Towards a new international instrument on the conservation and sustainable use of marine biodiversity in ABNJ

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71% of Earth is covered by ocean

64% of the ocean is considered the high seas/international waters

The high seas cover 45% of the Earth's surface
Timeline

- **2006** – Formation of the BBNJ Working Group
- **2011** – Agreement of the ‘Package Deal’
- **2012** – Rio+20 commitment
- **2014** (April & June) – BBNJ meetings
- **2015**
  - Final (?) BBNJ meeting - January
  - UNGA – August/September
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.
A strong ‘coalition of the willing’ developing

Progressive involvement of developing states
  - Pacific nations
  - CARICOM
  - African Union

Inclusion of civil society

Lots of World Cup banter
BBNJ meeting June 2014

• But, a number of States impeding consensus

![Flags of the United States, Canada, Russia, Japan, and Iceland]
(Limited) points of agreement

- Maintain Rio+20 deadline
- Primacy of UNCLOS
- Package Deal

- Suspension of the ‘common heritage’ vs freedom debate

- Respect the mandates of existing organisations
Overarching issues

- Legal gaps vs. implementation gaps/broader vision
- Respect the mandates of existing organisations - what does this mean in practice?
  - Fisheries
- International vs. Regional
- Institutional structure
Key questions relating to package deal issues

• Institutional structure
• Compliance mechanism
• Mechanisms for implementation
  • E.g. MPAs and technology transfer
• The role of existing sectoral and regional organisations (in all aspects of implementation)
• Standards and scientific input for EIAs, MPAs
Example: designation of MPAs in ABNJ

<table>
<thead>
<tr>
<th>Scientific basis</th>
<th>Proponent</th>
<th>Review</th>
</tr>
</thead>
</table>
| **Track 1**: existing international and regional criteria, e.g. VME, OSPAR / Mediterranean / IMO, ISA etc. (EBSA?) | States  
International and regional organisations  
NGOs / Scientific organisations (to go forward to be « sponsored » by state party) | Scientific/technical committee established under the new agreement?  
Use of existing institutions? |
| **Track 2**: other scientific basis (including EBSAs?) | Questions:  
- How many States? (one or more)  
- Who would be entitled to propose areas (see Med Sea “neighboring states”;) | |

States  
International and regional organisations  
NGOs / Scientific organisations (to go forward to be « sponsored » by state party)
## Example: designation of MPAs in ABNJ

<table>
<thead>
<tr>
<th>Designation</th>
<th>Adoption of management measures</th>
<th>Implementation</th>
<th>Review/oversight</th>
</tr>
</thead>
<tbody>
<tr>
<td>UNCLOS IA COP</td>
<td>Cooperation and coordination between competent organisations in drafting management plan</td>
<td>States</td>
<td>Review mechanism</td>
</tr>
<tr>
<td>Sectoral measures</td>
<td>Either through agreed mechanism, or ‘informally’, as at present</td>
<td>Relevant regional/sectoral organisations</td>
<td>Established under COP</td>
</tr>
<tr>
<td>Other international organisation(s)</td>
<td>Elaboration by Scientific Committee/regional sub-committees</td>
<td>Flag states individually and through competent authorities</td>
<td>Review process also within competent authorities</td>
</tr>
<tr>
<td>Consensus vs. majority voting (MARPOL approach - 2/3)</td>
<td>Obligation of parties to work through the competent organisations (IMO etc.)</td>
<td>Port states compliance</td>
<td>Two types: A) relevance; B) implementation</td>
</tr>
<tr>
<td>Designation at the same time with management measures or in two steps (designation through an IA COP and management measure taken at the regional/sectoral level). (CBD legally possible but politically not feasible?)</td>
<td>Regional Organisations as “broker” In areas without regional programmes establish new bodies (question: how to identify boundaries)</td>
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</tbody>
</table>


Interim regional approaches

- North Atlantic: OSPAR/NEAFC
- Antarctic: ATS/CCAMLR
- Sargasso Sea Commission
Next steps

- BBNJ chairs to write a ‘Convergence Report’
- States to make further submissions
- BBNJ meeting in January
- Consensus? Further meeting(s)?
- Negotiations could commence in 2016?
Some concluding thoughts

- A feeling of urgency cf. a long and complex governance process

- A unique opportunity?

- Fragmentation of global governance: new instrument necessary but must utilise existing tools

- Can improve coherence, cooperation and coordination

- Implementation? Compliance?
Further reading...