

# The Sargasso Sea Commission: An Innovative Approach to the Conservation of Areas beyond National Jurisdiction

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On 6 August 2014, the Government of Bermuda announced the appointment of the first Sargasso Sea Commission.<sup>1</sup> The Commission is the creature of the *Hamilton Declaration on Collaboration for the Conservation of the Sargasso Sea* signed in Bermuda in March 2014.<sup>2</sup> The Hamilton Declaration is the first non-binding instrument to establish a framework for its signatory governments to work together through existing international organizations and other partners to minimize the adverse effects of human activities in an ecosystem that lies primarily in an area beyond national jurisdiction (ABNJ).

The Hamilton Declaration provides that the Government of Bermuda, after consultation with the signatories and collaborating partners, will establish the Commission “composed of distinguished scientists and other persons of international repute committed to the conservation of high seas ecosystems that would serve in their personal capacity.”<sup>3</sup> The role of the Commission members, as set out in Annex II of the Declaration, is to “exercise a stewardship role for the Sargasso Sea and keep its health, productivity and resilience under continual review.”<sup>4</sup>

The signing of the Hamilton Declaration and the subsequent establishment of the Commission is the result of more than four years of work by the Sargasso

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1 The First Commissioners appointed in 2014 were: Dr. Billy Causey (United States), Professor Howard Roe (United Kingdom), Professor Ricardo Serrão Santos (Azores), Professor Dire Tladi (South Africa) and Dr. Tammy Trott (Bermuda). In August 2015, Professor Tladi’s term expired and for pressure of work reasons he did not stand for re-appointment. In September 2015, after a nomination and consultation process among the signatories, the Government of Bermuda appointed two new Commissioners: Professor Stephen de Mora (United Kingdom/Canada) and Mark Spalding (United States). They will each serve for three years.

2 For text of the Declaration, see Appendix to D. Freestone and K.K. Morrison, “The Signing of the Hamilton Declaration on Collaboration for the Conservation of the Sargasso Sea: A New Paradigm for High Seas Conservation?” *The International Journal of Marine and Coastal Law* 29 (2014): 345–362, pp. 355ff.

3 *Id.*, para. 6, p. 357.

4 *Id.*, p. 361.

Sea Alliance (SSA).<sup>5</sup> Led by the Government of Bermuda, the SSA aimed to build a network of international partners to achieve international recognition of the global importance of the Sargasso Sea; to work with existing international and sectoral organizations to achieve better protection for the Sargasso Sea in accordance with the 1982 United Nations Convention on the Law of the Sea (UNCLOS); and to use this experience as a model for achieving protective status for areas beyond national jurisdiction elsewhere. This mantle has now been taken over by the Commission, with the support of those governments which signed the Declaration or are associated with the initiative.<sup>6</sup>

This initiative should also be seen against the backdrop of the current work of the United Nations General Assembly (UNGA). On 19 June 2015, the UNGA decided to initiate a process to “develop a legally binding instrument under the [1982 Law of the Sea] Convention on the conservation and sustainable use of biological diversity of Areas beyond National Jurisdiction.”<sup>7</sup> This UNGA resolution was based on the recommendations developed after nearly a decade of deliberations by the Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction (BBNJ Working Group).<sup>8</sup> The negotiations for a possible new legal instrument that are scheduled to start in spring of 2016 will seek to address a number of functional and geographic gaps that exist in the regulatory structure of the international organizations with

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5 See generally D. Freestone, “Working to protect the ‘Golden Floating Rain Forest of the Ocean.’ The Sargasso Sea Alliance: An Interim Report,” *Environmental Policy and Law* 44, no. 1–2 (2014): 151–156.

6 The Declaration was signed by representatives from the governments of the Azores, Bermuda, Monaco, the United Kingdom and the United States. Representatives of the governments of the Bahamas, the British Virgin Islands, the Netherlands, South Africa, Sweden and the Turks and Caicos Islands attended the signing and spoke in support, together with observers from the secretariats of five international organizations, the Oslo and Paris Commission (OSPAR) from the neighboring North-east Atlantic region, the International Seabed Authority, the Inter-American Convention for the Protection and Conservation of Sea Turtles, the Convention on Migratory Species and the International Union for Conservation of Nature (IUCN). See Freestone and Morrison, n. 2 above, pp. 345–346.

7 Development of an International Legally Binding Instrument under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction, GA Res 69/292, UNGAOR, 69th Session (2015).

8 UN General Assembly, Letter dated 13 February 2015 from the Co-Chairs of the Ad Hoc Open-ended Informal Working Group to the President of the General Assembly, UN Doc. A/69/780 (13 February 2015), available online: <[http://www.un.org/ga/search/view\\_doc.asp?symbol=A/69/780](http://www.un.org/ga/search/view_doc.asp?symbol=A/69/780)>.

jurisdiction in the high seas, as well as issues with coordination and implementation of high seas regulatory activities.<sup>9</sup>

### The Sargasso Sea: The Golden Floating Rainforest of the Atlantic

The Sargasso Sea is located within the North Atlantic Subtropical Gyre and is bounded on all sides by the clockwise flow of major ocean currents: the Gulf Stream and North Atlantic Drift to the west and north, the Canary Current to the east, and the North Equatorial Current and Antilles Current to the south. Hence, the boundaries of the Sargasso Sea shift with these currents, but its core area covers approximately 2 million square nautical miles around the islands of Bermuda, most of which is beyond the national jurisdiction of any state.<sup>10</sup> The Sargasso Sea is named after its floating *Sargassum* seaweed that supports a diverse and productive ocean ecosystem. Two species of distinctive golden *Sargassum*—which reproduce holopelagically without contact with land—are found primarily in the Sargasso Sea (*Sargassum natans* and *S. fluitans*).

The *Sargassum* mats and windrows provide shelter and nutrients for a wide variety of species, some endemic and some endangered, like sea turtles, as well as a number of commercially important species like billfish and tunas. It is also on the migration route of many species, including sharks and cetaceans. It is the only place in the world where the catadromous American eel (*Anguilla rostrata*) and European eel (*Anguilla anguilla*) spawn.<sup>11</sup> Surrounding the archipelago of Bermuda and within the area of the Sargasso Sea lies an abyssal plain some 4,000 meters deep, with three groups of seamounts that are 70 to 90 million years old: the New England and the Corner Rise seamounts to the north, and to the east the Mid-Atlantic Ridge seamounts.<sup>12</sup>

Since 1954, Bermuda has hosted what is now one of the longest-running ocean data time series, data which has been responsible for increasing our appreciation and understanding of the oceanographic and biological processes

9 See generally D. Freestone, "Governance of Areas beyond National Jurisdiction: An Unfinished Agenda of the 1982 Convention?" in *UNCLOS at 30 and Beyond – A Living Instrument*, eds. J. Barrett and R. Barnes (London: British Institute of International and Comparative Law, forthcoming).

10 For a map, see <<http://www.sargassoseacommission.org/index.php>>.

11 D. Freestone and K.K. Morrison, "The Sargasso Sea Alliance: Seeking to Protect the Sargasso Sea," *The International Journal of Marine and Coastal Law* 27 (2012): 647–655, at 648.

12 Although note the "Area of Collaboration" of the Hamilton Declaration is the western basin of the North Atlantic, excluding the mid-Atlantic ridge.

of the Sargasso Sea, including the increasing acidity of the ocean and its role as a carbon sink.<sup>13</sup> Nevertheless, scientists still lack data on many characteristics of the Sargasso Sea.<sup>14</sup>

### *The Existing Legal Framework*

The Sargasso Sea lacks a regional ocean conservation organization or a regional fisheries management organization (RFMO) with jurisdiction over the entire Sargasso Sea. This is in distinct contrast with the Northeast Atlantic, where ABNJ are included within the jurisdictional area of both a regional environmental agreement (known as the Convention for the Protection of the Marine Environment of the North-East Atlantic or the 1992 OSPAR Convention),<sup>15</sup> and a corresponding regional fisheries management body (the North-East Atlantic Fisheries Commission or NEAFC).<sup>16</sup> The Hamilton Declaration did not create any new regulatory or management authority for the Sargasso Sea. In essence, its objective is to work with the current regulatory structure to seek to develop appropriate conservation measures.

The general strategy of the SSA was therefore to identify the most important threats to the Sargasso Sea ecosystem and to address these by seeking appropriate protection measures within the relevant existing international or regional sectoral organization. Possible threats from shipping or vessel-source pollution would be addressed through the International Maritime Organization (IMO);<sup>17</sup> possible threats from fishing through the only two relevant fish-

13 Hosted now by the Bermuda Institute for Ocean Sciences (BIOS). See generally D. Laffoley and H. Roe et al., *The Protection and Management of the Sargasso Sea: The Golden Floating Rainforest of the Atlantic Ocean. Summary Science and Supporting Evidence Case*, (Sargasso Sea Alliance, 2011), available online: <<http://www.sargassoseacommission.org/storage/documents/Sargasso.Report.9.12.pdf>>.

14 Id.

15 The 1992 Convention for the Protection of the Marine Environment of the North-East Atlantic (the "OSPAR Convention") was formed from the merger of the Commissions of the 1972 Oslo Convention and the 1974 Paris Convention, and entered into force in March 1998; text at (1993) 32 *International Legal Materials* 1072 and online: <[http://www.ospar.org/html\\_documents/ospar/html/ospar\\_convention\\_e\\_updated\\_text\\_2007.pdf](http://www.ospar.org/html_documents/ospar/html/ospar_convention_e_updated_text_2007.pdf)>.

16 1980 Convention on Future Multilateral Cooperation in North-East Atlantic Fisheries, adopted on 18 November 1980 and entered into force in 1982. It replaced the earlier 1959 North-East Atlantic Fisheries Convention. Updated text available online: <<http://www.neafc.org/system/files/Text-of-NEAFC-Convention-04.pdf>>.

17 In 1948, an international conference in Geneva adopted a convention formally establishing the International Maritime Organization (IMO) (the original name was the Inter-Governmental Maritime Consultative Organization, or IMCO, but the name was changed in 1982 to IMO). As of January 2016 it has 171 Member States and three Associate Members; see <<http://www.imo.org/About/HistoryOfIMO/Pages/Default.aspx>>.

ing organizations—the International Commission for the Conservation of Atlantic Tunas (ICCAT),<sup>18</sup> with regulatory authority over fisheries for “tuna and tuna-like species” and (for the small area of the Sargasso Sea above 35° N which includes a section of Bermuda’s exclusive economic zone) the Northwest Atlantic Fisheries Organization (NAFO),<sup>19</sup> and for possible threats from seabed exploration and mining issues through the International Seabed Authority (ISA).<sup>20</sup>

A number of other international organizations are also highly relevant to this mission. The Convention on Biological Diversity (CBD) decided at the tenth session of the Conference of Parties (COP 10) in Nagoya, Japan, to initiate a science-driven process to “describe” ecologically or biologically significant areas (EBSAs) in the high seas areas.<sup>21</sup> One of the first and largest of these was the Sargasso Sea.<sup>22</sup> Similarly, the species in the Sargasso Sea are relevant to the Convention on the Conservation of Migratory Species (CMS),<sup>23</sup> as well as the Inter-American Convention for the Protection and Conservation of Sea Turtles (IAC).<sup>24</sup> Regional agreements relating to adjacent or a similar ocean areas have also been natural allies, such as the OSPAR Convention,<sup>25</sup> with which SSA

18 The International Convention for the Conservation of Atlantic Tunas was signed in Rio de Janeiro, Brazil, in 1966. It entered into force in 1969 and as of January 2016 has 50 parties. Further details online: <<http://www.iccat.int/en/contracting.htm>>.

19 1979 Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries applies to most fishery resources of the Northwest Atlantic except salmon, tunas/marlins, and sedentary species (e.g., shellfish). For text see <<http://www.nafo.int/about/overview/governance/convention.pdf>>.

20 Established under Part XI of the 1982 United Nations Convention on the Law of the Sea, 10 December 1982, 1833 *United Nations Treaty Series* 3 [UNCLOS].

21 Convention on Biological Diversity (CBD), COP 10 Decision X/29, “Marine and Coastal Biodiversity,” para 36, available online: <<http://www.cbd.int/decision/cop/?id=12295>>.

22 At the Wider Caribbean and Western Mid-Atlantic Regional Workshop on EBSAs held in Recife, Brazil in February/March of 2012, the Government of Bermuda, on behalf of the Alliance, put forward a proposal for the “description” of the Sargasso Sea as an ecologically or biologically significant area (EBSA). The case for the Sargasso Sea as an EBSA was discussed and adopted by the scientists at the workshop, then forwarded as part of the Workshop Report to the CBD’s Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA) meeting in April 2012, and, ultimately, the Eleventh Session of the Conference of Parties (COP 11) in Hyderabad in October 2012, where it was officially described as an EBSA.

23 Convention on the Conservation of Migratory Species of Wild Animals, 23 June 1979, 1651 *United Nations Treaty Series* 333 [CMS].

24 1996 Inter-American Convention for the Protection and Conservation of Sea Turtles (IAC), text available online: <<http://www.iacseaturtle.org/eng-docs/Texto-CIT-ENG.pdf>>.

25 OSPAR Convention, n. 15 above.

signed a Collaboration Arrangement in 2011,<sup>26</sup> as well as the Cartagena<sup>27</sup> and Abidjan<sup>28</sup> UNEP Regional Seas Conventions. No one appears to have attempted to do this before: to use the range of existing bodies to attempt to put complementary sectoral measures in place for an important area beyond national jurisdiction. Hence, the project has attracted a lot of international attention.

While virtually all of the above-mentioned organizations have specific authority to protect parts of the marine environment in ABNJ, it is also clear that despite the mandate for governmental cooperation contained in Article 197 of UNCLOS,<sup>29</sup> little systematic coordination exists between these organizations.<sup>30</sup> The culture, processes and epistemic communities of each of these institutions are entirely different, and conservation arguments raised in one institution still carry little, if any, weight in the others.<sup>31</sup>

### *The Sargasso Sea Commission Work Programme: Progress and Prospects*

In October 2014 at its first meeting, the incoming Commission met with the government signatories to the Declaration and established six priority areas for its first two-year work programme.<sup>32</sup> These, discussed below, are not in order of importance and they build substantially on the work of the Sargasso Sea Alliance (SSA).

#### International Recognition of the Ecological Importance of the Sargasso Sea

There is little doubt that the first and most significant step in achieving international recognition of the importance the Sargasso Sea was its description as an EBSA under the CBD in 2011. The Commission has continued to leverage this

26 For text see online: <[http://www.sargassoseacommission.org/storage/documents/Collaboration\\_Arrangement\\_-\\_OSPAR\\_Sargasso\\_Sea.pdf](http://www.sargassoseacommission.org/storage/documents/Collaboration_Arrangement_-_OSPAR_Sargasso_Sea.pdf)>.

27 1983 Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region, (1983) 22 *International Legal Materials* 221.

28 1981 Convention for Cooperation in the Protection and Development of the Marine and Coastal Environment of the West and Central Africa, (1981) 20 *International Legal Materials* 746.

29 UNCLOS, n. 20 above, art. 197.

30 See generally D. Freestone, "The Final Frontier: The Law of the Sea Convention and Areas beyond National Jurisdiction," in *Proceedings of the 2012 Law of the Sea Institute Conference on Securing the Ocean for the Next Generation*, vol., Law of the Sea Institute Conference Papers Series (Leiden: Martinus Nijhoff, 2013), 1–15, at 15.

31 The Meeting was held at the Rockefeller Brothers Fund Pocantico Center, with their generous support.

32 Published online: <<http://www.sargassoseacommission.org/about-our-work>>.

in other fora.<sup>33</sup> In 2012, and again in the two following years, the UNGA has included text in its annual omnibus Resolution on Oceans and Law of the Sea.<sup>34</sup> In 2014, the editors of the *UN Global Reporting and Assessment of the State of the Marine Environment – First Assessment Report* commissioned a chapter on the Sargasso Sea, the only named ecosystem in the Assessment.<sup>35</sup> As part of the Commission's effort to build an international network, its Secretariat is also negotiating collaboration arrangements or memoranda of understanding with other international bodies,<sup>36</sup> and where appropriate observer status with such bodies,<sup>37</sup> as well as with other collaborating partners.<sup>38</sup>

### Fisheries and Fisheries Habitat Conservation

As indicated above, two RFMOs have jurisdiction in areas of the Sargasso Sea, NAFO and ICCAT. In relation to NAFO, in September 2011, after discussion of a European Union (EU) draft proposal for a resolution on the Sargasso Sea that had been initiated by the United Kingdom in consultation with the SSA, the NAFO Fisheries Commission requested its Scientific Council to comment and advise on whether the Sargasso Sea provides forage area or habitat for living marine resources that could be impacted by different types of fishing, and on whether there is a need for any management measure, including a closure, to protect this ecosystem.<sup>39</sup> The issue is still under consideration.

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- 33 D. Freestone and K.K. Morrison, "Sargasso Sea Alliance: Leveraging an EBSA definition for High Seas Protection," *Global Ocean Biodiversity Initiative Newsletter* (October 2013), p. 5.
- 34 Oceans and the Law of the Sea, GA Res 67/78, UNGAOR, 67th Session (2012), para. 199 (proposed by the United Kingdom, the United States and South Africa); Oceans and the Law of the Sea, GA Res 68/70, UNGAOR, 68th Session (2013), para. 215 (proposed by the United Kingdom, the United States and the Bahamas); Oceans and the Law of the Sea, GA Res 69/245, UNGAOR, 69th Session (2014), para. 231 (proposed by South Africa and the Bahamas, supported by the United Kingdom, the United States and Monaco).
- 35 *UN Global Reporting and Assessment of the State of the Marine Environment – First Assessment Report*, Chapter 50 (forthcoming).
- 36 Such as OSPAR, n. 15 above.
- 37 For example, at the International Seabed Authority.
- 38 Collaborating partners are listed online: <<http://www.sargassoseacommission.org/about-the-commission/collaborating-partners>>.
- 39 Northwest Atlantic Fisheries Organization (NAFO), Fisheries Commission's Request for Scientific Advice on Management in 2014 and Beyond of Certain Stocks in Subareas 2, 3 and 4 and Other Matters NAFO/FC DOC. 12/24, (September 2012), para. 15. Reproduced in NAFO Report of the Fisheries Commission 2012 NAFO/FC Doc 12/31, Annex 6, p. 38, available online: <[http://www.sargassoalliance.org/storage/documents/NAFO\\_Report\\_of\\_the\\_Fisheries\\_Commission\\_St\\_Petersburg\\_Sept\\_2012.pdf](http://www.sargassoalliance.org/storage/documents/NAFO_Report_of_the_Fisheries_Commission_St_Petersburg_Sept_2012.pdf)>.

In November 2012, the ICCAT Commission, on the basis of a resolution proposed by Bermuda as a UK Overseas Territory and supported by the EU and the United States, as well as others, requested its Scientific Body (the Standing Committee on Research and Statistics—SCRS) to examine the available data and information concerning the Sargasso Sea and its ecological importance to tuna and tuna-like species and ecologically associated species, and to provide an update on the progress of this work in 2014 and report back to the Commission with its findings in 2015.<sup>40</sup> In turn, the SCRS referred this to its Ecosystem Subcommittee, for which the SSA and then the Commission sponsored a series of papers.<sup>41</sup> As a result, the Subcommittee in 2014 recognized that its work was providing a useful foundation for adopting the Sargasso Sea region as a basis for a case study in implementing the ecosystem-based fisheries management (EBFM) approach within ICCAT.<sup>42</sup> The SCRS is due to report back to the ICCAT Commission in November 2015.

#### Impacts from International Shipping

In 2011, the SSA commissioned a major report on shipping through the Sargasso Sea.<sup>43</sup> It has sponsored two well-attended side events at the IMO Marine Environment Protection Committee meetings and is still exploring possible approaches.

#### Impacts to the Seafloor and Seabed

In the wake of the Hamilton meeting in March 2014 the Commission was approached by the International Cable Protection Committee (ICPC), as a

40 International Commission for the Conservation of Atlantic Tunas (ICATT), Resolution by ICATT on the Sargasso Sea, Res. 12–12 (2102). Reproduced in ICATT, *Report for biennial period 2012–13 Part I (2012)*, vol. 1 (ICAAT, 2012), p. 215, paras. 1–2, available online: <[http://www.iccat.es/Documents/BienRep/REP\\_EN\\_12-13\\_I\\_1.pdf](http://www.iccat.es/Documents/BienRep/REP_EN_12-13_I_1.pdf)>.

41 B.E. Luckhurst, “Inventory and Ecology of Fish Species of Interest to ICCAT in the Sargasso Sea” (SCRS/2013/132); B.E. Luckhurst, “Analysis of ICCAT Reported Catches of Tunas and Swordfish in the Sargasso Sea (1992–2011)” (SCRS/2014/119); B.E. Luckhurst, “A Preliminary Food Web of the Pelagic Environment of the Sargasso Sea with a Focus on the Fish Species of Interest to ICCAT” (SCRS/2014/120); B.E. Luckhurst and F. Arocha, “Evidence of Spawning in the Southern Sargasso Sea of Fish Species Managed by ICCAT – Albacore Tuna, Swordfish and White Marlin” (SCRS/2015/111).

42 ICCAT, Sub-Committee on Ecosystems, *Report from the 2013 Inter-sessional Meeting of the Sub-Committee on Ecosystems* (Madrid, Spain, 1–5 July 2013), p. 2.

43 J. Roberts, *Maritime Traffic in the Sargasso Sea: An Analysis of International Shipping Activities and their Potential Environmental Impacts*, Sargasso Sea Alliance Science Report Series, No. 9 (Washington, D.C.: Sargasso Sea Alliance, 2011).



result of which in October 2014 they co-hosted a workshop, Submarine Cables in the Sargasso Sea: Legal and Environmental Issues in Areas beyond National Jurisdiction. The workshop report has been published on the Commission and ICPC websites.<sup>44</sup> The Commission plans to work further with the ICPC and other partners to jointly develop a set of best practices for cable laying in the areas beyond national jurisdiction of the Sargasso Sea “Area of Collaboration.”

In relation to exploration and exploitation of seabed minerals in the Sargasso Sea ABNJ,<sup>45</sup> this is an issue regulated by the ISA in Jamaica, and a representative from the ISA participated as an observer at the Hamilton meeting in March 2014. Collaboration talks are ongoing, and a proposal for the Commission to have observer status at the ISA will be considered at its session in the summer of 2015.

#### Conservation of Migratory Species

A number of migratory species use the Sargasso Sea at various points in their life cycles. Several endangered or critically endangered species of sea turtle, including green turtles (*Chelonia mydas*), hawksbill turtles (*Eretmochelys imbricate*), loggerhead turtles (*Caretta caretta*), and Kemp’s Ridley turtles (*Lepidochelys kempii*), use *Sargassum* weed for cover, feeding and nursery habitat. As noted above, the Sargasso Sea is the only place in the world where the European eel (*Anguilla anguilla*) and the American eel (*A. rostrata*) spawn. According to the IUCN Red List, both are endangered but the European eel is critically endangered.<sup>46</sup>

The SSA has been working with the Secretariat of the IAC.<sup>47</sup> In 2014, the Secretariats agreed informally to collaborate on a joint information paper on the importance of *Sargassum* and the Sargasso Sea for Atlantic sea turtles. This

44 D. Burnett, D. Freestone and T. Davenport, *Submarine Cables in the Sargasso Sea: Legal and Environmental Issues in Areas Beyond National Jurisdiction, 23 October 2014, Workshop Report* (16 January 2015), available online: <[http://www.sargassoseacommission.org/storage/documents/Submarine\\_Cables\\_in\\_the\\_Sargasso\\_Sea\\_Final\\_Workshop\\_Report\\_dated\\_16\\_January\\_2015.pdf](http://www.sargassoseacommission.org/storage/documents/Submarine_Cables_in_the_Sargasso_Sea_Final_Workshop_Report_dated_16_January_2015.pdf)>. A summary is also published by A.L. de Juigny, T. Davenport, D.R. Burnett and D. Freestone, “Submarine Telecommunications Cables in the Sargasso Sea,” *The International Journal of Marine and Coastal Law* 30 (2015): 371–378.

45 L. Parson and R. Edwards, *The Geology of the Sargasso Sea Alliance Study Area, Potential Non-Living Marine Resources and an Overview of the Current Territorial Claims and Coastal States Interests*. Sargasso Sea Alliance Science Report Series, No. 8 (Washington, D.C.: Sargasso Sea Alliance, 2011).

46 See IUCN, available online: <<http://www.iucnredlist.org/details/60344/0>>.

47 The IAC Convention came into force in 2001 and has 15 parties. For the Convention text, see n. 24 above.

short concept paper demonstrates the important migration links between turtles in Bermuda and the Sargasso Sea and many Central American countries.<sup>48</sup>

In the spring of 2014, the SSA commissioned a science report<sup>49</sup> for the Convention on Migratory Species (CMS) to support the listing of the European eel under its Appendix II. Such a listing is appropriate if the species has an “unfavourable conservation status” and if their conservation status “would significantly benefit from the international cooperation that could be achieved by an international agreement.”<sup>50</sup> As a signatory to the Hamilton Declaration in March 2014, the Government of the Principality of Monaco agreed to put forward the report on behalf of the Commission, first to the CMS Science Council<sup>51</sup> and subsequently to the CMS COP in Quito in November 2014 where it was approved.<sup>52</sup> The next step is the convening of a range state workshop to discuss collaborative measures, possibly in 2016.

#### Defining Role in Data and Information Management

The principal activity concerning the data and information priority work area is the invaluable collaboration between the Commission and the US National Aeronautics and Space Administration (NASA) aimed at developing a multidimensional mapping tool for the Sargasso Sea with the assistance of key marine researchers and scientists. This mapping pilot project has the potential to allow users to access and visually display relevant data of their choosing that can combine NASA satellite observation data of oceanographic conditions, such as currents, temperature, salinity, chlorophyll and possibly seaweed presence and movement, with data on commercial, recreational, ecological and biological uses of the sea. This is an exciting early pilot with a lot of future potential.

48 IAC and Sargasso Sea Alliance, “Concept Note on the Importance of *Sargassum* and the Sargasso Sea for Atlantic Sea Turtles,” CIT-CCE7-2014-Doc.3 (2014), available online: <<http://www.sargassoseacommission.org/publications-and-news/sargasso-sea-commission-reports>>.

49 *Proposal for inclusion of the European eel (Anguilla anguilla) on Appendix II of the Convention on the Conservation of Migratory Species of Wild Animals*, prepared for the Sargasso Sea Alliance by Dr. M. Gollock and Dr. D. Jacoby of the Zoological Society of London, June 2014 (on file with author).

50 CMS, n. 23 above, art. IV(1).

51 CMS, “Proposal II/12: European Eel (*Anguilla Anguilla*) in CMS Appendix II,” UNEP/CMS/ScC18/Doc.7.2.18 (11 June 2014), available online: <[http://www.cms.int/sites/default/files/document/Doc\\_7\\_2\\_18\\_Prop\\_II\\_12\\_Anguilla\\_anguilla\\_MCO.pdf](http://www.cms.int/sites/default/files/document/Doc_7_2_18_Prop_II_12_Anguilla_anguilla_MCO.pdf)>.

52 CMS, “Proposal for Inclusion of the European Eel (*Anguilla Anguilla*) in CMS Appendix II,” UNEP/CMS/COP11/Doc.24.1.18.Rev.1 (12 September 2014).

## Looking Forward

The work of the Sargasso Sea Commission and the structure envisaged by the Hamilton Declaration has been called a new paradigm for high seas conservation.<sup>53</sup> Regional treaty regimes, while critically important, take a long time to negotiate, move slowly and cannot bind third parties.<sup>54</sup> The Sargasso Sea Commission may not have international legal management authority, but with its mission of stewardship and its membership of international experts it is able to serve as an important voice for the Sargasso Sea. The Commission is pioneering a new way of doing business in high seas governance and it is gratifying to see that support for its work among governments, research institutions and international organizations is still growing.

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53 Freestone and Morrison, n. 2 above, p. 353.

54 For a comparison of the Hamilton Process with OSPAR, see D. Freestone et al., "Can Existing Institutions Protect Biodiversity in Areas Beyond National Jurisdiction? Experiences from Two On-going Processes," *Marine Policy* 49 (2014): 167–275, available online: <<http://dx.doi.org/10.1016/j.marpol.2013.12.007>>.