



Development of Ocean Governance Strategy for Africa: Summary of Scoping Study and Gap Analysis

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1.0 BACKGROUND

The role of Africa's oceans and seas in supporting socio-economic growth and development across different sectors is so significant that cannot be overemphasized. Nonetheless, pressures on this vast resource base are constantly increasing not only from the traditional maritime activities, but more from the emerging economic undertakings such as mariculture and offshore energy exploitation. Besides, increasing insecurity in the Africa's marine waters, enhanced illegal trafficking, and degradation of the marine environment and climate change phenomenon further exacerbate the existing environmental stresses that have significant implications on the governance of the oceans, not only at the level of individual nations, but more challenging at the regional and continental levels. While this warrants an integrated regional approach through a framework of action, there invariably exist inadequate and inconsistent political and economic appreciation of the values of the ocean capital, exposing African nations to insufficient cooperation. Accordingly, there is often inadequate integration of common policy framework at national, sub-regional and regional levels for delivery of collective action to safeguard the regions oceans and seas. Realizing these shortfalls, the African Ministerial Conference on the Environment (AMCEN) through the Cairo Declaration of 2015 agreed to support efforts aimed at protecting the marine ecosystems through various initiatives. One such initiative is the development of Ocean Governance Strategy for Africa (OGSA), in accordance with the United Nations Convention on the Law of the Sea and the African-based Regional Seas Conventions for effective management of the region's shared ocean resources.

To initiate the development of the ocean governance strategy, AMCEN through its secretariat, UN Environment, commissioned a Scoping Study and Gap Analysis, to examine the existing ocean governance mechanisms in Africa. These included identifying the existing legal and institutional frameworks, issues and associated gaps on ocean governance mechanisms in Africa and provide recommendations that will form the basis for the preparation of a strategy for Ocean Governance for Africa. This document is therefore an extract of the report of the scoping study and gap analysis, summarizing the existing legal and institutional frameworks relevant for ocean governance for Africa; the major ocean governance issues for Africa; and corresponding gaps. This summary document forms the basis for the finalization of the Gap Analysis Report incorporating inputs from regional experts; and finally, the development of the elements of Ocean Governance Strategy for Africa.

2.0 LEGAL AND INSTITUTIONAL MECHANISMS RELEVANT FOR OCEAN GOVERNANCE FOR AFRICA

2.1 Global Frameworks

2.1.1 Global Institutional frameworks

- (i) International Maritime Organization (IMO)
- (ii) The International Seabed Authority (ISA)
- (iii) The World Trade Organisation (WTO)
- (iv) The Food and Agriculture Organization (FAO)
- (v) The World Bank and its institutions (Global Environment Facility, The International Bank for Reconstruction and Development (IBRD))
- (vi) The United Nations Development Programme (UNDP)

2.1.2 Global Legal frameworks

- (i) The United Nations Convention on the Law of the Sea (UNCLOS)
- (ii) The Convention on Biological Diversity (CBD)
- (iii) Frameworks related to climate change issues (The United Nations Framework Convention on Climate Change (UNFCCC); The Kyoto Protocol; and The Paris Agreement)
- (iv) FAO instruments: The 1993 FAO Agreement to promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas; and the 1995 FAO Code of Conduct for Responsible Fisheries);
- (v) The IMO treaties: The Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 (The London Convention); the 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 (The London Protocol)
- (vi) The Convention on Migratory Species (CMS)
- (vii) The Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal (The Basel Convention)
- (viii) Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade (The Rotterdam Convention)
- (ix) The Stockholm Convention on Persistent Organic Pollutants (Stockholm Convention)
- (x) The Minamata Convention on Mercury (The Minamata Convention)
- (xi) Proposed International Legally Binding Instrument (ILBI) on the conservation and sustainable use of marine biological diversity of Areas Beyond National Jurisdiction (ABNJ).

2.2 Continental and Regional Ocean Governance Frameworks

2.2.1 Regional Seas Initiatives and Conventions

- (i) The Mediterranean Action Plan (MAP)
- (ii) Barcelona Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (The Barcelona Convention)
- (iii) The Programme for the Environment of the Red Sea and Gulf of Aden (PERSGA)
- (iv) Regional Convention for the Conservation of the Red Sea and Gulf of Aden Environment (The Jeddah Convention)

- (v) The Nairobi Convention for the Protection, Management and Development of the Marine and Coastal Environment of the Western Indian Ocean (The Nairobi Convention)
- (vi) The Convention for Cooperation in the Protection, Management and Development of the Marine and Coastal Environment of the Atlantic Coast of the West, Central and Southern Africa Region (The Abidjan Convention)
- (vii) The Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR)

2.2.2 Regional Fisheries Bodies

- (i) General Fisheries Commission for the Mediterranean (GFCM)
- (ii) The Fishery Committee for the Eastern Central Atlantic (CECAF)
- (iii) Fishery Committee of the West Central Gulf of Guinea (FCWC)
- (iv) Ministerial Conference on Fisheries Cooperation among African States Bordering the Atlantic Ocean (COMHAFAT/ATLAFCO)
- (v) Regional Fisheries Committee for the Gulf of Guinea (COREP)
- (vi) South East Atlantic Fisheries Organisation (SEAFO)
- (vii) International Commission for the Conservation of Atlantic Tunas (ICCAT)
- (viii) Southwest Indian Ocean Fisheries Commission (SWIOFC)
- (ix) Indian Ocean Tuna Commission (IOTC)
- (x) The Agreement on the Conservation of Cetaceans in the Black Sea, Mediterranean Sea and contiguous Atlantic area (ACCOBAMS)

2.2.3 Large Marine Ecosystems (LMEs)

- (i) The Canary Current Large Marine Ecosystem (CCLME)
- (ii) Guinea Current Large Marine Ecosystem (GCLME)
- (iii) Benguela Current Large Marine Ecosystem (BCLME)
- (iv) Agulhas and Somali Large Marine Ecosystem (ASCLME)
- (v) Red Sea Large Marine Ecosystem (RSLME)
- (vi) Mediterranean Large Marine Ecosystem (MedPartnership)

2.2.4 Partnerships

- (i) FISH-i Africa
- (ii) Consortium for the Conservation of Coastal and Marine Ecosystems in the Western Indian Ocean (WIO-C)

2.2.5 Regional Intergovernmental Communities and Authorities

- (i) The Economic Community of West African States (ECOWAS)
- (ii) The Inter-Governmental Authority for Development (IGAD)
- (iii) The Southern African Development Community (SADC)
- (iv) Economic Commission for Africa (ECA)
- (v) Indian Ocean Commission (IOC)

3.0 MAJOR ISSUES AND GAPS ON OCEAN GOVERNANCE FOR AFRICA

One of the defining characteristics of governance of coastal and marine resources in Africa is the complexity, multiplicity and overlapping of mandates and jurisdictions. The inconsistency and resultant governance gaps mainly stems from:

3.1 Multiplicity of Actors

There are many actors involved: states, secretariats, specialized treaty bodies, non-governmental organisations and community-based organisations. The large number of treaties and policy bodies relating to the African oceans results in the proliferation of institutions administering and enforcing these international legal rules and policies, with a multitude of secretariats established for all the agreements, which creates a danger for policy and legal incoherence.

Governance gaps:

- Lack of integrating structure for decision-making that oversees all aspects of oceans governance at the regional level;
- Inconsistent philosophy for decisions on oceans governance, based on agreed governance principles;
- Lack of strong partnerships and engagement between stakeholders due to political and economic disintegration, as well as levels of education, awareness and research capacities; and

Recommendations:

- Establish an umbrella continental oceans and seas convention, which is integrated, interdisciplinary and intersectoral, to facilitate, coordinate and govern exploitation of oceans.
- Establish an inclusive multilateral framework agreement to offer an ocean-wide system of governance, covering the allocation of fishing rights, combating pollution, climate change mitigation, and other systemic issues.
- Strengthen the existing governance framework with regard to the areas and issues covered, the regulation of membership, and the duties of the different state actors.
- Strengthen cooperation between African Regional Seas and Regional Fisheries Bodies, as well as LMEs and create a Partnership Agreement/Joint Strategy/Roundtable between them, with the aim to exchange best practices, lessons learnt in relation to progressing on specific targets of SDG14
- Strengthen cooperation between African RSCs and RFMOs and aim to establish Memorandum of Understandings between them, in line with their respective mandates and common aims;
- Undertake/implement pilot projects together, with a specific focus on strengthening ocean governance to achieve SDG14 and specifically Aichi Target 11

3.2 Multiple Silos of Governance

Whilst some legal instruments, such as UNCLOS, and institutions such as UN Environment, have a remit that relates to overall African regional ocean governance, most of the governance initiatives are divided up into sub-disciplines, such as the management of fisheries or the mitigation and adaptation to climate change, with each individual regime operating within its own legal and institutional environment, with distinct objectives and issues to address.

Governance gaps:

- Absence of connection, coherence and inter-relations between institution working under the same SDG 14 targets.

Recommendations:

- Study and develop a database of institutions and institutional fragmentation in order to understand the connections and overlaps between and within institutions.
- Harmonise, to the extent possible, the institutional and legal frameworks of the sub-disciplines in ocean governance issues to remove fragmentation. This could be achieved by coming up with a coordination mechanism, which will govern all possible situations within silos
- Strengthen cooperation and coordination across sectors and among competent regional organisations in order to cover the entire set of ocean-related SDG targets.

3.3 Overlapping Treaties and Activities Under Treaties

Fragmentation of primary treaty laws arises when several treaties exist in the same geographical expanse, creating multiple sets of international regulations that may apply to a given situation. This is a particular danger in the field of ocean governance, because of the number of treaties that apply in the area. For example, the Convention for the Conservation of Southern Bluefin Tuna, created the Commission for the Conservation of Southern Bluefin Tuna (CCSBT). The Convention does not expressly relate to a geographical area, but rather applies to southern Bluefin tuna conservation in all oceans. This means that the remit of the CCSBT overlaps with other regional fisheries management organisations including the International Commission for the Conservation of Atlantic Tunas (ICCAT) and the Indian Ocean Tuna Commission (IOTC).

Governance gap:

- Lack of exchange of information, policy integration, coherence and coordination of legal instruments and bodies in Africa. This is in part because legal instruments and bodies have been created on an ad-hoc basis to engage with issues or groups of issues as and when they arise and become politically important.

Recommendation:

- Create a mechanism to rationalize and ensure synergies between existing structures. For example, through establishment of MoUs as first step, if possible, between RFMOs and RSCs, based on specific common aims.

3.4 Coverage of Marine Protected Areas

The Regional Seas Conventions and the LME system provide frameworks for the designation of marine protected areas and other area-based management tools. However, the coverage is very narrow and hence, inadequate. According to the Secretariat to the Convention on Biological Diversity the world's oceans are seriously under-protected, with approximately 0.8% of the oceans and 6% of the territorial seas being within protected areas systems. The Aichi Targets (also SDG 14.5) stipulate that member countries must establish at least 10% of marine and coastal areas as protected by 2020.

Governance gaps:

- Inadequate coordination on the application of and support for area-based management tools including marine protected areas and other effective conservation measures (OECM)
- Inconsistency in legislations governing the operationalization of Marine Protected Areas (MPAs)

Recommendations

- Ensure that each country effectively protects at least 10% of their marine waters as per the Aichi and SDG 14 targets
- Harmonize national legislations to ensure standardized operationalization of Marine Protected Areas
- Include MPAs in the MSP to ensure a comprehensive international approach to conservation
- Initiate a coordination mechanism for assisting implementation of area-based tools of the different regional, international bodies with mandates in this field (e.g. Regional Seas Conventions, RFMOs, IMO), to assist in the protection of marine and coastal ecosystems in Africa, as well as to lay down bases of Marine Spatial Planning and as such contributing to Blue Economy.

3.5 The Ocean Economy and Security

The blue economy can play a major role in Africa's structural transformation, sustainable economic progress and social development. The largest sectors of the current African aquatic and ocean-based economy are fisheries, aquaculture, tourism, transport, ports, coast mining and energy. The opportunities around Africa's blue economy are enormous with significant potential to create jobs and improve livelihoods. But what is often missing in debate are issues of governance and security.

Governance gaps:

- Lack of common political and economic agenda on ocean exploitation;
- Lack of coordinated approach to ensure maritime security (piracy, illegal migration, smuggling, human trafficking);
- Unresolved and emerging maritime border disputes on territorial seas and EEZ;
- Less effort in some countries to end destructive fishing practices and illegal, unreported and unregulated fishing; and
- Lack of concrete action to address challenges of climate change

Recommendations:

- Strengthen cooperation across national boundaries to secure and use ocean territories to ensure safe and secure conditions for those working and living off the oceans so as to efficiently harness the Blue Economy.
- Ensure national laws are aligned with the United Nation's treaties aimed at ocean safety.
- Coastal states to establish line ministries or departments for blue economy as it has recently been done by some countries such as Seychelles and Kenya
- African states and their international partners to cooperate in mitigating the impacts of climate change and developing a resilient African strategy for maritime security.

3.6 Funding

The implementation of activities mandated by policies and laws have financial implications. For example, a new policy may be introduced because a new environmental problem has arisen, because recently discovered health concerns have arisen, or because users or polluters of an ecosystem have a need for particular services. The policy process creates a demand for action, which in turn requires financing, which in most cases is donor-dependent.

Governance gaps:

- Inadequate internally-generated funding mechanisms, hence donor-dependent; and
- Inconsistent prioritization influenced by individual nations' economic agenda defined by political landscape and international relations.

Recommendations

- Adopt innovative approaches (such as marine oriented Debt for Nature Swap, Blue Bond and Payment for Ecosystem Services (PES)) in different sectors of the ocean economy
- Identify and make use of potential sources of financing by encouraging Local private investments, Private-Public Partnerships, Foreign direct investments, and improving Government budgetary allocation in ocean economy
- Establish continental-wide special fund for ocean governance and streamlining of funding streams of the resources to provide targeted and tailor-made support to the objectives and targets on governing ocean resources
- Use regional bodies (such as IOC, SWIOFC, SADC, EAC, ECOWAS) to streamline and coordinate prioritization of funding for ocean related economic activities.