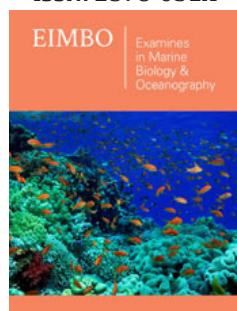


Bridging the Implementation Gap in International Agreements on Marine Protection and Sustainable Use

ISSN: 2578-031X



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Submission:  August 23, 2023
Published:  September 21, 2023

Volume 6 - Issue 3

How to cite this article: Cornelia E Nauen. Bridging the Implementation Gap in International Agreements on Marine Protection and Sustainable Use. Examines Mar Biol Oceanogr. 6(3). EIMBO. 000636. 2023. DOI: [10.31031/EIMBO.2023.06.000636](https://doi.org/10.31031/EIMBO.2023.06.000636)

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Abstract

This short policy paper critically examines the persistent challenges and the implementation gap in international agreements concerning marine protection and sustainable use. Despite the global recognition of the need to safeguard marine ecosystems and ensure sustainable fisheries, this study underscores the existing disparities between agreement objectives and their actual implementation across diverse regions. By analyzing case material and current research findings, the study aims to shed light on the multifaceted factors contributing to the implementation gap and propose strategies to connect successes in global negotiation processes with operational measures at local and national levels. Trust building through inclusive dialogues and social equity are essential components of success.

Keywords: Sustainable use; Global fisheries; Legal behavior; Maritime states; Military technological advances; Marine mineral exploitation; Fossil fuels; Industrial fishing

Introduction

The importance of documenting and managing marine resources have been recognized for some time as a challenging, yet indispensable undertaking. Thus, after World War II (WWII) the newly created Food and Agriculture Organization of the United Nations (FAO) set up global fisheries statistics recording the data reported by countries starting in 1950. Regulations have taken long to develop because of the complicated substance bridging many sectors, country interests, and disciplines. Nonetheless, the current outcomes only partly fulfil the global expectations of curbing what, following IBPES [1], has been identified as the Sixth Mass Extinction of global biodiversity in progress.

The last months have seen advances in global negotiation processes around biodiversity and ocean protection. They reflect the time consuming development of an international consensus among the country representatives with assorted subject matter specialists and lawyers. The national negotiating teams are typically eagerly accompanied by civil society organizations. They are usually also strongly influenced by a host of industrial lobbies in and outside of the delegations. The most recent examples are the WTO Agreement to partially phase out harmful fisheries subsidies at the 12th Ministerial Conference in June 2022¹. This agreement was reached after more than 20 years of stalling. The Kunming-Montreal Global Biodiversity Framework agreed at COP15 in December 2022² sets new targets under the long standing framework of the Convention on Biological Diversity (CBD). CBD entered into force on 29 December 1993. The Agreement to ensure the conservation and sustainable use of biodiversity in marine areas beyond national jurisdiction (BBNJ) has finally been reached after more than 15 years of discussions and negotiations. It was endorsed in June 2023 by the Intergovernmental Conference on an international legally binding instrument under the

¹https://www.wto.org/english/tratop_e/rulesneg_e/fish_e/fish_e.htm

²<https://www.cbd.int/gbf/>

United Nations Convention on the Law of the Sea (UNCLOS) on the conservation and sustainable use of marine biological diversity of areas beyond National Jurisdiction³. It now awaits ratification [2]. The urgency for such agreements to restore ocean biodiversity and health through arrangements intended to provide fair sharing of responsibilities and benefits has grown over the years as sequential overfishing drove most fisheries into full exploitation or collapse and leaving few resources in remote areas still underutilized [3]. Pinpointing responsibilities for legal behavior has been made more explicit thanks to the Agreement on Port State Measures (PSMA) of 2009⁴. It is the first binding international agreement to specifically target illegal, unreported and unregulated (IUU) fishing. Its objective is to prevent, deter and eliminate IUU fishing by preventing vessels engaged in IUU fishing from using ports and landing their catches. This short paper reviews some of the challenges associated with bridging the implementation gap within these agreements, focusing on the disparities between commitment and execution as documented in the literature.

Threats to Marine Biodiversity and Ecosystems

The need for more restraint and management has been generally recognized since the long-winded negotiation processes for the Law of the Sea adopted in 1982, which entered into force end 1994. It established a regime of Exclusive Economic Zones (EEZs) of 200 nautical miles (nm) for maritime states and harmonized the limits of national waters at 12nm. UNCLOS set transit rules and made provisions for continental shelf jurisdiction, deep seabed mining, the exploitation regime, protection of the marine environment, scientific research, and settlement of disputes⁵. The marine areas beyond the EEZs were largely left out and declared the common heritage of (hu)mankind. After WWII, on the heels of military technological advances and marine mineral exploitation, particularly fossil fuels, industrial fishing experienced an unprecedented expansion. Food production from the sea, which had been secured largely by artisanal and subsistence fishers before, was boosted by the subsidized expansion of industrial fleets. Local resource collapses and massive reductions of the biomasses of big, long-lived species in the northern Atlantic have not been noticed much by consumers. Fishing further south and in deeper waters - together with expansion of international trade - substituted for locally fished out species. This generally overcompensated availability in regions with high purchasing power [4,5]. The impact of the fishing industry on global resources is now being felt even in the remotest areas as they become accessible through the technological 'arms race'. It has profoundly changed marine ecosystems all over the ocean [1,5].

With continued unbridled use of fossil fuels and a rapidly

warming ocean, we are now facing overlapping biodiversity and climate crises. These are aggravated by subsidy driven fishing overcapacity and still globally growing CO₂ emissions. Industrial fleets using active gears, such as destructive bottom trawls, play a major role [6]. A more recent study suggested emission levels of global trawling possibly equivalent to that of the aeronautics industry [7]. All the while, trawl fisheries account for approximately 20 to 25% of global seafood production, a similar share as small-scale fisheries⁶.

Small-Scale Fisheries Must be Part of the Solution

Small-scale fishers, men and women, form 90% or 60 million people active full or part-time in capture fisheries. Another 53 million people are estimated to engage in subsistence fishing world-wide [8]. Employment in capture fisheries grew until 2018 in all regions with the exception of Europe [3]. Thus FAO estimates that fishers in Asia account for 84% of the work force, in Africa for an estimated 9-10% of the global total [3]. Small-scale fishers are the vast majority everywhere and secure very significant portions of production. This is documented by the sea around us initiative⁷, which, unlike current global FAO statistics, breaks down the reconstruction of catches in each country by industrial and artisanal fleets as well as distinguishing subsistence and recreational extractions. Typically small-scale fisheries deliver quality products, create more jobs in primary extraction and pre- and post-harvest activities, produce less by-catch thanks to more selective gear and use less fuel per tonne of production [6]. Field surveys suggest that fishers are often suspicious towards government rules and policies. This happens when they are perceived as non-transparent and top-down without consultation processes. Conversely, fostering a compliance culture is critical for ensuring that agreed rules are respected, preferably monitored by independent public agents [9,10].

At the same time, intricate value chains in international trade, competition for shrinking resources and the difficulties to monitor fisheries operations off-shore entice IUU fishing. This deprives governments and legitimate fishers of substantial sources of income and can even threaten local food security [11]. A number of important international agreements and good existing legislation continue to suffer from 'implementation gap', that is, they have entered into force in the past, but are not or only very partially enforced [12]. Increased research into marine resources and ocean governance is rapidly increasing public understanding of global and regional conditions and trends. It provides essential information, but rarely the more fine-grained understanding needed at national and local levels. In the following a few factors are listed that typically contribute to the observed implementation gap.

³<https://www.un.org/bbnj/>

⁴<https://www.fao.org/port-state-measures/en/>

⁵<https://www.un.org/en/global-issues/oceans-and-the-law-of-the-sea>

⁶<https://ourworldindata.org>

⁷<https://www.seaaroundus.org>

a) Political and economic factors: These entail what is often termed as lacking political will or short-term economic interests in conflict with conservation objectives of international agreement. Moreover, powerful stakeholders can exert influence, hindering the full realization of agreed-upon measures.

b) Enforcement and compliance: Countries may have only limited enforcement mechanisms and weak compliance measures, thus hindering effective enforcement. Discrepancies in monitoring and reporting together with weak cooperation between different agencies and departments may further exacerbate the problem. This can blur transparency and accountability.

c) Resource constraints: Especially countries in the Global South lack the financial, human and technical resources for effective implementation. Capacity-building initiatives have shown mixed results. The resource situation may be insufficiently studied or research results not 'translated' into formats that can be used in management.

d) Cultural and socio-economic context: Cultural practices and socio-economic realities may not align with international conservation goals. A lack of trust between key actors can be a formidable obstacle to the enforceability of agreements. Solutions must take into account and respect the diversity of perspectives and livelihoods of people dependent on marine resources.

Ways Forward

What are conditions for successfully navigating the difficult transitions from marine species mass extinctions and other overlapping crises to ocean and biodiversity recovery? These are at the centre of the new somewhat interconnected global agreements mentioned at the outset, which now require implementation. A few stand out in order to enable peaceful transitions mindful of the factors currently impeding implementation of already existing treaties. First and foremost, especially in times of heightened resource competition, it is important to invest in trust building and cooperation. This is important not only at the level of governments and their negotiators, but also engaging with locally based scientists, ordinary citizens, fishers and other resource users. We have seen time and again that this is essential to harness their experience and expertise in seeking solutions. It facilitates translating global assessments and targets to national and local levels and creates a sense of co-ownership of the processes. Their outcome then becomes a co-responsibility.

Sadly, many of the ongoing marine spatial planning processes are not delivering on their potential because they are too technocratic and participatory only in word, but neither in spirit nor practice [13]. To change that for the better means, among others,

allocating time and resources to include voices of the marginalized or more vulnerable social actors in planning processes. Likewise, it is essential to act on these voices as well. A pilot activity in Senegal illustrated the potential of men and women in artisanal fisheries advancing in problem solution [14]. That pilot was focused onto providing operational support for the implementation of the global 'Voluntary Guidelines for Ensuring Sustainable Small-Scale Fisheries'⁸. It entailed inclusive, respectful dialogue in a safe multi-actor space celebrating local culture. Such formats are powerful ways to identify feasible and acceptable solutions and rally individuals and communities behind implementation.

Dialogues offer opportunities to take multiple objectives into account and enable trade-offs which minimize negative side effects while maximizing benefits. This multi-purpose approach underlies also some recent studies with high potential of addressing complex challenges in cost-effective and fairways [7]. Last, but not least the need to recover ocean health and good living conditions for people and ecosystems requires addressing equity and Blue Justice as fundamental to achieve some form of sustainability. The concern for social equity and justice is absent in most discourses and policies of Blue Economy and Blue Growth [15]. It is, however, a requisite for non-violent enforceability of the new agreements and for narrowing the implementation gap. Crosman KM, et al. [16] offer some guiding questions to promote pathways towards social equity. Transparency in combination with independent (public) monitoring and enforcement is highly desirable. Nowadays, this can be significantly helped by such initiatives as global fishing watch⁹. Grounding ocean governance on these principles, approaches and experiences holds the potential to give global agreements feet on the ground and a heightened chance for implementation.

Conclusion

This short study underscores the persistent challenges associated with the implementation of international agreements on marine protection and sustainable use of ocean resources. Recognizing the complexity of the issues and the diversity of factors involved is essential in developing effective strategies to bridge this gap. The current overlapping crises convey a sense of urgency. Taking into account the knowledges of scientists and indigenous people, addressing political and economic obstacles, and respecting cultural and socio-economic contexts are key ingredients to overcome the implementation gap. By fostering cooperation between public, private and civil society actors, and ensuring transparency and accountability, we can advance towards more sustainable futures for the ocean and human populations.

References

1. IPBES (2019) Global assessment report on biodiversity and ecosystem services of the Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services. In: Brondizio ES, Settele J, Díaz S, Ngo HT (Eds.), IPBES Secretariat, Germany, pp. 1-1148.

⁸<https://www.fao.org/voluntary-guidelines-small-scale-fisheries/guidelines/en/>

⁹<https://globalfishingwatch.org/open-ocean-project/>

2. Gjerde KM, Clark NA, Chazot C, Cremers K, Harden-Davies H, et al. (2022) Getting beyond yes: Fast-tracking implementation of the United Nations agreement for marine biodiversity beyond national jurisdiction. *npj Ocean Sustain* 1: 6.
3. FAO (2022) The State of World Fisheries and Aquaculture. Towards Blue Transformation. Italy, pp. 1-266.
4. Morato T, Watson R, Pitcher TJ, Pauly D (2006) Fishing down the deep. *Fish and Fisheries* 7(1): 24-34.
5. Pauly D (2011) Beyond duplicity and ignorance in global fisheries. *Pacific Ecologist* 20: 32-36 [abbreviated version of same-title article in *Scientia Marina* 73(2): 215-223, 2009].
6. Greer K, Zeller D, Woroniak J, Coulter A, Winchester M, et al. (2019) Global trends in carbon dioxide (CO₂) emissions from fuel combustion in marine fisheries from 1950 to 2016. *Marine Policy* 107: 103382.
7. Sala E, Mayorga J, Bradley D, Cabral RB, Atwood TB, et al. (2021) Protecting the global ocean for biodiversity, food and climate. *Nature* 592: 397-402.
8. FAO (2023) Illuminating hidden harvests - The contributions of small-scale fisheries to sustainable development. Duke University and WorldFish, Italy, pp. 1-376.
9. Garza-Gil MD, Amigo-Dobaño L, Surís-Regueiro JC, Varela-Lafuente M (2015) Perceptions on incentives for compliance with regulation. The case of Spanish fishermen in the Atlantic. *Fisheries Research* 170: 30-38.
10. Lindley J (2023) Fishing non-compliance and culture. *Marine Policy* 152: 105581.
11. Nauen CE, Boschetti ST (2022) Fisheries crimes, poverty and food insecurity. In: Boşilcă RL, Ferreira S, Ryan BJ (Eds.), 1st (edn), *Routledge Handbook of Maritime Security*, UK, pp. 239-249.
12. Hinds L (2003) Oceans governance and the implementation gap. *Marine Policy* 27(4): 349-356.
13. Flannery W, McAteer B (2020) Assessing marine spatial planning governmentality. *Maritime Studies* 19: 269-284.
14. Nauen CE, Treffner MFA (2021) Strengthening capabilities of individuals and communities through a small-scale fisheries academy. In: Jentoft S, Chuenpagdee R, Said A, Isaacs M (Eds.), *Blue justice: Small-scale fisheries in a sustainable ocean economy*. Springer International Publishing, UK, pp. 611-633.
15. Das J (2023) Blue economy, blue growth, social equity and small-scale fisheries: A global and national level review. *Studies in Social Science Research* 4(1): 1-45.
16. Crosman KM, Allison EH, Ota Y, Cisneros MAM, Singh GG, et al. (2022) Social equity is key to sustainable ocean governance. *npj Ocean Sustain* 1: 4.