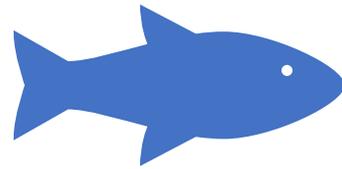


Marine Protected Areas and ABNJ: Linking the Regional to the Global



- Nilufer Oral
- Istanbul Bilgi University

- Biodiversity in Areas Beyond National Jurisdiction: Intractable Challenges & Potential Solutions
- 43rd Annual COLP
- World Maritime University
- 14-17 May 2019



Mandate includes that the work and results of the IGC are not to undermine existing relevant legal instruments and frameworks and relevant global, regional and sectoral bodies.

How?

Linking the Regional to the Global: Issues

Key questions includes:

1. Relationship with other instruments (new instrument cannot under undermine existing instruments...)
2. Relationship with existing ABNJ MPAs?
3. Recognition by Parties beyond the region?
4. **Questions of process**
 - *identification of areas- Global or regional? Both?*
 - *decision-making -Global or regional? Both?*
 - *designation process- Global or regional? Both?*
 - *Scientific input? Global or regional? Both?*
 - *Implementation-Global or regional? Both?*
 - *monitoring and review- Global or regional? Both?*
3. How to promote coherence, complementarity and compatability among existing regional frameworks that have or could be established.

Regional Seas Programmes

UN Environment-administered Regional Seas Programmes:

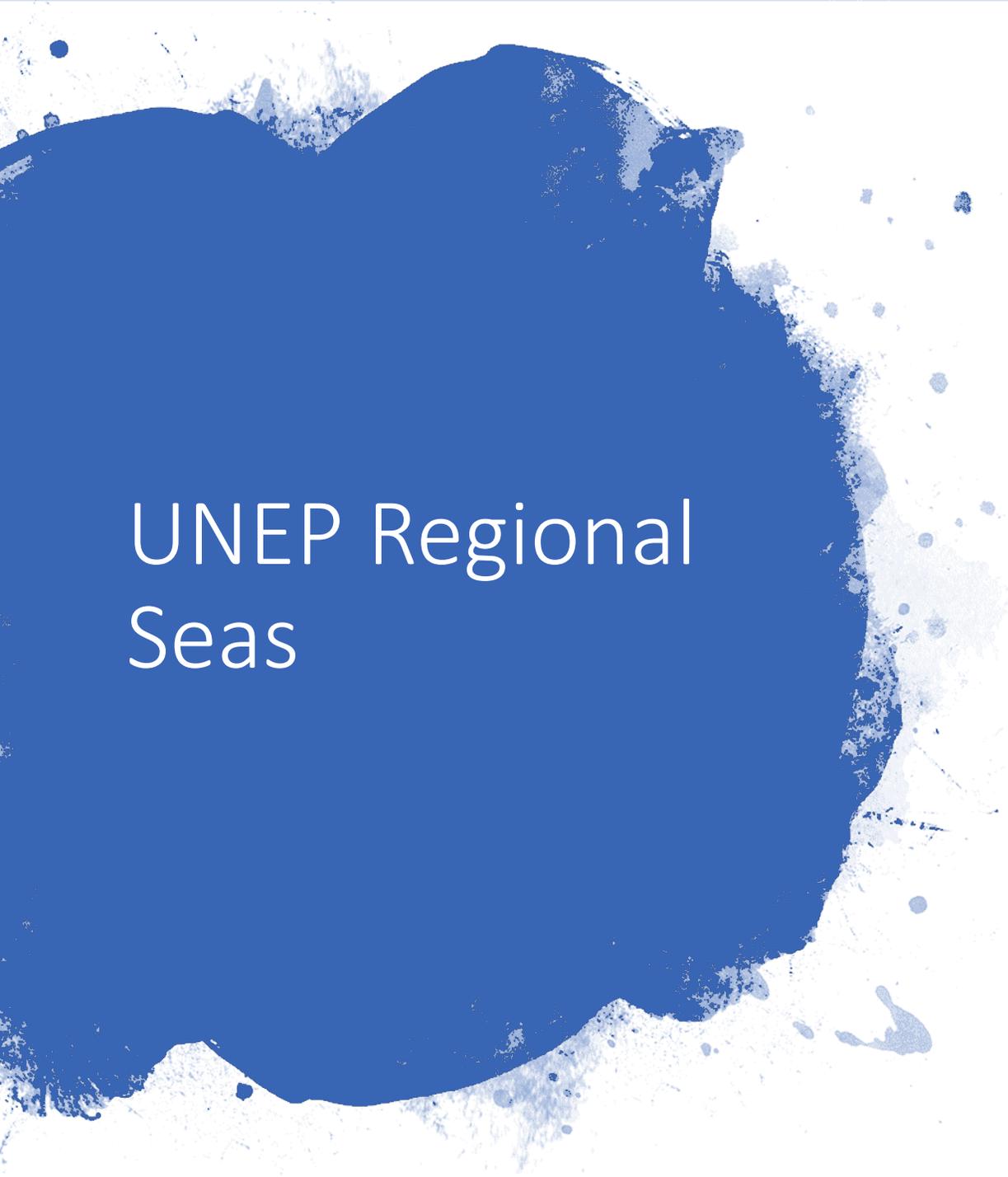
- Caspian Sea
- East Asian Seas
- Eastern Africa Region
- Mediterranean Region
- North-West Pacific Region
- Western Africa Region
- Wider Caribbean Region

Non-UN Environment administered Regional Seas Programmes established under the auspices of UN Environment:

- Black Sea Region
- North-East Pacific Region
- Pacific Region
- Red Sea and Gulf of Aden
- ROPME Sea area
- South Asian Seas
- South-East Pacific Region

Non-UN Environment administered, independently established Regional Seas Programmes:

- Arctic Region
- Antarctic Region
- Baltic Sea
- North-East Atlantic Region



UNEP Regional Seas

- There exists a significant degree of inconsistency among the UNEP regional seas concerning marine protected areas
- Total of 18 UNEP Regional Seas of which 13 are directly affiliated
- Seven of the thirteen regional seas programmes directly affiliated with UNEP have adopted a protocol for protection of marine biodiversity that provides for MPAs .
- Wider Caribbean Region, Mediterranean, Eastern Africa, Red Sea and the Gulf of Aden, Black Sea, the South East Pacific and the Regional Organization for the Protection of the Marine Environment (ROPME)
- Noticeably missing are Asian seas.
- Unaffiliated: Arctic and Antarctic
- Antarctic: CCMLR



Regional Seas with ABNJ Mandates

1. Convention for the Protection of the Marine Environment of the North-East Atlantic ([OSPAR Convention](#))
2. Convention on the Protection of the Natural Resources and Environment in the South Pacific Region ([Noumea Convention](#))
3. Convention for the Conservation of Antarctic Marine Living Resources ([CCAMLR Convention](#))
4. Convention for the Protection of the Mediterranean Sea Against Pollution ([Barcelona Convention](#))
5. Convenio para la Protección del Medio Marino y la Zona Costera del Pacífico Sudeste ([Lima Convention](#))



Regional Seas Considering possible ABNJ Mandates

1. [Nairobi Convention](#) for the Protection, Management and Development of the Marine and Coastal Environment of the Western Indian Ocean
2. [Abidjan 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

(<https://www.unenvironment.org/explore-topics/oceans-seas/what-we-do/working-regional-seas/conservation-biodiversity-areas-beyond>)

Fisheries Bodies

- Most of the RFMOs do not have a mandate for ABNJ or deep-sea fisheries
- Multiplicity of regional fisheries management organizations and bodies
- *Different types of coverage*
- Species
- Geographic
- Different levels of competence





Regional Fisheries Bodies that cover ABNJ

- Commission for the Conservation of Southern Bluefin Tuna (CCSBT)
- General Fisheries Commission for the Mediterranean (GFCM)
- Inter-American Tropical Tuna Commission (IATTC)
- International Commission for the Conservation of Atlantic Tuna (ICCAT)
- Indian Ocean Tuna Commission (IOTC)
- Northwest Atlantic Fisheries Organization (NAFO)
- Northeast Atlantic Fisheries Commission (NEAFC)
- North Pacific Anadromous Fish Commission (NPAFC)
- North Pacific Fisheries Commission (NPFC)
- Southeast Atlantic Fisheries Organization (SEAFO)
- South Indian Ocean Fisheries Agreement (SIOFA)
- South Pacific Regional Fisheries Management Organization (SPRFMO)
- Western and Central Pacific Fisheries Commission (WCPFC)
- Commission for the Conservation of the Antarctic Marine Living Resources (CCMLR)



Fisheries Regional Management Organizations

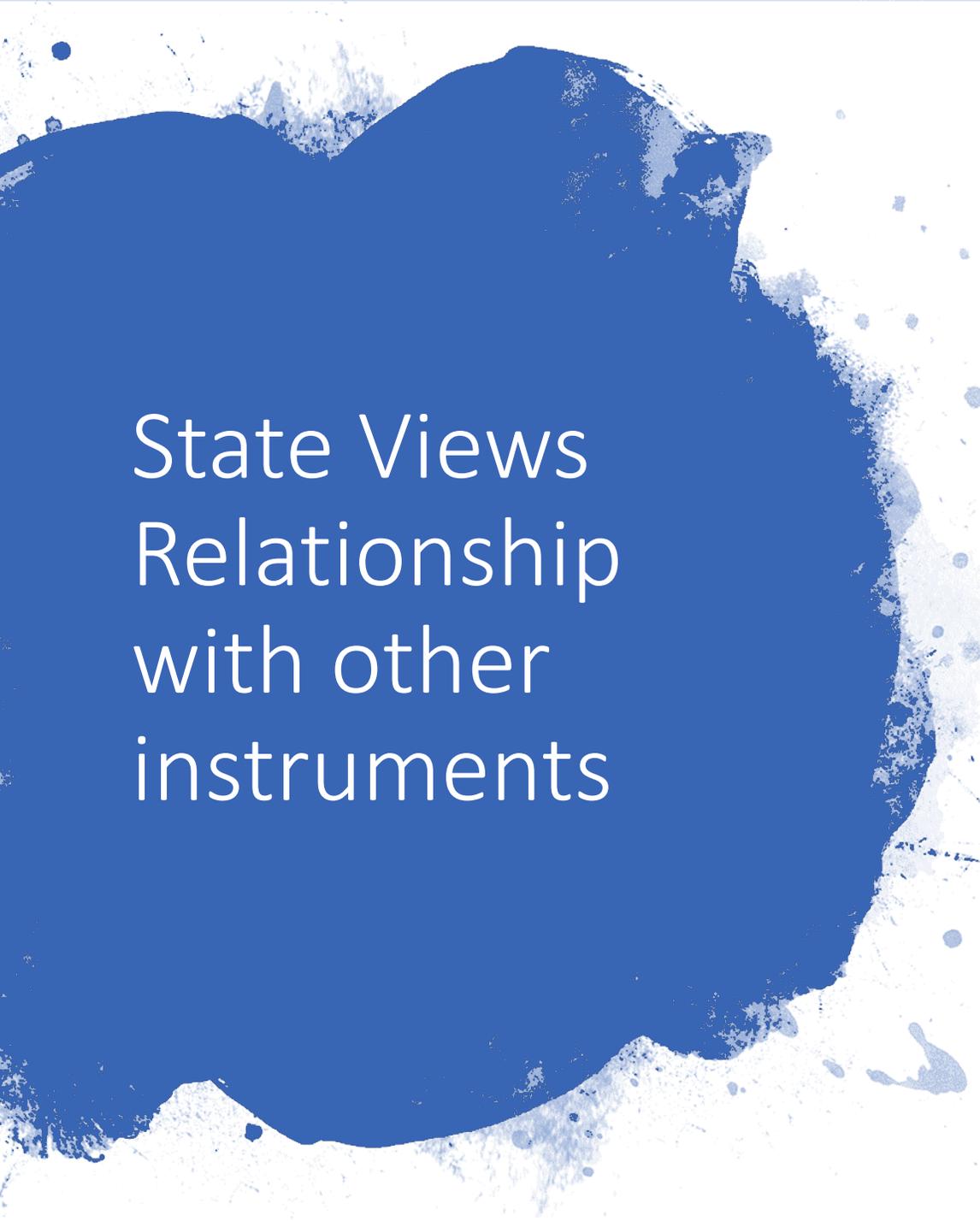
For example:

- “Would the validity of an MPA in areas beyond national jurisdiction be dependent on the ‘blessings’ of the competent RFMOs? Would the establishment of MPAs without the consultation or cooperation of relevant RFMOs necessarily lead to a conflict of norms not readily resolvable by recourse to the rules of international law?” [*Dire Tladi*)]



Intractable Challenges?

- How do we close the gap?
- ILBI?
- What about existing frameworks?
- What does “not to undermine” mean in practice?
- Do we create parallel worlds?
- What about sectoral gaps?
- Tension between the global vs regional?
- Hybrid?
- Global-Hybrid?

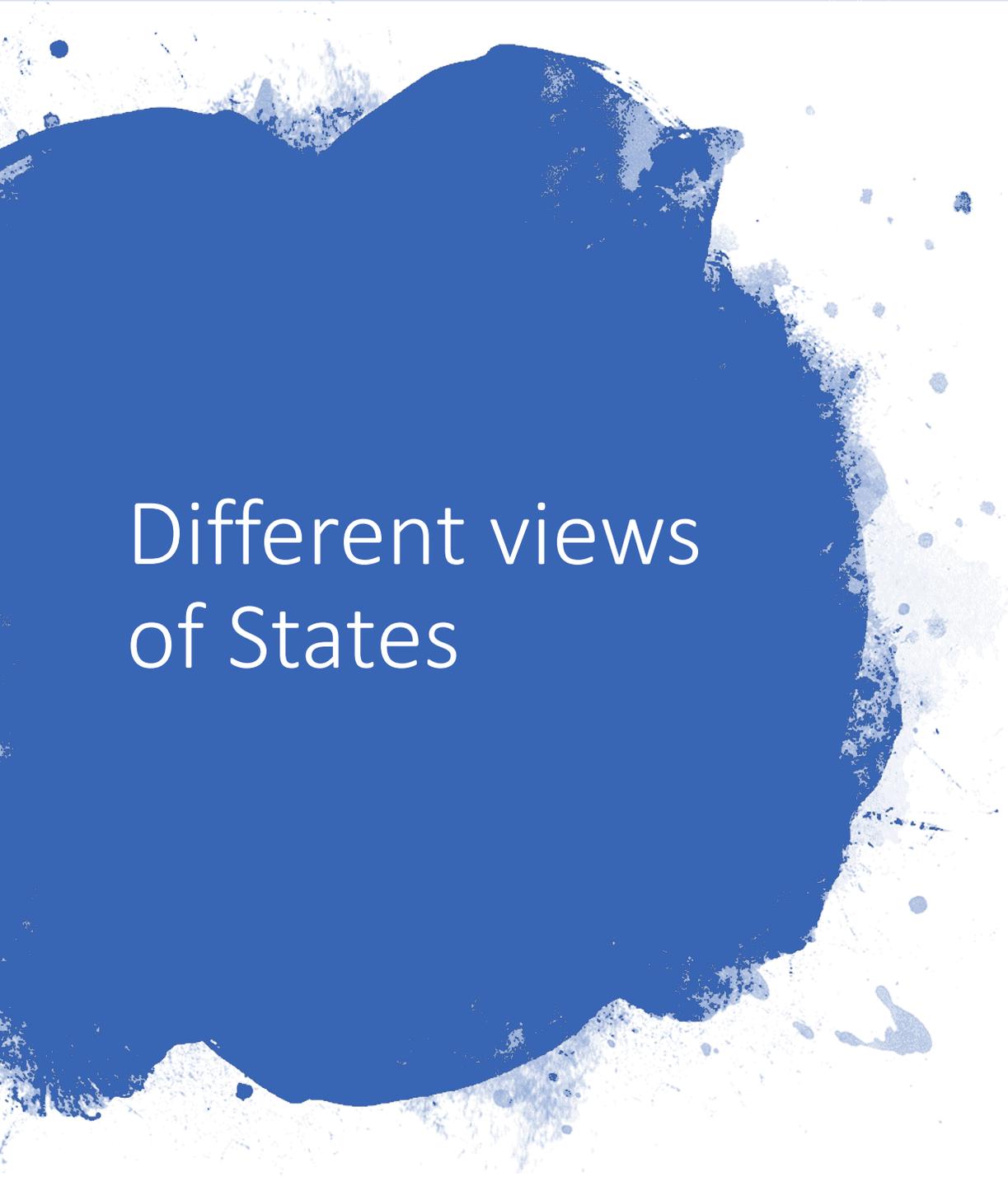


State Views Relationship with other instruments

- Overall, there does appear to be convergence by States that the new ILBI should not undermine or duplicate the activities of existing international organizations and frameworks.
- Nuances in these views:
- For example, some take the position that the ILBI should “*build upon the work of existing international organizations and frameworks*”
- Others are of the view that “any issues related to the establishment of ABMTs, including MPAs, should be addressed within *existing* international mechanisms and not be referred to the new ILBI.

Different views of States

- Some favor a **global overarching framework** for the recognition and establishment of ABMTs to complement measures designated under existing regional and sectoral bodies.
 - BBNJ instrument should not evaluate ABMTs by regional and sectoral bodies, but rather ensure their compatibility with other instruments.
- Others highlighted a **mainstreaming approach** that would provide a platform for cooperation, communication, and collaboration. Also called for establishing general standards or guidelines
- Others were of the view that the new instrument should not establish a hierarchical structure and not function as an evaluation body
- **Others favored a global overarching framework that would supplement existing frameworks.**
 - Under this approach MPAs (ABMTs) would be established by the internationally legally binding instrument (ILBI);
 - Then acknowledged by existing global, regional, and sectoral bodies;
 - Together this would create a global ABMTs network



Different views of States

- Some proposed an “enhanced consultation” process to enhance coordination cooperation
- Others proposed a *coordination mechanism*
- Others proposed enhancing cooperation and coordination between relevant legal frameworks and bodies.



RFMO views

- **International Commission for the Conservation of Atlantic Tunas (ICCAT)** position is that the new agreement should respect the RFMO mandates and cautioned against replacing sectoral measures with MPAs.
- **North-East Atlantic Fisheries Commission (NEAFC)** states that RFMOs, IMO and ISA have mandates to take measures to protect biodiversity and that there should be strengthening of coordination



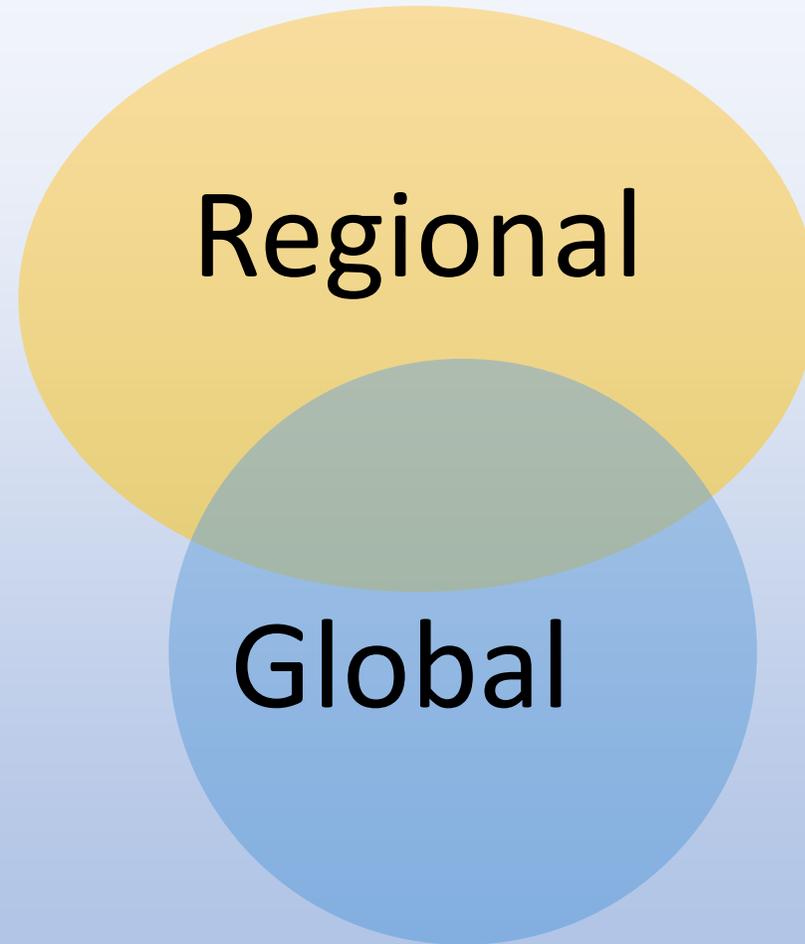
Possible Solutions?

- Global only
- Regional-sectoral
- Hybrid
- Global- Hybrid
- Other?

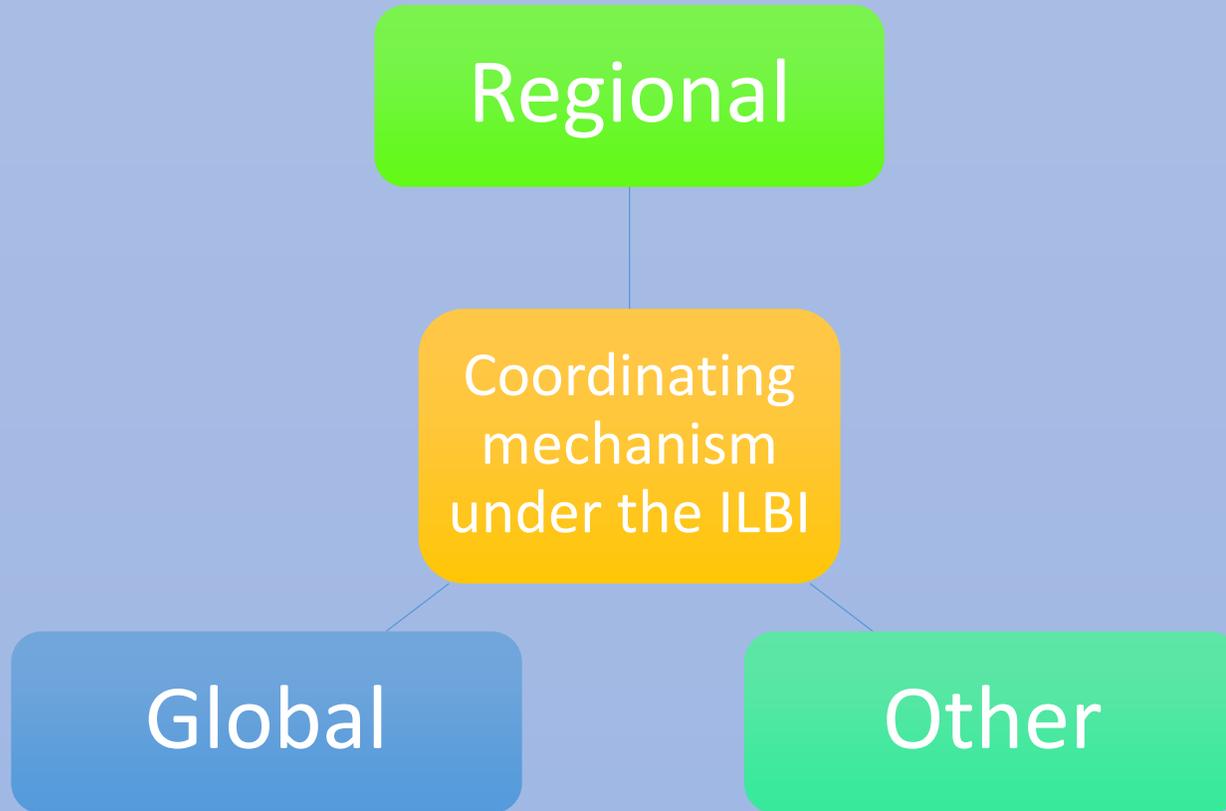
Parallel regimes with no overlap



Options:



Option





Conclusion