

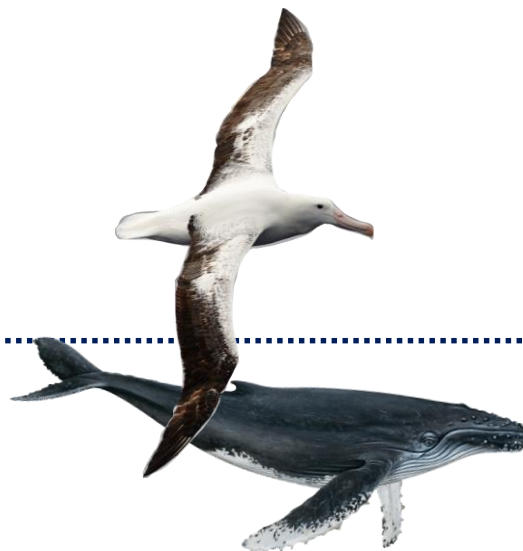
An Introduction to the BBNJ Negotiations

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International Ocean Institute (IOI)

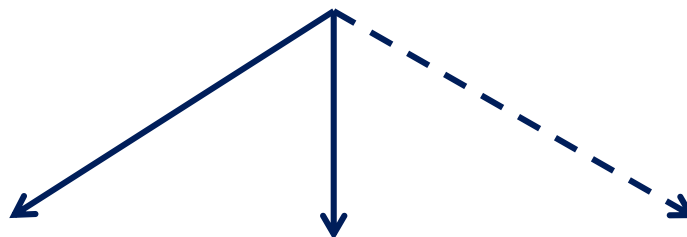
<https://www.youtube.com/watch?v=EPecIRf0SCE>

What are the Negotiations on Biodiversity Beyond National Jurisdiction (BBNJ)?



The Future BBNJ Agreement

**United Nations Convention on the Law of the Seas
(UNCLOS)**



**UN Agreement on the
Implementation of Part XI**

1994

**UN Fish Stocks Agreement
(UNFSA)**

1995

**UN Agreement on Biodiversity
beyond National Jurisdiction
(BBNJ)**

In negotiation

**Informal discussions:
highlights**

Informal discussions



Creation of the BBNJ Working Group in 2004; meetings from 2006

Emergence of key differences in interests of States:

- New treaty vs improved implementation
- Common Heritage of Mankind vs high seas freedoms
- Conservation vs MGRs & capacity building

The 2011 'Package Deal'



1. Marine genetic resources, including questions on the sharing of benefits
2. Measures such as area-based management tools, including marine protected areas
3. Environmental impact assessments
4. Capacity building and the transfer of marine technology.

Rio+20 (2012)



“To address, on an urgent basis, the issue of the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, **including by taking a decision on the development of an international instrument under the Convention on the Law of the Sea before the end of the 69th session of the General Assembly**”



The BBNJ Working Group post-Rio



States to decide by September 2015 whether or not to open negotiations for a new international agreement

3 meetings of the BBNJ Working Group, specifically convened to discuss “the scope, parameters and feasibility of an international instrument under UNCLOS”



BBNJ Working Group meeting, June 2014



- A strong 'coalition of the willing' developing
 - But a number of States impeding consensus
- Progressive involvement of developing states
 - Pacific nations
 - CARICOM
 - African Union
- Inclusion of civil society



- **First session: Unpacking the package**
 - “Breakthrough” on MGRs
- **Sessions 2 & 3: Delving into details**
 - “specific language proposals” -> “treaty language”
 - “parking”
 - streamlined Chair’s non-paper
- **Session 4: Toward formal negotiations**
- **Resolution 72/249**
 - Co-sponsored by 141 States

Negotiations for a new treaty

Timeline

- **2004** – Formation of the BBNJ Working Group
 - ('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')
- **2011** – Agreement of the 'Package Deal'
- **2012** – Rio+20 commitment
- **2014-2015** – Working Group meetings
- **2016-2017** – Preparatory Committee
- **September 2018** – Start of formal negotiations
- **2018-2020** – Intergovernmental Conference (4 x 2-week sessions)

The BBNJ negotiations: Timeline



*UNGA Resolution
69/292*

*UNGA Resolution
72/249*

**BBNJ Working Group
meetings**

**PrepCom
meetings**

IGC 1

IGC 2

IGC 3

**IGC 4
(planned)**

Agreement

2006-2015

2016-2017

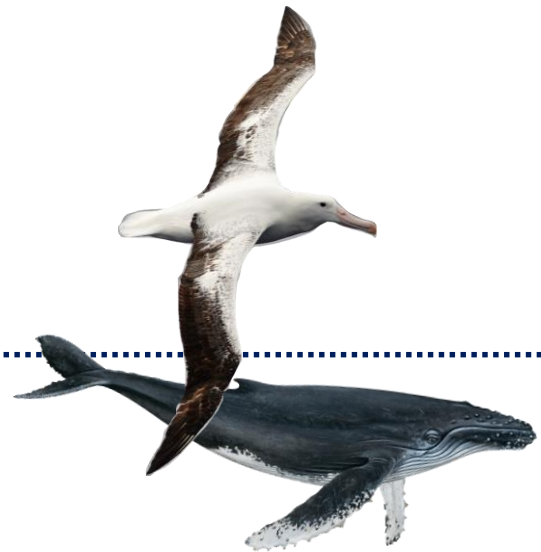
2018

2019

2019

2020

How are the BBNJ Negotiations going?



Intergovernmental Conferences 1 & 2

IGC 1 – September 2018

Plenary discussion of all four package deal elements guided by the *President's Aid to Discussion*



Credit: Photo by IISD/ENB | Francis Dejon

IGC 2 – March/April 2019

Further plenary discussion guided by the *President's Aid to Negotiations*



Credit: Carole Durussel, 2019

IGC 3 – August 2019

> IGC President Lee prepared a draft treaty text for discussion

- https://www.un.org/bbnj/sites/www.un.org.bbnj/files/draft_text_a.conf_.232.2019.6_advanced_unedited_version_corr.pdf

25 June 2019
(corr.)

ADVANCE, UNEDITED VERSION
(ENGLISH ONLY)

*CHECK AGAINST THE OFFICIAL DOCUMENT
TO BE ISSUED AS A/CONF.232/2019/6*

**Draft text of an agreement under the United Nations
Convention on the Law of the Sea on the conservation and
sustainable use of marine biological diversity of areas
beyond national jurisdiction**

Note by the President

Introduction

1. The Intergovernmental Conference on an international legally binding

The BBNJ negotiations: Elements

Marine genetic resources

... or how genetic resources from marine species **can be accessed, used, and their benefits shared** in an equitable and transparent manner

Area-based management tools

... or how to regulate human activities in ABNJ in and around **ecologically important or vulnerable marine areas** in a more integrated manner **using spatial management tools**

Environmental impact assessments

... or how to **evaluate the impact of current and future human activities** on the marine environment and, when activities are deemed to have an impact, **to either cease them or establish strict regulations on how they should be carried out** to reduce and limit the environmental impacts

Capacity building and technology transfer

... or how to **ensure the ability of developing and geographically disadvantaged states to participate** in ABNJ research, commercial use, and management

Negotiations for a new treaty

The 2011 “Package Deal”

1. Marine genetic resources, including questions on the sharing of benefits
2. Measures such as area-based management tools, including marine protected areas
3. Environmental impact assessments
4. Capacity-building and the transfer of marine technology.



I. Marine Genetic Resources (MGRs)

There is some convergence on:

- Need for a benefit-sharing mechanism
- Purposes of benefits
- Need for a general provision on cooperation

Further discussion needed on:

- Application of Freedom of the High Seas, Common Heritage of Mankind or other principle?
- What should be included: access in situ, ex situ, in silico, digital sequencing information for MGRs and derivatives?
- Whether and how to regulate access vs. promoting marine scientific research
- Options related to monetary or non-monetary benefit-sharing?
 - Voluntary or non-voluntary nature of benefit-sharing?
 - Who shares the benefits and with whom?
- Intellectual property rights?
- Options on if and how to monitor MGR utilisation?
- Agreement to address MGRs in the High Seas and The Area, in ABNJ or only in the Area?

II. Area-based management tools (ABMTs), including marine protected areas (MPAs)

There is some convergence on:

- The use of approaches and principles, such as the precautionary approach, the ecosystem approach and the science-based approach
- Need to consider scientific information as well as traditional knowledge
- ABMT proposals are to be submitted by State Parties to the Secretariat
- Need to promote coherence, complementarity, and synergies with other frameworks and bodies
- The future agreement should not prejudice the rights of coastal States

Further discussion needed on:

- Standards and criteria for ABMTs and MPAs
- Whether MPAs should be permanent or temporary
- Modalities for scientific assessments of ABMTs
- Which should be the decision making mechanisms under ABMTs
- Who will be responsible for monitoring and review of ABMTs? Global or regional bodies? Others?

III. Environmental Impact Assessments (EIAs)

There is some convergence on:

- Obligation to conduct EIAs
- The need to not undermine, streamline and avoid duplication with EIA processes under existing instruments, frameworks and bodies

Further discussion needed on:

- Activities requiring an EIA & exemptions
- Modalities for the relationship with relevant global, regional and sectoral bodies
- Whether and how to address cumulative and transboundary impacts
- How would the monitoring, report, review and compliance of EIAs be done and by whom?
- Inclusion of socio-economic and cultural impacts in EIA reports
- Involvement of adjacent coastal States
- Inclusion of Strategic Environmental Assessments (SEAs)

IV. Capacity-building and technology transfer (CB&TT)

IOC-UNESCO International guidelines already exist; the BBNJ agreement should catalyse CB&TT

There is some convergence on:

- The importance of CB&TT
- Including a general obligation on the promotion of cooperation for CB&TT
- CB&TT should be needs-based and country-driven

Further discussion needed on:

- Voluntary or mandatory?
- Categorisation of States and inclusion of preferential treatment?
- Areas in which technology will be transferred (only MGRs or broader?)
- Form of Clearing House mechanism
- Establishment of a funding mechanism

IGC 4 – March 2020

> Will there be inter-sessional progress?

- How to bridge **fundamentally different views**?
- Can **parallel meetings and small, informal group meetings** further progress?
- Will the conference be concluded **within the deadline**?
- How can **small delegations** participate in such a format?

State positions to date

State positions to date



- **Advocates**

Advancing the negotiations for a new instrument

- EU; G77/China and Mexico; African, Caribbean, Pacific States

- **Facilitators**

Seeking the middle ground and mediating compromise

- Australia & New Zealand; Canada; Norway

- **Reluctant** to negotiate a new agreement

Active and influential participants

- US; Japan; Iceland; South Korea; Russia

Key issues

Key issues – Package Deal elements



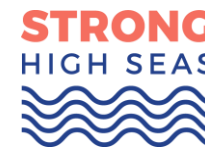
MGRs

- Legal status
- The complexity of biodiscovery
- The form of benefit sharing

Capacity building

- Coordinating and catalysing capacity building efforts
- Voluntary or compulsory
- Modalities for sharing of data and technology

Key issues – Package Deal elements



ABMTs

- Establishing an effective mechanism
- Types, objectives and duration
- Relationship with existing instruments and bodies

EIA

- The scope of an EIA process
- Responsibility for assessments
- The effect of an EIA

Key issues - overarching elements



- Institutional structure
- Monitoring and review
- "Not undermining"
- Fisheries
- Monitoring, control and surveillance (MCS)
- Adjacency and compatibility
- Funding

IDDRI

STUDY

N°08/18 AUGUST 2018

The long and winding road: negotiating a treaty for the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction

Glen Wright, Julien Rochette (IDDRI), Kristina Gjerde (IUCN),
Isabel Seeger (IDDRI)

Forewords by Laurence Tubiana and Eden Charles

Report available to download here: <http://bit.ly/2LQR2B6>

A new treaty

What role for regional organisations & initiatives?

- Opportunity to advance management at the regional level before conclusion of negotiations
- Development of scientific knowledge
- Regional coordination of positions
- Preparing for role in new treaty

The DOALOS Voluntary Trust Fund

- - - - -

Possibility to obtain funding for representatives from developing countries, especially from LDCs, LLDCs and SIDSs

- For more information: <https://www.un.org/bbnj/content/trustfundbbnj>

Application should to be sent by Governments through their Permanent Missions to the UN

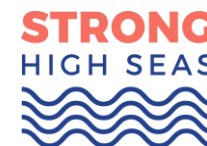
- By email to: doalos@un.org
- Delivered to:

Office of Legal Affairs, Division for Ocean Affairs and the Law of the Sea
United Nations Headquarters;
Room No. DC2-0450
New York, NY 10017

Thank you!



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African Region



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ABIDJAN CONVENTION
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