

UN STEPS TOWARDS AN IMPLEMENTING AGREEMENT

- 2002** **ICP** (United Nations Open-ended Informal Consultative Process) holds discussions on the protection and preservation of the marine environment, and reports that specific and urgent action is needed on taking further steps to conserve marine biodiversity at all levels.ⁱ
- 2003** **UNGA** invites global and regional bodies to investigate urgently how to address the threats and risks to vulnerable and threatened marine ecosystems and biodiversity in ABNJ.ⁱⁱ
- 2004** **UNGA** establishes an Ad hoc informal working group, known as the **BBNJ** to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdictionⁱⁱⁱ and recognizes the importance of making the outcomes of the Working Group widely available.
- 2004** **CBD** (Convention on Biological Diversity) COP7 highlights the urgent need for international cooperation and action to improve conservation and sustainable use of biodiversity in ABNJ, including through the establishment of further MPAs, and recommends necessary term measures to eliminate and avoid destructive practices.
- 2005** **CBD** Working Group on Protected Areas discusses options for cooperation in the establishment of marine protected areas in ABNJ.
- 2006** **BBNJ** meets for the first time^{iv} and finds that:
- (1) the [UNGA] has a central role in addressing issues relating to the conservation and sustainable use of marine biological diversity in ABNJ;
 - (2) [UNCLOS] sets out the legal framework within which all activities in the oceans and seas must be carried out;
 - (3) conservation and sustainable use of marine biological diversity in ABNJ should be based on the precautionary and ecosystem approaches using the best available science, and prior environmental impact assessments;
 - (4) area based management tools such as marine protected areas are required;
 - (5) access to and sharing of benefits of genetic resources requires further discussion.^v
- EU urges action on implementation and governance gaps^{vi} and the support for an implementing agreement becomes their formal position^{vii}.
- 2006** **UNGA** passes Resolution 61/105 on bottom fishing^{viii} which addresses the impacts of bottom fishing on vulnerable marine ecosystems (VMEs) in ABNJ, requiring prior EIAs, closure of VMEs and measures to protect VMEs from significant adverse effects.

- 2006** Expert Workshop set up by **CBD** to develop scientific criteria for the identification of ecologically and biologically significant areas (EBSAs) in need of protection.^{ix}
- 2008** **BBNJ**^x identifies urgent need to address the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction.^{xi} A regime within the framework of UNCLOS in relation to marine genetic resources in ABNJ and need for implementing agreement is further debated.
- 2008** **CBD COP9** agrees on set of criteria for the identification of EBSAs^{xii}
- 2010** **BBNJ** calls upon States to make progress on the legal regime and implementation gaps on conservation and sustainable use of marine genetic resources in ABNJ, and recognizes the importance of area based management tools and EIAs.
- 2010** **CBD COP10** agrees a 10 year Strategic Plan and 20 new targets (the “Aichi Targets”) to save life on Earth, including to conserve 10% of coastal and marine areas through systems of protected areas by 2020. COP10 launches a series of regional workshops to describe EBSAs. It also recognizes that progress in establishing MPAs in ABNJ has been slow and that there is an “absence of a global process for designation of such areas” and identified the need for the UNGA, and in particular the BBNJ to expedite its work.^{xiii}
- 2011** **BBNJ** breakthrough as a process is agreed and an agreement under UNCLOS is on the table.
- The working group^{xiv} agrees that a process be initiated by the UNGA with a view to ensuring that the legal framework for the conservation and sustainable use of marine biodiversity in ABNJ effectively addresses those issues by identifying gaps and ways forward, including through the implementation of existing instruments and the possible development of a multilateral agreement under UNCLOS.
- The package:*** Agreement that the new process will address the conservation and sustainable use of marine biodiversity in ABNJ, in particular, 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 EIAs), capacity-building and the transfer of marine technology.
- The workshops:*** Two intersessional workshops to be held, aimed at improving the understanding of the issues and clarifying key questions as an input to the work of the Working Group.
- 2011** **G77 Ministerial Statement**^{xv} calls for the need to develop a legal regime for biodiversity beyond national jurisdiction in the form of an implementing agreement to UNCLOS.
- 2012** **RIO+20 UNCSD** conference^{xvi} and its outcome document “The Future We Want” provides new momentum^{xvii} for an implementing agreement and an agreed decision by September 2015 at the latest. In anticipation of the issue

being discussed at Rio+20, the BBNJ working group only agrees to Terms of Reference for the BBNJ intersessional workshops.^{xviii}

- 2012** **G77 Ministerial Statement**^{xix} calls again for an implementing agreement to UNCLOS to be developed and negotiated as a package encompassing the conservation and sustainable use of marine biodiversity of ABNJ, including genetic resources, the sharing of benefits taking into account intellectual property rights, scientific research, capacity building and the transfer of marine technology.
- 2012** **IUCN Congress**^{xx} 1000+ members adopt a resolution calling for the negotiation of a new legal instrument for the conservation and sustainable use of marine biodiversity in ABNJ.
- 2012** **CBD COP11**^{xxi} agrees to include the summary reports from the first two workshops on the description of areas that meet the criteria for EBSAs in the repository and to submit them to the BBNJ, as well as to submit them to Parties, other Governments and relevant international organizations. Authorizes a further series of regional workshops.
- 2013** **BBNJ** convenes two intersessional workshops to improve understanding of key issues such as marine protected areas and marine genetic resources and agrees to launch a process to elaborate the scope, parameters and feasibility of a new international instrument on marine biodiversity beyond national jurisdiction. Several HSA members invited to speak as panelists.
- 2013** **CBD EBSA** workshops and processes convened in multiple regions, covering more than 75% of the global ocean and describing more than 200 EBSAs, 47 straddle or are beyond national jurisdiction.
- 2014** **BBNJ** holds two meetings on the Scope, Parameters and Feasibility of a new international agreement.^{xxii}
- 2014** **IUCN Congress** participants adopt the Promise of Sydney which calls on States and others to “take steps to protect and manage biodiversity in the high seas, including the seabed, by developing, adopting and bringing into force an international instrument under the UN Convention on the Law of the Sea . . .”^{xxiii}
- 2014** **CBD COP12** welcomes the reports of seven regional EBSA workshops.
- 2015** **BBNJ** holds the last of three intersessional meeting and recommends that the UNGA^{xxiv}:
- decides to **develop a legally-binding instrument** under UNCLOS on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, and
 - **establish a preparatory committee** to take place in 2016-17;

UNGA Resolution adopting recommendations of the BBNJ expected to take place by June 2015. Additional modalities of number and length of PrepCom meetings to be established within resolution.

2016 A **PrepCom** is held with positive statements in support of IA.

2017 PrepCom

2017 July, **PrepCom** concludes with a recommendation to the UN to convene an **intergovernmental conference**.

ⁱ A/57/80, Report on the work of the United Nations Open-ended Informal Consultative Process established by the General Assembly in its resolution 54/33 in order to facilitate the annual review by the Assembly of developments in ocean affairs at its third meeting Letter dated 20 May 2002 from the Co-Chairpersons of the Consultative Process addressed to the President of the General Assembly (7 July 2002), At http://www.un.org/Depts/los/consultative_process/consultative_process.htm

ⁱⁱ Resolution 58/240, Oceans and Law of the Sea (2004), at <http://www.un.org/depts/dhl/resguide/r58.htm>.

ⁱⁱⁱ The United Nations General Assembly established the 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, in General Assembly resolution 59/24 (17 November 2004), paragraph 73.

^{iv} A/61/65, Report on the work of the United Nations 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: Letter from the Co-Chairpersons of the Working Group addressed to the President of the General Assembly. Annex I, Summary of trends prepared by the Co-Chairpersons ("Summary of Trends"). February 2006. At <http://www.un.org/depts/los/biodiversityworkinggroup/biodiversityworkinggroup.htm>.

^v Summary of Trends, paragraphs 2-5.

^{vi} Statement on behalf of the European Union, 15 February 2006.

^{vii} For the most recent statement from the EU Council see: http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/envir/130787.pdf.

^{viii} A/RES/61/105 - Sustainable fisheries, At http://www.un.org/Depts/los/general_assembly/general_assembly_resolutions.htm.

^{ix} CBD COP 8 Decision VIII/24 Protected areas (2006), at <https://www.cbd.int/decision/cop/?id=11038>.

^x A/63/79, Letter dated 15 May 2008 from the Co-Chairpersons of the 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 addressed to the President of the General Assembly. Annex, Joint statement of the Co-Chairpersons of the 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 ("2008 Report"). At <http://www.un.org/depts/los/biodiversityworkinggroup/biodiversityworkinggroup.htm>.

^{xi} 2008 Report; para 6.

^{xii} CBD Decision Decision IX/20 Marine and coastal biodiversity (2008), at <https://www.cbd.int/decision/cop/?id=11663>

^{xiii} CBD Decision X/29. Para13(c). At <http://www.cbd.int/decisions/cop/?m=cop-10>.

^{xiv} A/66/119, Letter dated 30 June 2011 from the Co-Chairs of the Ad Hoc Open-ended Informal Working Group to the President of the General Assembly . At <http://www.un.org/depts/los/biodiversityworkinggroup/biodiversityworkinggroup.htm>.

^{xv} <http://www.g77.org/doc/Declaration2011.htm>

^{xvi} **Rio+20: Rio outcome “The Future we want” (para 162) states:** “before the end of the 69th Session of the United Nations General Assembly we commit 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 UNCLOS.” A strong group of like-minded governments supported the launch of negotiations for an implementing agreement but opposition led by the United States, prevented consensus on this.

^{xvii} The need to address the governance gaps regarding biodiversity beyond national jurisdiction through a global agreement was again reinforced at the closing speeches of heads of States and Ministers.

^{xviii} <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N12/372/82/PDF/N1237282.pdf?OpenElement>

^{xix} <http://www.g77.org/doc/Declaration2012.htm>

^{xx} <http://www.iucnworldconservationcongress.org/>

^{xxi} CBD Decision XI/17. Marine and coastal biodiversity: Ecologically or biologically significant marine areas. Para 6.

^{xxii} These meetings were held 1-4 April and 16-19 June, 2014.

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<http://worldparkscongress.org/drupal/sites/default/files/documents/docs/For%20Translation%20FINAL%20Marine%20Theme%20Innovative%20Approaches%2022%20Oct.pdf>

^{xxiv} The final intersessional meeting was held 20-23 January, 2015 at UN headquarters with the following outcome: http://www.un.org/depts/los/biodiversityworkinggroup/documents/ahwg-9_report.pdf