses. Article 1(2) continues that the application of the Convention may be extended to coastal areas by each Contracting Party within its own territory.

<sup>283</sup> Article 1(3) of the Barcelona Convention.


<sup>285</sup> Article 2(2) of the 2014 Agreement.

<sup>286</sup> Article 3 of the Agreement for the Establishment of the General Fisheries Commission for the Mediterranean.


<sup>288</sup> Mid-term strategy (2017–2020) towards the sustainability of Mediterranean and Black Sea fisheries (Mid-term strategy), p. 2.
marine resources in a sustainable way, as well as promoting sustainable aquaculture development in the Mediterranean and in the Black Sea. The geographical competence of the GFCM ‘comprises all marine waters of the Mediterranean Sea and the Black Sea’ 289. The GFCM is ‘entitled to adopt spatial management measures that regulate or restrict human activities in the high seas’ 290, which is crucial as for various reasons several coastal states in the Mediterranean constrained from claiming an EEZ, resulting in the existence of high seas status (of an estimated 29 percent) in the Mediterranean 291.

In order to achieve this objective, it reviews and assesses the state of living marine resources, and formulates and recommends appropriate measures in relation to the conservation and management of marine living resources. It moreover establishes multiannual management plans, ensures the collection, submission, verification and dissemination of data and information, establishes FRAs, and combats IUU fishing. The recommendations are adopted by a two-thirds majority of the Contracting Parties of the Commission present and voting 292. The GFCM has 24 Contracting Parties, which ‘shall transpose, as appropriate, adopted recommendations into national laws, regulations or appropriate legal instruments of the regional economic integration organization’ 293. As the Union is also a Contracting Party to the GFCM Agreement ‘these recommendations are binding on the Union and should therefore be implemented in Union law unless their content is already covered thereby’ 294.

During the fortieth session (2016) the GFCM adopted Resolution GFCM/40/2016/2 for a mid-term strategy (2017–2020) towards the sustainability of Mediterranean and Black Sea fisheries 295. The term strategy is linked to SDG 14 296 and the FAO Strategic Objective 2 297. The 2017–2020 Strategy ‘stems from existing international and regional legal instruments [and] does not create any new obligations on GFCM Contracting Parties and Cooperating non-Contracting Parties (CNPCs)’ 298. With the objective of defining a course of instrumental action to strengthen the further development of sustainable fisheries at the regional level, it set up is of a ‘programmatic and multiannual nature’ and it ‘provides guidance for the strategic priorities in the 2017–2020 period, identifying key actions that complement, when needed, the regular work carried out by the different organizations in relation to fisheries’ 299. The Strategy is based on five targets, which are to ‘(1) Reverse the declining trend of fish stocks through strengthened scientific advice in support of management; (2) Support livelihoods for coastal communities through sustainable small-scale fisheries; (3) Curb illegal unreported and unregulated (IUU) fishing, through a regional plan of action; (4) Minimize and mitigate unwanted interactions between fisheries and marine ecosystems and environment, and (5) Enhance capacity-building and cooperation’ 300.

289 Article 3 of the Agreement for the Establishment of the General Fisheries Commission.
293 Art. 14(2) on obligations relating to the implementation of decisions by the Contracting Parties of the Agreement for the Establishment of the General Fisheries Commission for the Mediterranean.
295 General Fisheries Commission or the Mediterranean, Report of the fortieth session, St. Julian’s, Malta, 30 May – 3 June 2016, GFCM report 40, number 98.
296 SDG 14 is to ‘conserve and sustainably use the oceans, seas and marine resources for sustainable development’.
297 FAO Strategic Objective 2 is to ‘make agriculture, forestry and fisheries more productive and sustainable’.
299 Ibid.
300 Mid-term strategy (2017–2020) towards the sustainability of Mediterranean and Black Sea fisheries (Mid-term strategy).
During the consultation, stakeholders underlined the strong coordination between GFCM and UNEP/MAP. The mid-term strategy was mentioned to illustrate their cooperation – the development of the fourth target, to minimise and mitigate unwanted interactions between fisheries and marine ecosystems and environment, has been developed together with UNEP/MAP.

In addition to conservation measures, the GFCM uses fisheries management plans as a tool for sustainable management of fisheries in the region under its purview. This started with the adoption of general guidelines for the development of multiannual management plans in 2012301.

During the consultation it was mentioned that the GFCM adopted a multiannual management plan for small pelagic species in the Adriatic Sea (2013). This concept, which was established for one sub-region, is now replicated for other sub-regions of the Mediterranean – not only in terms of the technical elements addressed but also regarding its process, including the methods for participation and advice. In 2016, a management plan for hake and deep water rose shrimp in the Strait of Sicily was established, while plans for the Black Sea, the Western and Eastern Mediterranean are under development.

The GFCM engages in a broad range of activities in relation to the regulation of fisheries, covering: stock assessment302; information gathering in relation to the fishing fleet303; management of red coral304; improvement of the small-scale fisheries sector305; and the establishment of MPAs306. Amongst others, it established a Working Group on IUU fishing, following their ‘Roadmap on fighting IUU fishing in the Mediterranean Sea’. Progress is discussed at their regular meetings, covering aspects of monitoring, surveillance and control, scientific research, and technical, socioeconomic and legal issues307. Action is taken by means of recommendations308.

During the consultation it was mentioned that, in relation to small scale fisheries, an important achievement has been that, often overlooked, small-scale fisheries sector is back on the (political) agenda. In November 2013, GFCM, in close cooperation with partners as WWF and MedPAN, organised a symposium on sustainable small-scale fisheries in the Mediterranean and the Black Sea, which was followed up by a 2016 Conference on ‘Building a future for sustainable small-scale fisheries in the Mediterranean and the Black Sea’. With these events, GFCM has provided political momentum for the small-scale fisheries sector – which in Mediterranean and Black Sea represents about 80 percent of the entire fleet309.

301 FAO and GFCM (2016), The State of Mediterranean and Black Sea fisheries, Chapter 8.
308 Examples are: Recommendation GFCM 40/2016/1 on a regional scheme for port state measures to combat IUU fishing activities in the GFCM area of application; Recommendation 33/2009/8 on the establishment of a list of vessels presumed to have carried out IUU fishing in the GFCM area, repealing recommendation GFCM/30/2006/4.
The EU joined the GFCM on 25 June 1998\textsuperscript{310}, through Decision 98/416/EC\textsuperscript{311}. As a member, the EU is involved in decision-making and must comply with its decisions, recommendations and actions. A key tool that regulates the links between the GFMC and the EU is the so-called ‘Mediterranean Council Regulation’\textsuperscript{312} concerning the management measures for the sustainable exploitation of fisheries resources in the Mediterranean Sea, adopted at the end of 2006 and which is applicable to all seven Mediterranean EU Member States. The GFMC’s recommendations have been incorporated into EU law by means of other regulations. Regulation (EU) No 1343/2011\textsuperscript{313} and later Regulation (EU) 2015/2102\textsuperscript{314} (amending the former) lay down certain provisions for fishing in the GFMC agreement area, implementing the GFMC recommendations whose content was not yet covered by EU law.

The GFMC has also contributed to implementation of the MSFD. The development of indicators on the status of exploited marine populations (Descriptor 3) is one of the objectives of the GFMC Framework Programme for 2013-2018 on ‘Governance’.

**UNEP/MAP**

The Convention for the Protection of the Mediterranean Sea Against Pollution (Barcelona Convention) constitutes another important regional framework, although without a mandate to regulate fisheries. It was adopted in 1976 by the Conference of Plenipotentiaries of the Coastal States of the Mediterranean Region with the objective of protection of the Mediterranean Sea. As set out in Article 13 of the Barcelona Convention, UNEP provides secretariat services to the Contracting Parties through its Mediterranean Action Plan (MAP) Coordinating Unit.

Overall, the Barcelona Convention aims to assess and control marine pollution by, among others: ensuring the sustainable management of natural marine and coastal resources; taking the environment into account in social and economic development; and promoting the prevention, reduction and elimination of pollution. Its main objective is to achieve GES in the Mediterranean Sea. The 22 parties to the Barcelona Convention – of which the EU is one - decide on the actions to be developed (policies, strategies, budget and programme of work) through the bi-annual Conference of the Parties (CoP). Focal points are introduced to guarantee the implementation of the recommendations at national level. The Mediterranean Commission on Sustainable Development (MCSD), also established in 1995, is an advisory body to the contracting parties and comprises diverse types of institutions (such as government representatives or NGOs, all equally considered), while the Compliance Committee analyses the cases of non-compliance with the Convention\textsuperscript{315}. Through action plans and Protocols to the Barcelona Convention, UNEP/MAP is active in the areas of pollution, SPA and biological

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diversity protocol, ICZM, Sustainable consumption and production, and climate change adaptation\textsuperscript{316}. UNEP/MAP moreover has a strong focus on the implementation of SDG 14 in the Mediterranean.

The State of the Mediterranean Marine and Coastal Environment Report (UNEP/MAP, 2012) highlights several ‘major issues requiring coordinated policy and management responses in the coming years in order to stem the tide of degradation of the Mediterranean ecosystems’\textsuperscript{317}, which include: ‘the over-exploitation of coastal and marine resources beyond sustainable limits; the sea-floor integrity affected mainly by bottom fishing, but also by dredging and offshore installations; and the marine food webs affected by fisheries pressure’. In addition, six ecological objectives are listed, covering ‘the populations of selected commercially exploited fish and shellfish are within biologically safe limits, exhibiting a population age and size distribution that is indicative of a healthy stock’\textsuperscript{318}. In its mid-term Strategy (2016-2021), UNEP/MAP sets out its objectives with respect to better governance, including to strengthen regional and national governance mechanisms, to strengthen synergies, complementarities, and collaboration among international and regional partners and organizations active in the Mediterranean region, and to enhance stakeholders’ participation and outreach\textsuperscript{319}.

The Contracting Parties to the Barcelona Convention adopted the ‘ecosystem approach’ and agreed a ‘Roadmap towards an Ecosystem Approach (EcAP, 2008)’ in line with the work carried out for the implementation of the MSFD. Under EcAP, an assessment of the region was carried out in 2012, with ecological objectives then developed in line with the MSFD Descriptors, although some of the operational objectives relate more specifically to ICZM, with a view to implementing the ICZM Protocol to the Barcelona Convention. The corresponding criteria and indicators developed are very similar to those proposed in the Commission Decision. Building on the work of this first project, a second project is currently running until 2018 (ECAP-MEDI)\textsuperscript{320}. The EU and UNEP established an MoU (signed in 2004; revised in 2014) which is implemented through an annual policy dialogue in the form of a high-level meeting. Strategic cooperation agreements to support actions at global and regional level in areas of common interest were also signed by the two organisations in 2011 and in 2014\textsuperscript{321}.

The EEA and UNEP/MAP recently agreed on a Joint Work Plan 2016-2021. The objective of this work plan is to streamline the information-sharing and reporting processes, to establish closer dialogue and stronger synergies, and to support more efficient governance and networking in the region. The work plan envisages the preparation of Quality Status Reports (QSR) to assess GES (2017), based on UNEP/MAP agreed Mediterranean ecological objectives\textsuperscript{322}. The two organisations also intend to collaborate on regular reviews of the Mediterranean Strategy for Sustainable Development (MSSD) 2016-2025, which proposes (among other objectives) to ‘effectively regulate harvesting and end overfishing, illegal, unreported and unregulated fishing and destructive fishing practices, and implement science-based management plans in order to restore fish stocks in the shortest time feasible, at least to levels that can produce maximum sustainable yield as determined by their biological characteristics’ by 2020\textsuperscript{323}.

\textsuperscript{316} UNEP, Secretariat to the Barcelona Convention and its Protocols, Action Plans, available at: \url{http://web.unep.org/uneppmap/action-plans}
\textsuperscript{317} Article 13 Decision IG.22/1, UNEP/MAP Mid-Term Strategy 2016-2021.
\textsuperscript{318} Article 63 Decision IG.22/1, UNEP/MAP Mid-Term Strategy 2016-2021.
\textsuperscript{319} Article 40 Decision IG.22/1, UNEP/MAP Mid-Term Strategy 2016-2021.
\textsuperscript{321} European Commission, International Issues, Multilateral relations-United Nations, available at: \url{http://ec.europa.eu/environment/international_issues/relations_un_en.htm}
\textsuperscript{323} European Environment Agency — UNEP/MAP Joint Work Plan 2016-2021, \url{http://www.unep.org/docs/unepp-map/mssd_2016_2025_eng.pdf}
UNEP/MAP, together with the EU, is developing a Roadmap for healthy and productive oceans. The Roadmap links the global Sustainable Development Goals relevant for oceans to a practical implementation approach in the Mediterranean Sea. It aims to contribute to increased coherence, synergies in achieving global commitments and stronger regional cooperation for healthy and productive oceans\textsuperscript{324}. Its first milestone was the UN Conference to Support the Implementation of SDG 14 in June 2017, where the declaration entitled ‘Our ocean, our future: call for action’ was adopted\textsuperscript{325}.

4.3. Cooperation and coordination

Having discussed the key institutions, this section presents interesting examples of cooperation and coordination between the RFMOs, RSCs and other relevant institutions in the context of fisheries management.

**UNEP/MAP and the GFCM**

UNEP/MAP and the GFCM closely work together, whereas no such specific cooperation appears to exist between UNEP/MAP and ICCAT\textsuperscript{326}. UNEP/MAP and the GFCM signed an MoU in 2012, encompassing legal and policy cooperation in general, and focusing on:

- Promotion of the ecosystem-based approach for the conservation of marine ecosystems and sustainable use of marine living resources.
- Mitigation of the impacts of fishing and aquaculture on marine habitats and species.
- Identification, protection and management of marine areas of particular importance in the Mediterranean Sea.
- Integrated maritime policy, with a special emphasis on marine and coastal spatial planning.

The technical annex to the 2012 MoU, outlining the activities related to the areas of cooperation, covers the development of key regional strategies to integrate the environmental dimension into social and economic development, in relation to fisheries and aquaculture especially, as well as the harmonisation of existing criteria for the establishment of Specially Protected Areas of Mediterranean Importance (SPAMIs) and FRAs, in particular those located either wholly or partially within ABNJ\textsuperscript{327}.

*It followed from the consultation that the cooperation between the GFCM and UNEP/MAP is perceived to be complementary as, with overlapping objectives, they approach similar issues from different perspectives, angles and via different actors. For example, where the GFCM is in contact with the Ministries of Fisheries for certain topics, UNEP/MAP contacts the Ministry of Environment for the same issues. Having input from different standpoints often leads to more synergies and complementarity of the work. This has increased since the establishment of the GFCM-UNEP/MAP MoU. In particular, the GFCM and the Regional Activity Centre for Specially Protected Areas (RAC/SPA) work closely together.*

\textsuperscript{324} Chapter 2 (objective) of the Roadmap for healthy and productive oceans.
\textsuperscript{325} A/CONF.230/11.
\textsuperscript{326} UNEP (2016), Regional Oceans Governance, Making Regional Seas Programmes, Regional Fisheries Bodies and Large Marine Ecosystem Mechanisms Work Better Together, Nairobi, Kenya, p. 124.
The cooperation between the GFCM and UNEP/MAP has resulted in concrete actions, such as the regional framework strategy based on the ecosystem approach, as well as indicators and reference points to monitor the status of the marine environment (MedSuit Project). It also resulted in the adoption of Resolution GFCM/37/2013/1 ‘on area-based management of fisheries, including through the establishment of Fisheries Restricted Areas and coordination with the UNEP-MAP initiatives on the establishment of Specially Protected Areas of Mediterranean Importance’. Another outcome of the MoU is the ‘integration of environmental concerns in the context of social and economic development, especially in relation to fisheries and aquaculture, through a joint regional strategy’. This Strategy also involves other partner organisation, such as ACCOBAMS and the International Union for Conservation of Nature (IUCN).

**Illustrative Box 3: Implementation of the Ecosystem Approach in the Mediterranean Sea**

In 2008, the Contracting Parties to the Barcelona Convention adopted the Ecosystem Approach (EcAp) combined with an implementation Roadmap, with the ultimate objective of achieving GES for the Mediterranean Sea. The EcAp is viewed as being the ‘guiding principle to all policy implementation and development undertaken under the auspices of the UNEP/MAP Barcelona Convention’. The ecosystem approach is moreover central to the implementation of SDG 14 and consequently important to the strengthening of ocean governance.

The Roadmap consists of a seven-step process for moving towards more effective ecosystem-based management. Following Decision IG.17/6, several other decisions with respect to the implementation of the EcAp were adopted:

- Decision IG.21/3 established a timeline for a QSR covering all of the ecological objectives by 2023.
- Decision IG. 22/7 was taken at COP19, where the Parties agreed on the Integrated Monitoring and Assessment Programme (IMAP) and provided for a list of common indicators, targets and principles, together with an implementation timeline. The IMAP objectives are to be delivered during the 2016-2021 period. The data gathered by IMAP will also inform the QSR in 2017.

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335. UNEP(DEPI)/MED IG.22/28, Decision IG.22/7 Integrated Monitoring and Assessment Programme of the Mediterranean Sea and Coast and Related Assessment Criteria, available at: https://wedocs.unep.org/rest/bitstreams/8385/retrieve

336. Ibid.
• Decision IG.22/13 on a Roadmap for a Comprehensive Coherent Network of Well-Managed (MPAs) to achieve Aichi Target 11 in the Mediterranean.

In this respect, a Joint Cooperation Strategy on Spatial-based Protection and Management Measures for Marine Biodiversity among the Secretariats of ACCOBAMS, the GFCM, IUCN-Med, UNEP/MAP, and in collaboration with the Network of MPA managers in the Mediterranean (MedPAN)\(^{338}\), aims to contribute to the achievement of Sustainable Development Goal 14 (Conserve and sustainably use the oceans, seas and marine resources for sustainable development) in the Mediterranean. The application of the precautionary approach and the Ecosystem Approach will thus be strengthened in a coordinated manner\(^{339}\).

**The GFCM and ICCAT**

ICCAT (as described in the previous chapter) is responsible for the conservation of tuna and tuna-like species in the Atlantic Ocean and adjacent seas, including the Mediterranean Sea. While cooperation takes place between the GFCM and ICCAT, a need for improvement has been reported\(^{340}\). Although there has been a practice whereby GFCM endorsed certain recommendation of ICCAT that were important for the Mediterranean Sea, it was decided during the 2015 Compliance Committee Working Group that this was not continued, amongst others, for the reason that this could create obligations for some GFCM Contracting Parties, not being ICCAT Members or the topic was not the subject of GFCM recommendations (such as allocation of quotas of Bluefin tuna)\(^{341}\). It was mentioned that it was ‘evident that there was a need to promote further cooperation between the GFCM and ICCAT but this could be achieved in other ways than the endorsement by the GFCM of certain ICCAT recommendations of relevance to the Mediterranean Sea’\(^{342}\). At the 2015 Annual ICCAT Meeting, the GFCM Executive Secretary informed ICCAT that the members of the GFCM would like to formalise cooperation between their two institutions by means of an MoU, for instance\(^{343}\). A similar conclusion can be read in the GFCM Performance review (2011) where it is ‘generally believed that such cooperation continues to need strengthening, particularly on scientific and technical bases’\(^{344}\).

**It was confirmed during the consultation that currently there is no formal agreement between the GFCM and ICCAT and the coordination is limited to attendance to key meetings and sharing the text of recommendations adopted by the two organisations for information purposes. There is currently no exchange of data or additional information such as in relation to specific conservation and management issues or monitoring, control and surveillance. Coordination could moreover be useful where the RFMOs join similar meetings and positions could be discussed and/or agreed upfront.**

GFCM Contracting Parties are directly concerned by all relevant ICCAT measures for the regulation of tuna fishing in the Mediterranean (and the Black Sea)\(^ {345}\). These cover measures

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339 Ibid.


342 Ibid.


relating to spatial management (such as the prohibition of the use of towed dredges and bottom trawl or pelagic trawl), mitigation measures for the incidental catch of vulnerable species (such as the prohibition on use of driftnets larger than 2.5 km, implementation in relation to the incidental taking of seabirds or seals), and other technical measures (such as restrictions on gear use or mesh size). The GFCM is also informed of some other ICCAT relevant actions, such as ICCAT’s IUU Vessel List.

**The GFCM and other actors**

The GFCM works together with a broad range of regional actors to provide technical assistance and cooperation. This is laid down in the GFCM Agreement, which includes several provisions that regulate cooperation, including the ‘cooperation with other organizations and institutions’, which covers the adoption of suitable arrangements such as Memoranda of Understanding (Article 16), the ‘recognition of the special needs of developing States Contracting Parties’ (Article 17), and the cooperation with non-Contracting Parties, which covers the granting of the status of cooperating non-Contracting Party (Article 18).

In 2016, the GFCM presented its ‘GFCM framework for cooperation and arrangements with non-Contracting Parties and party organizations’, in which, amongst others, an overview is provided of the several MoUs that have been adopted as of 2008. The framework document underlines the ‘the possibility to make recourse to MoU as a means to build upon cooperation with selected party organizations and institutionalize the informal practice of implementing joint activities with them’. MoU have been signed with ACCOBAMS, the Black Sea Commission, Eurofish, ICES, MEDAC, MedPAN, UNEP/MAP (superseding the MoU between the GFCM and RAC/SPA of 2008), ATLAFCO, MedPAN (superseding the MoU between the GFCM and MedPAN of 2012) and Oceancare.

Since the adoption of the MoUs, the GFCM Secretariat ‘has worked together with the Secretariats of the other party organizations to implement all MoU in place on the basis of agreed areas of cooperation therein’. For example, in April 2015, the GFCM Secretariat and ACCOBAMS launched a two-year project (2015–2016) to enhance the conservation of vulnerable marine species such as cetaceans, sharks, sea turtles and seabirds and to promote responsible fishing practices in the Mediterranean Sea. Project partners include organisations from both Member States and non-Member States.

As a result of the Catania process launched by Commissioner Vella in February 2016 and targeting cooperation between several stakeholders such as the GFCM Secretariat, EU Member States and third countries, the Malta MedFish4Ever Declaration was adopted in March 2017. The declaration provides for a 10-year work programme, signed by Mediterranean Ministerial representatives from both northern and southern coastlines. It signals the parties’ commitment to tackle and deliver results on fisheries and other activities that have an impact on fisheries resources.

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346 Ibid., pp. 110-112.
349 GFCM: 40/2016/Inf6, GFCM framework for cooperation and arrangements with non-Contracting Parties and party organizations, Fortieth session of the Commission, St Julian’s, Malta 30 May – 3 June 2016.
350 Ibid., p. 4.
351 Ibid., p. 4-5.
352 Ibid., p. 5.
Other actors and their coordination mechanisms

In addition to the GFCM, ICCAT and UNEP/MAP, several other organisations within the Mediterranean region play an important role in the management of fisheries.

- Mediterranean Advisory Council (MEDAC)

MEDAC, one of the EU’s Advisory Councils, also develops projects, such as its current initiative on by-catch and discards. MEDAC has established five working groups and three Focus Groups - mostly related to fisheries - all of which assist the Executive Committee in preparing opinions and joint recommendations, and organising specialist workshops.

During interviews, the cooperation and coordination with the other Advisory Councils was praised: informal information sharing systems are used and there is a proactive approach to the information sharing process. The members of MEDAC also actively contribute to its meetings and projects. In addition, the cooperation and coordination between MEDAC and the GFCM, based on their 2012 MoU, is well established. Both organisations participate in the other’s meetings, which is considered an effective manner of information sharing. The cooperation takes place principally in the areas of small-scale fisheries and recreational fisheries (which are also two working groups within MEDAC). For example, MEDAC worked together with the GFCM to draft recommendations on fisheries in Sicily with the aim of establishing better management measures for spawning zones. MEDAC also actively coordinates with fisheries cooperatives such as UNIMAR on different projects (e.g. Artfish Med – small scale fisheries).

Another active form of mutual cooperation is with the EU (DG MARE), with whom MEDAC recently drafted a Joint Recommendation in relation to the landing obligation of small pelagic species, and that one related to some demersal species. DG MARE and MEDAC also participate in each other’s meetings to strengthen their process of coordination and cooperation. An important area of cooperation between the two entities focuses on the implementation of the ecosystem approach in the Mediterranean. For example, in February 2016, MEDAC together with DG MARE co-organised a high-level seminar in Catania on the state of stock in the Mediterranean and on the CFP approach, targeting the ecosystem approach and its challenges. In its presentation at the Catania seminar, MEDAC emphasised that a new strategy of the CFP is needed in the Mediterranean Sea. It stated that the effectiveness of the application of the actual management measures in the Mediterranean can be achieved by taking into consideration, other sources of impact on the ecosystem and fish stock. Following the Catania seminar, the EC organised the Ministerial Conference on Mediterranean fisheries in Malta in March 2017, to address the alarming state of stocks and its impacts on the industry and coastal communities.
• The Union for the Mediterranean (UfM)

The UfM, created in 2008, is a multilateral partnership, which aims to increase the potential for regional integration and cohesion among Euro-Mediterranean countries and to develop political, economic and social relations between the EU and the Southern and Eastern Mediterranean countries. It includes 28 Member States, the EC and 15 other countries. The UfM focuses on six priority areas, including Energy and Climate Action and Water and Environment\textsuperscript{360}. In 2013, the UfM signed an MoU with UNEP/MAP to foster cooperation between the two organisations with regard to: pollution prevention; control of Mediterranean coastal and marine waters; protection of biodiversity and ecosystems; integrated coastal zone management including urban development and other fields related to sustainable development, particularly sustainable consumption and production; sustainable use of water; renewable energy and energy efficiency\textsuperscript{361}. No such agreement is in place between the UfM and the GFCM, although the possibility appears to be under discussion\textsuperscript{362}.

• The International Union for the Conservation of Nature (IUCN – Centre for Mediterranean Cooperation)

The IUCN put a Centre for Mediterranean Cooperation in place in 2000, as well as a programme for the Mediterranean region. In Europe, there are more than 100 Mediterranean members from nine countries. The Centre’s objectives include the promotion of cooperation and coordination between its members in order to impact on governance and institutional processes, and to ensure effective conservation and sustainable management of Mediterranean biodiversity. Its objectives moreover include the development of knowledge on Mediterranean biodiversity and its management, the strengthening of networks, and the involvement of the public\textsuperscript{363}.

The IUCN cooperates with the GFCM on several issues (as laid down in their MoU), such as the implementation of the ecosystem approach to fisheries and aquaculture in the Mediterranean region. They cooperate on the definition of a representative network of Mediterranean FRAs and to improve knowledge and science on relevant issues such as by-catch. They also aim to establish partnerships and links between the marine environment and fisheries. The IUCN and UNEP/MAP signed an MoU in 2013 with the objective of harmonising activities, optimising resources and avoiding duplication of effort in biodiversity, species conservation, governance, environmental law, information management, finance and regional cooperation\textsuperscript{364}.

\textsuperscript{360} Union for the Mediterranean website, available at: http://ufmsecretariat.org/who-we-are/
\textsuperscript{361} UNEP(DEPI)/MED IG.21/9, Decision IG.21/14, Cooperation Agreements, available at: https://wedocs.unep.org/rest/bitstreams/8183/retrieve
\textsuperscript{363} IUCN Centre for Mediterranean Cooperation website, available at: https://www.iucn.org/regions/mediterranean/about
\textsuperscript{364} UNEP(DEPI)/MED IG.21/9, Decision IG.21/14 Cooperation Agreements, available at: https://wedocs.unep.org/rest/bitstreams/8183/retrieve
5. THE BALTIC SEA

KEY FINDINGS

- Key pressures in addition to fisheries include eutrophication and pollution by hazardous substances.

- There is no active Regional Fisheries Management Organisation (RFMO) in the Baltic Sea. The Baltic Environment Protection Commission (HELCOM) has no decision-making competence with respect to fisheries; it deals with environment issues having indirect and direct impacts on fisheries. While fisheries is not an ‘independent’ topic within HELCOM’s Baltic Sea Action Plan (BSAP), several actions focus on fisheries, with a greater number of measures than that related to any other human activity. This is especially true for the Ecological Objectives set for HELCOM’s priority areas (biodiversity and hazardous substances) that cover fisheries. HELCOM has also established a working group specifically dedicated to ecosystem-based sustainable fisheries (HELCOM-FISH).

- The absence of an active RFMO in the Baltic Sea creates a different context for cooperation and coordination than that seen in the other European regional seas. The Common Fisheries Policy (CFP) applies to all Baltic coastal states and their fishing activity (with the exception of Russia). In 2009, the EU and Russia agreed to cooperate on fisheries and marine conservation in the Baltic Sea.

- HELCOM plays a strong role in coordinating implementation across the EU Member States and Russia, and provides added value through its work under the BSAP and established networks and relationships. There is both formal and informal coordination between the HELCOM and the EU institutions and other related projects/forums.

- In the Baltic Sea, much effort has been put into establishing platforms for information sharing, coordination and cooperation. HELCOM-FISH, which set a platform to discuss the interlinkages between fisheries and environmental management, is considered to be a promising model for collaboration between the Member States and the EC, allowing discussions on substantive matters related to fisheries and environmental management. Building on the EU’s exclusive competence in relation to fisheries, HELCOM-FISH creates added value by addressing topics and issues which cannot be dealt with by other bodies (for lack of resources or capacity) and harnesses its key strength, i.e. the ability to organise meetings and bring relevant people together. Similarly, BALTIFISH aims to strengthen and improve EU Member State coordination and cooperation in fisheries management in the Baltic Sea by providing a regional platform for key national stakeholders to discuss fisheries issues. It also considers input from other key stakeholders significant for fisheries, such as the Baltic Sea Advisory Council (BSAC), the International Council for the Exploration of the Sea (ICES) and HELCOM.

This chapter focuses on the Baltic Sea, starting with a brief overview of its characteristics and the main pressures or human activities that currently affect the area. The subsequent sections assess the role played by fisheries in regional ocean governance. The chapter describes the

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key institutions and their mechanisms of cooperation and coordination in the context of fisheries management. Where relevant, interaction with EU policies relevant to fisheries is also discussed.

5.1. Characteristics and main pressures

The Baltic Sea is bounded by the coastlines of Denmark, Estonia, Finland, Germany, Latvia, Lithuania, Poland, the Russian Federation and Sweden. It is the largest semi-enclosed brackish water system in the world and it is unique in that it contains areas in which freshwater, brackish water and marine species are all present.

Its unique geographical, oceanographic, and climatological characteristics render the Baltic ecosystem highly susceptible to the environmental impacts of human activities at sea and in its catchment area, which covers about 1,650,000 km² and is densely populated, providing a home to over 85 million people. According to the Holistic assessment I of HELCOM (2010), the Baltic Sea has a poor environmental status, with significant pressures on the ecosystem from eutrophication, pollution by hazardous substances and fishing.

In December 2016, the EEA reported that important signs of improvement are being observed in the North East Atlantic Ocean and Baltic Sea. Since the early 2000s, better management of fish stocks has contributed to a clear decrease in fishing pressure in these two regional seas. It concluded that between 2002 and 2015 the number of stocks exploited at sustainable levels (fishing at or below MSY) increased from two to 26.

The 2013 Baltic Sea Action Plan (BSAP) report confirmed that eutrophication and hazardous substances are key pressures. The effects of diffuse pollution exercise significant pressure on the Baltic Sea’s marine environment. The Baltic Sea is highly sensitive to eutrophication. Its characteristics render it particularly sensitive to persistent, toxic and bio-accumulating substances, as does the fact that many of the resident species were not originally adapted to a brackish water environment. Once hazardous substances are released into the Baltic Sea they can remain in the marine environment for very long periods and can accumulate in the marine food web. Although the entry of certain hazardous substances has decreased considerably during the last 20 to 30 years, the problems still persist. Increased use of chemicals and the development of new synthetic chemical compounds have also magnified concentrations of certain new substances in the marine environment.

Table 5 provides an overview of the different pressures and their regulating institutions, with reference to their mandates and geographical competence. Table 6 presents a similar overview, focusing on the main impacts caused by these pressures.

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369 This integrated assessment was conducted for the period 2003-2007 to establish a baseline against which the success and effectiveness of its implementation can be measured.
372 Ibid.
373 Overview of implementation of the HELCOM BSAP, prepared for the 2013 HELCOM Ministerial meeting to update on progress in implementing the plan.
376 Ibid.
377 Ibid.
Table 5: Baltic Sea: key uses of the European regional seas that require regulation

<table>
<thead>
<tr>
<th>Key use</th>
<th>Institution</th>
<th>Substantive competence</th>
<th>Geographical Competence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fisheries</td>
<td>HELCOM</td>
<td>• Implement the ecosystem-based approach to fisheries (FISH GROUP);</td>
<td>Baltic Sea Area(^{379})</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Find solutions by which the fisheries sector can contribute to reaching GES of the</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Baltic Sea by 2021 (FISH GROUP)(^{378})</td>
<td></td>
</tr>
<tr>
<td>Transportation and Energy</td>
<td>HELCOM</td>
<td>• Analyse developments in maritime transportation around the Baltic and investigate</td>
<td>As above</td>
</tr>
<tr>
<td>Industry</td>
<td></td>
<td>possible impacts on international cooperation with regard to pollution response;</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Identify and promote actions to limit sea-based pollution while ensuring safe</td>
<td></td>
</tr>
<tr>
<td></td>
<td>CPMR – Baltic</td>
<td>navigation(^{380})</td>
<td></td>
</tr>
<tr>
<td>Commission</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Promote accessibility, taking into account transport links and interconnections</td>
<td>Participating Baltic</td>
</tr>
<tr>
<td></td>
<td></td>
<td>within the Baltic region, both north-south and east-west;</td>
<td>Sea regions from</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Monitor EU Policy on Renewable Energy and its effect on investments in renewable</td>
<td>Norway, Sweden,</td>
</tr>
<tr>
<td></td>
<td></td>
<td>energy in the Baltic Sea Region(^{381})</td>
<td>Finland, Estonia,</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Latvia, Lithuania,</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>Poland, Germany,</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>Denmark and the Russian</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Federation(^{382})</td>
</tr>
</tbody>
</table>

Table 6: Baltic Sea: key human impacts on the European regional seas that require regulation

<table>
<thead>
<tr>
<th>Key impact</th>
<th>Institution</th>
<th>Substantive competence</th>
<th>Geographical competence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Environmental impacts</td>
<td>HELCOM</td>
<td>• Monitor and assess issues related to nature conservation and biodiversity protection</td>
<td>As per Table 5</td>
</tr>
<tr>
<td></td>
<td></td>
<td>(State and Conservation WG)(^{383})</td>
<td></td>
</tr>
</tbody>
</table>

\(^{378}\) HELCOM website: http://www.helcom.fi/helcom-at-work/groups/fish-group

\(^{379}\) Article 1 Helsinki Convention defines the Baltic Area as ‘the Baltic Sea and the entrance to the Baltic Sea bounded by the parallel of the Skaw in the Skagerrak at 57° 44.43’N. It includes the internal waters, i.e., for the purpose of this Convention waters on the landward side of the base lines from which the breadth of the territorial sea is measured up to the landward limit according to the designation by the Contracting Parties’.

\(^{380}\) HELCOM, Groups, Maritime, available at: http://www.helcom.fi/helcom-at-work/groups/maritime


\(^{382}\) CPMR, Baltic Sea Commission, Member Directory and Map, available at: http://cpmr-baltic.org/who-we-are/member-directory-map/

### 5.2. Fisheries and ocean governance

This section describes the key actors within fisheries and ocean governance in the Baltic Sea, highlighting their interactions and their links to relevant EU policy affecting fisheries.

<table>
<thead>
<tr>
<th>RSC/RFMO</th>
<th>Substantive competence</th>
<th>Geographical competence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Baltic Sea</td>
<td></td>
<td></td>
</tr>
<tr>
<td>RSC</td>
<td>Helsinki Convention (HELCOM)</td>
<td>Baltic Sea</td>
</tr>
<tr>
<td></td>
<td>Protection of the marine environment in the Baltic Sea</td>
<td></td>
</tr>
</tbody>
</table>

**Baltic Marine Environment Protection Commission - Helsinki Commission (HELCOM)**

HELCOM is the governing body of the Convention on the Protection of the Marine Environment of the Baltic Sea Area, also known as the Helsinki Convention (1974). The Convention focuses on all sources of environmental pollution in the Baltic Sea. In 1992, a new Convention was signed by all states bordering the Baltic Sea and the EU. The new Convention’s scope extends to the Parties’ internal waters, and it reinforced their obligations in relation to pollution

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385 Ibid.

386 According to the Helsinki Convention, it applies to the Baltic Sea Area (Article 1 defines this as ‘the Baltic Sea and the entrance to the Baltic Sea bounded by the parallel of the Skaw in the Skagerrak at 57° 44.43’N. It includes the internal waters, i.e., for the purpose of this Convention waters on the landward side of the base lines from which the breadth of the territorial sea is measured up to the landward limit according to the designation by the Contracting Parties’).

by hazardous substances and land-based pollution, as well as their reporting obligations. The current Parties to the Helsinki Convention are all of the coastal states, i.e. Denmark, Estonia, Finland, Germany, Latvia, Lithuania, Poland, Russia and Sweden and the EU. The Convention’s main goal is to protect the marine environment of the Baltic Sea from all sources of pollution and to restore and to safeguard its ecological balance. In view of this, ‘the whole of the Baltic Sea area, including inland waters, as well as the water of the sea itself and of the seabed’ is included. Measures to decrease land-based pollution are taken across the whole catchment area of the Baltic Sea. Unlike the other European regional seas, there is no RFMO active in the Baltic. HELCOM does not have fisheries management competence as such, but deals primarily with environmental issues.

HELCOM has several roles and responsibilities, including the development of environmental policy for the Baltic Sea area, as well as providing information about ‘the state of, and trends in, the marine environment, the efficiency of protection measures and common initiatives and positions, which can form the basis for decision-making in other international fora’. Contracting Parties must implement HELCOM recommendations on fisheries through their national legislation. Several thematic groups monitor and assess pressures, trends and impacts, and identify suitable actions to progress each of the corresponding priority areas within HELCOM.

With respect to its cooperation with RFBs, HELCOM aims to initiate ‘new regional partnerships, including in fisheries and aquaculture in support of application of ecosystem-based approach and full implementation of Sustainable Development Goal 14’. In terms of its contribution to International Ocean Governance, ‘further synergies with regional or European governance frameworks will be sought’, as well as ‘linking the implementation of HELCOM commitments and the United Nations 2030 Agenda for Sustainable Development’ and seeking to ‘cooperate with other RSCs as well as UNEP’.

HELCOM itself has worked towards this goal from its inception, focusing on ‘issues such as salmon and trout populations and habitats, fisheries within Marine Protected Areas, threatened and endangered fish species as well as sustainable aquaculture’. Since 2003, ‘the work of HELCOM has been guided by the ecosystem approach to the management of human activities’. The 2007 BSAP ‘sets out a scheme for implementing the ecosystem approach and to restore the good ecological status of the Baltic marine environment by 2021’.

The key strategic document guiding HELCOM activities is the Baltic Sea Action Plan (BSAP), which was adopted by all coastal states and the EU in 2007. It identifies four priority areas: eutrophication; hazardous substances; biodiversity and maritime activities. The BSAP aims to restore the Baltic marine environment GES by 2021. To support this aim, HELCOM devel-

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388 Ibid.
390 Ibid.
393 Ibid.
394 Ibid.
395 Ibid.
396 Ibid.
397 Ibid, p.3.
399 Ibid.
oped a holistic vision for the Baltic Sea: that it should become ‘a healthy Baltic Sea environment, with diverse biological components functioning in balance, resulting in good environmental/ecological status and supporting a wide range of sustainable human economic and social activities’\textsuperscript{401}.

‘Fisheries’ is not a separate, independent topic within the BSAP, which instead outlines action plans in relation to eutrophication, hazardous substances, biodiversity and maritime activities. Several actions, however, target fisheries. Overall, the number of measures related to fisheries in the biodiversity segment is larger than that related to any other human activity\textsuperscript{402}, covering hazardous substances and the adoption of ecological objectives to ensure Favourable Conservation Status (FCS) of Baltic Sea biodiversity. The BSAP recommends implementing the ecosystem approach to fisheries management in the Baltic Sea.

A pivotal component in implementing the BSAP was HELCOM’s Initial Holistic Assessment (HOLAS I, 2010). This presented the first ecosystem health assessment of the entire Baltic Sea, and also offered information on the costs and benefits to society. The assessment was based on data for the years 2003-2007 and its objective was twofold: (1) to present an integrated assessment of the ecosystem health of the Baltic Sea; and (2) to set a baseline for evaluating the effectiveness of the implementation of the measures of the HELCOM BSAP adopted in 2007\textsuperscript{403}. The Second Holistic Assessment (HOLAS II) is currently underway and the results will be published in mid-2017\textsuperscript{404}.

**HELCOM and the MFSD**

In May 2010, HELCOM agreed to act as the coordinating platform for the regional implementation of the MSFD in the Baltic Sea, affecting those HELCOM Contracting Parties which are also Member States\textsuperscript{405}. The HELCOM Group for the implementation of the ecosystem approach (HELCOM GEAR) is responsible for coordinating efforts to meet the ecological objectives of the BSAP and achieve GES of the Baltic Sea by 2021. HELCOM GEAR facilitates regional coordination for the MSFD implementation for those Contracting Parties which are also Member States, in order to promote more coherent national marine strategies. HELCOM GEAR also coordinates with activities under the Maritime Doctrine of the Russian Federation\textsuperscript{406}.

**HELCOM and the CFP**

Prior to 2006, the coordination of the management of living resources in the Baltic Sea was carried out under the Gdansk Convention (signed in 1973)\textsuperscript{407}, while the preparation of science-based recommendations for the consideration of contracting parties was a duty of the International Baltic Sea Fisheries Commission (IBSFC). Under the Gdansk Convention, Contracting Parties agreed to cooperate to preserve and exploit all fish species and other living marine resources of the Baltic Sea and the Belts, excluding internal waters. This led to the adoption of annual TACs, technical regulations for fisheries, and a multi-annual Salmon Action Plan in 1997. With the IBSFC disbanded in 2007, the major Baltic fish stocks for all coastal states

\textsuperscript{401} Ibid.
\textsuperscript{406} Ibid.
(except Russia) are now managed under the CFP (and related policies such as the IUU Regulation) and are also affected by integrated strategies such as the MFSD. In 2009, the EU and Russia agreed to cooperate on fisheries and marine conservation in the Baltic Sea.\textsuperscript{408}

The EU – Russia Joint Baltic Sea Fisheries Committee (JBSFC)\textsuperscript{409} meets annually, dealing with bilateral fisheries issues between the EU and Russia. The current framework does not form a substitute for the wider fisheries mandate of the (now disbanded) IBSFC as an RFMO. It was moreover mentioned as part of the consultation that before each meeting of the IBSFC, coordination meetings take place between the Commission and Member States to prepare EU positions. At the actual meetings with Russia, the Commission speaks on behalf of the Member States. The BSAC is invited as an observer.

HELCOM’s work on fisheries is quite unique and can, in part, be explained by the abolishment of the IBSFC. These efforts include: the FISH group – group on ecosystem-based sustainable fisheries\textsuperscript{410}; the HELCOM FISH-PRO II - project for Baltic-wide assessment of coastal fish communities in support of ecosystem-based management (2013-2018)\textsuperscript{411}; and sturgeon rehabilitation - Joint Baltic Sea sturgeon rehabilitation development (2013–2014)\textsuperscript{412}.

IUU fishing is an issue for cod fishing, although only limited data are available. In 2011, the ICES Baltic Fisheries Assessment Working Group estimated the level of IUU fishing for Baltic cod to be as high as 35-40% in recent years\textsuperscript{413}. While misreporting of catch has been investigated over the last decade, the EFCA stated in 2012 that ‘the question of assessment of the current situation remains and the under-declaration of cod catches still is considered a recurrent problem’.

Working group on ecosystem-based sustainable fisheries (HELCOM-FISH)

HELCOM-FISH, established in 2014, deals with the implementation of the ecosystem-based approach insofar as it relates to fisheries\textsuperscript{414}. It facilitates the implementation of fisheries-related actions of the HELCOM BSAP and Ministerial Declarations, and follows-up on those actions. The group meets annually and also works to identify solutions in reaching GES for the Baltic Sea (as required under the MFSD). The working group includes representatives from fisheries and environment authorities of the Baltic Sea countries, as well as EU and HELCOM observers, among others.

The Terms of References formulated for HELCOM-FISH explicitly state ‘that for the EU Member States, the EU has exclusive competence in the matter of conservation of marine biological resources’. The group works to create added value for those Member States that are also members of HELCOM, particularly in the implementation of EU legislation.


\textsuperscript{410} HELCOM, FISH Group, available at: http://www.helcom.fi/helcom-at-work/groups/fish-group

\textsuperscript{411} Ibid.


It emerged from the consultation that HELCOM seriously contributed in establishing cooperation mechanisms with the EU (in practice the EC), itself a member of HELCOM. In the context of fisheries management, there was a need to structure this collaboration, in the absence of an RFMO. HELCOM set up the FISH Group with the aim of establishing a platform where the interlinkages between fisheries and environmental management could be discussed. Acknowledging the EU’s exclusive competence in relation to fisheries, HELCOM’s goal was to create added value by addressing topics and issues which cannot be dealt with by other bodies for lack of resources or capacity. It was emphasised that one of the key strengths of HELCOM is its ability to organise meetings and bring people together. The main work of the group involves compiling data, e.g. on best practice or best available technology (e.g. for aquaculture) to support decision-makers at Member State or EU level in their decision-making processes. The group itself cannot make any decisions but in some cases recommendations can be made.

Cooperation is an essential component of the FISH Group’s work. This is carried out in various ways, such as through enhanced communication and cooperation between the fisheries and environmental administrations of HELCOM Contracting Parties and other relevant bodies and institutions. It also establishes stronger cooperation with ICES, BALTFISH, the EU-Russian Federation Joint Baltic Sea Fisheries Committee and BSAC to facilitate a mutually helpful agenda and to maximise synergies between the various bodies.

In particular, with a view to bridge the divide between the marine environment and fisheries, the HELCOM Fish 5 agreed a proposed plan, including taking appropriate steps to initiate a process for regular information exchange between HELCOM Fish, BALTFISH and the EU-RU Fisheries Commission. Such an information exchange could target initial communications, reports/main decisions of relevant meetings and detailed agenda of any future planned meetings. More closely aligning the needs of marine environment and fisheries takes place in the context of the recent global developments at the UN level, particularly Sustainable Development Goal 14.

5.3. Cooperation and coordination

After discussing the key institutions, this section presents interesting examples of cooperation and coordination between the RSC and other relevant institutions in the context of fisheries management.

The Baltic Sea Fisheries Forum (BALTFISH)

BALTFISH was initiated in 2009 as a flagship project within the EU Strategy for the Baltic Sea Region (EUSBSR). The 2009 EUSBSR is the first macro-regional strategy in Europe and offers an integrated framework to improve the environmental condition of the sea, to reduce transport bottlenecks and improve energy interconnections, and to promote development networks for research and innovation. It also plays a part in major EU policies and reinforces integration, aiming to bring together initiatives in various sectors (growth, sustainable development, etc.) and to boost cooperation between stakeholders in the Baltic Sea Region. The Member States involved in the EUSBSR are the Baltic Sea Coastal States, and the Strategy

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welcomes cooperation with EU neighbouring countries (Russia, Iceland, Norway and Belarus)\textsuperscript{417}. HELCOM takes part in the Steering Committees of several of the EUSBSR’s identified Priority Areas, which cover fisheries as part of the reserving of natural zones and biodiversity\textsuperscript{418}. One of the objectives of the EUSBSR to ‘Save the Sea’, is to achieve GES by 2020 (as required under the MSFD) and favourable conservation status (required under the Habitats Directive) in accordance with the EU Biodiversity strategy, while also taking the related targets set out by the HELCOM BSAP into account. To date, fisheries has not been recognised as a separate policy area under the strategy and only two flagship initiatives explicitly deal with commercial fisheries, the BALTFISH forum and the Aquabest project.

BALTFISH aims to strengthen and improve EU Member State coordination and cooperation in fisheries management in the Baltic Sea by providing a permanent forum, responsible for policy formulation and development of joint recommendation. Similar to the BSAC, BALTFISH is ‘based on the regionalisation of the CFP and its main objective is to promote cooperation among fisheries administrations and other key stakeholders in developing sustainable fisheries in the Baltic Sea region’\textsuperscript{419}.

An MoU (2013) by the Ministers of the eight Member States in the Baltic Sea Region changed the flagship project to a permanent fisheries forum. The objectives of BALTFISH are listed in the MoU\textsuperscript{420}. Its focus is on strengthening coordination and cooperation between Member States in relation to fisheries management in the Baltic Sea, as well as further developing cooperation with other key stakeholders significant for fisheries. BALTFISH provides a forum for exchanging ideas, views and information ‘to facilitate joint actions and various concrete projects to achieve sustainable fishing in the Baltic Sea Region’\textsuperscript{421}. Its activities are grounded in the principles for regionalisation, as provided in the Basic Regulation of the CFP, in particular Article 18\textsuperscript{422}.

\textit{BALTFISH has been established in 2009. A key function is that it provides a discussion platform for those Member State representatives who are tasked with negotiating with the EC.}

\textbf{Illustrative Box 4: Stakeholder involvement in fisheries in the Baltic}

BALTFISH involves all eight Member States bordering the Baltic Sea, and functions on two levels: a high-level group level consisting of fisheries directors and representatives of the EC; and the BALTFISH forum seminar level consisting of Member State and EC officials, as well as representatives from organisations such as BSAC, ICES and HELCOM\textsuperscript{423}.

The 2013 MoU expressly emphasises the need for effective cooperation, transparency and knowledge sharing between BALTFISH and the BSAC, as well as with ICES, HELCOM and other key stakeholders in the Baltic Sea fisheries.

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\textsuperscript{417} EUSBSR, What is EUSBSR, available at: \url{http://www.balticsea-region-strategy.eu/about}

\textsuperscript{418} HELCOM, EUSBSR, EU Strategy for the Baltic Sea Region, available at: \url{http://helcom.fi/baltic-sea-action-plan/partners-in-action/eu-strategy-for-the-baltic-sea-region}; These include: Priority Area Bio - Preserving natural zones and biodiversity, including fisheries; Priority Area Hazards - Reducing the use and impact of hazardous substances; Priority Area Nutri - Reducing nutrient inputs to the sea to acceptable levels; and Priority Area Safe - To become a leading region in maritime safety and security.

\textsuperscript{419} HELCOM, Baltfish Forum, available at: \url{http://www.helcom.fi/action-areas/fisheries/management/baltfish/}


\textsuperscript{421} Ibid.

\textsuperscript{422} Article 18 of Regulation 1380/2013 on the CFP deals with 'regional cooperation on conservation measures'.

Common positions and joint recommendations of BALTFISH are made based on a harmonised decision-making process among Member States. The MoU also includes the requirement that Member States, when preparing and discussing draft BALTFISH common positions or joint recommendations, duly consider the views expressed by the EC.

BALTFISH high level group also develops common positions and joint recommendations for legislative and other proposals drafted by the EC, or requests their transposition at the national level. Where the development of sustainable fisheries in the Baltic Sea region is concerned, it has the right to submit positions or recommendations to any relevant organisation or body.

Specific issues that have been subject to discussion by BALTFISH high level group in recent years include the gradual introduction of a discard ban in the Baltic Sea, the development of a discard plan for the Baltic Sea (based on delegated regulation (EU) 1396/2014)424, and technical conservation measures425.

The actions of BALTFISH include contributing to the development of a roadmap for eliminating cod discards in the Baltic Sea, contributing to the development of AQUABEST (an aquaculture project), and agreeing the content of other flagship projects for fisheries. The forum has discussed, among other issues, the discard ban, TACs and quotas, multi-annual management plans and the minimum conservation reference size (MCRS) of cod426. Recent cooperation activities include a joint BALTFISH/BSAC/EFCA workshop on monitoring, control and enforcement of the Landing Obligation. The purpose of the workshop was ‘to have free discussions on the implementation of the landing obligation’427.

**Baltic Sea Advisory Council (BSAC)**

Established in 2006, the BSAC is one of the EU’s ACs428 and is composed of regional fisheries associations and other stakeholders affected by the CFP, including HELCOM.

*It was mentioned during the consultation that the BSAC is an observer to HELCOM (as are other stakeholders). In contrast to the FISH Group, which mainly involves decision-makers from Member States and the EC (representatives from different units), it is composed of representatives from the fisheries sector and other interest groups such as NGOs, environmental groups, anglers and sports fisheries. HELCOM and BSAC enjoy a collaborative relationship. The BSAC also takes part as observer under the EU-Russia agreement, with all meetings attended either by its Chair or by a fisheries representative. The Commission encourages the BSAC to participate and it thus takes part in the EU-Member State coordination meetings and attends formal bilateral meetings as an observer.*

Illustrative Box 5: Interaction of the BSAC with EU-CFP legislation (consultation based)

The BSAC was established in 2006. It consists of 40 members: 60% from the fisheries sector in the Baltic EU Member States (fisheries organisations representing fishermen, so-called Producer Organisations, trade unions, processors and traders) and 40% from civil society organisations (NGOs, anglers and recreational fisheries). The AC itself consists of a General Assembly, an Executive Committee and Working Groups to deal with specific subjects, all related to fisheries management and following the objective of the CFP to ensure fishing is environmentally sustainable and to achieve economic, social and employment benefits.

The BSAC aims to provide advice and recommendations (and consensus if possible) for the Commission and the Member States (i.e. BALTFISH). It is increasing its cooperation with the BALTFISH Member States in line with provisions on regionalisation. The relevant Member States are empowered to develop a joint recommendation under the umbrella of BALTFISH, which is the right of the Member State regional groups according to regionalisation.

In the Baltic Sea, the consultation process with stakeholders is formalised at the national level. Most Member States have their own procedures for discussing draft legislation and measures with sector representatives. The development of the ACs has not replaced this but has instead added a layer of consultation. Interest groups can take their case to national authorities. They can then do the same in the forum of the BSAC.

The International Council for the Exploration of the Seas (ICES)

ICES is active in the Baltic Sea according to the formally agreed convention, statutes or memorandum with Contracting Parties to ICES. ICES, a scientific and research organisation for the provision of information and advice to member countries and international bodies, is considered to be a RFB by the FAO. Although ‘not all RFBs have a mandate to take binding measures for the management of fisheries ... it is likely that all support management by, for example, providing advice or scientific support to fisheries management’429. In areas where there is no RFMO, such as the Baltic Sea, scientific advisory RFBs - such as ICES can play a crucial role in supporting regional fisheries management. HELCOM agreed an MoU with ICES in 1999, according to which, ‘ICES will provide scientific information and advice, which is independent and free from political influence, to HELCOM’. In addition, the parties to the MoU will consult regularly on ways in which their cooperation can be further improved and extended430. ICES carries out assessments for the main stocks of the Baltic Sea (cod, herring, sprat, salmon, sea trout and flatfish stocks). ICES and the EU agreed on an MoU (2004), on which basis ICES provides the EU with scientific advice on fishing opportunities for more than 220 fish stocks on an annual basis, as well as answering special requests that relate to the impacts of fisheries, evaluation of fisheries management strategies, and the Marine Strategy Framework Directive (MSFD).”431 Several working groups within ICES focus on the Baltic region:

- The Baltic Fisheries Assessment Working Group (WGBFAS), which provides scientific advice on the stocks in the Baltic Sea and adjacent areas.
- The Working Group on Integrated Assessments of the Baltic Sea (WGIAB), a joint HELCOM/ICES group set up in 2007, focuses on ecosystems and complements other groups and HELCOM projects. For example, it interacts with WGFAS for developing


431 See http://www.ices.dk/sites/pub/pdf/CM%202006/DEL/Del2706.pdf
integrated advice for fisheries management, regional ecosystem overviews, and multi-sectorial advice for marine management.

- The Assessment Working Group on Baltic Salmon and Trout assesses the stocks in the Baltic Sea and provides annual catch advice on salmon.
- The Working Group on Risks of Maritime Activities in the Baltic Sea (WGMABS)
6. THE BLACK SEA

**KEY FINDINGS**

- The Black Sea faces particular transboundary challenges, including eutrophication resulting from agriculture, industry and untreated sewage, contamination from harmful substances (especially oil products), the introduction of alien species, and fishing activities.

- The geographical mandate of the General Fisheries Commission for the Mediterranean (GFCM) extends to the Black Sea. As a result of increased activities in this region since the establishment of the Working Group on the Black Sea in 2011, specifically addressing fisheries issues in the region, participation in the GFCM Agreement is being strongly pursued. Currently three of the riparian countries are Contracting Parties to the GFCM (Romania, Bulgaria and Turkey) and Ukraine and Georgia have been recently granted the status of Cooperating non-Contracting Parties (2015) and are making progress towards full membership. The Russian Federation has been participating as observer in relevant GFCM activities and stated officially in several occasions that a process of ratification of the GFCM Agreement is ongoing at the national level.

- The Bucharest Convention provides for a regional cooperation framework in the Black Sea with the objective of protecting the Black Sea against pollution. The Convention was followed by the establishment of the Black Sea Strategic Action Plan for the Environmental Protection and Rehabilitation of the Black Sea (BSSAP) and the Black Sea Integrated Monitoring and Assessment Programme (BSIMAP), with a focus on the rehabilitation and protection of the sea, using an ecosystem approach and aligning with the provisions of the Marine Strategy Framework Directive (MSFD) to resolve transboundary environmental issues. BSSAP advises the Black Sea Commission (BSC) on matters ranging from pollution monitoring and assessment to fisheries and other marine living resources.

- All six riparian Black Sea countries are Contracting Parties to the Bucharest Convention, which is implemented by the BSC. However, the EU has only a status of observer and, despite efforts made in several occasions it is unlikely that it will become a party.

- Attempts to agree on a legally binding document on fisheries and conservation of living resources within the remit of BSC failed. Cooperation among the riparian countries remains the most crucial element for fisheries governance in the Black Sea. It is now recognised that the best way to promote such cooperation is by enhancing participation in the GFCM, as stated by all the riparian countries in the Bucharest Declaration adopted in October 2016.

This chapter focuses on the Black Sea, starting with a brief overview of its characteristics and the main pressures or human activities that currently affect the area. The subsequent sections assess the role played by fisheries in regional ocean governance. The chapter describes the key institutions (including the relevant RFMOs and RSCs), as well their mechanisms of cooperation and coordination in the context of fisheries management. Interaction with selected EU policies relevant to fisheries is also discussed, where appropriate.
6.1. Characteristics and main pressures

Two EU Member States, Romania and Bulgaria, and four other States\textsuperscript{432} border the Black Sea, which is itself connected to the world’s oceans through the Mediterranean Sea, via the Aegean Sea. The Black Sea is an area of particular interest for the EU, quite aside the fact that two of its coastal states are EU Member States. The area has strategic significance for the transit of oil and gas resources from Russia and the Caspian Sea. Additionally, the unique natural conditions resulting from the sea’s geographical location being an isolated sea, have become increasingly vulnerable and are in need of protection to ensure long-term benefits for its coastal states.

There is also a divergence of obligations and commitments in the region, with Turkey neither signing nor acceding to the UNCLOS (whose Articles 122-123 address the interrelationship of countries that are coastal to enclosed and semi-enclosed seas\textsuperscript{433}) or the 'Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea'\textsuperscript{434}. Turkey however stated before the UNGA that it will respect UNCLOS. As far as the Black Sea is concerned, this is demonstrated by the delimitation agreements with neighbouring countries on the extension of sovereignty on marine waters.

The Black Sea faces particular transboundary challenges, including eutrophication resulting from agriculture, industry and untreated sewage, contamination from harmful substances (especially oil products), the introduction of alien species, and fishing activities\textsuperscript{435}. These challenges have been exacerbated by political unrest in the region. The increasing trend of eutrophication in the Black Sea is primarily caused by nutrient inputs from rivers, with consequent loss of species diversity. Pollution from oil, and the resulting contamination, is also a serious issue, stemming not only from activities in the Black Sea but also from the pollutants and toxic substances carried into the sea via rivers\textsuperscript{436}. Failure to effectively manage water in and around the Black Sea has led to the loss of essential habitats for spawning of sturgeon and other valuable fish species. More generally, the reduced flow of water from rivers into the sea has resulted in apparent hydro-chemical and biochemical changes that have destructive effects in low salinity water basins, such as the Black Sea\textsuperscript{437}. Finally, fisheries pose a particular challenge for the Black Sea, whose history of over-exploitation has caused some species to almost disappear from the area.

Table 7 provides an overview of the different pressures and their regulating institutions, with reference to their mandates and geographical competence. Table 8 presents a similar overview, focusing on the main impacts caused by these pressures.

\textsuperscript{432} Turkey (an EU candidate state), Georgia, Russia and Ukraine.
\textsuperscript{433} The obligation in this section of the convention reads '[s]tates are exhorted to cooperate with each other and to either directly or through an appropriate regional organisation to inter alia coordinate management, conservation, exploration and exploitation of living resources and the implementation of their rights and duties in respect of protection and preservation of the marine environment'.
\textsuperscript{436} European Environment Agency, (2002), Europe's biodiversity - biogeographical regions and seas, p. 11.
### Table 7: Black Sea: key uses of the European regional seas that require regulation

<table>
<thead>
<tr>
<th>Key use</th>
<th>Institution</th>
<th>Substantive competence</th>
<th>Geographical competence</th>
</tr>
</thead>
</table>
| Fisheries | GFCM | • Review the state of resources and fisheries, economic and social aspects of the fishing industry and recommend appropriate measures for its development;  
• Formulate and recommend measures for conservation, rational management and implementation of recommendations for living marine resources;  
• Encourage, recommend, coordinate and undertake training, research and development activities in all aspects of fisheries | All marine waters of the Mediterranean Sea and the Black Sea\(^ {439} \) |
| Fisheries | GFCM, Working Group on the Black Sea (WGBS) | • Reviewing the outcomes of activities undertaken, determining priorities and setting its workplan for the next intersessional period with respect to fisheries management.\(^ {440} \)  
• Action on combatting IUU fishing, training on aquaculture as well as the creation of a dedicated database of experts and institutions.\(^ {441} \) | All marine waters of the Mediterranean Sea and the Black Sea\(^ {442} \) |
| | Commission on the Protection of the Black Sea Against Pollution (BSC) | • Protection of marine living resources (when taking measures to prevent, reduce and control pollution)\(^ {443} \) | Black Sea\(^ {444} \) |
| | BSC, Advisory Group on Environmental Aspects of Management of Fisheries and Other Marine Living Resources | • Formulate regional policies and propose regional strategy and actions for implementation of ecosystem-based fisheries management and implementation of the FAO Code for Responsible Fisheries in the Black Sea; | As above |

\(^ {438} \) GFCM, About GFCM, available at: [http://www.gfcm.org/about/](http://www.gfcm.org/about/)
\(^ {440} \) See [http://www.fao.org/3/a-ax800e.pdf](http://www.fao.org/3/a-ax800e.pdf)
\(^ {443} \) Article XVIII of the 1992 Bucharest Convention of the protection of the Black Sea Against Pollution
\(^ {444} \) Article 1(1) of the Convention provides that the Convention shall apply to the Black Sea proper with the southern limit constituted for the purposes of this Convention by the line joining Capes Kelagra and Dalyan. Article 1(2) further clarifies that: ‘For the purposes of this Convention the reference to the Black Sea shall include the territorial sea and exclusive economic zone of each Contracting Party in the Black Sea. However, any Protocol to this Convention may provide otherwise for the purposes of that Protocol’.

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<table>
<thead>
<tr>
<th>Key use</th>
<th>Institution</th>
<th>Substantive competence</th>
<th>Geographical competence</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>BSEC, Working Group on Agriculture and Agro-Industry</td>
<td>• Strengthening the relationships between the fisheries sector and environmental authorities;</td>
<td>BSEC region (the territories of the Member States)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Measures to prevent illegal fishing practices;</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Assessments of the efficiency of fisheries management systems and environmental impact of existing fisheries practices</td>
<td></td>
</tr>
<tr>
<td></td>
<td>BSEC</td>
<td>• Promoting regional cooperation for the sustainable management of fisheries resources</td>
<td>As above</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Formulate regional policies and propose actions for environmental safety aspects of shipping;</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Strengthen the relationships between Ministers of Transport and Environment and other relevant institutions;</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Coordinate and maintain the regional database on the environmental safety aspects of shipping as an integral part of the Black Sea Information System</td>
<td></td>
</tr>
<tr>
<td></td>
<td>CPMR, Balkan and Black Sea Commission</td>
<td>• Promote accessibility at the EU level for peripheral, outermost and island regions, develop sustainable maritime transport, and connect the European peripheries with their neighbours</td>
<td>Participating Balkan and Black Sea regions</td>
</tr>
<tr>
<td></td>
<td>BSEC, Working Group on Energy</td>
<td>• Energy security; legislation and regulations; environmental protection; energy efficiency; alternative and renewable sources and international cooperation</td>
<td>As above</td>
</tr>
<tr>
<td></td>
<td>CPMR, Balkan and Black</td>
<td>• Improve sustainable and responsible tourism potential of the</td>
<td>As above</td>
</tr>
</tbody>
</table>

447 Article 2(e) of the Charter on BSEC.
449 Ibid.
450 Ibid.
Table 8: Black Sea – key human impacts on the European regional seas that require regulation

<table>
<thead>
<tr>
<th>Key impact</th>
<th>Institution</th>
<th>Substantive competence</th>
<th>Geographical competence</th>
</tr>
</thead>
<tbody>
<tr>
<td>Environmental impacts</td>
<td>GFCM</td>
<td>• Identifying sensitive indicators of GES in the most harmonised way possible&lt;sup&gt;455&lt;/sup&gt;</td>
<td>As per Table 7</td>
</tr>
<tr>
<td></td>
<td>BSEC</td>
<td>• Sustain the development of regional environmental cooperation in intersectoral and thematic areas&lt;sup&gt;456&lt;/sup&gt;, • Promote the integration of environmental protection into the economic and social policies of the BSEC Member States, as well as the development of innovative, environmentally friendly and resource-saving technologies&lt;sup&gt;457&lt;/sup&gt;</td>
<td>As per Table 7</td>
</tr>
<tr>
<td></td>
<td>BSC</td>
<td>• Formulate or propose regional policies, regional strategies and actions for conservation of biological diversity; • Draft proposals and attract international financial assistance for solving regionally important environmental problems related to the conservation of biological and landscape diversity&lt;sup&gt;458&lt;/sup&gt;</td>
<td>As per Table 7</td>
</tr>
<tr>
<td>Pollution</td>
<td>BSC</td>
<td>• Develop/harmonise pollution discharge models and scenarios in order to assist with the establishment of scientific criteria for setting permit levels/emission standards; • Coordinate pilot monitoring schemes; • Develop and communicate improved methodology for measuring discharge of pollutants;</td>
<td>As per Table 7</td>
</tr>
</tbody>
</table>

<sup>456</sup> BSEC, Terms of Reference of the Working Group on Environmental Protection, available at: [http://www.bsec-organization.org/aoc/environprotect/Pages/termsofref.aspx](http://www.bsec-organization.org/aoc/environprotect/Pages/termsofref.aspx)
<sup>457</sup> Ibid.
6.2. Fisheries and ocean governance: key actors

This section describes the key actors within fisheries and ocean governance in the Black Sea, their interactions and links to relevant EU policy affecting fisheries.

<table>
<thead>
<tr>
<th>RSC/RFMO</th>
<th>Substantive competence</th>
<th>Geographical competence</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>RSC</strong></td>
<td>Prevent, reduce and control pollution in the Black Sea in order to protect and preserve the marine environment, and provide a legal framework for cooperation and concerted actions to fulfil this obligation</td>
<td>Black Sea&lt;sup&gt;463&lt;/sup&gt;</td>
</tr>
<tr>
<td>Bucharest Convention (or Black Sea Convention)&lt;sup&gt;461&lt;/sup&gt;</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>RFMO</strong></td>
<td>Ensure the conservation and sustainable use of living marine resources, at the biological, social, economic and environmental level, as well as the sustainable development of aquaculture in the Mediterranean and in the Black Sea&lt;sup&gt;464&lt;/sup&gt;</td>
<td>All marine waters of the Mediterranean Sea and the Black Sea&lt;sup&gt;465&lt;/sup&gt;</td>
</tr>
<tr>
<td>GFCM</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>


<sup>463</sup> Article 1(1) of the Bucharest Convention provides that the Convention shall apply to the Black Sea proper with the southern limit constituted for the purposes of this Convention by the line joining Capes Kelagra and Dalyan<sup>463</sup>.

<sup>464</sup> Article 2(2) of the 2014 Agreement.

<sup>465</sup> Article 3 of the Agreement for the Establishment of the General Fisheries Commission for the Mediterranean.
The GFCM’s area of application extends to the Black Sea (see Chapter on the Mediterranean Sea). As discussed, the policies and activities of the GFCM are implemented by its Secretariat, with its actual work enacted through its four committees and subsidiary bodies, including the Working Group for the Black Sea (WGBS). The WGBS was established in 2011, and its first meeting was held in 2012. It is comprised of national focal points of the six riparian countries and it is also opened to other countries of the GFCM and the Black Sea region. At its latest meeting (June 2017) the Republic of Moldova also attended the WGBS annual meeting. Furthermore, participation is open to other international organisations, NGOs and civil society organisations. The WGBS is backstopped by the Secretariat of GFCM, both for the organisation of current activities (meetings, documents etc.), and communication and cooperation with other organisations, such as ACCOBAMS, BSEC, etc.

In the Black Sea Region, although Georgia, Ukraine and Russia are not Contracting Parties to the GFCM and thus the GFCM Agreement and its decisions are not legally binding for these countries, they are nevertheless parties to international law treaties such as the UNCLOS and the UNFSA, under which they have the obligation to cooperate within the remit of regional organisations in place. Non-membership to GFCM does not amount to disregard the international measures in place and the three countries must therefore make efforts to adhere to GFCM measures. This is even the more so in the case of Georgia and Ukraine due to their cooperating non-contracting status.

At its first meeting, in 2012, the WGBS recognised the ‘...need to start a real cooperation in the region under this GFCM initiative, which is a great opportunity to further develop the GFCM experience into the Black Sea area and a challenge because of the lack of comprehensive and operative management tools to enforce cooperation mechanisms’. Much progress has been made ever since, such as the granting of a ‘cooperating non-contracting party’ status to Georgia and Ukraine by the Commission. This obliges Georgia and Ukraine to confirm its commitment to comply with recommendations adopted in accordance with Article 8(b) of the Agreement and shall inform the Commission of the measures it takes to ensure such compliance. The status of the Cooperating non-Contracting Parties is subject to annual review ‘and renewed unless revoked by the Commission due to non-compliance with recommendations in accordance with Article 8(b) of the Agreement’.

From the consultations with the GFCM it followed that Russia officially stated that it considers becoming a member to the GFCM. It was mentioned that Russia is currently attending in an ‘observer’ capacity (non-contracting party) and reported several times that a process is

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466 Article 3 of the Agreement for the Establishment of the General Fisheries Commission.
468 The Scientific Advisory Committee on Fisheries (SAC), the Scientific Advisory Committee on Aquaculture (CAQ), the Compliance Committee (CoC), the Committee of Administration and Finance (CAF).
470 Simion Nicolaev, Director of the National Institute for Marine Research and Development (later became WGBS Coordinator) 1st Meeting of the WGBS in Constanta Romania, January 2012, available at: http://www.fao.org/3/a-ax863e.pdf
471 During the 39th session (2015), the cooperating non-contracting party status was granted to Georgia and Ukraine in light of their increasing involvement in GFCM activities in the Black Sea (GFCM Report 39, p. 8).
473 Ibid., Rule XIV(4).
474 The GFCM website reports on the visit of a Russian delegation (July 2015) where ‘options and conditions related to the cooperating non-contracting party status and GFCM membership were discussed’. Available at: http://www.fao.org/gfcm/news/detail/en/c/327914/
ongoing at the national level towards ratification of the GFCM Agreement. Currently, all representatives are present at the working groups and efficient meetings are reported. It was mentioned that as a result of the outcomes of the 2009-2011 performance review, the GFCM is more active in the Black Sea since 2011. Since 2011, four recommendations and one resolution have been adopted for the Black Sea. There is now a momentum to build upon ongoing cooperation in the Black Sea.

During the consultation with the WGBS-GFCM, reference to several of the adopted recommendations such as the ’Recommendation on the minimum mesh size for turbot gillnet fishing and minimum admissible size for landing turbot’ were mentioned as good practices. With Ukraine and Georgia having the status of Cooperating Non-Contracting Parties, these recommendations are implemented in the Black Sea countries. GFCM underlined that Russia, a non-contracting party, has been regularly reporting that the measures it has in place at the national level for species regulated by the GFCM (turbot and piked dogfish) are stricter than GFCM regulations. The only area where Russia clearly stated that they might not comply for the time being is data submission through GFCM platforms, relaying to GFCM data it submits to the FAO on fisheries, including catch in the Black Sea area. This is an area where improvement is welcomed.

Within current Black Sea practices, the Sub-Regional Group for Stock Assessment was created under the WGBS, to which experts from Romania, Bulgaria, Turkey, Ukraine and Georgia are invited and regularly participate.

This coincides with the general view that while over the past decades’ efforts have been initiated to establish common or shared approach to address the issues and challenges linked to fisheries in the Black Sea, their effects have been limited. This trend is acknowledged in the mid-term Strategy (2017-2020), while it is noted that there has been a recent shift towards a regional decision-making process which has been promoted through the WGBS, since its establishment in 2011. It continues to conclude that ‘the contribution of the WGBS to fisheries governance has been decisive, to the extent that three binding recommendations have been adopted by the GFCM in the years that followed the establishment of the WGBS [and] and a non-binding roadmap to fight IUU fishing in the Black Sea was adopted’. Despite increased effectiveness since the establishment of the WGBS in 2011, including the granting of the CNCP status to Georgia and Ukraine in 2015, the cooperation among the riparian countries remains the most crucial element required for the further improvement of fisheries governance in the Black Sea. This was acknowledged by all riparian countries in the 2016 Bucharest Declaration, adopted at the GFCM High-level conference towards enhanced cooperation on Black Sea fisheries and aquaculture.

In the Declaration, the Ministers and high-level representatives encourage a common and collaborative approach to cooperation amongst riparian countries in

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475 See also the Final report of the Compliance Committee (CoC) on the Intersessional meeting of the Compliance Committee including a session on the Review Panel (26-27 January 2017), p. 10.
477 Currently, there are four recommendations and one resolution on the Black Sea, which are: Res GFCM/40/2016/6 for a mid-term strategy (2017-2020) toward the sustainability of Mediterranean and Black Sea fisheries; Rec GFCM/40/2016/6 on scientific monitoring, management and control of turbot fisheries in the Black Sea (GSA29); Rec GFCM/39/2015/4 on management measures for piked dogfish in the Black Sea; Rec GFCM/39/2015/3 on the establishment of a set of measures to prevent, deter and eliminate illegal, unreported and unregulated fishing in turbot fisheries in the Black Sea; and Rec GFCM/37/2013/2 on the establishment of a set of minimum standards for bottom-set gillnet fisheries for turbot and conservation of cetaceans in the Black Sea.
479 The High-level conference towards enhanced cooperation on Black Sea fisheries and aquaculture was organised by the GFCM in partnership with the Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and Contiguous Atlantic Area (ACCOBAMS), the Commission on the Protection of the Black Sea Against Pollution (Black Sea Commission), the Organization of the Black Sea Economic Cooperation (BSEC) and the International Organisation for the Development of Fisheries in Central and Eastern Europe (Eurofish), and in collaboration with the Romanian Government.
the Black Sea region with a view to promoting the rational exploitation of marine living resources, the sustainable development of aquaculture and the mitigation of threats facing the marine environment and vulnerable species so as to ensure healthy and productive ecosystems’. Riparian countries in the Declaration recognised that the best way to promote such cooperation is by enhancing participation in the GFCM.

**The Bucharest Convention and the Black Sea Commission on the Protection of the Black Sea Against Pollution (the BSC Commission)**

One of the most influential legal frameworks in the Black Sea is that provided by the Bucharest Convention, also known as the Black Sea Convention\(^ {480} \). This regional cooperation framework aims at ‘achieving sustainable management of marine living resources and sustainable human development in the Black Sea Region’\(^ {481} \). It is the ‘only existing legal instrument in the field of marine environment which has all the Black Sea riparian countries as signatories’\(^ {482} \). The BSC is the regional focal point for all coastal and marine environmental concerns in the Black Sea\(^ {483} \), including eutrophication.

As there are no mechanisms for enforcement and infringement procedures under the Bucharest Convention, this is perceived to be ‘soft law’, and thus the ‘sustainable management of fisheries and other living resources is not properly ensured in the Black Sea basin’\(^ {484} \). The Bucharest Convention has four initial Protocols\(^ {485} \) not all of which are in force\(^ {486} \).

The Contracting Parties’ implementation of the Convention is monitored via the 2001 Black Sea Integrated Monitoring and Assessment Programme (BSIMAP),\(^ {487} \) ‘comprised of obligatory national monitoring programmes, and an independent quality assurance system’. Since its inception, the BSIMAP has addressed several issues such as ‘eutrophication, water pollution and water quality, biodiversity change and decline, habitats destruction etc.’\(^ {488} \). The BSIMAP highlights that the assessment of the state of the Black Sea Environment ‘shall be carried out in line with European and global approaches to the assessment of the environment and, to the extent possible, be built upon clear, understandable and compatible and common indicators and assessment criteria’\(^ {489} \). The use of common indicators shall be promoted in order to ensure a ‘coherent approach for a harmonized way of assessment’\(^ {490} \).

In 1996 (with a subsequent update in 2002), the Contracting Parties to the Bucharest Convention adopted the Black Sea Strategic Action Plan for the Environmental Protection and Rehabilitation of the Black Sea (BSSAP). One of the four main environmental challenges identified in the 2009 BSSAP is the ‘preservation of the commercial marine living resources’. The

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\(^{482}\) Ibid.


\(^{486}\) Protocol on the Protection of the Marine Environment of the Black Sea from Land-Based Sources and Activities (2003) [entry into force pending].


\(^{489}\) Black Sea Integrated Monitoring and Assessment Programme (BSIMAP), 2017-2022, p. 7.
BSSAP adopts an ecosystem approach that is aligned with the provisions of the MSFD and aims to resolve transboundary environmental problems\(^{491}\). The 2009 BSSAP created 'long-term ecosystem quality objectives' (EcoQOs)\(^{492}\), reflecting stakeholder perceptions of the state of the Black Sea in the long term. The EcoQOs address the 'sustainable use of commercial fish and other marine living resources', as well as biodiversity and habitats, reduction of eutrophication and water quality.

*It was emphasised during the consultations that with only Bulgaria and Romania as EU Member States, the implementation of the MSFD is not binding to all countries bordering the Black Sea, and is instead based on consensus. After several years of negotiation, the BSIMAP for the period 2017-2022 was adopted in October 2016. The BSIMAP is aligned to the MSFD (for example through the use of several MSFD and Water Framework Directive (WFD) definitions) and supports its objectives through, for example, further development of the EcoQOs. No reference is made to the MSPD; however the BSIMAP includes several references to ICZM.*

**Illustrative Box 6: Attempts of the EU to become a Party to the Bucharest Convention**

The Bucharest Convention does not provide the possibility for Regional Economic Integration Organisations (REIO) such as the EU to become a Party\(^{493}\). The EU became an observer in 2001, represented by the Environment Directorate General of the European Commission (DG Environment)\(^{494}\). With the accession of Romania and Bulgaria to the EU in 2007, the EU physically reached the borders of the Black Sea through its new members\(^{495}\).

Following this development, and in line with the provisions of the Bucharest Convention, at the 2007 Ministerial Meeting, Romania and Bulgaria proposed amending the Convention to allow REIOs such as the EU to accede to the Convention\(^{496}\). This request for amendment is in line with the established practice of the EU to become party to 'international environmental agreements together with its Member States, so that it can take an active role on issues of common policy and to ensure the elaboration of an appropriate legislation and necessary implementation steps'\(^{497}\). It was not, however, able to 'reach a common position regarding the proposal for amendment' and the efforts to amend the Bucharest Convention were subsequently suspended\(^{498}\).

EU membership of the BSC is perceived to result in advantages with respect to 'the immediate enforcement and financial benefits’ and those institutional and political advantages


\(^{496}\) Ibid, p.316. The EU is currently party to several international environmental Agreements/Conventions, such as UNCLOS, UN Conventions on climate, biodiversity, ozone, waste and chemicals; several transboundary river agreements; RSCs (OSPAR, HELCOM, Barcelona Convention).

\(^{497}\) Ibid.
which are ‘strategically important for the sustainable management of the marine living re-
sources in the Black Sea area’. The EU could support the riparian countries to ‘strengthen
their individual and shared capacity to tackle the Black Sea environmental problems and
also help to link and to improve the environmental governance in this transboundary sensi-
tive Danube-Black Sea region.

6.3. Cooperation and coordination RFMOS – RSCs and other actors

Having discussed the key institutions, this section presents interesting examples of coopera-
tion and coordination (or lack thereof) between RFMOS, RSCs and other relevant institutions
in the context of fisheries management in the Black Sea region.

At the EU level, a number of EU strategies apply to the Black Sea, the most prominent being
a Commission Communication, the Black Sea Synergy Initiative, which compliments the
European Neighbourhood Policy, the enlargement policy for Turkey and the Strategic
Partnership with the Russian Federation. The Communication seeks to create a forum for
tackling common problems while encouraging political and economic reform. The European
Council adopted the initiative in May 2007, with the first year of implementation reviewed in
2008 under 10 thematic fields, including maritime policy, fisheries and the environment.

The European Commission also has observer status with the BSC, in response to which it has
developed the Black Sea Synergy. This is a bottom-up initiative, which is ‘geared towards
strengthening regional cooperation via concrete projects making the best possible use of the
wide range of tools at the EU’s disposal’. Although the Black Sea Synergy initiative sets
goals, it is only a framework to facilitate greater coherence in the region; it has no mandate
and its Joint Statement is not binding.

The CFP dictates the number of catches permitted by each EU Member State for each species
of fish, resulting in two of the six coastal states in the Black Sea being obliged to ensure
their fishing activities are in compliance with the CFP, while the remaining states follow other
management and allocation regimes.

479 Ibid.
500 Irina Makarenko (2014), European Union’ Accession to the Bucharest Convention: Legal Aspects and Challenges
501 Joint Statement of the Ministers of Foreign Affairs of the countries of the European Union and of the wider Black
ment_blacksea_en.pdf
502 European Union External Action, European Neighbourhood Policy (ENP), available at: https://eeas.europa.eu/top-
ics/european-neighbourhood-policy-en
503 European Parliament, Fact Sheets on the European Union, The Enlargement of the Union, available at:
504 European Commission, (2007), The European Union and Russia: Close Neighbours, Global Players, Strategic Part-
505 European Union External Action, Black Sea Synergy, available at: https://eeas.europa.eu/headquarters/head-
quarters-homepage/346/black-sea-synergy_en
506 Ibid.
507 Joint Statement of the Ministers of Foreign Affairs of the countries of the European Union and of the wider Black
ment_blacksea_en.pdf
508 European Commission, Fisheries, Managing fisheries, available at: https://ec.europa.eu/fisheries/cfp/fish-
ing_rules_en
Illustrative Box 7: (National) regulations of fisheries resources in the Black Sea

At the national level, the six coastal states bordering the Black Sea have different regulations in place for the management of fisheries resources. With different fisheries management backgrounds, the Black Sea coastal states have ‘some tradition in applying Total Allowable Catches (TACs) and vessel quotas in the states of the former Soviet Union’\(^\text{509}\).

Following their accession to the EU in 2007, Romania and Bulgaria are obliged to abide by the annual establishment of fishing opportunities (EU quotas) and extend the application of the CFP to the Black Sea. The EC adopts TACs annually, which have been applied in Romania and Bulgaria for turbot and sprat since 2008\(^\text{510}\). The countries have also become eligible for support from the EMFF\(^\text{511, 512}\). The TACs were adopted for 2017 through Council Regulation (EU) 2016/2372 of 19 December 2016\(^\text{513}\). At the regional level, there are no TACs adopted and applicable between EU and non-EU countries\(^\text{514}\).

While Turkey uses a range of different regulatory mechanisms, it does not use TACs or quotas in the Black Sea\(^\text{515}\) nor does it use management measures, such as landing quotas, exclusive regional or sub-regional fishing permits\(^\text{516}\). Russia applies TACs and vessel quotas\(^\text{517}\) as required under the Law ‘On Fisheries and Protection of Aquatic Biological Resources’ of December 2004, defined as ‘scientifically justified annual catch of aquatic biological resources of particular species in a fishing area’. In Georgia, the Marine Ecology and Fisheries Scientific Research Institute of Georgia, on the basis of licences given by the Ministry of Environment and Natural Resources, provides status updates on the state of commercial fish stocks, ecological conditions and a prognosis on fishing. In Ukraine’s, a system of state licences was introduced in 2002, allowing fisheries activity until the TAC is reached, with endangered and valuable species subject to individual quotas. This system was criticised by many fishing companies for its lack of transparency in allocating quotas. Ukraine has fisheries agreements in place with Russia and Georgia\(^\text{518}\).

In addition, there have been some initiatives to reinforce the cooperation on fisheries in the region. However, these are still emerging or hardly implemented.

*It was pointed out during the consultation that the Bucharest Convention Advisory Groups on the Conservation of Biological Diversity and the Environmental Aspects of the Management of Fisheries and the other Marine Living Resources (Fisheries Group) are most relevant to fisheries. Coordination is guaranteed, as the chair of the Fisheries Group is also the chair of the WGBS (GFCM). The BSC is currently working to reinforce its collaboration with the*

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GFCM, with the two organisations holding meetings, cooperating on the development of indicators for the assessment of fisheries, attending each other’s meetings, and using informal communication channels to keep each other informed. They are also jointly involved in global initiatives such as the Sustainable Ocean Initiative.

In recent years, the BSC has established several mutual observer relationships. Within the past three years, two MoUs have been updated, i.e. that with the IMO for the next Biennium 2014-2015, and that with ACCOBAMS. An MoU was also signed with the GFCM. The BSC is currently working on ‘deepening of the cooperation’ with HELCOM, the Barcelona Convention and OSPAR.

A Declaration was adopted at a high level conference towards Enhanced Cooperation on Black Sea Fisheries and Aquaculture organised in Bucharest in October 2016, bringing together the GFCM, Ministers and high-level representatives from the Black Sea region. The Declaration recognises that ‘regional cooperation and synergies in the Black Sea region should be enhanced’ and recommend to the countries to do so and implement relevant actions. It refers to cooperation with relevant organisations, in particular the GFCM and the BSC.

In addition, the BlackSea4Fish project, initiated by the GFCM WGBS, aims to ‘enhance cooperation towards sustainable fisheries, thereby supporting national economies and protecting the livelihoods of those dependent on Black Sea fisheries’.

As mentioned during the consultation, the BlackSea4Fish project provides a coordinated technical framework for fisheries data collection and monitoring systems for the entire Black Sea region; joint stock assessment programme for the main pelagic and demersal fish species, particularly joint surveys for shared and migratory stocks; and to ensure fisheries management advice based on a holistic and ecosystem approach.

The initiative stems from the GFCM Framework Programme which included a work package on cooperation in the Black Sea. It was agreed that the BlackSea4Fish would be a scientific and technical cooperative project supporting fisheries management in the region, with a second initiative to focus on aquaculture. The six Black Sea riparian countries are the parties to the project, irrespective of their status within the GFCM. Here, the EU participates as a GFCM member – together with Bulgaria and Romania – and is therefore present at all meetings and brainstorming sessions, voicing an opinion that is aligned with the goals and current policies of the EU. Historical attempts to agree on a regional regulatory framework for fisheries outside the GFCM have all failed to date, as explained in the Box below.

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520 Ibid.

521 The project was introduced by WGBS in April 2016 and approved by the GFCM the following month.

522 GFCM_BlackSea4Fish-Brainstorming_2016_FinalReport, p. 3.

523 Since its introduction, a brainstorming session has taken place between the GFCM members and cooperating parties to discuss the project’s i) nature and objectives; ii) participating countries; iii) funding; and iv) functioning.

524 GFCM_BlackSea4Fish-Brainstorming_2016_FinalReport, p. 3.
Illustrative Box 8: Unsuccessful negotiations for a fishery agreement in the Black Sea

Since the 1959 Varna Fisheries Agreement between the USSR, Bulgaria and Romania became obsolete, there have been ongoing efforts to create and adopt a new instrument for management of the Black Sea fisheries.

The negotiations regarding a new convention regulating fisheries in the Black Sea Area, which started in 1993, are still ongoing, ‘due to political and financial considerations’. The most recent progress is the ‘Draft Legally Binding Document for fisheries and conversation of living resources of the Black Sea’ 2003 (DLBD), developed under the authority of the BSC Advisory Group on Environmental Aspects of management of Fisheries and Other Marine Living Resources. The current and previous drafts of the DLBD both provide for the establishment of a regional body for the management of Black Sea fisheries and other living resources. However, although there was initial agreement between the coastal states on the importance and necessity of such a convention and regional organisation, the negotiations have stalled on foot of disagreements, such as EU involvement, the focus of the convention, the economic, environmental or institutional aspects of establishing a regional fisheries management body, financial issues and compliance and enforcement issues. The signing of such an agreement is unlikely in the current political context and it has even been qualified as a ‘regionalization failure’. The most efficient manner to promote such cooperation is to work together within the remit of the GFCM and increase participation in that remit – as was recognised by the riparian countries in the 2016 Bucharest Declaration.

Black Sea Economic Cooperation (BSEC)

The BSEC is an inter-governmental regional economic organisation, composed of all of the Contracting Parties to the Bucharest Convention, as well as many other states that do not border the Black Sea. With the aim of ‘ensure[ing] peace, stability and prosperity, encouraging friendly and good-neighbourly relations in the Black Sea region’, the BSEC serves as a forum for the cooperation of its members. BSEC has initiated some activities, including on the marine environment (within the working group on environment) and fisheries (within the working group on agriculture and agro-industry). However, these initiatives are limited, especially in terms of practical implementation. In terms of coordination, the GFCM has been invited to some meetings of BSEC.

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531 Albania, Armenia, Azerbaijan, Greece, Moldova, Serbia.
7. Conclusions and recommendations

This chapter presents conclusions and recommendations on the regional ocean governance structures in the European regional seas. The focus is on the mechanisms for coordination and cooperation between the key regional actors in the context of fisheries regulation and EU policies affecting fisheries. As shown in the previous chapters discussing the European regional seas, there is significant overlap in the types of pressures and challenges across the regions. Therefore, there is much opportunity for cooperation and sharing lessons learned on common topics of interest. However, more importantly, the review of the situation in each of the European regional seas indicates that the regions significantly differ in terms of the institutional and political structures dealing with these pressures and challenges. In other words, while some best practices in terms of ocean governance can be shared across regions, this requires adaptation to the specificities of each region. In this context, the establishment of coordination and cooperation mechanisms is of utmost importance between the key actors, as they deal with overlapping objectives and regulate activities that can, positively or negatively, impact each other’s objectives. The effectiveness of regional ocean governance depends to a large extent on the manner in which content is given to such coordination and cooperation processes.

7.1. Complementary substantive and geographical competences

Ocean governance in the context of fisheries is highly dependent on the substantive and geographical competences of the key regional organisations, as well as the EU competences in the area of fisheries and the marine environment. On the basis of its exclusive competence for fisheries conservation, the EC is party to those RFMOs with a mandate for fisheries, while both the EC and the individual Member States are parties to the RSCs, in view of their shared competence of environmental protection.

The key regional actors for fisheries in the four European regional seas have diverse substantive mandates and geographical scopes, as shown in Table 9 below. As stated in the 2016 UNEP report on regional ocean governance, the geographical scopes of RSCs and RFBs have been determined by ‘a mix of scientific and political considerations and opportunistically, rather than by a systematic scheme to encompass all the oceanic regions of the world’533.

Table 9: Mandates and geographical scopes - regionals seas compared

<table>
<thead>
<tr>
<th>RSC/RFMO</th>
<th>MANDATE</th>
<th>GEOGRAPHICAL SCOPE</th>
</tr>
</thead>
<tbody>
<tr>
<td>RSC</td>
<td>OSPAR Convention</td>
<td>Protection of the marine environment of the North-East Atlantic</td>
</tr>
<tr>
<td></td>
<td></td>
<td>The OSPAR Maritime Area comprises the North-East Atlantic Ocean and part of the Arctic Ocean (extending up to the geographical North Pole). It consists of high seas, the deep sea-bed (ABNJ) and coastal State maritime zones.</td>
</tr>
<tr>
<td>RFMO</td>
<td>ICCAT</td>
<td>Conservation of tuna and tuna-like species in the Atlantic Ocean and its adjacent seas</td>
</tr>
<tr>
<td></td>
<td></td>
<td>All waters of the Atlantic Ocean, including the adjacent Seas (Convention area)534</td>
</tr>
</tbody>
</table>

533 UNEP (2016), Regional Oceans Governance, Making Regional Seas Programmes, Regional Fisheries Bodies and Large Marine Ecosystem Mechanisms Work Better Together, Nairobi, Kenya, pp. 48-49.
534 Article I International Convention for the Conservation of Atlantic Tunas (ICCAT).
<table>
<thead>
<tr>
<th>RSC/RFMO</th>
<th>MANDATE</th>
<th>GEOGRAPHICAL SCOPE</th>
</tr>
</thead>
<tbody>
<tr>
<td>NEAFC</td>
<td>Ensure the long-term conservation and optimum utilisation of fisheries resources within its area of competence, providing sustainable economic, environmental and social benefits&lt;sup&gt;535&lt;/sup&gt;</td>
<td>The NEAFC Convention Area comprises the North-East Atlantic Ocean and part of the Arctic Ocean (extending up to the geographical North Pole). It consists of high seas (the so-called Regulatory Area) and coastal State maritime zones. The competence of NEAFC relates above all to the Regulatory Area but can also extend to coastal State maritime zones upon the request of the relevant coastal State(s).</td>
</tr>
<tr>
<td>NASCO</td>
<td>Contribute to the conservation, restoration, enhancement and rational management of salmon stocks through consultation and cooperation&lt;sup&gt;536&lt;/sup&gt;</td>
<td>The high seas and coastal State maritime zones in the North Atlantic Ocean&lt;sup&gt;537&lt;/sup&gt;</td>
</tr>
</tbody>
</table>

**Mediterranean Sea**

<table>
<thead>
<tr>
<th>RSC</th>
<th>Barcelona Convention</th>
<th>Mediterranean Sea&lt;sup&gt;538&lt;/sup&gt;. The Protocols to this Convention may extend the geographical coverage to which that particular Protocol applies&lt;sup&gt;539&lt;/sup&gt;</th>
</tr>
</thead>
<tbody>
<tr>
<td>ICCAT</td>
<td>As above</td>
<td>As above</td>
</tr>
</tbody>
</table>

| RFMO | GFCM | Ensure the conservation and sustainable use of marine living resources, at the biological, social, economic and environmental level as well as the sustainable development of aquaculture in the Mediterranean and Black Seas<sup>540</sup> | All marine waters of the Mediterranean Sea and the Black Sea<sup>541</sup> |

**Baltic Sea**

| RSC | HELCOM | Protection of the marine environment in the Baltic Sea | Baltic Sea<sup>542</sup> |

<sup>535</sup> Article 2 Convention on future multilateral cooperation in North-East Atlantic fisheries. Nevertheless, the management of specific stocks, such as salmon, tuna and tuna-like fish species are deferred to NASCO and ICCAT.<br><sup>536</sup> Article 1(1) of the NASCO Convention. Article 2(1) provides that: Fishing of salmon is prohibited beyond areas of fisheries jurisdiction of coastal States. Article 2(2) continues that: Within areas of fisheries jurisdiction of coastal States, fishing of salmon is prohibited beyond 12 nautical miles from the baselines from which the breadth of the territorial sea is measured, except in the following areas: (a) in the West Greenland Commission area, up to 40 nautical miles from the baselines; and (b) in the North-East Atlantic Commission area, within the area of fisheries jurisdiction of the Faroe Islands.<br><sup>537</sup> Article 1(1) of the Barcelona Convention provides: the maritime waters of the Mediterranean Sea proper, including its gulfs and seas, bounded to the west by the meridian passing through Cape Spartel lighthouse, at the entrance of the Straits of Gibraltar, and to the east by the southern limits of the Straits of the Dardanelles between Mehmetcik and Kumkale lighthouses. Article 1(2) continues that the application of the Convention may be extended to coastal areas by each Contracting Party within its own territory.<br><sup>538</sup> Article 1(3) of the 2004 Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean.<br><sup>539</sup> Article 2(2) of the 2014 Agreement.<br><sup>541</sup> Article 3 of the Agreement for the Establishment of the General Fisheries Commission for the Mediterranean.<br><sup>542</sup> According to the Helsinki Convention, it applies to the Baltic Sea Area (Article 1 defines this as ‘the Baltic Sea and the entrance to the Baltic Sea bounded by the parallel of the Skaw in the Skagerrak at 57° 44.43’N. It includes the internal waters, i.e., for the purpose of this Convention waters on the landward side of the base lines
Regional ocean governance in Europe: the role of fisheries

<table>
<thead>
<tr>
<th>RSC/RFMO</th>
<th>MANDATE</th>
<th>GEOGRAPHICAL SCOPE</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Black Sea</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>RSC</td>
<td>Bucharest Convention (or Black Sea Convention)</td>
<td>To prevent, reduce and control the pollution in the Black Sea in order to protect and preserve the marine environment and to provide a legal framework for co-operation and concerted actions to fulfil this obligation</td>
</tr>
<tr>
<td>RFMO</td>
<td>GFCM</td>
<td>As above</td>
</tr>
</tbody>
</table>

Geographical overlaps also occur between RFMOs and RSCs, while substantive competence differs. For example, in the North East Atlantic, the NEAFC’s competence relates primarily to the Regulatory Area (high seas) but can also extend to coastal state maritime zones at their request\(^5^{46}\), while ICCAT and NASCO manage tuna and tuna-like fish and Atlantic salmon respectively. On the other hand, the OSPAR Commission’s geographical scope mirrors that of the NEAFC Convention Area but its substantive mandate is confined to the protection of the marine environment and the conservation of its biodiversity.

There is a clear distinction with regard to the substantive competences. RFMOs have a specific fisheries-related mandate, while the RSCs are established to protect the environment and prevent pollution in the regional seas. Initially, the mandate of the RSCs focused on protecting the marine environment against pollution (such as pollution by dumping or pollution by hazardous substances) but this has subsequently expanded towards protecting the marine environment from human activities and conserving the sea’s biodiversity (species and habitats). The mandates of these RSCs, however, acknowledge the ‘primacy’ of other intergovernmental bodies with competences in particular sectors. At the same time, the RFMOs progressively undertaken a broader view on fisheries management, addressing fisheries regulations in line with the ecosystem approach and the precautionary approach, as shown by specific examples of red coral protection and the establishment of MPAs.

RSCs do not claim competence over fisheries management. At most, they assess the impact of fishing on the marine environment and its biodiversity, and urge fisheries management authorities to address these impacts. Against this background, with ever-greater uptake of the ecosystem approach, fisheries management regulation (such as technical conservation measures) is increasingly interrelated with those measures aimed at conserving and protecting species and habitats. This strong interrelationship makes coordination between the RFMOs and RCSs a crucial requirement for the success of sustainable management and conservation of fisheries resources in the European regional seas. Although the substantive mandates of the RFMOs and RSCs differ, they are complementary and coincide with a (partly) overlapping geographical scope. Without coordination and cooperation, however, there is a risk that measures taken by RFMOs and RSCs may contradict one another. Measures based on the overall objective to achieve sustainable fisheries management and protection of biodiversity, in light of SGD 14, can only be achieved on foot of cooperation.


\(^5^{45}\) Article 1(1) of the Bucharest Convention provides that the Convention shall apply to the Black Sea proper with the southern limit constituted for the purposes of this Convention by the line joining Capes Kelagra and Dalyan.

\(^5^{46}\) Article 6(1) of the Convention on future multilateral cooperation in North-east Atlantic fisheries.
The key regional actors in the four European regional seas show a significant decree institutional diversity, in terms of geographical competence, membership, and the presence or not of fishery management organisations, as illustrated by some examples provided by Table 9 below.

### Table 10: Examples of institutional and political diversity within regionals seas

<table>
<thead>
<tr>
<th></th>
<th>North East Atlantic</th>
<th>Mediterranean Sea</th>
<th>Baltic Sea</th>
<th>Black Sea</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>RFMO</strong></td>
<td>Not established</td>
<td>GFCM</td>
<td>GFCM</td>
<td></td>
</tr>
<tr>
<td><strong>RFMO: Both high seas and coastal state maritime zones</strong></td>
<td>GFCM</td>
<td>N/A</td>
<td>GFCM</td>
<td>N/A</td>
</tr>
<tr>
<td><strong>Membership RFMO</strong></td>
<td>All riparian countries (including EU)</td>
<td>All riparian countries (including EU)</td>
<td>N/A</td>
<td>3 CPs, 2 CNCPs, and 1 NCP</td>
</tr>
<tr>
<td><strong>Relation RFMO and RSC</strong></td>
<td>MoU established</td>
<td>MoU established</td>
<td>MoU established</td>
<td>MoU established</td>
</tr>
<tr>
<td><strong>EU and RSC</strong></td>
<td>EU is member in addition to MSs</td>
<td>EU is member in addition to MSs</td>
<td>EU is member in addition to MSs</td>
<td>EU is not a member</td>
</tr>
<tr>
<td><strong>Advisory council</strong></td>
<td>Long distance AC</td>
<td>Mediterranean Sea AC(MEDAC)</td>
<td>Baltic Sea AC (BSAC)</td>
<td>Not established</td>
</tr>
<tr>
<td></td>
<td>North Sea AC</td>
<td>Pelagic stocks AC</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>North-western waters AC</td>
<td>South -western waters AC</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

In light of the specifics of each European regional sea (such as coverage of EU Member States, geographical characteristics, human impact on the sea, types of regulatory organisations and stakeholders involved, etc.), the regional level seems the most appropriate to coordinate ocean governance activities. A key expected contribution of regionalisation is the ability to adapt the governance structures to the specific needs of the regional sea, which call for differentiated approaches. The discussion in the previous chapters highlighting the type of institutional and political differences within the regional seas underline the conclusion that there is no ‘one recipe’ that fits all four regional seas despite overlap in environmental and fisheries issues.
**Recommendation: Existing types of organisations provide sufficient ocean governance framework**

Ocean governance of fisheries can be improved by strengthening and developing the process of coordination and cooperation. This can be done within the existing mandates. There is no human activity within the seas and oceans that is not, or cannot be, controlled by the existing mechanisms. This means that the current types of mechanisms (as the RFMOs and the RSCs) can be considered sufficient, and no *new* types, such as overall coordinating or overseeing authorities or organisations, are needed. This is not to say that the current organisations could not be strengthened or that gaps could be filled. Examples are the Baltic Sea and the absence of and RFMO and the Black Sea where the EU is not a party to the RSC and only three out of six riparian countries are Contracting Parties to the competent RFMO. While the different stakeholders have found ways to overcome the absence of an RFMO in the Baltic region by setting up strong mechanisms of cooperation, including with Russia, this is not the case in the Black Sea region where solutions for progressively building up cooperation on fisheries management are now being developed under guidance of the GFCM.

**7.2. Mechanism to regulate coordination and cooperation**

The partial overlap between the overall objectives of the regional organisations, their members and/or their geographical scope points to the need to further develop coordination and cooperation efforts. There are different types of mechanisms to do so, such as Action Plans, Joint projects, as well through cooperation with non-Contracting Parties or other organisations. This study mainly looked at the formal agreements that have been established to regulate areas of coordination and cooperation between the key actors. Overall, formal agreements, such as MoUs are considered a tool to enable the coordination and cooperation process, with specific organisations and institutionalise processes to improve the knowledge of the relevant activities in the region and to foster synergies, while at the same time avoiding duplication or negative impacts. Although the MoUs reflect different levels of detail, in general they include provisions linked to conservation and management measures, data collection and exchange, monitoring, surveillance and control. A list of agreements identified (including reference to informal mechanisms) is depicted in Table 11.

**Table 11: Key cooperation and coordination mechanisms - regionals seas compared**

<table>
<thead>
<tr>
<th>RSC/RFMO</th>
<th>KEY COOPERATION AND COORDINATION MECHANISMS</th>
</tr>
</thead>
<tbody>
<tr>
<td>North East Atlantic</td>
<td>• MoU between the NEAFC and the OSPAR Commission(^{547}), complemented by a collective arrangement;</td>
</tr>
<tr>
<td>OSPAR Convention</td>
<td>• MoU with NASCO</td>
</tr>
<tr>
<td></td>
<td>• MoU with the Abidjan Convention Secretariat, the EEA, the United Nations Economic Commission for Europe (ECE), ICES and International Seabed Authority (ISA)</td>
</tr>
<tr>
<td></td>
<td>• Agreement of Cooperation with IMO and Collaboration agreement with the Sargasso Sea Alliance</td>
</tr>
<tr>
<td></td>
<td>• Efforts of the activities of the OSPAR Commission to extending the OSPAR Network of MPAs into ABNJ in the North-East Atlantic</td>
</tr>
<tr>
<td></td>
<td>• Joint work by OSPAR and NEAFC, with ICES, to identify</td>
</tr>
</tbody>
</table>

\(^{547}\) NEAFC and OSPAR Commission, Memorandum of Understanding between the North-East Atlantic Fisheries Commission (NEAFC) and the OSPAR Commission, 12 August 2008, available at: [https://www.neafc.org/system/files/opsar_mou.pdf](https://www.neafc.org/system/files/opsar_mou.pdf)
<table>
<thead>
<tr>
<th>RSC/RFMO</th>
<th>KEY COOPERATION AND COORDINATION MECHANISMS</th>
</tr>
</thead>
<tbody>
<tr>
<td>ICCAT</td>
<td>• Works together with NEAFC&lt;sup&gt;548&lt;/sup&gt;</td>
</tr>
<tr>
<td>NEAFC</td>
<td>• MoU between the NEAFC and the OSPAR Commission complemented by a collective arrangement;</td>
</tr>
<tr>
<td></td>
<td>• Agreement of Cooperation between IMO and the NEAFC&lt;sup&gt;549&lt;/sup&gt;;</td>
</tr>
<tr>
<td></td>
<td>• Deferring to ICCAT and NASCO</td>
</tr>
<tr>
<td>NASCO</td>
<td>• MoU with the OSPAR Commission&lt;sup&gt;550&lt;/sup&gt;</td>
</tr>
<tr>
<td></td>
<td>• MoU with ICES&lt;sup&gt;551&lt;/sup&gt;</td>
</tr>
<tr>
<td>Mediterranean Sea</td>
<td></td>
</tr>
<tr>
<td>UNEP/MAP</td>
<td>• MoU with GFCM, IUCN, UfM the Intergovernmental Oceanographic Commission (IOC), the Regional Organization for the Conservation of th Environment of the Red Sea and Gulf of Aden (PERSGA)</td>
</tr>
<tr>
<td></td>
<td>• Statement from the BSC regarding the cooperation in fisheries between UNAP/MAP</td>
</tr>
<tr>
<td>ICCAT</td>
<td>• Informal cooperation between ICCAT and the GFCM</td>
</tr>
<tr>
<td>GFCM</td>
<td>• Informal cooperation between ICCAT and the GFCM</td>
</tr>
<tr>
<td></td>
<td>• MoU have been signed with ACCOBAMS, the Black Sea Commission, Eurofish, ICES, MEDAC, UNEP/MAP (superseding the MoU between the GFCM and RAC/SPA of 2008), ATLAFCO, EATIP, MedPAN (superseding the MoU between the GFCM and MedPAN of 2012) and OceanCare&lt;sup&gt;552&lt;/sup&gt;.</td>
</tr>
<tr>
<td></td>
<td>• MoU between the GFCM and the Mediterranean Agronomic Institute of Zaragoza (IAMZ) and the International Centre for advanced Mediterranean Agronomic studies (CIHEAM)</td>
</tr>
<tr>
<td>Baltic Sea</td>
<td></td>
</tr>
<tr>
<td>HELCOM</td>
<td>• MoU with ICES</td>
</tr>
<tr>
<td>Black Sea</td>
<td></td>
</tr>
<tr>
<td>Bucharest Convention (or Black Sea Convention)&lt;sup&gt;553&lt;/sup&gt;</td>
<td>• MoU with the GFCM,</td>
</tr>
<tr>
<td></td>
<td>• MoU with ACCOBAMS and the International Commission for the Protection of the Danube River (ICPDR)</td>
</tr>
</tbody>
</table>

To a certain extent, RFMOs and RSCs have established MoUs to address the overlap between their competences and to create synergies. In the North East Atlantic and the Mediterranean, the Regulatory Areas of tuna (ICCAT) and non-tuna (the GFCM and NEAFC) RFMOs overlap. In those cases, the some of the non-tuna RFMOs, as NEAFC, agreed to endorse ICCAT’s decisions. GFCM also had a practice whereby certain recommendation of ICCAT relevant to the Mediterranean Sea were endorsed, however this was ended in 2015 as it was considered that cooperation could be achieved in other ways than such endorsements. ICCAT also cooperates...

<sup>549</sup> Agreement of Cooperation between the International Maritime Organization (IMO) and the North-East Atlantic Fisheries Commission (NEAFC), available at: https://www.neafc.org/system/files/IMO_Agreement-of-Cooperation-between-IMO-NEAFC_Dec2009.pdf
<sup>552</sup> GFCM: 40/2016/Inf6, GFCM framework for cooperation and arrangements with non-Contracting Parties and party organizations, Fortieth session of the Commission, St Julian’s, Malta 30 May – 3 June 2016. p. 4-5.
with the NEAFC ‘in order to ensure compatibility between their conservation and management measures on sharks’\textsuperscript{554}, and they ‘agreed to involve ICES’ in their cooperation\textsuperscript{555}. Informal mechanisms are being used, however it is suggested, for example by the GFCM, that this cooperation could be further strengthened if it would be formalised and issues as data exchange would be institutionalised\textsuperscript{556}.

The process of cooperation between the RFMO and RSC are well established and build on and reinforce their complementarity. The NEAFC and OSPAR agreed an MoU based on their complementary competences in fisheries management and environmental protection. Fisheries management lies within the competence of the NEAFC, while OSPAR addresses marine pollution and human impacts on vulnerable marine species and ecosystems. This is recognised in the MoU, while regulating the process including in relation to mutually useful information, discussion over concerns linked to the management of human activities, the application of the precautionary approach/principle, and funding and conducting marine science. Similarly, an MoU was signed between the GFCM and the UNEP/MAP as well as with the BSC, establishing better use of their complementary competences to conserve marine ecosystems and ensure sustainable use of marine living resources. UNEP/MAP and the GFCM signed a comprehensive MoU, including legal and policy cooperation in the fields of the ecosystem-based approach, mitigation of the impacts of fishing and aquaculture on marine habitats and species, marine areas of particular importance and integrated maritime policy. The technical annex to their MoU outlines the activities related to the areas of cooperation including the harmonisation of existing criteria for the establishment SPAMIs and FRAs, in particular those located either wholly or partially within ABNJ\textsuperscript{557}.

Both bilateral and multilateral forms of cooperation are important to strengthen regional ocean governance. An example of multilateral mechanism is the ‘collective arrangement between competent international organisations on cooperation and coordination regarding selected areas in areas beyond national jurisdiction in the North-East Atlantic’, to which currently only the NEAFC and OSPAR are parties. The rationale behind the collective arrangement is the need for those organisations active in the same geographical area to be aware of the activities and impacts of other organisations. The collective arrangement is set up as a multilateral framework for the exchange of information and cooperation regarding mutual interests. Even without any organisations other than the NEAFC and OSPAR party to the Arrangement, participation of other organisations, through observer status, for example, can contribute to the process of information sharing. It ensures that the organisations in the region are aware of the activities undertaken by others and can act upon this information. Another example of a mechanism for cooperation is the Joint Cooperation Strategy in the Mediterranean Sea that was agreed with a broad range of organisations to ensure the implementation of the ecosystem approach to fisheries, while also aiming to achieve SDG 14.

**Recommendation: Facilitate and strengthen mechanisms for coordination and cooperation**

The RFMOs and RSCs show overlap in their overall objectives on the sustainable development and management of fisheries and ecosystems. By contrast, their substantive mandates do not overlap but are complementary. RFMOs or RSCs are unlikely to achieve these overall objectives in isolation. Due to the strong interlinkages and mutual impact of policies and technical measures, the most constructive approach is to strengthen the processes of cooperation and

\textsuperscript{554} Ibid.
\textsuperscript{555} Ibid.
\textsuperscript{556} Performance review of the General Fisheries Commission for the Mediterranean and Black Sea, 20 January 2011, p. 84.
coordination between the relevant organisations, with a minimum of information sharing. From the regional chapters and Table 11 above, it follows that overall, the organisations are active in institutionalising the processes to coordinate and cooperate.

While some of the MoUs mutually recognise each other’s mandates and the options for measures or procedural rules for cooperation (such as the NASCO – NEAF MoU), others are more detailed and elaborate on specific areas of cooperation, such as the ecosystem approach, mitigation of fisheries impact, protection of vulnerable areas (such as the GFCM–UNEP/MAP MoU). The EU could encourage and facilitate the process of institutionalising coordination and cooperation through the development of global minimum standards, also relevant to non-EU parties to the RFMO, to improve their overall coherence, while leaving room for adaptation to the regional context. As a Contracting Party to most of the relevant RFMOs and RSCs (with the exception of the Bucharest Convention), the EU, along with the Member States parties to the relevant RSCs, should continue to facilitate and encourage this discussion.

7.3. Mutual reinforcement between fisheries regulation and relevant EU policies

The process of cooperation and coordination at the regional level should be viewed in light of the building blocks provided by key EU policies, such as the CFP, the IUU Regulation, the MSFD and the MSPD. Under the CFP Regulation, the EU has the competence to adopt relevant rules and regulations. It has itself broadened over the years, such as through the introduction of the ecosystem-based approach to fisheries management. Increasingly, it shares this objective with other key EU policies such as the MSFD, which aims to achieve GES of European marine waters by the year 2020 through an ecosystem-based approach to the management of human activities and an integrated and coordinated approach at regional and sub-regional level. This means that an extended framework of polices is available to govern fisheries in the European regional seas, particularly linking the management of fisheries with the need to achieve GES of the marine environment. The CFP, IUU Regulation, MSFD and MSPD can all further improve the integrated structure of ocean governance. Even though the MSFD is not binding for all states bordering the Black Sea, it has nevertheless been used for the development of BSIMAP (which uses the same definitions and works with the same types of indicators for assessment).

With the goals of fisheries management and the protection of the marine environment setting for larger interfaces, they have become inextricably connected. This provides, when well-coordinated, increased opportunity for mutual reinforcement. For example, one of OSPAR’s objectives is to aid MSFD implementation within the region by supporting regional coordination and collaboration among Member States. Fisheries management measures are required to achieve the EcoQOs, which closely relate to the Descriptors under the MSFD. However, with fisheries not falling under the competence of OSPAR, measures will have to be taken under both the MSFD and the CFP to achieve these EcoQOs and will require cooperation with the RFMOs. RSCs are a first starting point to deal with the increased regional focus between Member States in implementing the MSFD558.

Both the CFP Regulation and the MSFD acknowledge the complementarity and synergies between the two policies. In this regard, the CFP should ‘contribute to the protection of the marine environment, to the sustainable management of all commercially exploited species, and in particular to the achievement of GES by 2020, as set out in Article 1(1) of the MSFD’. The MSFD emphasises the need to ensure coherence with, and contribute to, other policies

559 Recital 11 of Regulation (EU) No 1380/2013 on the CFP.
such as the CFP, while the CFP needs to consider the environmental impact of fishing activity\textsuperscript{560}. In addition, the MSPD (which is relatively new) further complements the MSFD through the coordination and promotion of the sustainability of various economic use of the marine environment. However, the Directive does not cover ICZM issue, meaning that all aspects of coastal zone management, including planning, fall largely under the competence of individual Member States.

Moreover, the Member States and the EU play complementary roles in ocean governance at the regional level. While the CFP falls under the exclusive competence of the EU, environmental protection is shared with the Member States. Article 11 of the MSFD, for example, requires Member States to establish and implement coordinated monitoring programmes for the ongoing assessment of the environmental status of their marine waters, while different EU organisations implement the CFP regulations for the same marine waters. In addition, the Member States retain competence in planning issues in the coastal areas as the MSPD only covers marine waters.

EU policies have also been at the heart of processes which have crystallised some key concepts for ocean governance and fisheries, e.g. the Barcelona Convention’s development of a ‘Roadmap towards an Ecosystem Approach (EcAP), which was in line with the work carried out for the implementation of the MSFD. As part of the implementation process of the MSFD, Member States need to cooperate and coordinate at the regional sea level and ensure stakeholder involvement. The EcAp is considered a ‘guiding principle to all policy implementation and development undertaken under the auspices of the UNEP/MAP Barcelona Convention, providing a step-by-step process for moving towards more effective ecosystem-based management. While the MSPD has been adopted relatively recently and is still at the first stages of implementation, it can be seen as an opportunity to develop cooperation, at regional but also sub-regional level. It allows engaging the sector of fisheries with other economic sectors in the planning of the use of the marine space, while Member States can also ensure linkages with coastal zone management.

**Recommendation: Progressive development of the content relevant for governability of EU policies**

The Joint Communication concludes that ‘the EU is well placed to shape international ocean governance on the basis of its experience in developing a sustainable approach to ocean management, notably through its environment policy (in particular its MSFD), integrated maritime policy (in particular its MSPD), reformed CFP, action against IUU fishing and its maritime transport policy’\textsuperscript{561}. Indeed, the shared overall objectives of the EU policies relevant to fisheries result in the mutual reinforcement of both fisheries management as well as the content of these EU policies. The EU has a driving role in pushing forward the governability of the MSFD, MSPD and other relevant policies. These EU policies are moreover developed in a ‘common language’, to enable integration with other (EU) policies. Limitations are also present, however, with many non-EU Member States or non-EEA members also being party to RFMOs and RSCs that are relevant to the European regional seas. In addition to facilitating the process of institutionalising coordination and cooperation, the EU could promote better integration of fisheries regulation and policies into the overarching ecosystem polices.

\textsuperscript{560} Recitals 9 and 40 of Directive 2008/56/EC.  
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