

OPPORTUNITIES AND CHALLENGES IN THE GOVERNANCE OF THE PLANET OCEAN
8 – 9 October, 2019
International Hydrographic Organization - IHO
MONACO

The Draft Agreement on Marine Biodiversity Beyond National Jurisdiction: New Opportunities and Challenges in Ocean Governance

Professor Ronán Long

*Director, World Maritime University - Sasakawa Global Ocean Institute,
Nippon Foundation Professorial Chair of Ocean Governance & the Law of the Sea,
World Maritime University, Malmö, Sweden*





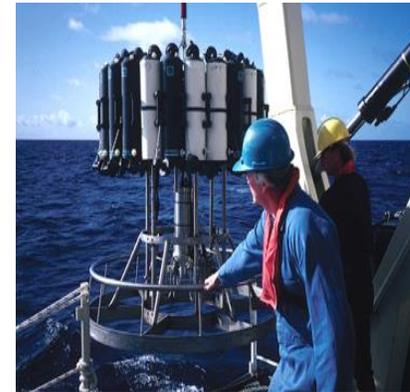
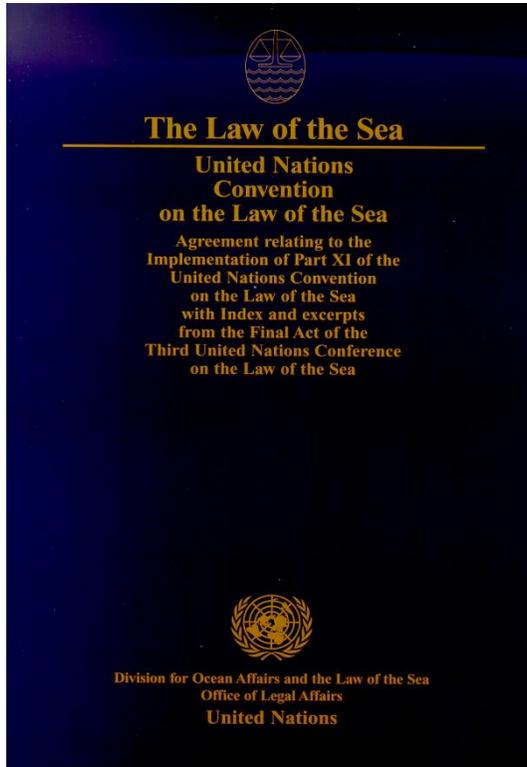
Source: Michael Mc Laughlin

Overview

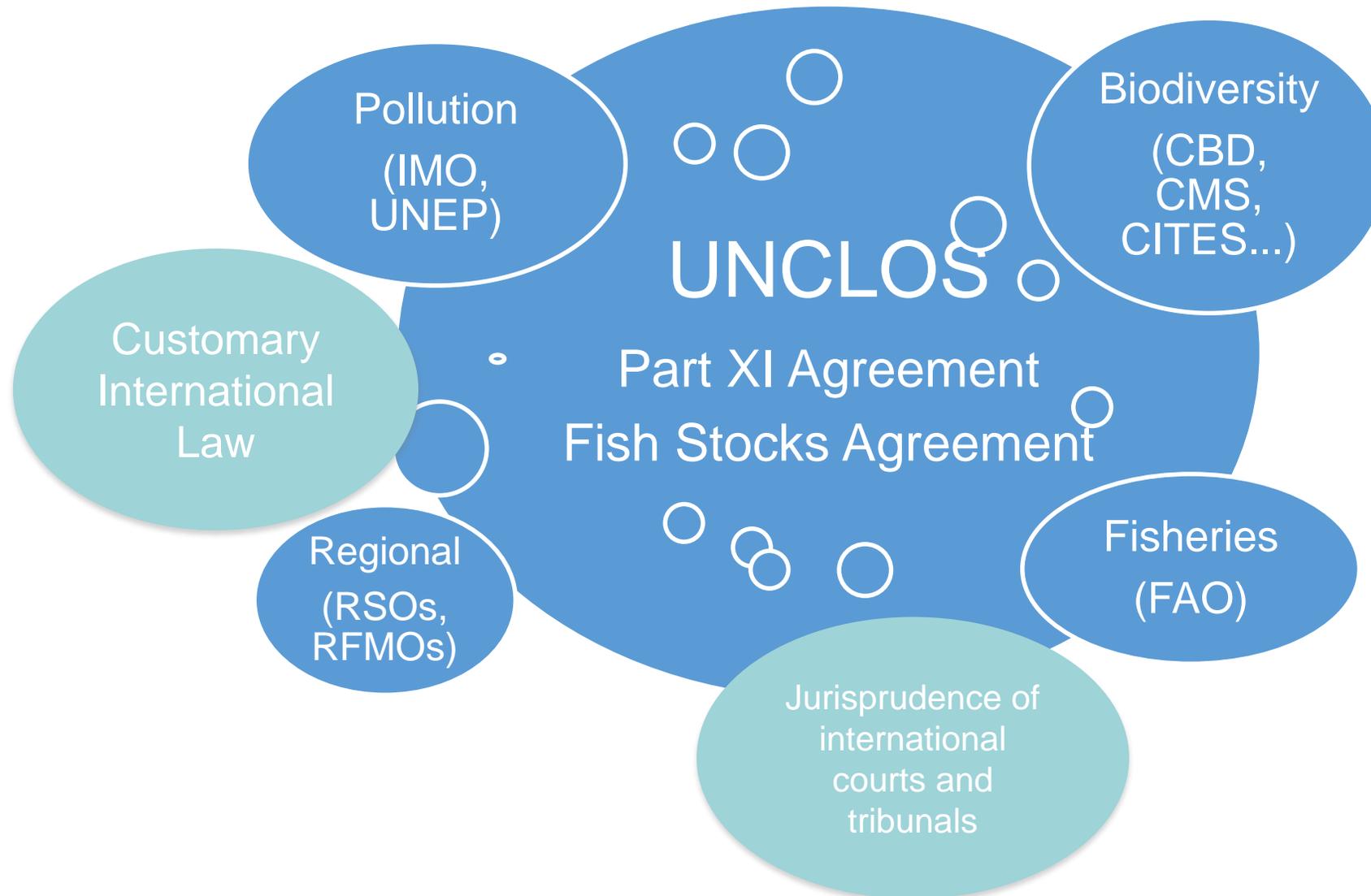
1. **Context: UNCLOS & the Paradigm for Ocean Governance**
2. **Empirical Science**
3. **Biodiversity Beyond National Jurisdiction**
4. **Challenges and Opportunities**

UNITED NATIONS CONVENTION ON THE LAW OF THE SEA

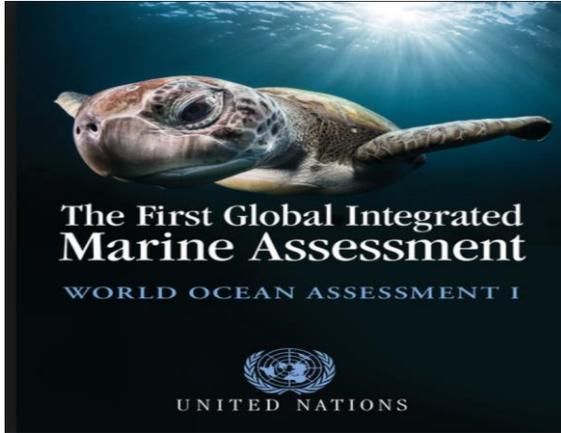
*Prompted by the desire to settle, in a spirit of mutual understanding and cooperation,
all issues related to the law of the sea*



Paradigm

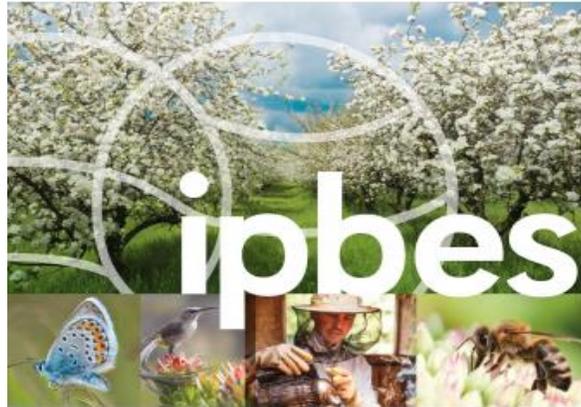


Empirical Science



(2015)

- Coastal waters are deteriorating due to pollution and eutrophication
- Plastics contribute 60-80% of all marine debris
- 80% from land-based sources
- Without concerted efforts, coastal eutrophication is expected to increase in 20 percent of large marine ecosystems by 2050.



Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (IPBES Report 2019):

- “Business as usual” will not work ...
- Implementation of policy responses and actions has not progressed sufficiently...
- We need transformative change ...



The IPCC Special Report on the *Ocean and Cryosphere in a Changing Climate (SROCC)* 25 September 2019.

- A8. Changes in the ocean have impacted marine ecosystems and ecosystem services with regionally diverse outcomes, challenging their governance (high confidence).

BBNJ Timeline

- **General Assembly Processes 2004-2019**
- **Intergovernmental Conference 2018-2020**
 - I. **Organizational Meeting April 2018**
 - II. **President's Aid to Discussion**
 - III. **First Session, 4-17 September 2018**
 - IV. **President's Aid to Negotiations**
 - V. **Second Session, 25 March to 5 April 2019**
 - VI. **President's Draft Text of an Agreement (zero draft)**
 - VII. **Third Session, 19-30 August 2019**



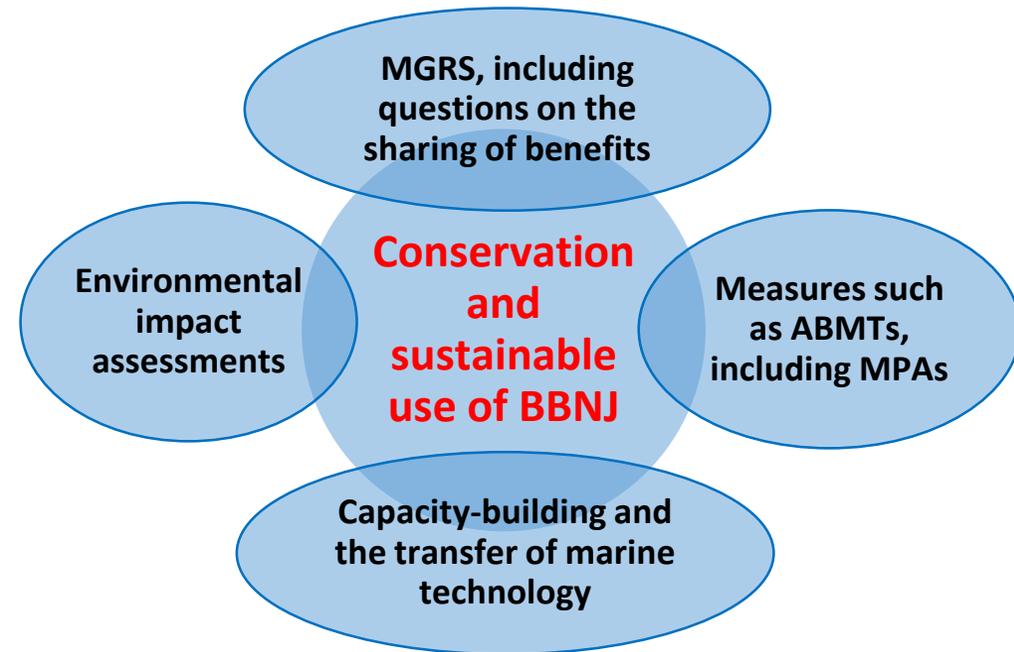
Photo: IISD/ENB

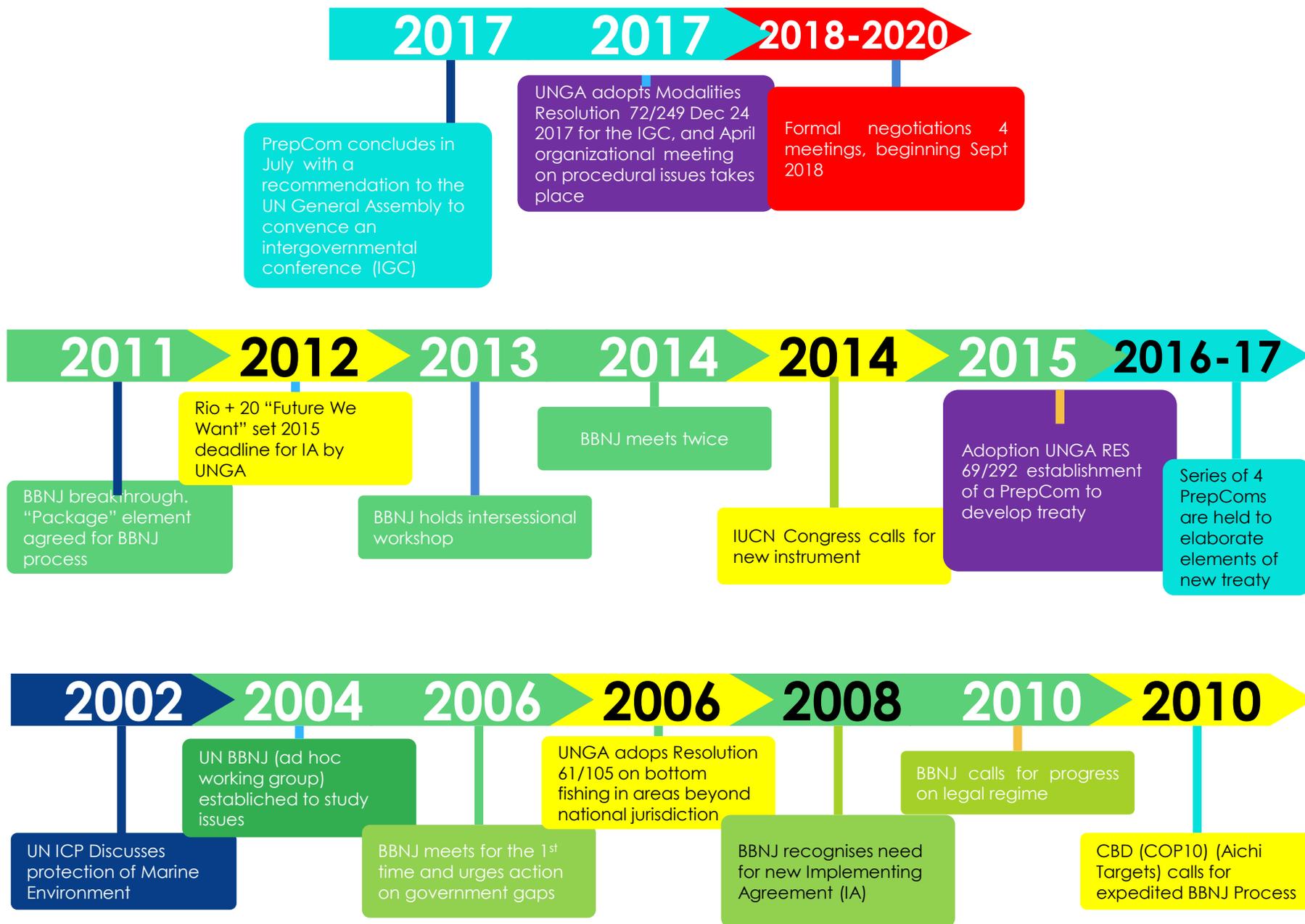
General Assembly Processes and BBNJ

- ❑ UN Open-ended Informal Consultative Process on Oceans and the Law of the Sea (2003 and 2004)
- ❑ (Res 59/24) 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 (2006, 2008, 2010, [2011](#), 2013, 2014, 2015)
- ❑ Preparatory Committee (Res 69/292) (2016 -2017)...recommended to UNGA to take decision on convening of an IGC



Photo: IISD/ENB





Intergovernmental Conference 2018-2020

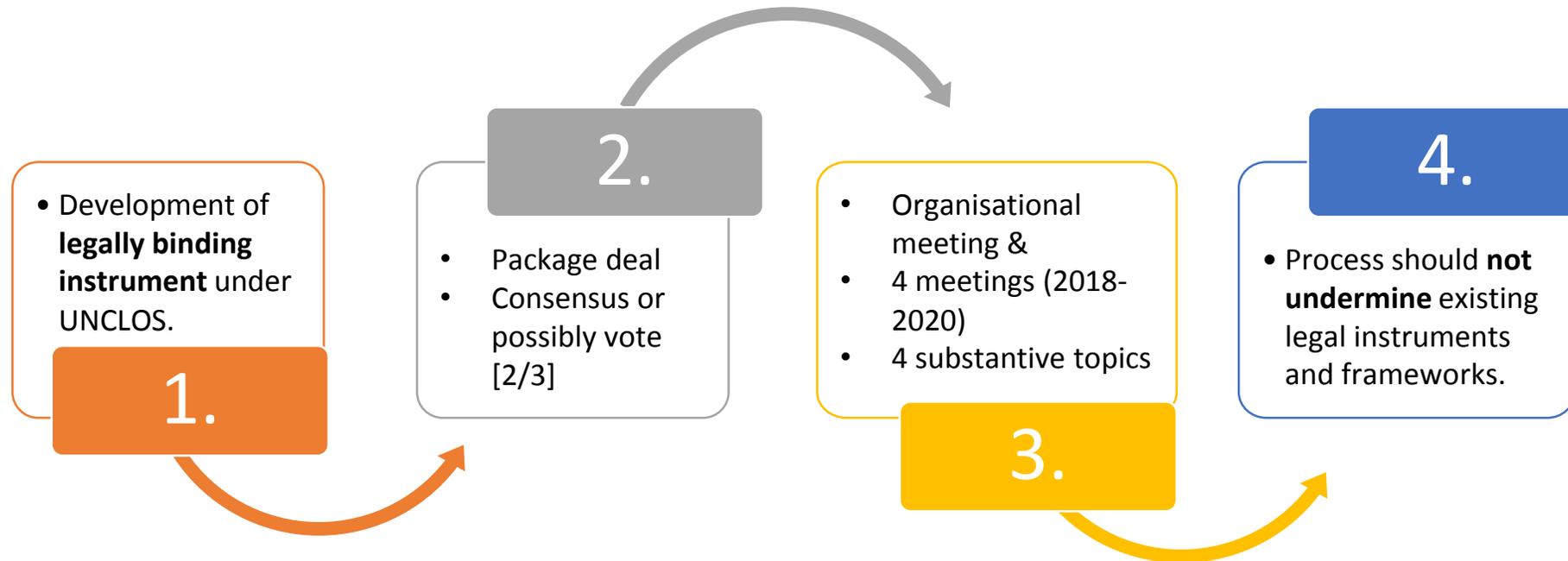
A/RES/72/249, 24 December 2017

Develop an internationally legally binding instrument under the LOS Convention on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction



Conservation & sustainable use of biodiversity

A/RES/72/249, 24 December 2017



Organizational Meeting

16-18 April 2018

- Ambassador Rena Lee, Ambassador for Oceans and Law of the Sea and Special Envoy of Singapore elected by acclamation
- 15 Vice Presidents to serve as members of Bureau in their national capacities whose role is to assist President in procedural matters
- President's report of meeting on BBNJ website as A/CONF.232/2018/2, 19 April 2018
- [President's Aid to Discussion](#), 25 June 2018, based on PrepCom Report, questions & options



Summary First Session

4-17 September 2018

- Election of Bureau
- No drafting of treaty text
- Preparation of zero draft in subsequent sessions
- Discussion of elements of package



President's Aid to Negotiations

(A/CONF.232/2019/1*)

- Options based on discussions held in IGC 1 and the Preparatory Committee's elements presented in treaty text where possible
- Structure of the document was not the same as that of the President's Aid to Discussions
- Options listed were not intended to be exhaustive



Second session (25 March to 5 April 2019)

- Narrow options, including by developing textual proposals
- Consider cross-cutting issues that had not been included in the President's aid to discussions

Comments - Aid to Negotiations

- Helpful in taking the negotiations forward
- Some delegations expressed concern about gaps in the options
- Very little opportunity to bridge the different positions at IGC 2
- Basis for the development of the zero draft text for IGC 3



President's Draft Text – IGC 3 (A.CONF.232/2019/6) 17 May 2019

Preamble	...stressing the need for a comprehensive instrument
I. General Provisions <i>1. Use of terms</i> <i>2. Objective</i> <i>3. Application</i> <i>4. Relationship to UNCLOS and other instruments and frameworks and relevant global, regional and sectoral bodies</i> <i>5. General Principles & Approaches</i> <i>6. International Cooperation</i>	Articles 1 -6 Cross-cutting issues
II. Marine Genetic Resources, including Questions on the Sharing of Benefits <i>7 Objectives</i> <i>8 Application</i> <i>9. Activities with respect to MGRs of ABNJ</i> <i>10. Access to MGRs of ABNJ</i> <i>11. Fair and Equitable Sharing of Benefits</i> <i>12. Intellectual Property Rights</i> <i>13. Monitoring</i>	Articles 7-13

III. Measures such as area-based management tools, including marine protected areas

Articles 14 -21

14. Objectives

15. International Cooperation & Coordination

16. Identification of Areas Requiring Protection

17. Proposals

18. Consultation On and Assessment of Proposals

19. Decision-making

20. Implementation

21. Monitoring and Review

IV Environmental Impact Assessments

Articles 22-41

22. *Obligations to conduct EIAs*
23. *Relationship to EIA processes under relevant instruments, frameworks and bodies*
24. *Thresholds and criteria for EIA*
25. *Cumulative Impacts*
26. *Transboundary Impacts*
27. *Areas identifies as ecologically or biologically significant or vulnerable*
28. *Strategic Environmental Assessments*
29. *List of Activities*
30. *Screening*
31. *Scoping*
32. *Impact Assessment and Evaluation*
33. *Mitigation, Prevention, and Management of Potential Adverse Effects*
34. *Public Notification and Consultation*
35. *Preparation and Content of EIA Reports*
36. *Publication*
37. *Consideration and Review*
38. *Decision-making*
39. *Monitoring*
40. *Reporting*
41. *Review*

Draft Text – IGC 3 (A.CONF.232/2019/6) 17 May 2019

V. Capacity-Building & Transfer of Marine Technology

- 42. Objectives
- 43. Cooperation in capacity-building and transfer of marine technology
- 44. Modalities for capacity-building and transfer of marine technology
- 45. Additional modalities for the transfer of marine technology
- 46. Types of capacity-building and transfer of marine technology
- 47. Monitoring and Review

Articles 42-47

VI. Institutional Arrangements

- 48. Conference of the Parties
- 49. Scientific/Technical Body
- 50. Secretariat
- 51. Clearing-house Mechanism

Articles 48 -51

Draft Text – IGC 3 (A.CONF.232/2019/6) 17 May 2019

VII. Financial Resources and Issues	Article 52
VIII. Implementation [& Compliance]	Article 53
IX. Settlement of Disputes 54. Obligation to Settle by Peaceful Means 55. Procedure for the Settlement of Disputes	Articles 54-55
X. Non-parties to this Agreement	Article 56
XI Good Faith and Abuse of Rights	Article 57
XII Final Provisions	Articles 58-70
Annex	Types of capacity-building and transfer of marine technology

IGC 3 - Cross-cutting issues (Articles 2-4)

- **Objective** –'long-term' conservation [delete, G77][opposed by EU]
- **Not apply to warships...State owned vessels** [G77China-loop-hole][EU, Art 236]. Some delegations requested separate article.
- **Relationship with UNCLOS & other instruments**
- IMO...no more favourable status clause
- Not effect legal status of non-parties to UNCLOS...[US/Turkey][queried EU]
- ISA...not prejudice 1994 Agreement



- **Apply integrated approach/principle** [Queried RUS/AUS/JPN]
- **Apply an approach that builds ecosystem resilience to climate change and ocean acidification & restores ecosystem integrity** [supported G77/China/African Group/CARICOM/EU][US, AUS & ROK delete reference to 'climate change & OA']
- Promote the **internalization of environmental costs, polluter should [in principle] bear the cost** [supported G77/China/EU/Russia]
- **Non-regression** [African Group/Indonesia]
- Broader list including CHM



IGC 3 – Article 6 International Cooperation

- **Impose v promote** [Canada: ILBI cannot impose a duty to cooperate in relation to other instruments]
- Replace cooperation among ‘existing’ legal instruments with ‘relevant’ [G77/China & CARICOM]
- **‘Private sector’** [ICPC]
- **Additional provision** ...cooperation on emergency measures in response to natural or human caused phenomenon likely to have adverse impact on BBNJ [NZ/IUCN/HSA]



IGC 3 - Marine Genetic Resources (MGRs) including Benefit Sharing(1)

- Most difficult issue in package - High Seas Freedom or Common Heritage of Mankind
- Lines in the sand around linking access to MGRs and the sharing of their benefits
- Long-standing positions of certain regional groups reiterated
- 5 sessions of ‘informal-informals’



IGC 3 - Marine Genetic Resources & Benefit Sharing

- Articles 7-13 (prescriptive)

Progress

- Temporal scope...after coming into force
- Definitions of marine genetic material / resources;
- Reference to non-monetary benefits
- Prior consent of coastal States concerned would not be required for activities that may result in the utilization of MGRs found in areas both within and beyond national jurisdiction

Problematic

- **Access** *ex situ/in silico*/digital sequence information/derivatives [supported by G77/CLAM/PSIDS/CARICOM][opposed by RUS/NZ/AUS/US/Japan/ROK]
- **Material scope - fish** [supported Africa Group/ PSIDS/Indonesia][opposed US/Iceland]
- **IPR**- No agreement on taking IPR issues to WIPO or to the WTO outside of the BBNJ IGC



IGC 3 - Area Based Management Tools including MPAs

- Numerous proposals submitted.

Progress

- States Parties submit proposals based on best available science including traditional knowledge;
- Indicative list of criteria
- Open and inclusive and transparent process

Problematic

- Precautionary principle/approach
- Ocean acidification and climate change
- Difficulties concerning global, regional and sectoral mechanisms
- Different processes for MPAs
- Implementation, monitoring & review
- **Adjacency** need for explicit notification of adjacent coastal states



IGC 3 - Environmental Impact Assessment

- 10 sessions 'informal-informals'

Progress

- Conduct of EIA
- Obligation on State Party
- Impact and activity based approach to EIA

Problematic

- Thresholds & criteria
- Roles of different ILBI bodies in EIA process
- Cumulative and transboundary impacts



IGC 3 - Capacity-Building & Technology Transfer

Progress

- List of objectives
- Cooperation at multilateral, regional and sector levels
- Needs based approach
- Clearing House Mechanism

Problematic

- Voluntary / Mandatory
- Beneficiaries
- Role of COP in elaborating modalities
- Obligations on private parties
- Categories of CB & TT (3 approaches: ILBI, Annex, COP)
- Transfer of technology (voluntary) (ROK, RUS, JPN)



IGC 3 –Institutional Arrangements

- Slim institutional structure (US, RUS, China)

Progress

- COP (annually)
- Mandate - implementation (review, decision-making, information exchange)
- Scientific and technical body (advisory role)
- Secretariat (existing body)(DOALOS –US/RUS/China/Nor)

Problematic

- Voting COP
- Role of subsidiary bodies
- Functions of scientific and technical body



IGC 3 – Funding/Implementation/Compliance/ Dispute Settlement

Funding

- Voluntary / Mandatory

Implementation and compliance

- State Party obligation

Dispute Settlement

- Part XV UNCLOS
- ITLOS (Special Chamber)
- Advisory Opinion

Not considered

- ILBI non-parties; good faith; abuse of rights; and final provisions



What about the European Union?



- EU pushing for streamlining the text on issues such as EIA
- Stronger role for facilitators
- Intersessional work
- Looking for an instrument that provides for early entry into force and universal acceptance

What happens next?

- Preparation of a negotiating text for IGC 4.
- Main difficulty: keeping every one on board in moving towards a treaty text
- IGC is slow and may well require additional sessions in 2020/2021

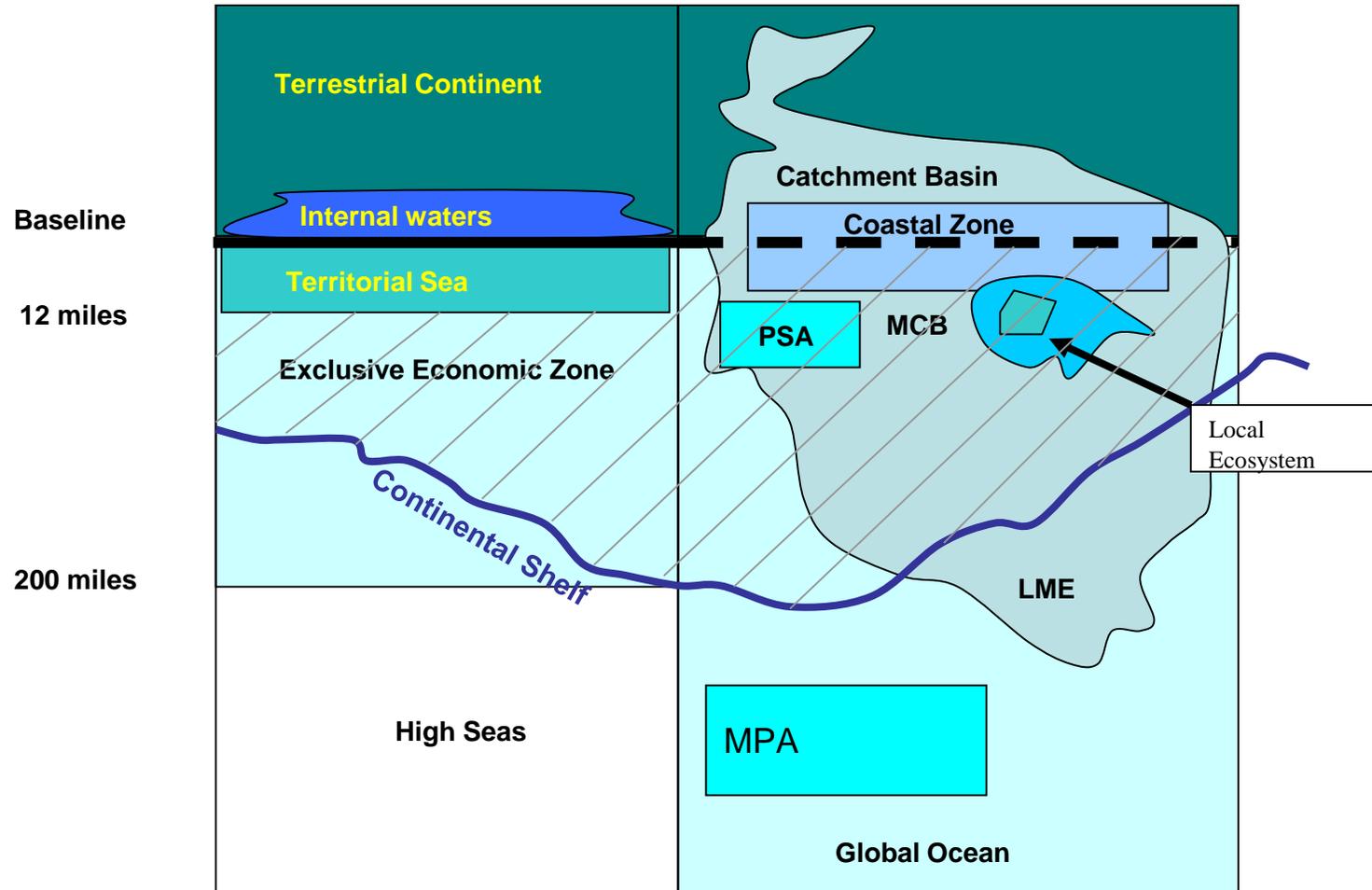


General Remarks

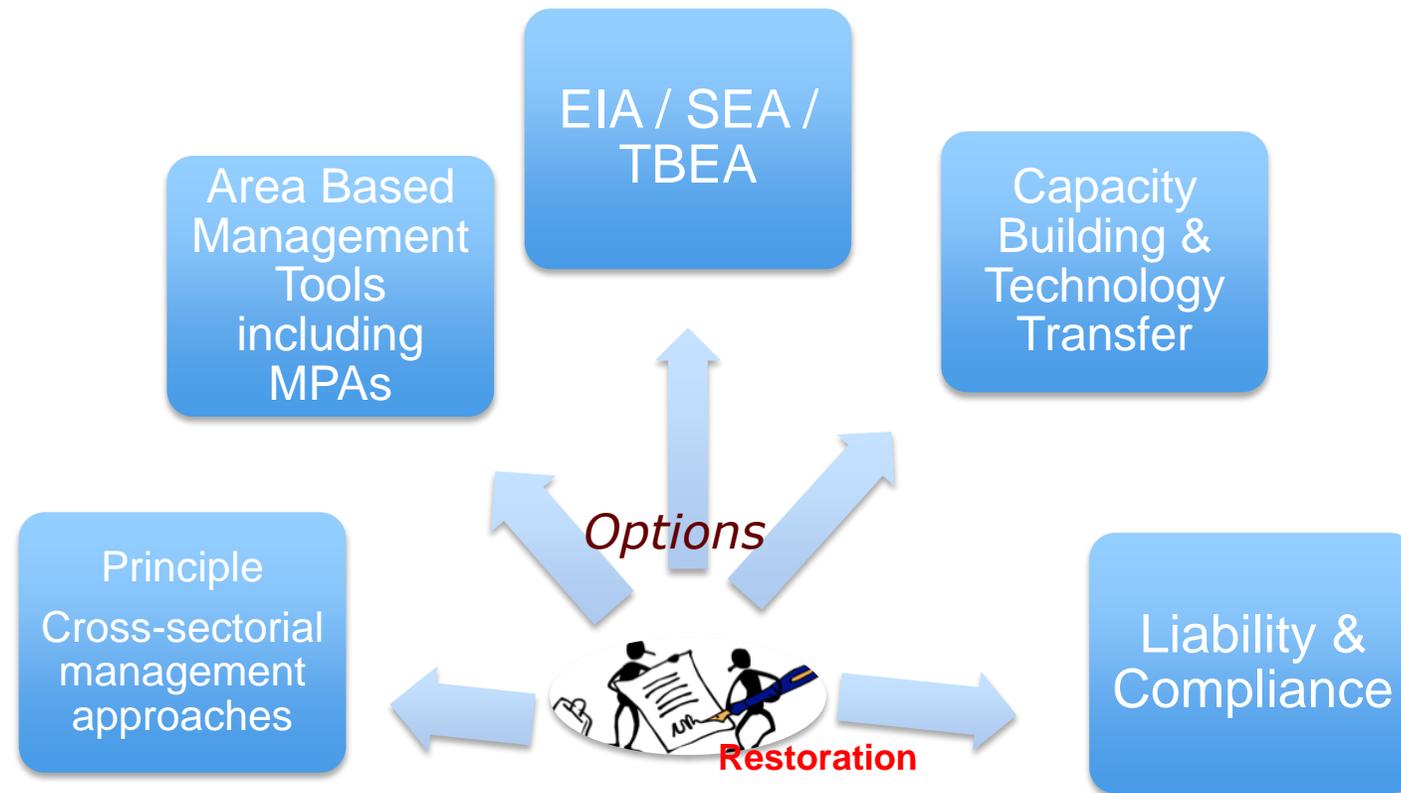
1. Three phases in the progressive development of BBNJ negotiations represent a paradigm shift.
2. Progressive evolution from Ad-hoc working Group to PrepCom. Move from a technical to a conceptual/political forum and finally to a law-making body in the form of the IGC.
3. IGC 3 was the first reading of the zero draft text. Change in process including use of informal-informals. However, no concessions evident on the part of delegations.
4. Role of eNGOs influencing the process including facilitating informal meetings in Tarrytown
5. Little evidence of State practice influencing the process [contrast FSA]. Sargasso Sea / Costa Rica Thermal Dome

Challenges	Opportunities
Successful conclusion	Close lacunae in UNCLOS New institutional setting for BBNJ Implement - ITLOS Cases 17 & 21
Information and data scarcity <ul style="list-style-type: none"> Biodiversity Human and other impacts 	Benefit Sharing Capacity Building
Cost of deep-ocean science	Greater integration through cross-sectoral partnerships
Monitoring, control and surveillance Compliance <ul style="list-style-type: none"> Flag states, port states and coastal states 	Stakeholder involvement in decision-making processes <ul style="list-style-type: none"> Industry (due diligence) Civil society
Liability & Compensation (<i>Costa Rica v Nicaragua</i>)(compensation)	Ecosystem-Approach & Precautionary Principle/Approach
Convergence with climate change treaty regime 2030 Agenda on Sustainable Development	Build ocean resilience <ul style="list-style-type: none"> Restore marine environment (Target 14.2) Increase scientific knowledge (Target 14.A) Enhance the conservation and sustainable use of oceans and their resources by implementing international law as reflected in UNCLOS (Target 14 C)

Maritime Jurisdictional Zones are not biodiversity specific!



Should the Implementation Agreement mainstream ecological restoration in the ocean?



SIDE EVENT

CAPACITY-BUILDING, GENDER EMPOWERMENT AND THE BBNJ AGREEMENT

WITH A PARTICULAR FOCUS ON THE SPECIAL NEEDS OF
SMALL ISLAND DEVELOPING STATES

Date & time: Friday 30 August 2019, 13:15 - 14:30 hrs

Room: Conference room 4, UN Headquarters

Light lunch is served by the Vienna Cafe prior to the event



Programme

Moderator - **Ronán Long**, Director, World Maritime University - Sasakawa Global Ocean Institute

13:15 - 13:25 **Side Event Opening - Welcoming remarks by Chairs:**

- **Ambassador Geraldine Byrne Nason**, Permanent Representative of Ireland to the United Nations
- **Kotaro Landisang**, on behalf of **Ambassador Olai Uludong**, Permanent Representative of Palau to the United Nations

13:25 - 13:35 **Keynote Address**

- **Dr. Cleopatra Dombia-Henry**, President, World Maritime University (WMU)

13:35 - 14:05 **Presentations on 'Capacity-Building & Gender Mainstreaming for the BBNJ Agreement'**

- ISA - **Michael Lodge**, Secretary-General
- IOC-UNESCO - **Francesca Santoro**, Programme Specialist (*via video-link*)
- IMO - **Frederick Kenney**, Director Legal and External Affairs

14:05 - 14:15 **Commentators:**

- PSIDS - **Margo Debye**, Counsellor Mission of Nauru to the UN, Nauru
- CARICOM - **Diedre Mills**, Minister/Deputy Permanent Representative, Jamaica
- INDONESIA - **Sahadatun Donatirin**, Minister Counsellor of the Indonesia Mission to the United Nations in New York

14:15 - 14:25 **Discussion & Open Forum**

- Lessons learned presented & discussed
- Question & Answers

14:25 - 14:30 **Conclusion and Thanks**

Article 44(2)
Capacity-building shall be ...cross-cutting and gender-responsive



Professor Ronán Long, World Maritime University - Sasakawa Global Ocean Institute

Malmö, Sweden

Side Event

Capacity Building: International Negotiations & Diplomacy



Tuesday
11 September 2018
at 13:15 - 15:00hrs
Room CB3, UN HQ
Light lunch is served

How can capacity building strengthen negotiations and participation in a future Biodiversity Beyond National Jurisdiction (BBNJ) legal instrument?

The aim of this side event is to look at current initiatives in the field of capacity building for negotiations and diplomacy and to investigate how this could be translated to assist the BBNJ-process reach a successful outcome.

Moderator: Ms. Lisa Eurén Höglund, Deputy Director Department for International Law, Human Rights and Treaty Law, Ministry of Foreign Affairs, Government Offices of Sweden

Speakers:

- Professor Ronán Long, Director, WMU-Sasakawa Global Ocean Institute, World Maritime University, Sweden
- Ms. Emma Mettleh Glassco, Director-General, The National Fisheries and Aquaculture Authority, Liberia
- Dr. Francois Ballet, Senior Legal Officer, United Nations Division for Ocean Affairs and the Law of the Sea
- Dr. Essam Yassin Mohammed, Principle Researcher, International Institute for Environment & Development
- Dr. Alvin K. Leong Esq., Legal Adviser to Papua New Guinea

First session of the Intergovernmental Conference on 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

International Workshop on BBNJ

Toward Development of a Balanced, Effective and Universal International Agreement



Date:
Thursday 7 February 2019
8:00 - 17:00 hrs

Venue:
High Court, Malmö, Sweden

@MofaJapanLen
@MofaJapanLen
Ministry of Foreign Affairs of Japan
<http://www.mofa.go.jp/>

@WMUHQ
@WMUHQ
World Maritime University
www.wmu.se

43RD ANNUAL CENTER FOR OCEANS & LAW POLICY CONFERENCE

MARINE BIODIVERSITY OF AREAS BEYOND NATIONAL JURISDICTION:

INTRACTABLE CHALLENGES & POTENTIAL SOLUTIONS

VENUE: WORLD MARITIME UNIVERSITY, MALMÖ, SWEDEN

DATE: 15 - 16 MAY, 2019

REGISTRATION: <http://conferences.wmu.se/colp43/>

TOPICS:

- ▶ Conservation and Sustainable Use of Biodiversity Beyond Areas of National Jurisdiction
- ▶ Area-Based Management Tools (ABMTs), including MPAs
- ▶ Marine Genetic Resources, Access and Benefit Sharing
- ▶ Environmental Impact Assessments (EIAs), Scientific Data and Databases, Sensor Technology (CBTT)
- ▶ Arctic Issues: Environment, Security, Shipping
- ▶ Cross-Cutting Issues



#colp43



Professor Ronán Long, WMU-Sasakawa Global Ocean Institute, Malmö, Sweden



Restoring marine environmental damage: Can the *Costa Rica v Nicaragua* compensation case influence the BBNJ negotiations?

Ronán Long 

Correspondence
Email: rl@wmu.se

The negotiations of a new international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of biodiversity beyond national jurisdictions are at a crucial stage. This article reviews the first adjudication by the International Court of Justice of a compensation claim for environmental damage (*Costa Rica v Nicaragua*) to see if the case can influence the negotiation of provisions in the new instrument on liability and compensation, as well as on the obligation to restore damaged biodiversity and degraded ecosystems. By doing so, the instrument will close long-standing lacunae in the law of the sea and thereby engender greater marine environmental accountability.

1 | INTRODUCTION

Perhaps second only to human-induced climate change, the deplorable status of the ocean is the most urgent environmental challenge faced by humanity.¹ Moreover, the protection of the marine environment is a matter of common concern of humankind, including generations unborn.² With nearly universal acceptance and with many of its provisions reflecting customary international law, all States have the fundamental obligations set forth in the United Nations Convention on the Law of the Sea (LOS) to protect and preserve the marine environment.³ This extends to both pillars of the general duty, namely, the 'protection' from future damage, along with 'preservation' in the sense of maintaining or improving its present condition.⁴

To this end, many national and intergovernmental bodies are contributing to the complex tasks associated with marine environmental stewardship by strengthening ocean governance arrangements worldwide.⁵ International courts and tribunals are also working towards the establishment of the stable public order of the ocean by

fulfilling their long-standing and vital role in the peaceful settlement of law of the sea disputes, including disputes with an environmental dimension.⁶ The International Tribunal for the Law of the Sea (ITLOS) has ruled for instance that the conservation of the living resources of the sea is an element in the protection and preservation of the marine environment.⁷ In addition, many of the tasks associated with environmental stewardship have received new political impetus with the adoption of Sustainable Development Goal (SDG) 14 of the United Nations (UN) 2030 Agenda for Sustainable Development,⁸ calling amongst other matters for the restoration of coastal and marine ecosystems by 2030.⁹ More recently, the UN General Assembly has declared 2021–2030 to be the UN Decade on Ecosystem Restoration as a means among other matters to promote the mainstreaming of restoration objectives into public policy plans and programmes.¹⁰

International cooperation remains the *Grundnorm* of transnational efforts to protect and preserve the marine environment,

¹United Nations (UN), *The First Global Integrated Marine Assessment* (Cambridge University Press 2016) 8, 936.

²D. Shelton, 'Common Concern of Humanity' (2009) 39 *Environment Policy and Law* 83.

³United Nations Convention on the Law of the Sea (adopted 10 December 1982, entered into force 16 November 1994) 1833 UNTS 3 (LOS) art 192.

⁴South China Sea Arbitration (Philippines v China) (Award) (12 July 2016) [PCA Case No 2013-09] ICGJ 495 para 941.

⁵UNGA 'Oceans and the Law of the Sea' UN Doc A/73/L.35 (29 November 2018); D. Attard (ed.), *The IMO Treaties on Global Ocean Governance*, Vol. I–II (Oxford University Press 2018).

⁶© 2019 John Wiley & Sons Ltd, 9600 Garsington Road, Oxford OX4 2DQ, UK and 350 Main Street, Malden, MA 02148, USA.

RECEL 2019,00:1–14.

wileyonlinelibrary.com/journal/reel | 1

⁷*Osman, Courts and Tribunals: The ICJ, ITLOS, and Arbitral Tribunals* in D. Rothwell et al (eds), *The Oxford Handbook of the Law of the Sea* (Oxford University Press 2015) 394; C. Romano, 'International Dispute Settlement' in D. Boudanski, J. Brunnee and E. Hey (eds), *Oxford Handbook of International Environmental Law* (Oxford University Press 2007) 1036.

⁸Southern Bluefin Tuna Case (Australia v Japan; New Zealand v Japan) ITLOS Case No 3 (Order of 27 August 1999) 23 RIAA 1.

⁹UNGA 'Transforming Our World: The 2030 Agenda for Sustainable Development' UN Doc A/RES/70/1 (21 October 2015).

¹⁰Target 14.2.

¹¹UNGA 'United Nations Decade on Ecosystem Restoration (2021–2030)' UN Doc A/RES/73/284 (6 March 2019).

CHAPTER 20

Negotiating a New Marine Biodiversity Instrument: Reflections on the Preparatory Phase from the Perspective of the European Union

Ronán Long and John Brincat

Abstract

Preparatory bodies play an important role in intergovernmental negotiation processes leading to the drafting of international treaties or the establishment of new institutions pertaining to the law of the sea. The paper offers some reflections on the evolution of the negotiations on an international legally binding instrument under the LOS Convention on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction. The paper traces the genesis of the Preparatory Committee 2016–2017 and reviews its unique role in advancing the negotiation process towards the convening of an intergovernmental conference in 2018. Special mention is made of the role of European Union in edging the preparatory phase towards a successful outcome. The paper also touches on how the preparatory phase of a new marine biodiversity instrument differed in some significant respects from previous law of the sea negotiations.

Keywords

biological – diversity of areas beyond national jurisdiction – Preparatory Committee 2016–2017 – European Union – Intergovernmental Conference

1 | INTRODUCTION

The history of law of the sea negotiations tells us that the preparatory work of intergovernmental diplomatic conferences is far from easy,¹ as was evident

1 Director, WMU-Sasakawa Global Ocean Institute, Nippon Foundation Professorial Chair of Ocean Governance & the Law of the Sea, World Maritime University (WMU) of the International Maritime Organization (IMO), a Specialized Agency of the United Nations. The views

Publications

Anatomy of a new international instrument for marine biodiversity beyond national jurisdiction First impressions of the preparatory process

Ronán Long

Professor and Senior Visiting Scholar-in-Residence, Law of the Sea Institute, Institute for Legal Research, University of California Berkeley School of Law*

Mariamalia Rodríguez Chaves

School of Law, National University of Ireland Galway

Introduction

The ocean supports life on earth and covers over 70 per cent of the surface of the planet. Human activities that impinge on the marine environment are intensifying and there is rising concern about the state of the oceans in general,¹ as well as about biodiversity and fragile ecosystems

the case with respect to the 1982 United Nations Convention on the Law of the Sea (UNCLOS),⁶ which provides a sophisticated jurisdictional framework for uses of the ocean and sets itself the impressive objective of settling all issues relating to the law of the sea.⁷

Many of UNCLOS 320 articles and nine annexes set out general norms that are applicable to the use of natural resources, as well as to the protection and preservation of the 'rue environment'.⁸ Accordingly, commentators sometimes cite UNCLOS as a framework treaty as it lacks comprehensive rules on discrete uses of the sea, such as seabed mining, fishing and marine scientific research.⁹ Indeed, it makes specific reference to marine biodiversity per se,¹⁰ although sets out general and specific obligations in Part XII regarding protection of the marine environment, including the protection of measures 'to protect and preserve rare or fragile systems as well as the habitat of depleted, threatened or endangered species and other forms of marine life'.¹¹ Furthermore, despite its almost universal acceptance and ability over the past 30 years,¹² the cumbersome procedures for the amendment of UNCLOS make it



Experts Meetings on the Biodiversity Beyond National Jurisdiction

Zhen Sun

AOJ

zs@wmu.se

Abstract

This article summarises and discusses the main issues addressed at two events hosted at the World Maritime University–Sasakawa Global Ocean Institute in Malmö, Sweden in the first half of 2019. The first event was the International Workshop on *BBNJ: Toward Development of a Balanced, Effective and Universal International Agreement* on 7 February, co-sponsored by the Ministry of Foreign Affairs Japan, and the second event was the 43rd COLP Annual Conference on *Biodiversity Beyond National Jurisdiction: Intractable Challenges & Potential Solutions* co-hosted with the Center for Oceans Law and Policy (COLP), University of Virginia School of Law and The Nippon Foundation. The two events covered topics including marine genetic resources – access and benefit sharing, area-based management tools including marine protected areas, environmental impact assessments, capacity building and transfer of technology, cross-cutting issues, and Arctic concerns.

Keywords

LOS – BBNJ – marine genetic resources – benefit sharing – area-based management tools – environmental impact assessments – capacity building – cross-cutting issues – Arctic

The World Maritime University (WMU) is a postgraduate maritime university founded in 1983 by the International Maritime Organization (IMO), a specialized agency of the United Nations. WMU's mission is to be the world centre of excellence in postgraduate maritime and oceans education, professional train-

Thank you!

Warm invitation to contact us through the Secretariat:
goisecretariat@wmu.se

What to learn more about WMU?

Find us on:



www.wmu.se



[@WMUHQ](https://www.facebook.com/WMUHQ)



[@WMUHQ](https://twitter.com/WMUHQ)



[World Maritime University](https://www.linkedin.com/company/world-maritime-university)



[World Maritime University](https://www.flickr.com/photos/worldmaritimeuniversity/)