

POLICY BRIEF

Advancing Governance of the High Seas

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1. OUR GLOBAL OCEAN NEEDS BETTER GOVERNANCE

In marine areas beyond national jurisdiction (ABNJ)—the high seas and the deep seabed located beyond the limits of States' continental shelves covering almost two-thirds of the global ocean—biodiversity is at significant risk. Threats to biodiversity include the intensification and expansion of human activities into previously inaccessible locations as well as the growing impacts of climate change and ocean acidification. In light of this worrying situation, world leaders at the Rio+ Earth Summit committed themselves to better conservation and sustainable use of marine biological diversity in ABNJ.

To discuss concrete proposals on how to advance the governance of marine biodiversity in ABNJ the Institute for Advanced Sustainability Studies (IASS) and the Institute for Sustainable Development and International Relations (IDDRI) brought together more than leading experts in the workshop "Oceans in the Anthropocene: Advancing governance of the high seas" held on 1-3 March 2015 in Potsdam, Germany. The following key messages emerged from these discussions and are further elaborated in this Policy Brief:

Recommendation 1: Start negotiating an international instrument under the United Nations Convention on the Law of the Sea (UNCLOS) as soon as possible. This new international instrument is, however, not an "either/or" with the use and reinforcement of existing instruments.

Recommendation 2: At the same time, strengthen existing regional and sectoral organisations by creating mechanisms for coordinated action.

Recommendation 3: Establish overarching principles of ocean governance, either as a chapeau to the new legal instrument or as a declaration of the United Nations General Assembly (UNGA).

This article is based on research that has received a financial support from the French government in the framework of the program « Investissements d'avenir », managed by ANR (French national agency for research) under reference ANR-10-LABX-14-01.

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* This paper reflects the views of the authors and is not necessarily intended to reflect the views of workshop participants or their respective institutions.

† The workshop was supported by the Federal Ministry of Education and Research of Germany and the State of Brandenburg.

2. A NEW LEGAL INSTRUMENT UNDER UNCLOS

to “promote the peaceful uses of the seas and oceans, the equitable and efficient utilisation of their resources, the conservation of their living resources, and the study, protection and preservation of the marine environment”.

2.1. A Priority for International Action

Marine biodiversity in ABNJ will be at the heart of international discussions for the next two years, as States have agreed to address the issue of its conservation and sustainable use before the end of the 75th session of the UNGA, including by taking a decision on the development of an international instrument under the Convention on the Law of the Sea – referred to as the “Implementing Agreement”. These discussions will take place within the framework of the UNGA Ad Hoc Open-ended Informal Working Group (also known as the “BBNJ Working Group”) established to study issues relating to the conservation and sustainable use of marine biological diversity in areas beyond the limits of national jurisdiction. As agreed at the session of the BBNJ Working Group, this process should address, 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” often referred to as the “package deal”.

2.2. The Rationale for an UNCLOS Implementing Agreement

A new UNCLOS Implementing Agreement is needed to **implement and update the environmental protection and conservation provisions of UNCLOS** in order to address new threats and intensifying uses which are undermining the health, productivity and resilience of the oceans in general and marine biodiversity beyond national jurisdiction, in particular. To ensure implementation of an integrated ecosystem approach to ABNJ, there is a need to put in place a framework with the proper authority to coordinate all instruments and organisations with respect to conservation and sustainable use of marine biodiversity in the water column and seabed beyond areas of national jurisdiction. The Implementing Agreement would provide an important opportunity to **enhance global cooperation and build capacity** in order to achieve the aspirations contained in the preamble of UNCLOS

- 1. Doc. A/RES/75/11, “The Future We Want”.
- 2. Doc. A/75/1, Letter dated 1 June 2020 from the Co-chairs of the Ad Hoc Open-ended Informal Working Group to the President of the General Assembly, § 1.(b).

tools, the meeting of the BBNJ Working Group on - August , and the consultations on the draft UNGA resolution on Oceans and the Law of the Sea in October and November . As scientists and civil society have an important role to play by generating knowledge and engaging the public on these issues, it will also be essential **to ensure this process is transparent and accessible.**

In order to bring on board a majority of States, it will be necessary for States proponents of the Implementing Agreement to **present a brief and simple negotiating mandate to the UNGA based on the elements of the “package deal” agreed by the BBNJ Working Group in** and, in the process, demonstrate that a large amount of the preparatory work for potential negotiations has already been carried out. Elements of the

. The decision to open the negotiations for the conclusion of an UNCLOS Implementing Agreement would be adopted through a UNGA resolution, either stemming from the recommendations of the BBNJ Working Group or presented by some co-sponsoring States.

weighing different conservation and use priorities against an overarching ethical framework and resolving conflicts, particularly between treaties. At the same time, principles provide an important integrative function between existing treaties

