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Advancing Governance of the High Seas

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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+20 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 40 leading experts in the workshop “Oceans in the Anthropocene: Advancing governance of the high seas” held on 20-21 March 2013 in Potsdam, Germany¹. The following key messages emerged from these discussions and are further elaborated in this Policy Brief:

- **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.
- **2.** At the same time, strengthen existing regional and

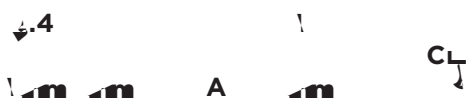
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Marine biodiversity in ABNJ will be at the heart of international discussions for the next two years, as States have agreed to address the issue of its conservation and sustainable use before the end of the 69th session of the UNGA, “including by taking a decision on the development of an international instrument under the Convention on the Law of the Sea”² – 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 2011 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”³.

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A new UNCLOS Implementing Agreement is needed

parency and science-based decision-making. At the same time, it will be essential to increase the efficient use of existing institutions and resources and better articulate the relationships between institutions at the global, regional and sectoral levels. This will consequently provide an overview at the global level and support consistency and integration between the various instruments.



In the coming weeks and months it will be necessary to build strong support among States in order to open negotiations on the Implementing Agreement by the end of 2014. Given the need for urgent action, negotiations should be launched as soon as possible



A large number of institutions and agreements are currently mandated to regulate sectoral issues in ABNJ, including shipping (the International Maritime Organisation – IMO), fishing (the global network of regional fisheries management organisations – RFMOs) and mining (the International Seabed Authority). However, transparency, accountability, and compliance reporting mechanisms are often weak in sectoral agreements. Moreover, issues pertaining to the conservation and sustainable use of marine biodiversity are not systematically integrated in these arrangements. The agreements concerning conservation of biodiversity, on the other hand, have little regulatory authority and generally rely upon voluntary measures (e.g. the Convention on Biological Diversity (CBD) or the Convention on Migratory Species (CMS)).



Existing institutions and treaty bodies rarely pool their expertise and resources to tackle issues involving more than one sector, region or activity; for example, regarding cumulative impact assessments or multi-purpose MPAs. There are further gaps between the external researcher communities producing ecologically-oriented scientific knowledge and the sectoral bodies' internal information-collecting processes concerning human pressures on the marine environment. This disconnect makes it difficult to prioritise future scientific research that could inform emerging management needs. It also impedes

a science-based approach to management, which systematically interferes with the realisation of a precautionary or ecosystem approach to the marine environment. Scientific knowledge of ABNJ has increased significantly in recent years. Despite existing initiatives such as the Regular Process for Global Reporting and Assessment of the State of the Marine Environment, including Socio-economic Aspects, which also endeavours to establish associated databases, there is currently no global database for the monitoring of human activities in ABNJ, and there is an urgent need for information-sharing mechanisms regarding the three largest industrial activities: fisheries, shipping, and deep-sea mining exploration and future exploitation. Many fish stocks remain unassessed and detailed fishing data are rarely shared outside of fisheries bodies.



Some improvements have been made through the identification of vulnerable marine ecosystems (VMEs). Global concern regarding ecological harm to

The CBD plays the most active role in providing scientific and technical advice to States and competent authorities concerning ABNJ, but is removed from direct management action. Since being mandated by the 10th Conference of Parties (COP) in 2010⁶, the CBD secretariat has organised regional workshops of State parties to describe ecologically or biologically



However, most regional seas bodies still focus on areas within national jurisdiction¹¹



Effective conservation and sustainable use of biodiversity in ABNJ requires the adoption of a legal instrument under UNCLOS referred to as an “Implementing Agreement”. This instrument, complementing and enhancing existing sectoral and regional instruments, would likely address the following issues: marine genetic resources (including benefit sharing), area-based management tools (including marine protected areas), environmental impact assessments,



The international community has already agreed to

