



## **International Seminar on Conservation and Sustainable Use of Marine Biodiversity beyond National Jurisdiction**

**Bonn, Germany, December 2011**

**Summary Report**



**Jointly organized by**

**German Federal Agency for Nature Conservation (BfN) &  
IUCN Environmental Law Centre (ELC)**

**Cover picture:** Sargassum outside Sally Tuckers - Bermuda - Blue Ocean North West of the platform - Photo by Philippe Rouja

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Bonn, Germany 2012

# BfN-IUCN ELC Seminar on Conservation and Sustainable Use of Marine Biodiversity beyond National Jurisdiction

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## Introduction

From 1-3 December 2011, the German Federal Agency for Nature Conservation (BfN) and the IUCN Environmental Law Centre (ELC) jointly organized an international seminar on the “Conservation and Sustainable Use of Marine Biodiversity beyond National Jurisdiction”. Thanks to the financial support by the German Federal Ministry for the Environment, Nature Conservation and Nuclear Safety (BMU), 40 international legal, policy and scientific experts from 17 countries convened in Bonn, Germany to discuss specific gaps with regards to the legal framework provided by the current law of the sea relating to the conservation and sustainable use of biodiversity in areas beyond national jurisdiction (ABNJ), i.e. the high seas and the ‘Area’ (the seabed and the ocean floor and subsoil thereof beyond the limits of national jurisdiction).

Organized in an informal setting and under the Chatham House Rule<sup>1</sup>, the event provided a neutral platform to exchange ideas and concepts, as well as practical experiences with regard to three main issues which, amongst others, play a key role in the current discussions within the United Nations 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): Marine Protected Areas (MPAs) on the High Seas; access and benefit-sharing (ABS) related to marine genetic resources from ABNJ; and the need for and potential role of an implementing agreement under the United Nations Convention on the Law of the Sea (UNCLOS).

## Background

The oceans cover more than 70 % of the Earth’s surface, and it is estimated that 90-95 % of the planet’s living biomass is found there. Ocean ecosystems support all life on this planet, managing vast amounts of human pollutants, providing nutrition, while regulating the Earth’s climate. Furthermore, these ecosystems provide natural resources containing genetic resources which are of great interest not only for scientific researchers, but also for commercial bioprospectors. Not surprisingly, the abundance and diversity of marine biological resources and their value in terms of the benefits, goods and services they can provide, have been recognized and repeatedly stated by different international fora.<sup>2</sup>

At the same time, new uses of the oceans and their resources have emerged in the past decades, which was possible due to technological progress that has made all parts of the ocean gradually accessible. Humans are now impacting all aspects of the ocean system in different ways, including through illegal, unreported and unregulated fishing, overfishing, destructive fishing practices, pollution, anthropogenic climate change, or the exploration and exploitation of genetic resources, among others. As a consequence, the international community is facing enormous challenges with

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<sup>1</sup> When a meeting is held under the Chatham House Rule, participants are free to use the information received, but neither the identity nor the affiliation of the speakers, nor that of any other participant, may be revealed. For more information please see [www.chathamhouse.org.uk/about/chathamhouserule](http://www.chathamhouse.org.uk/about/chathamhouserule).

<sup>2</sup> See for example, UN General Assembly Resolution 65/37 (UN doc. A/RES/65/37) of 7 December 2010.

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regard to the conservation and sustainable use of the marine environment in general and the marine ABNJ in particular.

A number of related policies, strategies and actions were agreed in the last two decades:

- The Rio Agenda 21 provided a programme of action for achieving the sustainable development of oceans, coastal areas and seas back at the time of the Rio Earth Summit of 1992;
- At the World Summit on Sustainable Development in 2002, the international community agreed to establish representative networks of MPAs by the year 2012;
- Ambitious global goals were also set by the Strategic Plan adopted at the 10<sup>th</sup> Conference of the Parties to the Convention on Biological Diversity (CBD); furthermore, the CBD launched the development of an inventory of Ecologically or Biologically Significant Areas (EBSAs) in the open oceans and deep seas;
- Progress has also been made by the UN General Assembly through important UN Resolutions (e.g. on bottom trawling), or the BBNJ Working Group;
- Last but not least, important regional actions have been taken, for example under the OSPAR Convention for the Protection of the Marine Environment in the North-East Atlantic (OSPAR), or under the Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR).

Unfortunately, the concrete implementation of these policies in practice is slow. In addition, it is clear that managing biodiversity in the open oceans is per se an enormous challenge. Marine ABNJ are at far distance from the coast, not subject to any state's sovereignty, and therefore difficult to manage, monitor and control in practice. Regardless of these practical challenges, it is clear that the management of ABNJ requires global solutions facilitated by international cooperation and coordination.

Still, many questions remain unanswered and need to be clarified in this regard. For example, how could the already existing complex architecture of competent institutions and authorities and their different relevant mandates at the global and regional levels work together in an efficient and effective manner? What gaps still exist, and how can they be addressed in order to ensure an international regime which addresses conservation and sustainable use of biodiversity in ABNJ as well as the fair and equitable sharing of benefits derived from the utilization of marine genetic resources? Practical mechanisms for coordination and cooperation are therefore needed which ensure an effective and efficient implementation of the already existing global goals and strategies.

At the 4th meeting of the UN 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; 31 May–3 June 2011, New York), states developed draft recommendations, amongst others, requesting that “...

1. *A process be initiated, by the General Assembly, with a view to ensuring that the legal framework for the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction effectively addresses those issues by identifying gaps and ways forward, including through the implementation of existing instruments and the*

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*possible development of a multilateral agreement under the United Nations Convention on the Law of the Sea;*

- 2. This process would address the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction, in particular, together and as a whole, marine genetic resources, including questions on the sharing of benefits, measures such as area-based management tools, including marine protected areas, and environmental impact assessments, capacity-building and the transfer of marine technology;”*

These recommendations can be considered as a distinct step forward as:

- States recognized that the status quo is not an option any longer and that a focused and result-oriented process is needed;
- The majority of states also saw the need for an overarching mechanism, as in their views the existing setting with mainly sectoral and regional institutions and processes is incapable of tackling cumulative activities and crosscutting challenges; and
- Even those states that remained sceptical were able to agree on the need for a clearly improved coordination and implementation and were interested to understand more about the proposed overarching global mechanism.

## Seminar Proceedings

### *Participation*

Participation in the seminar was open to government representatives from EU Member States, as well as from other states “interested” in the issue of conservation and sustainable use of biodiversity in ABNJ. A number of international experts from intergovernmental and non-governmental organizations were also invited to provide scientific, policy and legal technical input throughout the meeting’s discussions.

### *Objective*

In line with the above-mentioned Recommendations made to the United Nations General Assembly by the BBNJ Working Group, and assuming that these Recommendations would be adopted, the objective of the joint BfN-IUCN ELC Seminar was to present ideas and experiences and to facilitate discussions on:

- Possible governance frameworks for the establishment and management of a network of Marine Protected Areas (MPAs) on the High Seas;
- Possible ways of sharing benefits from the utilization of marine genetic resources accessed in ABNJ; and
- Possible role of and consequences for an implementing agreement under the United Nations Convention on the Law of the Sea (UNCLOS).

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## *Agenda*

The agenda of the Seminar (see Annex I) was structured in three different parts:

- The 1st day was dedicated to the issue of MPAs in ABNJ;
- The 2nd day focused on the issue of ABS related to marine genetic resources in ABNJ;
- The 3rd day concentrated mainly on summarizing the outcomes of the first two days and discussing the way forward, including the identification of needs for further research and analysis.

The possible role of an UNCLOS implementing agreement as a “guiding framework”, as well as the possible consequences for its development were discussed as an integral part on all three days.

During the three days, expert speakers from a number of non-governmental organizations, government departments and research institutions across the world gave presentations focusing on specific sub-issues of MPAs and ABS in the morning sessions. The speakers provided concrete arguments, experiences from other international and/or regional processes as well as presentations of technical instruments, intended to stimulate and encourage discussion between the seminar participants. The number of presentations was limited to three presentations on the first two days, and one on the third day in order to secure enough time for controversial discussions in plenary as well as in smaller break-out groups.

After each of the morning presentations, the floor was opened for an immediate questions and answers session. In the afternoon, the participants then split into two working groups led by co-facilitators. While addressing the same issues, the groups worked independently from each other in order to increase the chances of elaborating diverse findings. The outcomes of the working group sessions were then reported back to plenary on day 1 and 2 where they provided the basis for further discussions. On the final day, and after a last presentation providing specific regional experiences, a summary of the discussions held in plenary as well as working group sessions was given in order to identify the common understanding reached by the participants, and to facilitate a final discussion upon the way forward and further research needs in the future.

The following is a summary of the presentations given, as well as the discussions that took place throughout the three days.

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## Day 1: Marine Protected Areas in Areas beyond National Jurisdiction

On day 1, presentations were held on the topic of Marine Protected Areas in ABNJ, each presentation was followed by questions and discussion in the plenary. The first presentation evaluated the need for a global framework for MPAs in ABNJ, the second one examined the work done under the Convention for the Protection of the Marine Environment of the North-East Atlantic (the OSPAR Convention) as a regional example for the designation and management of MPAs, and the final presentation of the day looked at possible options for a global governance framework under UNCLOS integrating international/regional institutions and processes.

### Morning Session

#### **Presentation 1**

**Title:** *Why do we need a global framework for MPAs in ABNJ?*

**Presenter:** *Kristina Gjerde, High Seas Policy Advisor, IUCN Global Marine Programme*

The focus of this first presentation was to give an introduction on the issues surrounding the establishment of MPAs in ABNJ. The presentation started by describing serious negative human impacts on the marine environment, due mainly to commercial activities such as fishing, shipping and dumping. Furthermore, it was explained that increased vulnerability is also due to threats such as climate change (warming waters, decreasing oxygen content), ocean acidification, and other side effects of commercial and industrial activities.

It was argued that the current legal regime governing the high seas (water column and the seabed and the ocean floor and subsoil thereof) took shape before the threats to the sea were widely understood, and has not kept pace with the rapid expansion of human activities and impacts. Today, no one institution has authority to resolve conflicts across sectors, address cumulative effects, or identify and protect vulnerable ecosystems from multiple activities. These gaps undermine efforts to implement ecosystem-based management and establish MPAs in ABNJ in order to conserve and sustainably use biodiversity.

It was further explained that Areas Beyond National Jurisdiction (ABNJ) include the high seas<sup>3</sup> and the Area<sup>4</sup> and are governed by a framework comprised of customary international law, UNCLOS, and

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<sup>3</sup> The legal term for waters beyond the zones of national jurisdiction, i.e. beyond the 12 nm territorial sea and the 200 nm Exclusive Economic Zone, where the EEZ has been established.

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mostly sectoral international and regional agreements and organizations, such as the UN Fish Stocks Agreement, regional fisheries management conventions and organizations, the International Maritime Organization, or the International Seabed Authority. While UNCLOS includes general duties to protect and preserve the marine environment, UNCLOS does not specifically contain provisions on the conservation and sustainable use of biodiversity in ABNJ. Furthermore, in practice states have tended to focus more on the freedoms granted than their duties.

The above gaps were highlighted in order to show the importance and need for MPAs<sup>5</sup> as a first step to ensuring the conservation and sustainable use of marine ABNJ. At the same time, it was recalled that there is currently no explicit mandate at the global level for the establishment of MPAs in ABNJ, or cooperation to establish such MPA networks. As a consequence, there is no harmonized procedure for designation of MPAs, a lack of cooperation between sectors as well as no mechanism for cooperative surveillance, monitoring and enforcement.

It was explained that the Convention on Biological Diversity (CBD), however, has attempted to address the lack of harmonized procedure by establishing criteria for identifying ecologically or biologically sensitive areas (EBSAs). Furthermore, Decision 29 of the tenth Conference of the Parties to the CBD has encouraged parties and competent organizations to apply these criteria and adopt appropriate conservation measures.

Still, the reality is that there are few mechanisms for cooperation across boundaries, cooperation at the national level is limited (among the various ministries), and so are jurisdictions and mandates (organizations can only act within the specific terms of their respective jurisdictions and mandates).

Finally, different arguments were presented how an implementing agreement under UNCLOS could help fill many of the existing gaps. Accordingly, an implementing agreement under UNCLOS could:

- Establish a global mandate, targets and objectives;
- Streamline the MPA designation process;
- Ensure baseline protection (imposing prior impact assessment);
- Facilitate regional and sectoral cooperation (taking into account differences in capacity);
- Build capacity for management;
- Share benefits.

**For more details, please see the presentation in Annex II.**

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<sup>4</sup> The legal term for the seabed and ocean floor and subsoil thereof beyond the limits of national jurisdiction, as defined in the United Nations Convention on the Law of the Sea. Generally starts at 200 nm from coastal baselines, but may start 350 nm or beyond in certain circumstances.

<sup>5</sup> An MPA is defined by the IUCN as “A clearly defined geographical space, recognized, dedicated and managed, through legal or other effective means, to achieve the long-term conservation of nature with associated ecosystem services and cultural values.”

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The discussions following the presentation highlighted the following issues:

- The need to find an appropriate balance between exploitation and conservation. So far, in case of tensions between mining and MPAs, mining areas tend to get priority.
- The need to identify an appropriate body with the required technical/scientific capacity. For this, it needs to be decided whether an existing institution's mandate should be extended or a new superstructure should be created?
- The need to avoid overlap of efforts, particularly in an increasingly tight fiscal climate. An implementing agreement would have to improve efficiency and cooperation between existing regional and sectoral organisations.
- The need to address UNCLOS's current separation of marine ABNJ into "water column" and "sea bed". Such a separation is artificial and does not represent conservation realities.

## **Presentation 2**

***Title: Designation and Management of OSPAR MPAs beyond national jurisdiction of the North-East Atlantic***

***Presenter: Henning von Nordheim, Head of Marine and Coastal Nature Conservation Unit, German Federal Agency for Nature Conservation***

This presentation illustrated the work done under the Oslo-Paris Convention on the Protection of the Marine Environment in the North-East Atlantic (OSPAR) in relation to the designation and management of MPAs in ABNJ. Originating in 1992, and involving 15 contracting parties and the EU, OSPAR is implementing five thematic strategies, including a strategy on "biodiversity and ecosystems".

The presentation explained that at the OSPAR Ministerial Meeting in 2003, parties recommended the establishment of an ecologically coherent network of well-managed MPAs in the North-East Atlantic until 2010. Work carried out by OSPAR towards achieving this goal was facilitated through an OSPAR-MPA group which was already established in 1999. Its work included:

- Producing a biogeographic classification of the OSPAR maritime area;
- Listing threatened and/or declining species and habitats in the area;
- Creating guidelines and criteria for the identification and selection of MPAs;
- Guidance on developing an ecologically coherent network of OSPAR MPAs;
- Providing guidelines for the management of MPAs in the OSPAR maritime area.

It was highlighted that the process of designating the first OSPAR MPAs in ABNJ has already started in 2005. In a first phase, scientific information and data had to be collected in order to identify on the basis of agreed scientific criteria potential MPAs in ABNJ and to develop corresponding technical proposals. These proposals were scientifically evaluated by OSPAR working groups and committees, as well as by the International Council for the Exploration of the Sea (ICES), before conservation objectives for six potential MPAs in ABNJ were agreed by the OSPAR Commission. Before the final

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agreement to designate these six MPAs was reached, further complex political negotiations had to take place and legal advice by the OSPAR group of jurists had to be provided. Finally in September 2010, binding decisions on the establishment of six MPAs in ABNJ, collectively covering 285.000 km<sup>2</sup>, was adopted at the OSPAR Ministerial Meeting in Bergen, Norway, together with recommendations on the management of these MPAs.

It nevertheless needs to be taken into account, that the resulting six MPAs in ABNJ are only applicable to OSPAR contracting parties. Furthermore, the competencies of the OSPAR Commission are limited with regards to the regulation of human activities in these areas. It was explained that in order to address this gap, cooperation/collaboration is being sought with other regional/global competent authorities (such as the North-East Atlantic Fisheries Commission (NEAFC), the International Seabed Authority (ISA), the International Maritime Organization (IMO), etc.) regarding the management of these MPAs in ABNJ.

Different steps were highlighted which have been taken/are planned to move from a sectoral to an integrated ecosystem-based management approach amongst competent authorities, including:

- Establishment of memoranda of understanding (OSPAR-NEAFC; OSPAR-IMO; OSPAR-ISA; NEAFC-IMO; IMO-ISA; etc);
- Informal consultative meetings;
- Drafting of a “Collective Arrangement between Competent Authorities on the Management of Selected Areas in ABNJ in the North-East Atlantic” (signed by OSPAR in 2011, to be signed by other competent authorities);
- Joint preparation of management plans for MPAs in ABNJs (to start in January 2012).

Finally, it was argued that in the absence of a global regulatory mechanism, action at the regional level appears to be the only way forward. The OSPAR approach was therefore considered as innovative in nature, but due to the absence of a precedent, under constant evolution. It was concluded that without a single global competent authority a number of challenges have to be addressed, such as overlaps between existing sectoral organisations, difficulties in establishing principles and practicalities of cooperation/collaboration between competent authorities, limited geographical scope of regional authorities, restriction/applicability of measures to contracting parties only, or unequal distribution of relevant capacity and resources across the globe. The need for an overarching global authority with a clear mandate was therefore stressed as such an authority could provide the necessary support.

**For more details, please see the presentation in Annex III.**

The discussions following the presentation highlighted the following points:

- In order to ensure that the MPA’s coverage is comprehensive, it is best to allow scientific classification and information gathering to take place before and separately from negotiations surrounding management mechanisms.

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- Different bodies should be involved as early as possible in the process in order to ensure greater collaboration in the future. As such the differences in decision-making cycles must be taken into account.
- The steps taken by OSPAR could provide a potential template for future work on a global MPA designation and management framework. However, specific regional differences have to be taken into account.
- Fundamental differences exist between resource-driven organisations and those with broader, conservation mandates, leading to complications in bringing together the various contracting parties. Different sectoral interests are usually represented by different ministries, which do not always coordinate. An UNCLOS implementing agreement could help cut through these problems. A multilateral approach therefore appears to be preferable over a sectoral or regional one.

## **Presentation 3**

***Title: Possible options for a global governance framework under UNCLOS which integrates existing international/regional institutions and processes?***

***Presenter : Elisabeth Druel, Research Fellow, Institut du Développement Durable et des Relations Internationales (IDDRI)***

The following presentation was based on the outcomes of the international seminar “Towards a legal framework for the creation and management of cross-sectoral marine protected areas in areas beyond national jurisdiction” (Boulogne-sur-Mer, France, 19-21 September 2011).<sup>6</sup> This seminar brought together 20 high level experts on the law of the sea, ocean governance, and biodiversity conservation. The exercise consisted of an assessment of different potential scenarios for facilitating the establishment and management of MPAs by 2030. The three scenarios examined were:

- Regionally-driven MPAs;
- An UNCLOS implementing agreement;
- An additional protocol under the CBD.

Each of the scenarios was divided into four steps:

- Step 1: Political, legal and/or institutional basis for the establishment and management of an MPA in ABNJ
- Step 2: Process to create or to list an area as MPA in ABNJ
- Step 3: Adoption of management measures
- Step 4: Implementation of management measures

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<sup>6</sup> For the full seminar report see Druel, E., Billé, R., Treyer, S., 2011. *A legal scenario analysis for marine protected areas in areas beyond national jurisdiction*. Report from the Boulogne-sur-Mer seminar, 19-21 September, Studies N°06/II, IDDRI – IUCN – Agence des aires marine protégées, Paris, France, 28 p.

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While not necessarily favouring one approach over the others, the feasibility of the UNCLOS implementing agreement scenario was examined in more detail during the presentation. Articles 192, 194.5 and 197 of UNCLOS were identified as a potential legal basis for an implementing agreement regulating the establishment and management of MPAs in ABNJ. It was explained that the process of creating or listing MPAs in ABNJ should have a scientific basis which could include the following steps:

- An MPA could be identified and designated at the regional level.
- Afterwards, a proposal for inclusion in an international list could be made.
- This proposal would need to be reviewed.
- If certain criteria were met, the MPA could be included in an international list.
- Such a listing would require compliance with certain management measures.

Furthermore, it was argued that different bodies could govern the process of creating and listing MPAs in ABNJ, namely:

- The ISA whose mandate would need to be extended.
- A new international body which would need to be created.
- A meeting of the Conference of the Parties with a permanent secretariat.

Regarding the process of adopting management measures, it was highlighted that

- A specific mandate for cooperation and coordination should be contained in the implementing agreement.
- Management plans and associated conservation and management measures should be discussed at the regional level.
- The implementation of the management plans should be reviewed every five years.

The following criteria were also mentioned as important for the implementation of management measures:

- Financing;
- Determination of infringements in the MPAs;
- Listing of states which are not cooperating or not complying;
- Port state measures against non-cooperating or non-complying states;
- Reporting.

Last but not least, the following general considerations were presented:

- The need for a clear and strong mandate for the negotiation of the instrument;
- The need to focus on the negotiating process and on the ratification and implementation of the instrument;
- The need for a broad acceptance and universal participation to the agreement;
- Attention was drawn to the possible difficulties in incorporating the principles and measures of the implementing agreement into existing instruments.

**For more details, please see the presentation in Annex IV.**

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Following the last presentation of day 1, the participants entered into an open discussion. The following issues were raised:

- Attention was drawn to a potential 4th scenario, adopting a precautionary approach to ABNJ. It was argued that this approach would reflect the urgency of the situation in and the threats to ABNJ.
- It was also argued that, in the present political climate, there are generally two main positions regarding the appropriate instrument for conservation and sustainable use of biodiversity in ABNJ: one group is in favor of an implementing agreement, and the other group is against it. In order to bring both groups to the negotiating table, it will be necessary to highlight the potential gains for both groups.
- It was acknowledged that the purpose of the Seminar was not to identify whether there are gaps in the present legal regime on the law of the sea. Instead, it was recognized that such gaps exist and have been demonstrated.
- Finally, it was concluded by some participants that the discussion needs to move forward, even in the absence of consensus. These participants considered it more important to obtain a strong agreement which reluctant parties may then join to a posteriori than to delay negotiations in the name of universality. The attempt to be consensual was even deemed to be potentially counterproductive when considering the ultimate goal.

## **Afternoon Session**

During the afternoon session the participants split into two groups to discuss two questions on MPAs in ABNJ set by the organisers. The first session concerned the designation of MPAs, and the second session, their management. Following these group exercises, the plenary reconvened to discuss the conclusions of the groups and suggest potential ways forward.

### ***Group Work 1:***

#### ***Designation of MPAs in ABNJ***

Group work 1 focused on the issue of designation of MPAs in ABNJ. The groups discussed the following questions:

- What should be the process for designation of MPAs in ABNJ?
- What should be the role of existing institutions and processes?
- What should be the role of a potential global entity, and which could be the appropriate body under UNCLOS?
- What does this mean for a potential UNCLOS implementing agreement?
- Other key issues to be considered.

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## 1. *What should be the process for designation of MPAs in ABNJ?*

It was concluded that the process should:

- Clearly define what is meant by “MPA”;
- Define clear objectives for the designation of MPAs;
- Be science-based;
- Be sufficiently flexible to recognize the fact that ecosystems are not static and are susceptible to change;
- Be based on bioregions and be effectively designed (the relevance of the Intergovernmental Oceanographic Commission’s Global Open Ocean and Deep Seabed (GOODS) Biogeographic Classification (Plus) to the design process was noted); and
- Form part of a larger scale marine spatial planning approach.

In addition:

- Nominations for MPAs could be made on a regional basis from existing institutions, states or groups of states;
- There could be a new global scientific and technical “gateway” which would enable the nominations to be assessed; and
- Nominations recommended via the “gateway” could then be designated by a global body.
- This whole process should be as objective as possible.

## 2. *What should be the role of existing institutions and processes?*

Regarding the role of existing institutions and processes, it was concluded that:

- There could be a “scaling-up” of the current roles played by regional organizations;
- Science-based strategies (including the identification of ecologically or biologically significant marine areas (EBSAs) and the UN Regular Process) should be enhanced and encouraged;
- There is a need to organize the existing institutions and processes on a specific bio-regional basis (the importance of the GOODS classification was again noted in this regard); and
- It is important not to have a blanket regional approach as some regional institutions may not have the required competences and resources, or may have firmly established interests which are not easily susceptible to the changes required.

## 3. *What should be the role of a potential global entity, and which could be the appropriate body under UNCLOS?*

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In relation to the role that a new global body could play in relation to existing institutions and processes, it was argued that it should:

- Have the ability to mandate specific activities to existing institutions;
- Have the ability to delegate roles to existing institutions or establish new institutions; and
- Utilize its global mandate to assist in a “harmonization” of the roles and functions of existing institutions.

In addition, the global entity could:

- Adopt a role to “fill-in” where gaps exist at a regional level;
- Oversee implementation of the process and also be involved in the designation of specific areas;
- Have a Conference of the Parties which would adopt a convening function;
- Have a monitoring and compliance committee (which should adopt a role to encourage the effective implementation of existing responsibilities including flag-state enforcement and port state control); and
- Have a science and technical committee.

It was also commented that:

- A regional approach should be adopted wherever possible; and
- There is a need for urgent and expeditious solutions to the issues.

#### *4. What does this mean for a potential UNCLOS implementing agreement?*

Regarding the need for and potential role of an UNCLOS implementing agreement, the following arguments were raised:

- There is value in developing the process under UNCLOS due to its comprehensive “package approach”.
- An implementing agreement should be broader than just MPAs and should include other issues such as general governance principles, environmental impact assessments, access and benefit-sharing related to marine genetic resources, and others.
- Although it would be ambitious, an implementing agreement could also include the approach of marine spatial planning.
- An implementing agreement should build on principles of sustainable development; it could also build on principles and elements of the CBD.
- There is a need to consider how an implementing agreement would interact with other conventions, such as the CBD or the International Convention on the Regulation of Whaling. The development of the process under UNCLOS should be with a view to the progressive development of UNCLOS itself as a living instrument.

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## 5. *Other key issues to be considered?*

Furthermore, the participants raised the following points:

- The process for dealing with MPAs in ABNJ should be closely coordinated with coastal states, in order, for example, to deal with issues where coastal states have made submissions regarding an extended continental shelf.
- When designing the process the issue of stakeholder involvement should be taken serious. Therefore, it needs to be decided when and how relevant stakeholders, such as industry, should be involved in this process.

### **Group Work 2:**

#### ***Management of MPAs in ABNJ***

After a short break the groups resumed discussions on the second topic of the day concerning the management of MPAs. Group work 2 focused on the following questions:

- Who will manage, monitor and enforce MPAs?
- What should be the role of existing institutions and processes?
- What should be addressed under UNCLOS?
- What does this mean for a potential UNCLOS implementing agreement?
- Other key issues to be considered.

#### 1. *Who will manage, monitor, enforce?*

The issue of management was addressed first. It was generally agreed that management should be globally coordinated and regionally driven. This means that:

- On-the-ground management should be undertaken at a regional level by existing competent authorities, wherever possible. New regional bodies may need to be created to enable this, and/or a global entity may need to be empowered to step in where there is no competent regional body (such as a Regional Seas Convention or a Regional Fisheries Management Organization).
- At the same time, a regional management system would benefit from monitoring at the global level.

Furthermore, the compliance system under the Convention for the Protection of the Mediterranean Sea against Pollution (the Barcelona Convention) was recognized as a useful example of regionally-based collaborative management.

Regarding the issue of monitoring, it was generally agreed that:

- Monitoring should primarily occur at the regional level.

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- Monitoring and surveillance requires clear definition and delineation of responsibilities. Criteria could be defined at the global level and designated to regional levels to be implemented. For example, monitoring of cumulative impacts of the MPA could be done at the global level, but day-to-day surveillance activities would remain at the regional level.
- There is potential for a global information gathering body to act as a focal point for sharing the information needed by a non-compliance mechanism.

On enforcement it was further agreed that:

- Enforcement is primarily the role of flag states.
- Existing enforcement models, such as flag state and port state enforcement measures or joint enforcement, should also be further considered within the context of enforcement jurisdiction already in place under UNCLOS (for example how a global entity could compliment the gap that exists with enforcing environmental protection obligations).
- There should be differentiation between sanction measures taken against state parties versus those taken against individual ships.
- There needs to be regular interaction and knowledge flow between levels which would allow assessment and improvement of measures.

### *2. What should be the role of existing institutions and processes?*

Regarding the role of existing institutions and management processes, the following points were raised:

- They should continue to be used wherever possible with a view to avoiding duplication by new initiatives.
- They should feed into any new global entity.
- However, their further harmonization would be desirable.
- Under an implementing agreement, there is potential to continue the role of the Informal Consultative Process (ICP) and the BBNJ Working Group, but also to develop a new management body.

### *3. What should be addressed under UNCLOS?*

On this point, the working groups diverged slightly as follows:

- One group noted that the issues cannot be addressed under UNCLOS in its current form, hence the need for an implementing agreement was stressed.
- Similarly but more broadly, the other group noted that, whilst caution was required, establishment of a global monitoring and compliance mechanism under UNCLOS in some shape or form, was needed. The role of the global mechanism should be to gather

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information, provide assistance to states and incentivize compliance. If such a global body had powers of enforcement, these should be a last resort (possibly through a tribunal) and for repeated (rather than isolated) infractions of the management regime.

#### 4. *What does this mean for a potential UNCLOS implementing agreement?*

It was agreed that a potential implementing agreement could:

- Adopt a “package approach”, including other elements such as environmental impact assessments, governance principles, access and benefit-sharing related to marine genetic resources, etc., but also capacity building, transfer of marine technology, etc.;
- Provide guidance in the development of MPA management plans;
- Provide an indicative list of measures that can be taken in an enforcement context;
- Suggest standards that can be translated into national law;
- Establish a new global entity.

#### 5. *Other key issues to be considered?*

Furthermore, the participants raised the following needs:

- Definition of MPAs and the spectrum of MPAs that will be used;
- “Cross-fertilization” of information and interaction at all levels whether global, regional, state or sectoral, to achieve effective management of MPAs;
- Increased “accountability” of states which are currently non-compliant;
- Management and compliance processes in view of wider marine spatial management strategies;
- Enhanced capacity and sharing of knowledge.

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## Day 2: Sharing Benefits from Marine Genetic Resources

The second day proceeded following the same structure as the first. After welcoming the participants, the organisers made way for three more presentations, this time relating to the sharing of benefits from the utilization of marine genetic resources in ABNJ. The first presentation identified different options for a benefit-sharing mechanism for marine genetic resources in ABNJ; the second looked at common pools, sui generis systems and benefit-sharing concepts and approaches. The third, examined the potential for broadening the ISA's mandate to include an ABS regime for marine genetic resources. Once again, following the presentations, the plenary discussed major issues for further examination in questions and answers sessions.

### Morning Session

#### *Presentation 1*

***Title: Different options for a benefit-sharing mechanism***

***Presenter: Thomas Greiber, Senior Legal Officer, IUCN Environmental Law Centre***

The presentation started by highlighting the socio-economic importance and relevance of Access and Benefit-sharing (ABS) in relation to marine genetic resources. Afterwards different governance challenges were identified which can be summarized as follows:

- The potential for environmental threats: Currently, there are no rules that regulate how to access genetic resources.
- Questions of fairness and equity: 10 countries currently own 90% of the patents deposited with marine genes (with 70% belonging to just 3 countries: the USA, Germany and Japan).
- The need for realistic expectations: While the upfront investment required for such research expeditions is high, the monetary benefits are uncertain.

Furthermore, the existing international legal framework relevant for ABS of marine genetic resources was briefly introduced:

With regard to UNCLOS it was argued that:

- ABS related to marine genetic resources is not explicitly regulated.
- Part XI UNCLOS includes benefit-sharing provisions: exploration and exploitation of resources of the Area for benefit of mankind (Art. 137.2 and 140.1); ISA provides for equitable sharing of financial and other economic benefits (Art. 137.2 and 140.2);

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promotion and encouragement of transfer of related technology so that all states benefit (Art. 144.1).

- However, the scope of Part XI UNCLOS is limited by Article 133(a) which refers to mineral resources (not marine genetic resources) and those resources at or beneath the seabed (excluding the water column).
- Part XIII UNCLOS provides for benefit-sharing related to marine scientific research in the pelagic zone.
- However, scientific research does not include applied/commercial bioprospecting, but in practice it is hard to distinguish the two.

On the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity (Nagoya Protocol) it was mentioned that:

- The Nagoya Protocol applies to genetic resources within the scope of Article 15 CBD which refers to genetic resources subject to national sovereignty. Marine genetic resources in ABNJ, however, do not fall under any sovereign rights.
- Furthermore, the ABS concept applied by the CBD and its Nagoya Protocol does not seem to fit with marine genetic resources accessed in ABNJ. In ABNJ there is no provider who could grant Prior Informed Consent (PIC) for access to these resources, or negotiate Mutually Agreed Terms (MAT) as foreseen in this bilateral ABS approach.
- However, the Nagoya Protocol introduces the idea of global multilateral benefit-sharing mechanism in order to address situations where it is not possible to grant or obtain PIC. While this situation applies to marine genetic resources in ABNJ, the need for and modalities of such a mechanism are still subject to negotiations amongst the states.

Furthermore, reference was made to the Antarctic Treaty System:

- This provides for freedom of scientific investigation in Antarctica (Article II Antarctic Treaty).
- However, such freedom is not unconditional: one key condition is that “to the greatest extent feasible and practicable... scientific observations and results from Antarctica shall be exchanged and made freely available” (Article III(1)(c) Antarctic Treaty).
- Therefore the question arises whether commercialization, including acquisition of intellectual property rights conflicts with the objective of Article II and III Antarctic Treaty.
- Furthermore, Article III Protocol on Environmental Protection to the Antarctic Treaty (Madrid Protocol) includes overarching principles and requirements to undertake environmental impact assessments (Annex I) and obtain permits to collect specimens (Annex II, Annex V).

The World Intellectual Property Organization (WIPO) and the World Trade Organization (WTO) were also mentioned as relevant fora. Here, negotiations are currently taking place with regard to intellectual property rights and genetic resources, including the questions whether

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- There should be an obligation to disclose the origin of a genetic resource in patent applications.
- Confidentiality in patent application processes goes against requirements to disseminate results of relevant research.
- Patenting of resources comprises a “claim” to part of the marine environment.

It was concluded in the presentation that the current existing international legal frameworks manifest a lack of harmonization among different processes as well as the absence of clear and comprehensive regulation of ABS related to marine genetic resources in ABNJ.

The presentation also explored potential ABS options (as well as their opportunities and challenges) which included:

- Expanding the mandate of the ISA.
- Expanding the understanding of “marine scientific research” in order to broaden the benefit-sharing regimes under Parts XI and XIII UNCLOS.
- Using a potential global benefit-sharing mechanism under the Nagoya Protocol.
- Drawing lessons to be learnt from the multilateral ABS system and the common pool of listed resources under the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA), or the sui generis system of “Plant Breeders’ Rights” under the International Union for the Protection of New Varieties of Plants (UPOV).

After looking into different procedural ways forward in order to address the issue of ABS related to marine genetic resources, including the option of an UNCLOS implementing agreement, a number of issues were raised for consideration:

- The possible connection between ABS and conservation/sustainable use;
- The possibility to create mutual benefits;
- The need to reward the necessary upfront investment;
- Potential monitoring, compliance and enforcement measures;
- The need to promote synergies and provide for necessary capacity and funding.

**For more details, please see the presentation in Annex V.**

During the discussion following the presentation the following observations were made:

- The current regional approaches are limited due to differing conditions; there is a need for a global mechanism.
- The current delimitation between the Area and the water column does not make biological sense.
- Under Article 10 Nagoya Protocol, parties have the potential authority to establish a global benefit-sharing framework. However, it was argued that this provision was intended only to cover resources within national jurisdiction, and to build a compromise with regard to issues of temporal scope.

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- Article 28 CBD envisions the development of additional protocols. Such an additional protocol could be linked to Article 10 Nagoya Protocol and give the CBD an explicit mandate to cover marine genetic resources in ABNJ. However, it was also mentioned that even if legally possible to create another protocol for marine genetic resources in ABNJ, it would have been included in the Nagoya Protocol had the parties so wished. It was concluded that the problem of expanding the CBD to cover ABNJ is political in nature.

### **Presentation 2**

**Title: Common pools, sui generis systems and benefit-sharing concepts and approaches**

**Presenter: Morten Walløe Tvedt, Senior Research Fellow, Fridtjof Nansen Institute**

The second presentation looked at possible lessons learnt from ABS as it is known from the CBD, and how these could inform the discussions on benefit-sharing in relation to marine genetic resources from ABNJ. It aimed at identifying elements from common pool-thinking, including the Multilateral System for plant genetic resources and so called Farmers' Rights, to better understand possible elements for ABS in relation to marine genetic resources.

It was explained that the rationale for ABS is to make funding available for conservation of biological diversity and its sustainable use through fair and equitable sharing of benefits derived from the utilisation of genetic resources. An additional issue is to ensure that the global community takes a share in the utilisation of genetic resources of the global commons.

It was further argued that in ABNJ the rationale is not completely different from that of the CBD as there is a need to generate revenue for conservation, and to provide easy access to resources in a more fair and equitable way (while formally open to all, marine genetic resources in ABNJ are *de facto* only accessible to those few states with sufficient capacity and resources). It was noted, however, that the legal framework for ABNJ is different from that under national jurisdictions regulating the sovereign rights over genetic resources.

The presentation also compared the characteristics of ABS as regulated in the CBD and its Nagoya Protocol with the situation of ABS in ABNJ:

- While sovereign rights over genetic resources are recognized in the context of the CBD and its Nagoya Protocol, ABNJ is marked by regulatory freedom and flag state responsibility.
- While the CBD and its Nagoya Protocol provide access regulations, the UNCLOS does not provide special legal measures targeting genetic resources.
- Under the Nagoya Protocol benefit-sharing has been clearly established as a contract-based instrument. In ABNJ an obvious contracting partner for the bioprospector is clearly missing.

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- The CBD and its Nagoya Protocol are focused on genetic resources as a not clearly defined object. The discussions on benefit-sharing in ABNJ are more focused on bioprospecting activities rather than the object itself.

Afterwards, the concept of common pools was introduced as a form of classification for resources which could be in one way or another kept in a non-exclusive or partially exclusive manner among a more or less defined group of legal persons. It was argued that in practice different questions relating to common pools would need to be answered, such as:

- What should be the object to be put into a common pool? Several types of objects could be relevant to be included into a pool (raw material, research result, or result of innovation)?
- Who would contribute to and have the right to take objects out of a common pool?
- What would be the conditions for exchanging and removing objects from the pool?
- How could economic benefits from the pool be drawn?

The presentation then continued with an analysis of the International Treaty on Plant Genetic Resources (ITPGRFA) and certain characteristics of its Multilateral System (MLS) as a common pool system which include:

- The MLS applies only to certain defined species of food and feed.
- The MLS applies only to public collections and what is brought thereto.
- The MLS applies only to specific uses, namely use for food and agriculture.

It was therefore noted that the MLS is a very limited example of a common pool, which needs to be recognised when discussing the extent to which useful lessons could be transferred to the ABNJ discussions. Also, the concept of Farmers' Rights under the ITPGRFA was considered to be not very suited in order to secure the interests of bioprospectors/investors.

Thereafter, the concept of ABS licensing as an open source system was briefly introduced in order to analyze its potential applicability to marine genetic resources in ABNJ. Amongst others, the following points were raised:

- What could be the incentive to get an ABS license and who could issue it?
- What should be subject to an open source system? Genetic material, related knowledge, or innovation?
- How could "modest contributions" to final innovations be calculated and rewarded in a fair and equitable way?
- How could the problem of free riding be addressed?

Last but not least, a couple of challenges and ideas were presented in order to stimulate further thinking. These included:

- How MPAs could be part of an *in situ* conservation strategy, while ABS could be part of an *ex situ* conservation strategy. Since linking the benefit-sharing system to conservation and sustainable use provides a challenge in the general ABS context, one core challenge in the ABNJ context will be to make this link visible and functional.

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- The freedom of the high seas and the regulation of marine scientific research are two main concepts which are given legal facts. A new system needs to adhere to them. For example, to introduce a jurisdiction level above the flag state level would be very difficult.

**For more details, please see the presentation in Annex VI.**

While it was concluded in the discussion following the presentation that the circumstances surrounding the ITPGRFA do not match those of ABNJ (namely lack of sovereign control over marine genetic resources), it was mentioned that the concept of paying back into a system is an interesting option. It was argued that those who undertake bioprospecting activities could potentially be rewarded through payments made by the developer of a product derived from the initial bioprospecting activities.

It was further agreed that while the ITPGRFA is not directly applicable, the fund model as a benefit-sharing system that contributes towards conservation without discouraging bioprospecting is desirable. The extent to which there is a need to impose regulation on access and benefit-sharing for marine genetic resources in ABNJ is, however, open.

### ***Presentation 3***

***Title: Broadening the mandate of the International Seabed Authority***

***Presenter: Duncan Currie, Consultant, Pew Environment Group***

The third presentation of the day focused mainly on the possibility to broaden the mandate of the International Seabed Authority (ISA) to cover also marine genetic resources in ABNJ. After an introduction to the concept of “Common Heritage of Mankind” and the reasoning behind, the basis for and criteria of benefit-sharing were explained as included in Articles 82, 140 and 160 UNCLOS.

Afterwards the current mandate of the ISA was analyzed as established in 1994, pursuant to Part XI and Annexes III and IV of UNCLOS, the 1994 Implementation Agreement, and Resolutions I and II of the third UN Conference on the Law of the Sea. For this, the concrete meaning of the terms “resources”, “Area”, “authority” and “activities in the Area” were explained which limit the ISA’s mandate for benefit-sharing to “minerals” only.

Furthermore, the institutional structure and organs of the ISA were presented, as well as the ISA’s mandate under Article 145 UNCLOS to adopt rules, regulations and procedures for

- The prevention, reduction and control of pollution and other hazards to the marine environment;
- The protection and conservation of the natural resources (minerals) of the Area and the prevention of damage to the flora and fauna of the marine environment.

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It was argued that important lessons could be learned from the ISA's substantive work related to environmental protection. In this context, a reference was made to the Regulations on Prospecting and Exploration for Polymetallic Nodules in the Area, for Polymetallic Sulphides, and for Cobalt-Rich Crusts (under development). On the Regulations on Prospecting and Exploration of Polymetallic Nodules it was explained that contractors exploring seabed resources must:

- Take necessary measures to prevent/control/reduce pollution;
- Apply the precautionary approach;
- Gather baseline data;
- Monitor and report;
- Set aside impact reference zones and preservation reference zones.

Furthermore, it was highlighted that prospecting in the Area confers no rights to resources (only samples may be kept), and it may take place only:

- After notification;
- Only if there is no risk of serious harm to the marine environment/or outside of areas where Council has disapproved mining due to risk of serious harm to the marine environment;
- Subject to the obligation to notify incidents of serious harm to the marine environment.

The ISA's mandate and work related to marine scientific research was also considered to provide interesting experiences, such as:

- The ISA's responsibility to encourage and promote marine scientific research in the international seabed and to disseminate the results of such research (Article 143.2 UNCLOS);
- POLYDAT (a database of information on the resources of the Area) and the Central Data Repository (holding public as well as private data on mineral resources, seabed patents, GIS maps, etc.) which are maintained by the ISA Secretariat.

Regarding a potential expansion of the ISA mandate it was argued, amongst others, that:

- The mandate should be clear and effectively make use of existing ISA facilities.
- The ISA Assembly and Secretariat could be utilized, but a new Council would most likely be required, as well as a new organ similar to the Enterprise to carry out exploitation activities related to marine genetic resources in ABNJ, alone or as a joint venture.
- New regulations and rules over other activities that could impact marine genetic resources and biodiversity would need to be developed.

In addition, important questions were raised with regard to the scope of an expanded ISA mandate which would need to be taken into consideration:

- Would it encompass prospecting of marine genetic resources only, or also environmental impact assessments, etc.?
- What would be the focus of protection measures: mining, fishing, pollution?

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- Would the mandate be limited to sedentary species only, as opposed to fish, and excluding water column?

Last but not least, the benefit-sharing approach under Article 82 UNCLOS with respect to the exploitation of the continental shelf beyond 200 nm was introduced. It was analysed in view of its potential to serve as a benefit-sharing template for marine genetic resources in ABNJ, and it was argued that using Article 82 UNCLOS had the following advantages:

- Flexibility in transboundary situations;
- Potential of ISA Council and Assembly to devise criteria for equitable sharing;
- Potential recourse to the International Tribunal for the Law of the Sea (ITLOS) and its Seabed Disputes Chamber to resolve disputes.

**For more details, please see the presentation in Annex VII.**

The plenary discussion which followed this presentation focused principally on the concept of “Common Heritage of Mankind” and its importance as a philosophical concept. It was noted that this concept recognizes that all states have an interest in the Area and the high seas. In addition, it was acknowledged that there is a common interest in protecting and preserving ABNJ.

Furthermore, it was argued that Article 136 UNCLOS implies that whatever does not fit into its definition of “resources” (i.e., genetic resources) constitute the common heritage of mankind. While this interpretation was not rejected on principle, it was not considered workable in practice.

### Afternoon Session

After the morning presentations, the plenary split again into two groups to discuss the need for and the possible elements of a “needs-based” multilateral benefit-sharing mechanism. In this context, the groups focused on the following questions:

- What is the need for a multilateral benefit-sharing mechanism in ABNJ?
- What elements would such a mechanism entail?
- Potential synergies with other mechanisms and processes.
- Usefulness of a sui generis system of Intellectual Property Rights (IPRs) for marine genetic resources.
- What does this mean for a potential UNCLOS implementing agreement?
- Other issues to be considered.

#### *1. What is the need for a multilateral benefit-sharing mechanism in ABNJ?*

It was argued that the rationale behind a benefit-sharing mechanism is based on:

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- An ethical argument, as it is the right thing to do for future generations, and it places emphasis on sustainable use of resources;
- A conservation argument, as the benefits from the mechanism could flow back towards maintenance of biodiversity in ABNJ, through MPAs or other forms (ABS as one part of a package to conserve the marine environment in ABNJ).

It was noted that the present need for a benefit-sharing mechanism reflects:

- Changing times: UNCLOS was a product of its time, where knowledge of the biodiversity and resources of the deep sea was lacking; hence the focus was not on conservation. Knowledge has since increased, particularly in the area of marine genetic resources and broader understanding of the terrain and biodiversity of the deep sea.
- Philosophical underpinnings of UNCLOS: The objective of realizing a “just and equitable economic order”, as stated in the UNCLOS Preamble, is currently not achieved. So far, only a limited number of countries is benefiting from the resources in the deep seabed. As a consequence, there is a need to ensure that UNCLOS stays true to its origins.
- Gaps in the Nagoya Protocol: The scope of the Nagoya Protocol does not cover marine genetic resources in ABNJ.
- Experiences that led to the development of the Nagoya Protocol under the CBD: There is a need to stop the privatisation of the global commons. Benefits could be redirected to assist landlocked countries, to increase capacity in developing countries as well as fund conservation.
- Need for a reality check: There is a need for provisions, including definitions, which reflect current practices/realities. Part XIII (marine scientific research) and Part XIV (development and transfer of marine technology) might be “generic” enough to adapt to the concept of benefit-sharing.

### 2. *What elements would such a mechanism entail?*

The following issues were discussed as important elements of a regime establishing a needs-based benefit-sharing mechanism:

Scope:

- While some participants referred to the need to allocate property rights, others argued that this would be difficult in ABNJ and therefore preferred to focus on the modalities of access to marine genetic resources (access rights). Fisheries agreements were mentioned as an example since they focus on access rights rather than ownership. The regime would therefore need to differentiate between ownership and use rights.
- The regime would need to clarify its geographical and substantial scope. This includes a clear definition of what is understood by marine genetic resources in ABNJ, including the clarification of the relationship between the resources in the water column and those in the seabed, as well as the relationship between sedentary and mobile species. For this, practical/scientific as well as legal arguments would need to be considered: For example,

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can the resources in the water column be separated in practice from those of the seabed; what is the relationship between the concepts of common heritage of mankind and freedom of the high seas; or to what extent do the definitions in UNCLOS need to be changed?

- Important lessons could be learned from the Nagoya Protocol and its definitions of genetic resources, utilization and derivatives.

### Benefit-sharing:

- It was recognized that the regime should not prevent future bioprospecting and developments. It could therefore benefit from a broad understanding of the concept of benefit-sharing. In this context, a reference was made to the Annex of the Nagoya Protocol which is based on the Bonn Guidelines and provides for a list of different monetary and non-monetary benefits.
- A strong case was made for benefits that are not just monetary: non-monetary benefits discussed included capacity building, joint ventures, granting places on expeditions, research sharing, partnerships, sharing infrastructure, facilitated access to resources (as under the ITPGRFA), or preferential access to medical technologies, etc.
- Furthermore, it was noted that a global mechanism could allow for a transfer of benefits that bilateral agreements alone cannot achieve.
- However, participants raised the continuing uncertainty over what type of use could trigger benefit-sharing requirements. In this regard there is a need to investigate the scientific context, i.e. the different steps from sampling to development of products.
- It was also argued that benefits would have to be adjusted to the needs of developing countries.

### Access mechanism:

- Furthermore, the regime could benefit from the regulation of access to marine genetic resources in ABNJ, as this could provide the basis for the protection of vulnerable territories.
- Access criteria could be determined by flag states, and at the same time be subject to internationally agreed guidelines/minimum standards.
- In the context of a broader governance framework, an access mechanism could function somewhat like the ISA, where access either requires notification, a permit or prior approval depending on the activity being carried out. Prior approval might play a role in the broader conservation context (e.g. access after EIA, etc.)
- An important component of the access mechanism would also be the traceability of the origin of marine genetic resources. The need for traceability is based on the practical (scientific) argument that it is not possible to trace back a resource to its original site later on, i.e. after the sampling took already place (experiences from the “Venter strategy”).
- Suggestions included tracing of the samples from the beginning and reporting to an institution mandated to regulate access (for example the ISA); development of a

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certificate of compliance, or a “passport” of relevant information; creation of bottlenecks in the ABS process at critical points where reporting would be mandatory.

- Lessons learnt regarding traceability might be drawn from catch documentation which already exists for fisheries. However, the differences between fishing and collecting genetic resources would need to be taken into consideration.
- In order to link access and benefit-sharing, access could be granted in exchange for placing a sample in a gene bank (for example the gene library in the United States which is accessible to everyone and provides for a model for tracing back).

Clearing House Mechanism:

- It was noted that a Clearing House Mechanism could provide an information hub.
- In particular, a Clearing House Mechanism could be helpful in the process of identifying where and how to allocate benefits.

Institutional elements:

- A legal basis under UNCLOS was considered as necessary.
- A new entity/institution could be created to be responsible for the administration of access, benefit-sharing and monitoring.
- The possibility of a decentralized system was also discussed, with an implementing agreement delegating the roles of granting access, managing benefit-sharing, and monitoring compliance to states.
- Last but not least, a central repository could be created storing samples, genetic material and/or information.

### *3. Potential synergies with other mechanisms and processes:*

Regarding potential synergies with other ABS related mechanisms and process the following points were raised:

- The ISA’s regulation of seabed mineral resources was mentioned as a potential template which could be extended to cover “all resources in ABNJ”.
- Potential synergies with the Global Environment Facility were also noted; however, it was recognized that no mandate for ABNJ currently exists.
- The ITPGR’s concept of providing facilitated access to gene banks was considered as a possible approach.
- Opportunities in view of the Rio+20 conference were mentioned.

### *4. Usefulness of a sui generis system of Intellectual Property Rights (IPRs) for marine genetic resources:*

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The group concluded that it was too early to discuss the usefulness and/or content of a sui generis system, but did not exclude the possibility of a potential hybrid treaty.

### *5. What does this mean for a potential UNCLOS implementing agreement?*

Some participants argued that an implementing agreement should be linked to the CBD, as ABS in areas under national jurisdiction has been dealt with under the CBD and its Nagoya Protocol. Definitions and principles have already been elaborated there and could be applied under UNCLOS in order to close the gap in the scope of the Nagoya Protocol. The legal basis for this could be Article 5 CBD (cooperation in ABNJ).

### *6. Other issues to be considered:*

On other issues to be considered, the following points were raised:

- There is a need to recognize and reward the risk taken by bioprospectors, who invest large sums of money to fund expeditions without guaranteed returns.
- If an ABS regime imposes too many constraints on bioprospectors, investors might hesitate to fund expeditions. As a consequence, there is a need to balance the needs for flexibility, uncertain returns, as well as certainty on types of benefits to be shared.
- Some participants suggested that the degree of access granted, and therefore benefits to be shared should depend on the purpose of the expedition. This purpose should be announced to the relevant national authorities (flag or port state), who would then be responsible for taking measures.
- In general, a new mechanism would have to deal with the question of research. Is bioprospecting research? Where is the line between “pure” and “applied” (for commercial purposes) scientific research? This problem has already been encountered under UNCLOS Part XI and Part XIII.

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## DAY 3: The Way Forward

The final day of the Seminar began with an ad hoc presentation by representatives of the Australian Department of Sustainability, Environment, Water, Population and Communities. The presentation highlighted an approach which, while extremely difficult to implement on a global scale in the absence of a sovereign international institution, represents an integrated and ecosystem-based view of oceans management.

The final part of the Seminar focused on summing up the conclusions of the previous two days' work, discussing the potential way forward and identifying products which could be useful for the future BBNJ process.

### ***Presentation***

***Title: Integrated Planning and Management Approach in Australia***

***Presenters: Donna Petrachenko and Travis Bover, Department of Sustainability, Environment, Water, Population and Communities, Australia***

This presentation explained the Australian Government's Marine Bioregional Planning (MBP) Policy which was defined as the basis for ecosystem-based management across sectors and relevant spatial and temporal scales. It emerged as Australia's ocean policy in the 1990s leaned towards a more integrated approach to the management of its Exclusive Economic Zone (EEZ). As a consequence, the MBP's objective is to inform environmental regulations and programs (for example on MPAs or environmental impact assessments), and to provide guidance for sectoral management (for example, informing ecosystem-based fisheries management).

It was noted that the planning itself involved:

- Describing the marine environment and conservation values of each marine region;
- Identifying regional priorities based on the analysis of pressures to conservation values;
- Outlining strategies and actions to address regional priorities.

Furthermore, different conservation values (including examples) were highlighted, such as

- Issues protected under federal environmental law (for example, world heritage sites, threatened species, etc.);
- Biologically important areas (meaning areas where a protected species displays biologically important behaviour such as breeding, foraging, resting and migration);

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- Key ecological features (meaning parts of the marine ecosystem that are important for biodiversity or ecosystem function and integrity).

Thereafter, a list of strategies to address identified regional and sectoral priorities was presented. Such strategies are important, as the process of bioregional planning requires that decisions made relevant to marine areas (fishing, mining) be sustainable. The following strategies were mentioned:

- Establishment and management of representative MPAs;
- Guidance on the application of environmental impact assessment requirements;
- Setting priority issues for improved fisheries management;
- Setting priorities for threatened species recovery actions;
- Setting priorities for research.

Last but not least, lessons and observations with regard to ABNJ were drawn. The following points were made:

- Conservation and sustainable use is best achieved through a “landscape” scale (across sectors and relevant spatial and temporal scales) and by using the right tools in the right places.
- The issue of “ecology” is highly important in the concept of “ecologically sustainable development”, as it builds the basis for conservation measures, for evaluation and accountability and a basis for coordinated efforts across sectors.
- A high degree of coordination and political will would be required to apply this approach to ABNJ.

**For more details, please see the presentation in Annex VIII.**

After the presentation, the following points were made during the plenary discussion:

- Integrated approaches are required for different reasons, for example to protect migratory species.
- In order to apply such integrated planning approaches in ABNJ existing cooperation initiatives would need to be expanded.
- Existing regional cooperation could be enhanced through a global framework.
- Due to inequalities in regional capacity, a first step might be capacity building as a foundation for information gathering which could lead to policy frameworks overseen by a global institution.
- It was also reiterated that in order to ensure the conservation of marine resources, the process must be broader than the focus on MPAs. Instead, the whole marine area would need to be managed.

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## ***Summary of Discussions during Day 1 and 2***

### ***Issue: MPAs in ABNJ***

In a non-exhaustive summary of the discussions on MPAs it was noted that a common understanding among the participants seemed to exist on the following points:

#### Designation process:

- The designation process should be science-driven and evidence-based using internationally agreed criteria.
- Clear conservation objectives are needed (degree/level of protection).
- There is a need for large-scale, integrated ecosystem-based planning for protection.
- Lack of data should not provide justification for lack of action.
- Regional institutions, processes and initiatives have an important role to play, but flexibility is required regarding the initiation of proposals and differences in capacity must be taken into account.
- A scientific and technical gateway is needed.
- Global political endorsement is necessary.

#### Institutional landscape:

- Where possible, the MPA process should build on existing (global and regional) institutions and processes, even though their current coverage of the seas is incomplete.
- Such existing institutions and processes need to be activated, structured, coordinated and harmonized.
- It is also necessary to balance existing interests with new objectives, and take into account the unequal coverage of regional institutions.
- Existing mandates could be expanded.
- An overarching global mechanism is required to coordinate existing institutions and processes.
- Still, there is need to be flexible, and to be able to react to emerging challenges.

#### Global entity:

- A global entity might be required to oversee implementation and compliance, to coordinate existing institutions and processes, and to address gaps.
- It would require political and legal legitimacy, need to be credible, independent, unbiased, as well as accountable to states, and have adequate financial capacity.
- However, none of the existing institutions meets all these requirements.

#### Management:

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- Management of MPAs in ABNJ should be globally coordinated, regionally driven and subject to the responsibility of states.
- Management processes would need to be harmonised in order to avoid any duplication of efforts.
- Setting standards, accountability, as well as monitoring overall compliance would need to take place at the global level.
- The day-to-day management should take place at the regional level. Regional bodies could be established where these do not exist.
- Existing frameworks and models for enforcement should be used. Existing authorities should continue delivering their functions, while gaps could be addressed through collective enforcement strategies and platforms.
- But management and enforcement issues would go beyond MPAs.

### Implementing agreement under UNCLOS:

- A global regime could provide a framework under UNCLOS to harmonize and coordinate the different roles, processes and criteria, as well as to address the gaps in conservation beyond national jurisdiction.
- Its form would need to be thoroughly considered (implementing agreement, guidelines, etc.).
- Its scope should be broader than MPAs, provide a common denominator and be a chapeau to existing mandates. The goal of the regime might be: to ensure and facilitate “ecologically sustainable development”.
- It was also noted that a regime is necessary to obtain recognition of states’ commitment to conservation of the oceans.
- Furthermore, it could set out globally accepted principles.
- Compliance and enforcement mechanisms need to be considered very carefully.
- The need to share and transfer knowledge and technology seems to be generally accepted.

**For more details, please see the presentation in Annex IX.**

### ***Issue: ABS related to Marine Genetic Resources in ABNJ:***

Thereafter, the discussions on ABS related to marine genetic resources in ABNJ were summarized in a last presentation. It was noted that a common understanding among the participants seemed to develop on the need for benefit-sharing, the importance of differentiated benefit-sharing, the need for an access component, and the need for an overall better understanding of the issues around ABS related to marine genetic resources in ABNJ. In particular the following points were raised:

First of all, different reasons having their basis in UNCLOS seem to indicate the need for ABS:

- The conservation goal: ABS should be part of a complete and complementary BBNJ “package”. In this context, benefits could be shared in order to support other

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(conservation) tools of the package; at the same time, conservation tools could play a role in the ABS process (for example environmental impact assessments before accessing marine genetic resources).

- The philosophical/ethical concept of common heritage of mankind: This requires the preservation of biodiversity in ABNJ for future generations, as well as fairness and solidarity. These requirements match with the conservation as well as fairness/equity rationale behind ABS. As a consequence, the common heritage concept needs to reflect the changing state of scientific knowledge and values (minerals vs marine genetic resources) and be adjusted accordingly.
- The need for enabling conditions: ABS regulations could ensure the alignment of scientific reality/practice and related legal frameworks. Such alignment would be important in order to establish ideal conditions for future research and development.
- The legal gap: An ABS regime would be necessary to fill the existing gaps in UNCLOS and the Nagoya Protocol.

Furthermore, there seemed to be a general agreement that a broad range of benefits and benefit-sharing options would need to be taken into consideration for ABS related to marine genetic resources in ABNJ. These would include monetary as well as non-monetary and needs-based benefits, such as:

- Capacity building, joint research, joint ventures;
- Potential access to a central repository/common pool;
- Facilitated access;
- Non-use benefits (meaning conservation itself, as well as improved scientific understanding).

The importance of creating benefits for investors also seemed to be part of the common understanding created amongst the participants. The need to reward risk-taking and therefore not to impose standard, “one-size-fits-all” benefit-sharing requirements was recognized. Such a benefit/reward could already be seen in the access component of ABS. In addition, benefits could vary according to types of utilisation of resources, taking into consideration the different sectors (commercial vs. research), as well as the different steps from collecting and sampling to inventing, patenting and developing products.

Participants also seemed to agree that despite the current focus on benefit-sharing, the issue of access would be an important component of a future regime related to marine genetic resources in ABNJ. In particular, access is an issue for the following reasons:

- Access to marine genetic resources in ABNJ might have negative impacts on the environment which requires a certain level of administration and management of the human activities, as well as minimum guidance and standards.
- Access would need to be monitored in order to trigger benefit-sharing requirements, ensure transparency and traceability, or support compliance and enforcement.

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- Access is furthermore a question of fairness. The granting of intellectual property rights might lead to a situation where access is practically closed for those who come later in time.

Last but not least, a number of open questions seemed to remain which require further research and better understanding in the future. Regarding marine scientific research these include:

- Is access to “wild” resources needed? If so, what are the crucial steps and conditions to consider?
- Would benefit-sharing prevent future marine scientific research?
- If the Nagoya Protocol is accepted by the industry, would there be any difference for ABS under UNCLOS?
- What level of traceability of marine genetic resources is possible and needed?

Open issues related to access include:

- The relationship between the water column and the deep seabed;
- The need for global/regional vs. centralized/decentralized processes;
- The need for new and/or existing entities as well as their specific roles (for example administration, or development and management of a repository);
- Potential synergies.

**For more details, please see the presentation in Annex X.**

### ***Discussion on Way Forward***

In the final session of the seminar, the participants were asked to look forward and to brainstorm on potential next steps to move these issues forward. They were asked to define issues which required further research and analysis, to make suggestions how the BBNJ process could be further supported, and to provide ideas for possible products which would be helpful in this context.

#### *1. Defining issues to be further researched and analyzed:*

- The focus should not just be on marine genetic resources and/or MPAs. Instead, the chapeau approach encompassing all aspects of “conservation and sustainable use of the marine environment” should be further researched and analyzed.
- There is a particular need to identify what main problems we are trying to resolve within the process (cumulative impacts, threats, etc.).
- When doing further research and analysis it would be important to apply a multidisciplinary approach.

#### *2. How can we further support the BBNJ process, also in view of the formal inter-sessional workshops?*

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- The next workshop should be hosted in New York due to limited time and resources, and with a view to enable a wider participation.
- While there seems to be a common understanding of the underlying ethical and conservation arguments, what is needed to support the move for reform is the development of a political argument. In this context, the changing powers in the global political landscape need to be taken into consideration. An agreement on marine ABNJ is needed to help preserve stability.
- It would be useful to bring economists and politicians on board to take into account political and economic realities and ensure greater chances of success. Scientists are also essential to the process.

### 3. *What products could be helpful in this context?*

- To gain the necessary government support, it would be useful to produce a summary document (for the upcoming Rio +20 conference) which would illustrate to decision makers why there is such a pressing need for an international regime/implementing agreement with regards to conservation and sustainable use of marine biodiversity beyond national jurisdiction. Such a document could include a condensed explanation of the current state of the legal framework, providing examples and scenarios.
- To highlight to policy makers how the present instruments are failing, the series of IUCN papers on the gaps within UNCLOS for marine ABNJ could be updated and condensed into policy briefs. This would increase the chance of obtaining the legal authority to move forward.

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## Annex I: Agenda

Day 1: Marine Protected Areas in ABNJ – 1 December, 2011		
9:00 – 9:10	<b>Welcome and opening</b>	Elsa Nickel,  Deputy Director General,  German Federal Ministry for Environment, Nature Conservation and Nuclear Safety
9:10 – 9:20	<b>Welcome</b>	Henning von Nordheim,  Head of Marine and Coastal Nature Conservation Unit,  German Federal Agency for Nature Conservation (BfN)
9:20 – 9:35	<b>Introduction to the seminar</b> <ul style="list-style-type: none"> <li>➤ Objective of the seminar</li> <li>➤ Adoption of the agenda</li> <li>➤ Tour de table</li> </ul>	Thomas Greiber,  Senior Legal Officer,  IUCN Environmental Law Centre
9:35 – 10:05	<b>Presentation I: Why do we need a global framework for MPAs in ABNJ?</b> <ul style="list-style-type: none"> <li>➤ Building the case for a global regime</li> <li>➤ Overview of existing institutions (RFMOs, IMO, etc.) and processes (EBSA repository, etc.) which are relevant and could/should be integrated</li> <li>➤ Role of an UNCLOS Implementation Agreement</li> <li>➤ Subsidiary considerations: what can be done best at what level?</li> </ul>	Kristina M. Gjerde,  High Seas Policy Advisor,  IUCN Global Marine Programme

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10:05– 10:30	<p><b>Open floor</b></p> <ul style="list-style-type: none"> <li>➤ Questions and answers</li> <li>➤ Collecting additional arguments in favor of a global framework</li> </ul>	
10:30 – 10:45	<b>COFFEE BREAK</b>	
10:45 – 11:15	<p><b>Presentation II: Designation and Management of OSPAR MPAs - Beyond National Jurisdiction in the North-East Atlantic</b></p> <ul style="list-style-type: none"> <li>➤ What can we learn from OSPAR</li> <li>➤ Constraints and limits of “purely” regional approaches</li> <li>➤ Which regional tools could be used / integrated in a global regime</li> <li>➤ Constraints of / obstacles to such integration</li> </ul>	<p>Henning von Nordheim, Head of Marine and Coastal Nature Conservation Unit, German Federal Agency for Nature Conservation (BfN)</p>
11:15 – 11:45	<p><b>Open floor</b></p> <ul style="list-style-type: none"> <li>➤ Questions and answers</li> <li>➤ Collecting additional experiences</li> </ul>	
11:45 – 12:15	<p><b>Presentation III: Possible options for a global governance framework under UNCLOS which integrates existing international/regional institutions and processes?</b></p> <ul style="list-style-type: none"> <li>➤ How could an institutional structure, including the decision-making process, look like?</li> <li>➤ Possible division of responsibilities and tasks: scientific expertise, designation of sites, management and enforcement</li> <li>➤ Funding structure</li> </ul>	<p>Elisabeth Druel, Research Fellow Governance of High Seas Biodiversity, Institut du développement durable et des relations internationales (IDDRI)</p>
12:15 – 12:45	<p><b>Open floor</b></p> <ul style="list-style-type: none"> <li>➤ Questions and answers</li> <li>➤ Challenging the proposed structure</li> </ul>	

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12:45 – 14:00	<b>LUNCH BREAK</b>	
14:00 – 15:30	<p><b>Group work: Designation of MPAs in ABNJ</b></p> <p>Participants split up into 2 groups. Each group will discuss:</p> <ul style="list-style-type: none"> <li>➤ What should be the process for designation of MPAs in ABNJ?</li> <li>➤ What should be the role of existing institutions and processes?</li> <li>➤ What should be the role of a potential global entity, and which could be the appropriate body under UNCLOS?</li> <li>➤ What does this mean for a potential UNCLOS implementing agreement?</li> <li>➤ Other key issues to be considered?</li> </ul>	
15:30 – 15:45	<b>COFFEE BREAK</b>	
15:45 – 17:00	<p><b>Group work: Management of MPAs in ABNJ</b></p> <p>Participants split up into 2 groups. Each group will discuss:</p> <ul style="list-style-type: none"> <li>➤ Who will manage, monitor, enforce?</li> <li>➤ What should be the role of existing institutions and processes?</li> <li>➤ What should be addressed under UNCLOS?</li> <li>➤ What does this mean for a potential UNCLOS implementing agreement?</li> <li>➤ Other key issues to be considered?</li> </ul>	
17:00 – 18:15	<p><b>Reporting back to plenary</b></p> <ul style="list-style-type: none"> <li>➤ Groups to present their conclusions</li> </ul>	Rapporteurs of the groups
19:00	<p><b>Social event: Departure to Godesburg</b></p> <p>Dinner with all participants from 19:30 – 22:00</p>	

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<b>Day 2: Sharing benefits from Marine Genetic Resources – 2 December, 2011</b>		
9:20 – 9:30	<b>Welcome back!</b>	
9:30 – 10:00	<b>Presentation I: Different options for a benefit-sharing mechanism</b> <ul style="list-style-type: none"> <li>➤ Summary of possible ideas/solutions for BS</li> <li>➤ Advantages and disadvantages of the different options</li> </ul>	Thomas Greiber, Senior Legal Officer, IUCN Environmental Law Centre
10:00 – 10:30	<b>Open floor</b> <ul style="list-style-type: none"> <li>➤ Questions and answers</li> <li>➤ Collecting additional ideas/solutions</li> </ul>	
10:30 – 10:45	<b>COFFEE BREAK</b>	
10:45 – 11:15	<b>Presentation II: Common pools, sui generis systems and benefit-sharing concepts and approaches</b> <ul style="list-style-type: none"> <li>➤ Concept of common pools</li> <li>➤ Concept of farmers' rights under the ITPGRFA: can we develop something similar for MGR in order to take the special interests of investors (science and industry) into consideration?</li> <li>➤ Concept of ABS licenses: concrete examples where they are applied and possible advantages; how could this concept be used for MGR?</li> <li>➤ Creating and sharing mutual benefits under the ITPGRFA: how can this be translated for MGR?</li> </ul>	Morten Walløe Tvedt, Senior Research Fellow, Fridtjof Nansen Institute
11:15 – 11:45	<b>Open floor</b> <ul style="list-style-type: none"> <li>➤ Questions and answers</li> <li>➤ Collecting additional arguments in favor of a global framework</li> </ul>	

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11:45 – 12:15	<b>Presentation III: Broadening the mandate of ISBA</b> <ul style="list-style-type: none"> <li>➤ Existing ISBA mandates not related to mineral resources (marine environmental protection, scientific research)</li> <li>➤ Article 82 UNCLOS as an inspiration for a BS concept for MGR?</li> </ul>	Duncan Currie, Consultant, Pew Environment Group
12:15 – 12:45	<b>Open floor</b> <ul style="list-style-type: none"> <li>➤ Questions and answers</li> <li>➤ Collecting additional arguments in favor of a global framework</li> </ul>	
12:45 – 14:00	<b>LUNCH BREAK</b>	
14:00 – 15:30	<b>Group work: Possible elements of a ‘needs-based’ multilateral benefit-sharing mechanism</b>  Participants split up into 2 groups. Each group will discuss: <ul style="list-style-type: none"> <li>➤ Why do we need a benefit-sharing mechanism?</li> <li>➤ What elements would it need to entail?</li> <li>➤ Potential synergies with other mechanisms and funds</li> <li>➤ What does this mean for a potential UNCLOS implementing agreement?</li> <li>➤ Other key issues to be considered?</li> </ul>	
15:30 – 15:45	<b>COFFEE BREAK</b>	
15:45 – 17:00	<b>Group work: Possible elements of a ‘needs-based’ multilateral benefit-sharing mechanism (continued)</b>	
17:00 – 18:00	<b>Reporting back to plenary</b> <ul style="list-style-type: none"> <li>➤ Groups to present their conclusions</li> </ul>	Rapporteurs of the groups

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19:00	<b>Social event: Departure to Restaurant Rohmühle</b> Dinner with all participants from 19:30 – 22:00	
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Day 3: Way forward – 3 December, 2011		
9:30 – 9:40	<b>Welcome back!</b>	IUCN ELC & BfN
9:40 – 10:15	<b>Australia’s Marine Bioregional Planning</b> <ul style="list-style-type: none"> <li>➤ Experiences from Australia</li> <li>➤ Possible lessons for ABNJ</li> <li>➤ Questions &amp; answers</li> </ul>	Donna Petrachenko, Travis Bover, Department of the Environment, Water, Heritage and the Arts, Australia
10:15 – 11:00	<b>Summary of the group discussions and conclusions</b> <ul style="list-style-type: none"> <li>➤ Where do we stand right now?</li> <li>➤ Do we see common ground?</li> <li>➤ Open discussion</li> </ul>	IUCN ELC & BfN
11:00 – 11:15	<b>COFFEE BREAK</b>	
11:15 – 12:45	<b>Discussion on way forward: What should/could be the next steps?</b> <ul style="list-style-type: none"> <li>➤ How can we further support the process in view of next BBNJ and in view of the formal intersessional workshop(s)</li> <li>➤ What products could be helpful in this context?</li> </ul>	Participants
12:45 – 13:00	<b>Closure of seminar</b>	IUCN ELC & BMU

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13:00 – 14:00	<b>LUNCH BREAK (optional)</b>	
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## **Annex II: Presentation I – Day I**



Need for a global framework

## **Annex III: Presentation II – Day I**



Designation and Management

## **Annex IV: Presentation III – Day I**



Possible options for a global framework

## **Annex V: Presentation I – Day II**



Different options for ABS

## **Annex VI: Presentation II – Day II**



Common pools in aquaculture

## **Annex VII: Presentation III – Day II**



Broadening the mandate of ISA

## **Annex VIII: Presentation I – Day III**

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Australia's marine  
bioregional planning

## **Annex IX: Presentation II – Day III**



Summary of  
discussions on MPAs

## **Annex X: Presentation III – Day III**



Summary of  
discussions on ABS