



Weighing Governance Options to Improve Conservation and Management of Biodiversity Beyond National Jurisdiction

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Overview of the study

Study Case 1:
Status Quo

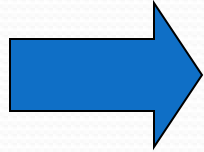
Study Case 2:
Regional Approach

**Improving
Biodiversity
Conservation**

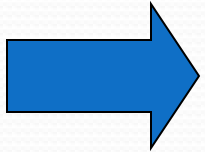
Study Case 3:
**New Implementing
Agreement**

Study Case 4:
UNGA Resolution

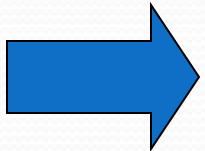
Scoping the Problem



Biodiversity - a key element for sustainable development – is getting depleted at an unprecedented rate

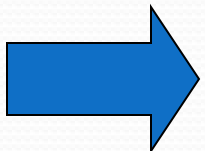


More than 60% of the oceans are Areas Beyond National Jurisdiction (ABNJ)



Activities in the High Seas are regulated by the 1982 Convention on the Law of the Sea (UNCLOS)

- and other agreements and codes of conduct (e.g. CBD, FAO, IMO)



Increasing pressure on biodiversity in ABNJ from human activities due to:

- increased capacity
- poor implementation and enforcement of obligations

Governance Shortcomings

Lack of incentives for sustainable exploitation

Absence of common interpretation of existing obligations

Inconsistent commitment to conservation by States

Lack of compliance and effective enforcement

Sectoral fragmentation

Lack of cooperation and collaboration between sectors

Current framework

- UNCLOS and its implementing agreements
- Regional management bodies
- IMO and FAO Codes of Conduct

The problem with "business as usual"

- Overexploitation favored by:
- Tragedy of the commons
 - Increased capacity
 - Market distortions (e.g. fuel and technology subsidies)

How to improve conservation

- Reduce subsidies
- Support regional frameworks
- Establish regular reporting process
- Soft power initiatives
- Use technological advances

Current framework

- Regional Fisheries Management Organizations: UNFSA (either regional or species specific)
- Regional Seas Conventions under UNEP and other regional bodies

Problems of the current regional approach

- Geographical gaps
- No comprehensive framework for conservation
- Lack of compliance and insufficient capacity for enforcement

How to improve conservation

- Expanding the mandate of regional bodies
- Adopting ecosystem and precautionary approach
- Regular review process
- Strengthening compliance and enforcement

Case Study 3: New Implementing Agreement

**What are
we talking
about?**

An “evolution by integration” (Scovazzi) as it was done with:

- 1994 Agreement on the Implementation of Part XI
- 1995 UN Fish Stocks Agreement

**Controversial
elements**

- Marine Genetic Resources
- Marine Scientific Research
- Marine Protected Areas

**What could
the added
value be?**

- Binding nature of the obligations
- Could define implementation of UNCLOS’ general obligations
- Respond to existing fragmentation of efforts
- Provide for Environmental Impacts Assessment (EIA), adaptation mechanisms, transparency and accountability

What are we talking about?

1. Declaration of Principles of good ocean governance
2. EIAs required for all relevant activities in ABNJ
3. Sector specific resolution for activities in the high seas

Challenges of sector specific resolutions

- Limited impact if support is not unanimous and risk of decisions based on lowest common denominator
- Not effective without political will and true commitment
- No enforcement mechanism
- Risk of fragmentation with sectoral approach

What could the added value be?

- Principles can become customary international law
- Not binding law but recognized value
- Adds clarity to existing obligations

Status Quo

Possible consequences:

- Mitigate over fishing
- Reduction in short term profits

Feasibility

- Dependent on political will and resistance to pressures from interest groups

Costs

- Savings in the cost of subsidies
- Marginal implementation and enforcement costs

Effectiveness

- Insufficient for biodiversity conservation

Regional Agreements

Possible consequences:

- Expansion of the ecosystem approach
- Better member and non-member states compliance
- Enhanced cooperation and information sharing

Feasibility

- Dependent on cooperation and political will

Costs

- Costs of increasing enforcement and reform towards ecosystem approach

Effectiveness

- Insufficient for biodiversity conservation

New Implementing Agreement

Possible consequences:

- Implementation guidelines for UNCLOS
- Framework for unregulated activities
- Possible changes in competences of existing organizations

Feasibility

- Dependent on political will, commitment and investment of States

Costs

- Background studies
- Negotiations and time
- Costs of compliance to new obligations

Effectiveness

- Binding obligation
- Comprehensive

UNGA Resolution

Possible consequences:

- Increased information sharing and transparency
- Possible diversion from implementation

Feasibility

- Dependent on political will of States

Costs

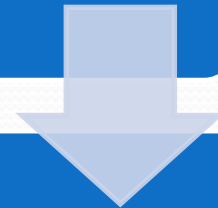
- Negotiations
- Time

Effectiveness

- Soft law

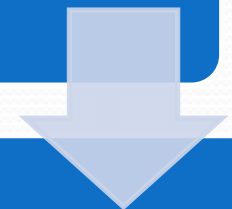
Short-term:

Reduce perverse economic incentives
and continue regional efforts



Mid-term:

Expansion of EIAs, Declaration of
principles, information sharing



Long-term:

New Implementing Agreement

Thank you!



Questions?