

Workshop summary

Capacity Building Workshop for the BBNJ Negotiations

3 September 2018

307 West 38th Street Studio 1418, 10018 New York, NY, USA



Background

This capacity building workshop was the first of two workshops organised by the STRONG High Seas project alongside the negotiations on an international legally binding instrument under the United Nations Convention on the Law of the Sea (UNCLOS) on the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction (BBNJ). It brought together ministry representatives and UN negotiators from the Southeast Pacific and Southeast Atlantic regions and provided an in-depth focus on the BBNJ negotiations as well as the relevance of regional ocean governance to delivering an international BBNJ instrument.

The capacity building workshop was one of the three components of the first *BBNJ Training for UN Negotiations*. The training also offered daily debriefing meetings during the first week to discuss the ongoing debates, as well as a *High-Level Expert Meeting* on 8th of September, which gathered different stakeholders attending the BBNJ negotiations to consider key issues regarding the role of regional ocean governance in areas beyond national jurisdiction.

Workshop summary

On the 3rd of September 2018 the STRONG High Seas Project hosted a capacity building workshop in New York. It brought together 21 ministry representatives and UN negotiators from the Southeast Pacific and Southeast Atlantic regions, as well as representatives of scientific institutions and NGOs. The workshop had the objectives to:

- Provide a background on the BBNJ negotiations in terms of what they entail and what can be expected;
- Contribute to a better understanding of the BBNJ negotiations in terms of the opportunities and challenges of the negotiations of an international instrument on BBNJ for the Southeast Pacific and Southeast Atlantic regions;
- Highlight the importance, opportunities and challenges of regional ocean governance approaches for the implementation of a future BBNJ agreement under UNCLOS;
- Provide a networking opportunity for participants from different regions and countries and ensure mutual learning.

The morning began with warm words of welcome on behalf of the STRONG High Seas Project and the Secretariats of the CPPS and Abidjan Convention, delivered by **Nicola Breier**, BMU; **Sebastian Unger**; and **Méntor Villagómez**, CPPS. Afterwards, **Kristina Gjerde**, IUCN, gave an overview of the training and led a round of introductions. Just a day before the commencement of the official BBNJ negotiations, the training offered an opportunity to the participants to get to know each other and speak in an informal setting about the challenges and opportunities ahead.

Glen Wright, IDDRI, gave the first presentation of the workshop, in which he laid out the current state of play of the negotiations and traced the process to date. Starting in 2004, the BBNJ Working Group met repeatedly to explore States' positions. Key differences, which are likely to feature prominently during the upcoming official negotiations, began to emerge in this time. Nonetheless, in 2011 States agreed upon the so-called package deal, specifying the four elements upon which eventual negotiations could concentrate. It wasn't until 2015, however, that it was decided to open negotiations for a new international agreement. A preparatory committee was established by UNGA Resolution 69/292 in 2016, and in September 2018 formal negotiations started. The presentation also outlined States' position to date: The EU; the G77/China and Mexico; as well as African, Caribbean, Pacific States are strong

advocates of a new agreement. Australia and New Zealand; Canada; and Norway are seeking to find compromises, whereas the US; Japan; Iceland; South Korea; and Russia hold a reluctant stance towards the negotiations. It remains to be seen how to reconcile these different general attitudes, as well as a wide variety of stances on the key issues under discussions, in the upcoming negotiations.

Afterwards, **Charlotte Salpin**, DOALOS, offered a more general input on the legal framework for Areas Beyond National Jurisdiction (ABNJ) and the UN General Assembly (UNGA), as well as on the concrete steps ahead. Currently the ABNJ are subject to a fragmented legal and governance framework, consisting of various regional and sectoral conventions. She then elaborated upon the work of the Preparatory Committee (PrepComm), which prepared a draft text containing both elements of convergence as well as the main issues on which there is divergence of views. Upon recommendation from the PrepComm, the UNGA Resolution 72/249, convened an intergovernmental conference, under the auspices of the UN. This conference should be fully consistent with the provisions of UNCLOS and the process and its result should not undermine existing relevant legal instruments and frameworks and relevant global, regional and sectoral bodies. She then presented the provisional agenda and programme of work for the first round of negotiations, and lastly introduced the *President's aid to discussions*, which will guide the negotiation process.

In the last presentation of the morning, **Kristina Gjerde**, IUCN, spoke about the relevance of regional and sectoral ocean governance to implementing a strong international instrument. She reminded the participants that in the face of mounting environmental pressures on marine ecosystems, strong efforts in just a few regions will still not prevent loss of biodiversity at the global level. Currently efforts towards a more coordinated and integrated approach are hindered by different geographical coverage and membership of organisations, limited capacity, different priorities, limited domestic coordination, as well as a lack of understanding of the ecological connectivity of the ocean. In sum, these challenges should be addressed in order to increase vertical and horizontal coherence and integration between and across regional and global institutions.

The afternoon was dedicated to parallel working groups, which offered participants the opportunity to deepen their knowledge on the package deal element under discussion in the BBNJ negotiations:

- Working Group I on Marine Genetic Resources (MGRs), incl. capacity building/technology transfer was moderated by **Hiroko Muraki Gottlieb**, ICEL and **Harriet Harden-Davies**, ANCORS. While the definition and scope of MGRs remains unclear, they have potential ecological, environmental, scientific, societal as well as economic value. This makes it complex to determine the benefit sharing-modalities intended to secure fair and equitable use of MGRs. Science cooperation, technology transfer and capacity building can be considered as part of benefit-sharing. This makes clear how strengthening the implementation of existing UNCLOS provisions relating to technology transfer would support the sharing of several forms of benefits derived from genetic resources.
- Working Group II on Area-based Management Tools, including MPAs, incl. capacity building/technology transfer was moderated by **Kristina Gjerde**, IUCN and **Ben Boteler**, IASS. MPAs and MPA networks are widely recognised as being important tools for preserving and restoring ecosystem health and diversity; increasing resilience and enhancing productivity, but currently global standards for sectoral and cross sectoral area-based management tools are lacking. Conservation challenges are especially acute on the high seas beyond national boundaries, where the effectiveness of existing tools is severely limited. The BBNJ negotiations offer a unique opportunity to agree on shared governance principles and objectives, create a common science & ecosystem-based institutional framework, establish

conditions for a global network of MPAs, and set up a global mechanism for overview, reporting, compliance review.

- Working Group III on Environmental Impacts Assessments (EIAs), incl. capacity building/technology transfer, was moderated by **Glen Wright**, IDDRI and **Carole Durussel**, IASS. EIAs are a well-developed concept in environmental law, and a number of existing instruments cover EIA to some extent, including obligations in UNCLOS, customary international law, the Espoo Convention on EIA, and various regional and sectoral agreements. However, currently there is no mechanism for EIAs pertaining to activities conducted on the high seas. While there is general agreement on the importance of establishing such a mechanism, the BBNJ negotiations will have to determine which activities require an EIA, how EIAs can account for transboundary and cumulative impacts, who is responsible for funding and conducting the assessment and what the effect of an EIA should be.

A representative from each working group gave a summary of the discussions to the rest of the group, after which the outcomes as well as remaining questions were discussed in plenary.

Annex I: Agenda

9:00 – 9:15	<p>Welcome on behalf of the STRONG High Seas Project and the Secretariats of the CPPS and Abidjan Convention</p> <p>Nicola Breier, BMU</p> <p>Sebastian Unger, IASS</p> <p>Méntor Villagómez, CPPS</p>
9:15 – 9:25	<p>Overview of the training</p> <p>Kristina Gjerde, IUCN</p>
9:25 – 9:45	<p>Tour de Table Introductions</p> <p>Kristina Gjerde, IUCN</p>
9:45 – 10:15	<p>Coffee Break</p> <p><i>Understanding the BBNJ Negotiations</i></p>
10:15 – 10:30	<p>Presentation: State of Play of the BBNJ Negotiations</p> <p>Glen Wright, IDDRI</p>
10:30 – 10:40	<p>Q&A & Discussion</p>
10:40 – 10:55	<p>Presentation: What to Expect from the BBNJ Negotiations</p> <p>Charlotte Salpin, DOALOS</p>
10:55 – 11:05	<p>Q&A & Discussion</p> <p><i>Underpinning a Strong Global High Seas Agreement through Regional and Sectoral Governance</i></p>
11:05 – 11:20	<p>Presentation: Relevance of regional and sectoral ocean governance to implementing a strong international instrument</p> <p>Kristina Gjerde, IUCN</p>
11:20 – 12:30	<p>Discussion: Opportunities and challenges of the BBNJ negotiations</p> <p>Open discussion between participants about the opportunities and challenges of the BBNJ negotiations for their country and/or region</p>
12:30 – 13:30	<p>Lunch</p>

Working Groups

13:30 – 13:40 Introduction to the Working Groups

Kristina Gjerde, IUCN

13:40 – 14:30 Working Groups (Part I): The BBNJ “building blocks”

Participants will break into 3 working groups with moderators to focus on key deliverables for the BBNJ negotiations:

- WG I: Marine Genetic Resources, incl. capacity building/technology transfer

Moderators: Hiroko Muraki Gottlieb, ICEL and Harriet Harden-Davies, ANCORS

- WG II: Area-based Management Tools, including MPAs, incl. capacity building/technology transfer

Moderators: Kristina Gjerde, IUCN and Ben Boteler, IASS

- WG III: Environmental Impacts Assessments, incl. capacity building/technology transfer

Moderators: Glen Wright, IDDRI and Carole Durussel, IASS

14.30 – 15:00 Working Groups (Part II): Preparation of Presentations

Within each working group, preparation of a presentation on the BBNJ element and summary of their discussions to be made in plenary

15:00 – 15:30 Coffee Break

15:30 – 16:00 Working Groups (Part III): Presentations in Plenary

Each of the groups will nominate someone to present the topic and summary of their discussions to the rest of the training participants (about 10 mins per group)

16:00 – 17:15 Plenary Discussion

Plenary discussion on the outcomes of the Working Groups and Q&A

17:15 – 17:30 Closure of the training on behalf of the STRONG High Seas Project and the Secretariats of the CPPS and Abidjan Convention

Nicola Breier, BMU

Sebastian Unger, IASS

Méntor Villagómez, CPPS

Annex II: Participants

Efraín Baus, Ministry of Foreign Affairs Ecuador

Ben Boteler, IASS

Nicola Breier, BMU

Felicia Chinwe Mogo, Nigerian Maritime Administration and Safety Agency

Carole Durussel, IASS

Louis Leandre Ebobola, Ministry of the Environment Gabon

Kristina Gjerde, IUCN

Harriet Harden-Davies, ANCORS/DOSI

Cristóbal Hernandez Castillo, Ministry of Foreign Affairs Chile

Sylvain Kalsakau, Permanent Mission of Vanuatu

Hiroko Muraki Gottlieb, ICEL

Luis Oña Garces, Permanent Mission of Ecuador

Charlotte Salpin, DOALOS

Isabel Seeger, IDDRI

Siddharth Shekhar Yadav, Permanent Mission of Vanuatu

Mohamed Lamine Sidibé, Ministry of the Environment Guinée

Lucia Solano Ramirez, Ministry of Foreign Affairs Colombia

Sebastian Unger, IASS

Méntor Villagómez, CPPS

Glen Wright, IDDRI

Luis Zapata, WWF Colombia

About the STRONG High Seas Project

The STRONG High Seas project is a five-year project that aims to strengthen regional ocean governance for the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction. It is coordinated by the Institute for Advanced Sustainability Studies (IASS) and implemented together with the Institute for Sustainable Development and International Relations (IDDRI), BirdLife International, the International Ocean Institute (IOI) – Southern Africa, the Universidad Católica del Norte (UCN), WWF Colombia, and WWF Germany. Working with the Secretariat of the Comisión Permanente del Pacífico Sur (CPPS; Permanent Commission for the South Pacific) and the Secretariat of the West and Central Africa Regional Seas Programme (Abidjan Convention), the project will develop and propose targeted measures to support the coordinated development of integrated and ecosystem-based management approaches for ocean governance in areas beyond national jurisdiction.

The STRONG High Seas project has the following overarching objectives:

1. Facilitate the development of improved management approaches for the conservation and sustainable use of biodiversity in areas beyond national jurisdiction in the Southeast Pacific and Southeast Atlantic regions;
2. Identify best practices and provide support to regional institutions and national authorities for implementing existing regional instruments;
3. Develop options for regional governance in a future international instrument under UNCLOS and transfer regional lessons learned to the global level to promote ocean governance.

For more information about the STRONG High Seas project, please visit: <https://www.progocean.org/our-work/strong-high-seas/> or contact: stronghighseas@iass-potsdam.de.

Partners of the STRONG High Seas project



International Ocean Institute
African Region



Supported by:



Federal Ministry
for the Environment, Nature Conservation
and Nuclear Safety

based on a decision of the German Bundestag

The STRONG High Seas project is part of the International Climate Initiative (IKI). The Ministry for the Environment, Nature Conservation and Nuclear Safety (BMU) supports this initiative on the basis of a decision adopted by the German Bundestag.