

Briefing on Outcomes of the 5th Intergovernmental Conference on the Conservation and Sustainable Use of Marine Biodiversity of Areas Beyond National Jurisdiction (BBNJ)

UN New York
20 February – 4 March, 2023

Historic New Agreement for Biodiversity in the High Seas

What is ABNJ / BBNJ and why was a new instrument needed?

- **Areas Beyond National Jurisdiction (ABNJ)** are those areas of ocean for which no one nation has sole responsibility for management.
- **Biodiversity Beyond National Jurisdiction** refers to the marine biodiversity found in these areas.
- **Legal instrument under the UN Convention on Law of the Seas (UNCLOS)** to provide an integrated framework for addressing *new and emerging* conservation issues and manage *new* sustainable uses of biodiversity in the high seas that did not exist when UNCLOS was first adopted in 1982.

Historic New Agreement for Biodiversity in the High Seas

What does it do (or not do)?

- **Establish new processes** (legal framework, governance structures, decision-making protocols, dispute resolution etc) for protecting the marine environment, strengthening capacity building and technology transfer, and ensuring fair and equitable transfer of benefits to all Parties.
- It will “**not undermine**” any existing instruments, frameworks and bodies (IFBs) but rather, it aims to promote cooperation and coordination among them.
- **More to come!** Implementing arrangement details to be decided at the first CoP.



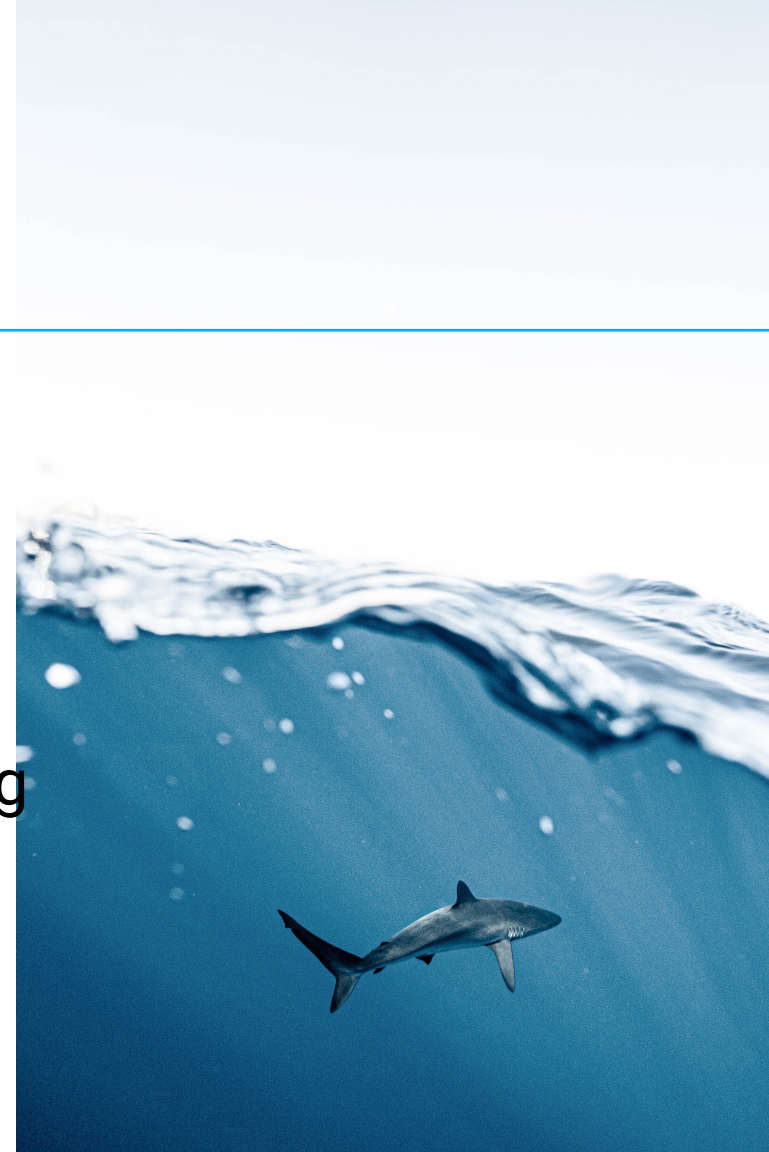
“Sticky” Issues: Process and Political

Why the hold up?

- “Sticky” Issues ranged from differences in views on benefit-sharing arrangements, decision-making provisions, relationship with other international bodies and frameworks (IFBs), the role of potential bodies to be established under the agreement, as well as general overarching provisions.
- Political interests and positions differed vastly across the house between UNCLOS and non-UNCLOS parties, developed vs developing States, States with activities in ABNJ vs States without.

“Sticky” Issues: Process and Political cont.

- Regional issues surfaced alongside differences on principled issues such as application of “Common Heritage” vs. “Freedom of the High Seas.”
- Some Members wanted to push detailed decision-making on governance and institutional mechanisms to the first Conference of the Parties, others wanted to safeguard or ‘foolproof’ the treaty text in advance.



Marine Genetic Resources & Access to Equitable Benefit-Sharing

- **Issue:** Differing views on fair and equitable sharing of benefits arising from activities related to extraction of marine genetic resources (MGRs) and the use of digital sequence information (DSI) in areas beyond national jurisdiction.
- **Outcome:** Compromise achieved with an up-front payment mechanism into a “Special Fund” to support treaty implementation and increase capacity of developing countries for access to and benefits from MGRs and DSI, including methods to develop and transfer marine technology.

Area-Based Management Tools, including Marine Protected Areas

Another area of debate was in the definition and application of area-based management tools (ABMTs). Many members stressed that MPAs are for conservation and the “other” ABMTs are for conservation and sustainable use. In the end, delegates agreed on these ABMT objectives:

1. To conserve and sustainably use areas requiring protection...
2. To strengthen cooperation and coordination in the use of ABMTs...
3. To protect, preserve, restore and maintain biodiversity and ecosystems...
4. To support food security and other socio-economic objectives, including the protection of cultural values.

Environmental Assessments

- **Environmental Impact Assessment (EIA):** After MUCH debate and discussion, strengthened EIA provisions were ultimately secured which will require stakeholder consultation and involvement of a new Scientific Technical Body under the BBNJ Agreement.
- **Strategic Environmental Assessments (SEA):** An optional tool available to Parties to assess scientific knowledge and to understand the potential impacts of future developments utilizing best available science when consensus cannot be reached on EIA.

Key Institutional and Governance Arrangements

- **Conference of Parties (CoP-1):** To be convened by the UN Secretary-General no later than one year after the entry into force, open to observers, meeting at regular intervals and guided by a Scientific and Technical Body.
- **Secretariat:** UN DOALOS shall perform interim secretariat functions until the official secretariat commences. (Both Chile and Belgium have expressed interest in hosting.)
- **A Clearing House Mechanism** will be established consisting primarily of an open-access platform to exchange critical information with modalities to be determined by the COP.
- **Financial Arrangements:** 1) voluntary trust fund, 2) a special fund, and 3) the GEF Trust Fund.

Next Steps: Final Adoption of the Agreement Text

- The 5th session (IGC5.3) is tentatively scheduled to be resumed (and concluded) on June 19-20, 2023, at the UN in New York.
- Delegates will have a chance to review and formalize adoption of the final agreement text following legal technical review and translation into the 6 UN languages. (No further substantive discussions are to take place.)
- The new Agreement will enter into force 120 days after the date of deposit of the 60th instrument of ratification, approval, acceptance or accession. (Note: UNCLOS took 12 years to be ratified. Let's hope BBNJ is swifter.)

Key Actions for Possible Consideration by the CPR

- 1) Encourage Member delegations to **swiftly review and adopt** the final negotiated text which will come out at the final resumed session of IGC-5 (IGC-5.3).
- 2) Consider **monetary investments** to support implementation.
- 3) Recognize UNEP's catalytic role in implementing the BBNJ agreement in concert with **the Medium-Term Strategy (Para 71)** and as a global authority in ocean governance, MPA design and management.
- 4) Encourage close alignment with existing global and regional platforms including multilateral agreements like the Regional Seas Conventions and deliver toward the **2030 Sustainable Development Goals** (Goal 14) and the **Kunming-Montreal Global Biodiversity Framework** (30x30).

UNEP Engagement in Implementation of BBNJ Agreement

Ideas Under Discussion/Exploration

- Enhance legal and institutional support for member countries ready to develop implementing legislation
- Explore innovative financing mechanisms.
- Explore funding options via GEF-International Waters portfolio for Areas Beyond National Jurisdiction (\$34M available in GEF 8 Replenishment Fund)
- Multilateral agreements including Regional Seas Conventions could offer capacity building expertise for management of transboundary marine biodiversity
- Activate UNEP's access to collaborating centers, and partner with NGOs, academia and the scientific community
- Enhance synergy with multilateral environmental agreements.

Thank you! Questions?

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