

# **ICZM Protocols to regional seas conventions: the wonder drug for coastal sustainable development?**

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# Introduction

Regionalisation of the international environmental law, one of the most important legal trends over the last decades

UNEP Regional Seas Programme, created in 1974 and now involving over 140 States

“Closer, further, faster“



## Regional Seas



West to East: North-East Pacific South-East Pacific Wider Caribbean Upper South-West Atlantic West & Central Africa Mediterranean Black Sea Eastern Africa Red Sea & Gulf of Aden ROPME Sea Area South Asian Seas East Asian Seas North-West Pacific South Pacific Partner programmes: Arctic North-East Atlantic Baltic Sea Caspian Sea Antarctic

# Introduction

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## **Regional Seas legal framework**

- A framework convention + sectoral protocols (Mediterranean, Western Africa, Western Indian Ocean, Wider Caribbean...)
- An action plan + specific activities (East Asian Seas...)

## **Evolution of the topics of regional protocols and activities**

- Fight against pollution from ships and land-based activities: Emergency Protocols, LBSA Protocols
- Biodiversity conservation, mainly through MPA Protocols
- Sustainable Development: ICZM Protocols in the Mediterranean (2008) and in the Western Indian Ocean (in discussion)

# Introduction

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## **What's new in terms of coastal management?**

- From international and regional recommendations to binding obligations
- Legal regulation of coastal management no more confined to national and sub-national levels

## **Are ICZM Protocols the new silver bullet for sustainable coastal management?**

- Interests / limits ?
- Should we replicate this instrument in all regional seas?
- What are the conditions for success?

# Outline

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1. The Mediterranean and Western Indian Ocean ICZM Protocols
2. Expected benefits of ICZM regional regulation
3. Conditions for success
4. Conclusion

*Findings based on research and consultancy conducted over the last five years in the Mediterranean and the Western Indian Ocean*

# 1. The Mediterranean and WIO ICZM Protocols

## *Background*

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In the Mediterranean and the WIO, the regional approach to ICZM first developed on a project basis

ICZM projects funded by multilateral (UNEP, World Bank, GEF...) and bilateral donors (from France, Sweden, EU...)

Helped to establish the ICZM concept in the regions and raised national awareness

However, considerable limitations of the project-based approach (island of innovation in a ocean of routine management, fragmentation of the public policies...)

# 1. The Mediterranean and WIO ICZM Protocols

## *The Mediterranean ICZM Protocol*

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1995: Revision of the Barcelona Convention

2003: Publication of a feasibility study

2005: Presentation of the “zero-draft” Protocol

2006-2007: 5 meetings of negotiation

21 January 2008: Adoption of the ICZM Protocol

24 March 2011: Entry into force of the Protocol



# 1. The Mediterranean and WIO ICZM Protocols

## *The WIO ICZM Protocol*

March 2010: Publication of the feasibility study, demonstrating the need for a regional legal instrument and highlighting the conditions for success

April 2010: COP 6 launched the Protocol development process

August 2010: Publication of the “zero-draft”

Since September 2010: legal and technical discussions (LTWG)





# 1. The Mediterranean and WIO ICZM Protocols

## *Content of the Protocols*

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### **Mediterranean**

1. Adaptation of coastal-related sectoral policies and regulation of coastal activities
2. Governance processes (institutional coordination, public participation, access to justice...)
3. Strategic planning of the coastal zone
4. Regional cooperation (exchange of experiences, transboundary issues...)

### **WIO (in progress)**

“Overarching +” Protocol

Strengthening the legal, institutional, administrative frameworks

Specific issues of regional importance:

- Adaptation to climate change
- Biodiversity conservation

## 2. Expected benefits of ICZM regional regulation

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**In both region, common expectations**

Filling the gaps in national legal frameworks

Strengthening the institutional framework in place or emerging

Rationalising efforts



## 2. Expected benefits of ICZM regional regulation

### *Filling the gaps in national legal frameworks*

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Several gaps in national legal frameworks

Primary goal of a binding instrument such as an ICZM Protocol to consolidate States' legal framework related to coastal zones

In the Mediterranean, several studies identifying the legal gaps to be filled, which inspired the content of the Protocol

Same process in the WIO : zero draft built to fill the legal gaps identified (urban and regional planning, adaptation to climate change...)

## 2. Expected benefits of ICZM regional regulation

### *Strengthening the institutional framework in place or emerging*

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Opportunity to provide valuable support for the domestic stakeholders pushing for ICZM implementation

In the WIO:

- National ICZM Committees, devoted to promote ICZM implementation
- Activities often hindered or even impeded by the considerable weight of other sectors
- More political weight and legitimacy to ICZM promoters

A powerful advocacy tool

Examples in the Mediterranean

## 2. Expected benefits of ICZM regional regulation

### *Rationalising efforts*

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ICZM Protocols as powerful instruments which can drive regional initiatives, therefore avoiding dispersion of efforts

Mediterranean ICZM Protocol: the key reference on which most coastal initiatives can lean

- ICZM projects promoted by MAP
- Mediterranean LME project

WIO States expect the Protocol to orient coastal management initiatives and help rationalize the way funding is channeled

## 2. Expected benefits of ICZM regional regulation

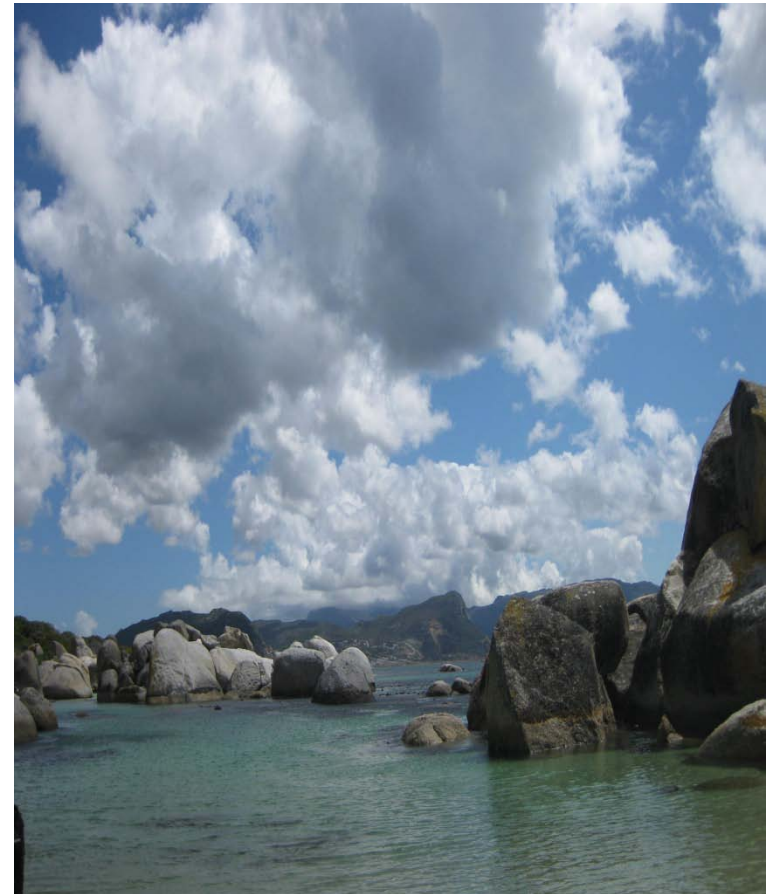
### *Conclusion*

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Many advantages in adopting a regional, legally binding instrument on ICZM

However, adopting a legal agreement should not be considered a good idea *per se*

ICZM Protocols will bring real added value to regional sustainable development only if conditions for success are met  
(3)



# 3. Conditions for success

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**From the Mediterranean and WIO experiences, conditions for success at 3 stages :**

Before the elaboration: regional and national contexts

During the elaboration: drafting and negotiating processes

After the adoption: support to the future implementation





## 3. Conditions for success

### *Regional and national contexts*

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#### **A Protocol must be preceded by a strong anchorage of the ICZM concept in the region**

- Multiplication of ICZM projects
- Scientific and technical studies: white papers, guidelines, studies, reports...

#### **Need for a political champions to support and boost the negotiations**

- Mediterranean: France
- WIO: Mauritius / Indian Ocean Commission



# 3. Conditions for success

## *Drafting and negotiating processes*

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### **Not starting from a blank page but from a “zero draft”**

- Need for States to precise which type of Protocol they want

### **Avoiding disconnection**

between State’s representatives participating in the negotiation and other stakeholders

- Stakeholders involvement during the discussion
- National consultations within Ministries



### 3. Conditions for success

#### *Support to future implementation (1/2)*

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Never a premature issue: a lack of anticipation increases the risk of developing a useless “paper protocol”

“Easy” in the Mediterranean thanks to PAP/RAC, a regional activity center dedicated to coastal issues

PAP/RAC activities currently focused on the implementation of the Protocol

- Report on the technical and legal aspects of the Protocol
- Direct assistance to States
- ....

# 3. Conditions for success

## Support to future implementation (2/2)

No similar structure in the WIO

- Nairobi Convention Secretariat only
- Limited technical assistance and support for the implementation of the protocols

Strengthening the regional framework: an issue highlighted in the feasibility study

Discussions in progress

Never a premature issue

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N°02/12 MARCH 2012 BIODIVERSITY

**Strengthening the Western Indian Ocean regional seas framework: a review of potential modalities**  
Julien Rochette, Raphaël Billé (IDDRI)

**THE NAIROBI CONVENTION REGIONAL SYSTEM AT A CROSSROADS**  
After a period of low activity level due to lack of funding and political commitment, the Nairobi Convention regional system has been revitalised over the last decade. This translated most recently into the 2010 revision of the Nairobi Convention, the adoption of the Protocol for the protection of the marine and coastal environment of the Western Indian Ocean (WIO) from land-based sources and activities, as well as the launch of a process towards a Protocol on integrated coastal zone management (ICZM). However, the institutional structure of the regional system has not been developed at the same rhythm.

**PATHWAYS TOWARDS STRENGTHENING THE NAIROBI CONVENTION REGIONAL SYSTEM**  
The report therefore reviews and assesses potential modalities to strengthen the regional system by setting up a technical capacity to help Parties implementing regional legal instruments. It analyses the various institutional mechanisms established in four other regions to support regional environmental governance. It looks into the needs to fulfil and prerequisites to do so, as well as into institutional, organisational and funding options. The cross-assessment of options concludes that at least all the topics covered by the Nairobi Convention and its related protocols should be addressed and that setting up a dedicated regional trust fund would be a robust strategy whatever the organisational modality chosen.

**TURNING COMMITMENTS INTO EFFECTIVE CHANGE**  
Aimed at generating and feeding upcoming regional debates towards the next COP, the report invites informal and formal discussions between Nairobi Convention Contracting Parties but also involving non-State stakeholders and bi- and multilateral donors to narrow the range of options and agree on the next steps. In any case, the process of strengthening the WIO regional seas framework should not be blocked by preconceived ideas about funding issues: the report argues that realistic, sustainable and collaborative options do exist.

**RECOMAP**  
INDIAN OCEAN  
Regional Programme for the Sustainable Management of the Coastal Zone of the Countries of the Indian Ocean  
Financed by the European Union

**ACCIMATE**  
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# Conclusion – Key messages to take away (1/2)

Increasing interest for the regional regulation of ICZM through ICZM Protocols

Strategic lever to address coastal issues:

- Filling the gaps in national legal frameworks
- Strengthening the institutional framework in place or emerging
- Rationalising efforts



# Conclusion – Key messages to take away (2/2)

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Time and resource consuming /  
“Against the stream”

Foolish to yield to a trend dictating  
that each regional sea should  
follow the Mediterranean model, as  
a matter of principle

Need to secure the conditions for  
success before embarking on the  
adventure

Conditions met for effective  
implementation



# Thank you

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