



***Special Issue on
Marine Areas Beyond National Jurisdiction (ABNJ)
May 4, 2012***

IN THIS ISSUE

Overview

New GEF/FAO Program on Areas Beyond National Jurisdiction

--Introduction to the GEF/FAO ABNJ Program by Gustavo Fonseca, Global Environment Facility (GEF)

--The GEF/FAO ABNJ Programme by Jeremy Turner, UN Food and Agriculture Organization (FAO)

--Description of the Global Ocean Forum/FAO ABNJ Project on Strengthening Global Capacity to Effectively Manage ABNJ by Biliana Cicin-Sain, Global Ocean Forum

Identifying Elements of Commonality and Potential Areas of Agreement in the ABNJ Debates: Recap of an Independent Study by Joe Appiott, University of Delaware

OVERVIEW

In this issue, we focus on the management of marine areas beyond national jurisdiction (ABNJ), the last remaining global commons, in anticipation of the forthcoming meeting 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 (“UN ABNJ Working Group”) to be held at UN headquarters in New York on May 7-11, 2012. A major new development in this area is the new GEF/FAO ABNJ Program entitled “GEF/FAO Program on Global Sustainable Fisheries Management and Biodiversity Conservation in Areas Beyond National Jurisdiction (ABNJ)” approved by the GEF Council in November 2011. The program consists of four interlinked projects aimed at working with regional, national, and global entities to apply a range of existing tools to enhance the protection of deep-sea biodiversity and the sustainable use of high seas fisheries, as well as to link ABNJ developments at global and regional levels. In the newsletter, we feature three articles describing this new program.

As well, the newsletter features summary results from an independent, university-based analysis of the evolution of State positions in 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 (“UN ABNJ Working Group”) over the period 2003-2011, which reveals areas of consensus among States which could be built on to make further progress on moving toward ecosystem-based management of ABNJ.

The ABNJ Negotiations, May 7-11, 2012

Regarding the forthcoming ABNJ negotiations, the starting point of the negotiations is expected to be further discussion on the outcome of the 2011 meeting of the UN ABNJ Working Group, quoted below:

The Ad Hoc Open-ended Informal Working Group, having met from 31 May to 3 June 2011 in accordance with paragraph 163 of General Assembly resolution 65/37 A, recommends that:

(a) A process be initiated, by the General Assembly, with a view to ensuring that the legal framework for the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction 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 the United Nations Convention on the Law of the Sea;

(b) This process would address the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction, 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 environmental impact assessments, capacity-building and the transfer of marine technology;

(c) This process would take place: (i) in the existing Working Group; and (ii) in the format of intersessional workshops aimed at improving understanding of the issues and clarifying key questions as an input to the work of the Working Group.

U.N. General Assembly, 66th Session. Recommendations 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 and Co-Chairs’ summary of discussions (A/66/119). 30 June 2011.

*Biliana Cicin-Sain
President, Global Ocean Forum*

NEW GEF/FAO PROGRAM ON AREAS BEYOND NATIONAL JURISDICTION

Introduction to the GEF/FAO ABNJ Program

By Dr. Gustavo Fonseca, Head, Natural Resources, Global Environment Facility (GEF)

In the two decades since its inception, the Global Environment Facility (GEF) has become a leader in marine conservation financing across the planet. From millions of hectares of marine protected areas now destined to contribute to meeting the Aichi Biodiversity Targets of the Convention on Biological Diversity (CBD) to assisting numerous fishing nations adhere to the FAO Code of Conduct for Responsible Fisheries and Combating Illegal, Unreported and Unregulated (IUU) fishing, the GEF is playing a catalytic role in many of the world’s coastal developing nations. During the fifth GEF Replenishment, the GEF and its partners had the foresight to begin addressing emerging issues in the

marine environment. One of the most pressing issues identified was the poor management of marine resources in marine areas beyond the 200 nautical miles Exclusive Economic Zone (EEZ) – more commonly known as Areas Beyond National Jurisdiction, or ABNJ – and included it in the GEF-5 strategies for Biodiversity and International Waters.

In ABNJ, which cover 40% of the surface of our planet, comprising 64% of the surface of the oceans and about 95% of its volume, no one nation has the sole responsibility for their management. It has become the iconic last frontier for the expansion of marine fisheries, and many of the world's most valuable fisheries and marine ecosystems are found in or are functionally connected with these areas, representing about 10% of the global marine catch. For example, the fishery for highly migratory tuna species that call ABNJ their home is estimated to be worth over US\$10 billion annually. However, lack of coordinated management of ABNJ resources has taken its toll – including the near collapse of some species of tuna, loss of marine biodiversity, and threatening of marine ecosystem health and services. Coupled with the number and diversity of the public and private partners involved, sustainable management of the marine resources in these areas is extremely challenging.

In November of 2011, the GEF Council approved US\$50 million for a programmatic approach consisting of four projects to address these ABNJ issues. Even before the new GEF-funded program began implementation, its catalytic role in ABNJ is evident. The design of this program brought together, through coordination by FAO, representatives from developed and developing countries, industry leaders from catch to plate, and NGOs, enabling a new way forward. So far, the Program has leveraged US\$270M in co-financing from public and private partners including the World Bank, the UNEP, the Tuna and Deep Sea Regional Fisheries Management Organizations, the US National Oceanic and Atmospheric Administration, the International Coalition of Fisheries Associations, the International Seafood Sustainability Foundation, the South Indian Ocean Fisheries Agreement, Birdlife International, Conservation International, the International Union for Conservation of Nature, the World Wildlife Fund, and the Global Ocean Forum.

The ABNJ Program consists of four projects, each addressing different weaknesses of the current ABNJ management. They include a project for the sustainable management of tuna fisheries and biodiversity conservation, a project for the sustainable fisheries management and biodiversity conservation of deep-sea living marine resources and ecosystems, a project for strengthening global capacity to effectively manage ABNJ, and a project to finance effective management and transitional reform of oceanic fisheries. A key element to the success of the Program and sustainable long-term conservation of marine ABNJ ecosystems is the project for strengthening global capacity to effectively manage ABNJ led by the Global Ocean Forum.

The debates on marine ABNJ in various international forums, including UNGA, CBD and UNCLOS, have been characterized by diverse perspectives and disagreements among nations regarding issues related to governance principles as well as to considerations for access and benefit-sharing. Lack of clear guidance at the global level has significantly hampered progress to achieving sustainable management of marine ABNJ. In the absence of a concerted initiative to improve cross-sectoral policy dialogue and information sharing, both within the fisheries sector and at cross-sectoral levels, it will be difficult to overcome the barriers to conservation and sustainable use of resources in marine ABNJ. The Global Ocean Forum/FAO ABNJ project aims to achieve tangible improvements toward cross-sectoral and integrated management through enhanced dialogue and information sharing among a wide range of relevant stakeholders, and improved interest and capacity of high-level government officials and other participants in global and regional ABNJ processes to articulate their priorities and to develop more tangible outcomes for improved governance and management of ABNJ. The Global Ocean Forum is a

well-suited platform to address issues related to marine areas beyond national jurisdiction in the GEF/FAO ABNJ Program, having already played an important role in tracking the major commitments on the sustainable development of the ocean, including the conservation and sustainable use of resources in the marine ABNJ.

We still have a long way to go before marine resources are sustainably managed in ABNJ, or even in territorial waters. But the GEF/FAO ABNJ Program is an important step in the right direction, and the attention it has garnered around the globe suggests that it will not be the last. It is too soon to say what impact the Program will have, but with continued support from international organizations like the GEF and its Implementing Agencies, private industry, and most importantly, GEF member countries, this last global commons stands a fighting chance in these uncertain times.

The GEF/FAO ABNJ Program on Global Sustainable Fisheries Management and Biodiversity Conservation in Areas Beyond National Jurisdiction (ABNJ)

By Jeremy Turner, FishCode Manager, Fisheries and Aquaculture Department, UN Food and Agriculture Organization (FAO)

The marine Areas Beyond National Jurisdiction (ABNJ) are those areas of ocean for which no one nation has sole responsibility for management. They include the water column of the high seas and the seabed falling within. Considered the last global commons, these areas comprise 64% of the surface of the oceans. Achieving sustainable management of the fisheries resources and biodiversity conservation in the ABNJ is extremely difficult given the complexity of the ecosystems, including their great depths and distances from the coasts, as well as the large number and wide diversity of all the public and private actors involved.

Recognizing that urgent action is needed to improve management of many ABNJ fisheries and to strengthen protection of related ecosystems in order to prevent devastating impacts on the food security and socio-economic well-being of the millions of people directly dependent on those fisheries, the *Global sustainable fisheries management and biodiversity conservation in the ABNJ Program* was approved by the Global Environment Facility (GEF).

Focusing on tuna and deep-sea fisheries, in parallel with the conservation of biodiversity, the five-year ABNJ Program aims to promote efficient and sustainable management of fisheries resources and biodiversity conservation in the ABNJ. It will strive to deliver responsible management leading to the maintenance of ecosystem services, piloted through innovative technologies, capacity building and other measures that contribute to good governance, reduce illegal, unreported and unregulated (IUU) fishing and minimize the adverse impacts of fishing on biodiversity.

The ABNJ Program, led by the Food and Agriculture Organization of the United Nations (FAO) in close collaboration with partners, comprises four projects:

1. Sustainable Management of Tuna Fisheries and Biodiversity Conservation in the ABNJ

This project seeks to achieve efficient and sustainable tuna production and biodiversity conservation in the ABNJ through the systematic application of an ecosystem approach to fisheries. The main objectives are to support the use of sustainable and efficient fisheries management and fishing practices by tuna resource stakeholders, reduce illegal, unregulated and unreported fishing and mitigate the adverse impacts of bycatch on biodiversity. The main partners in this extensive collaborative effort include the

Tuna Regional Fishery Management Organizations (T-RFMOs) and member countries, WWF, International Seafood Sustainability Foundation, Bird Life International, and NOAA.

2. Sustainable Fisheries Management and Biodiversity Conservation of Deep-sea Living Resources and Ecosystems in the ABNJ

The second project, jointly executed by FAO and UNEP, seeks to develop an efficient and sustainable use of deep-sea living resources and biodiversity conservation in the ABNJ through the systematic application of an ecosystem approach to improve sustainable management practices for deep-sea fisheries, taking into account impacts on related ecosystems. The main objectives of the project are to protect Vulnerable Marine Ecosystems (VMEs) and ecologically and biologically significant areas through improved area-based planning for deep-sea ecosystems. In addition, the project seeks to test and make available efficient area-based planning tools and methodologies in the Regional Seas Programmes and Regional Fisheries Management Organizations/Agreements (RFMO/As) for development of regional management plans and policies. Similarly to project 1, this highly collaborative effort includes partners such as the Deep-sea Regional Fishery Management Organizations, Permanent Commission for the South Pacific, East African Seas Regional Coordination Unit, IUCN, the Convention on Biological Diversity, as well as relevant industry organizations.

3. Oceans Partnership Fund

Unlike the other three components, the main Executing Partner for the Oceans Partnership Fund is the World Bank. This project seeks to catalyze public and private sector investment within globally important seascapes in both national waters and in ABNJ. The goal is to sustainably enhance the economic and biological performance of the oceans' living resources, and the benefits captured by coastal and island developing nations. The project is part of a larger World Bank ocean strategy that includes a wide array of partners, including international organizations, NGOs, Member States, RFMOs, and the private sector.

4. Strengthening Global Capacity to Effectively Manage ABNJ

The FAO and the Global Ocean Forum will jointly co-execute the fourth component of the ABNJ program. The goal of this project is to promote effective global and regional coordination on ABNJ by strengthening and broadening cross-sectoral dialogue and policy coordination regarding ABNJ, increasing the capacity of regional and national decision-makers to participate in processes for management and coordination of ABNJ activities and finally, broadening public understanding of the threats and opportunities to improve management of ABNJ.

Building on the collective action in this partnership, the projects will work together on a long-term plan to establish strong networks, best management practices and facilitated information-sharing needed to make transformational change and impacts towards responsible and sustainable use of ABNJ resources.

The ABNJ fisheries contribute significantly to employment, nutrition and trade. Although the benefits vary greatly among areas, it is well-known that millions of families in both developing and developed countries depend on jobs in fishing as well as in associated activities – from boat construction and manufacturing of gears to pre- and postharvesting of seafood. The ABNJ Program is intended to help ensure their food security and livelihoods through the long-term management and sustainability of ABNJ fisheries and the ecosystems on which they depend. This means understanding and taking into account the priorities and needs of more than 85% of the world's nations that fish in the oceans, including developing coastal and island nations. At stake are 60% of the world's oceans and related marine resources valued at well over US\$10 billion annually.

Description of the Global Ocean Forum/FAO ABNJ Project on Strengthening Global Capacity to Effectively Manage ABNJ

By Biliana Cicin-Sain, President, Global Ocean Forum

The Global Ocean Forum and the Food and Agriculture Organization (FAO) are co-executing component four of this program: *Strengthening Global Capacity to Effectively Manage Areas Beyond National Jurisdiction*.

This project, which builds on the Global Ocean Forum's previous work and experience in multi-stakeholder collaboration and cross-sectoral policy analysis, aims to facilitate cross-sectoral policy dialogue, improve knowledge management and outreach, and contribute to increased capacity for decision-making at various levels for ABNJ. This will be undertaken in the context of linking ongoing global and regional processes relevant to ABNJ and engaging key stakeholders in information-sharing and innovative policy dialogue.

Despite increasing efforts to improve the collective understanding of marine ecosystems in ABNJ and manage them sustainably, marine areas beyond national jurisdiction are increasingly threatened by human activities and major drivers such as biodiversity loss and climate change. The existing ABNJ management framework is largely sectoral (e.g., fisheries, submarine cables, shipping, marine scientific research, oil and gas development, pollution) and implemented by different global and regional institutions, with relatively few examples of cross-sectoral coordination and integration. Additionally, emerging uses are not yet adequately managed, and there are legal or policy gaps for activities such as carbon capture and storage, mariculture facilities, and floating energy facilities.

This project seeks to: 1) Improve general knowledge on the state-of-the-art on management of ABNJ and disseminate this information widely to decision makers, managers, and ongoing processes; 2) Raise the awareness of both high-level decision makers and the general public about ABNJ issues; 3) Link the ongoing discussions in various global and regional fora; 4) Undertake cross-sectoral dialogue and information sharing to support movement towards integrated ecosystem-based approaches to managing ABNJ; and 5) facilitate the involvement of developing country participants in ABNJ discussions, to enable them to more effectively participate in ABNJ management.

This project aims to accomplish these objectives through a three-pronged approach as noted below:

(1) **Cross-Sectoral Multi-Stakeholder Policy Dialogues**, aimed at improving information-sharing across sectors and regions and between global and regional processes, raising the awareness of high-level decision makers on ABNJ issues, and establishing cross-sectoral linkages to address key areas of uncertainty and explore policy options.

This will be carried out through the following activities:

- **Two major Cross-Sectoral Multi-Stakeholder Policy Workshops**, tentatively scheduled as follows: one in London UK, January 2013, and another in Suva, Fiji, December 2014 . These will involve actors from the GEF/FAO ABNJ Program, governments, UN-agencies, NGOs, academia, and the private sector—with the aim of improving information-sharing, reviewing the state of practice, lessons learned, best practices, and emerging trends, and providing recommendations to relevant global and regional policy processes in addressing key areas of

uncertainty and exploring viable policy options for improving conservation and sustainable use of ABNJ resources.

- **High-Level Policy Dialogues at Major Relevant Ocean-Related Meetings** aimed at raising the awareness of high-level decision makers on ABNJ issues, soliciting their input on key ABNJ issues, and encouraging their involvement in future ABNJ policy discussions at various levels. These will target key high-level decision makers whose work is relevant to ABNJ governance and management (e.g., UN Ambassadors, and Ministers) and will solicit their input on clarifying the issues, laying out various perspectives, discussing policy options, and identifying possible avenues for consensus-building. These dialogues will be convened at key meetings addressing ABNJ issues, including the UN ABNJ Working Group, 3rd International Marine Protected Areas Congress, the 6th Global Ocean Conference, and the UN Food and Agriculture Organization (FAO) Committee on Fisheries (COFI).

(2) **Capacity Building**, aimed at improving the capacity of national, regional and global leaders to effectively participate in global and regional ABNJ processes and in the governance and management of ABNJ, and improving the capacity of experts and practitioners to provide relevant input to ABNJ policy discussions.

This will be carried out through the following activities:

- **Formation of ABNJ Communities of Practice**, which are informal networks of expert practitioners that have experience and expertise relevant to ABNJ with respect to the following key issue areas: Area-Based Management; Impact Assessment; Climate Change; Improved Implementation of ABNJ Frameworks; and Capacity Building. These networks will be composed of expert practitioners drawn from academia, governments, non-governmental organizations, UN agencies, and industry with relevant experience and knowledge in ABNJ issues to share knowledge, experience, and best practices, and address key areas of uncertainty related to ABNJ. These Communities of Practice will interact in-person and electronically through an internet-based discussion platform and will provide recommendations to formal processes on key policy issues.
- **Global Ocean Fellowship Program**, which will provide support for the participation of regional leaders in global ABNJ processes (e.g., UN ABNJ Working Group meetings). The aim is an improved knowledge of the global process, enhanced learning and sharing of experiences between global and regional levels, and improved capacity of regional leaders to advance ABNJ governance and management in their respective regions, as appropriate.

(3) **Knowledge Management and Outreach**, aimed at improving public knowledge and appreciation of ABNJ issues, and facilitating dialogue between ABNJ experts and the public to educate and inform the general public.

This will be carried out through the following activities:

- **ABNJ Internet Portal** to act as mechanism for information-sharing on ABNJ issues, including information on relevant scientific studies and discoveries, policy developments, and educational tools.
- **Public Outreach Network**, which will involve the formation of a group of journalists, ABNJ practitioners, leaders from museum/aquaria, and other outreach specialists (in collaboration with the World Ocean Network and Nausicaa) with the aim of raising the awareness of this group on ABNJ issues, providing information for undertaking effective outreach on ABNJ issues, and identifying key channels and modes of outreach for informing and educating the public on ABNJ issues. The goal is to support these individuals in

improving public understanding of the importance of ABNJ resources, and to help inform the general public of their role in conservation and sustainable use of ABNJ resources.

Identifying Elements of Commonality and Potential Areas of Agreement in the ABNJ Debates

By Joe Appiott, Policy Researcher, University of Delaware

This story is based on the findings of an independent, university-based study carried out by Joe Appiott at the University of Delaware and does not represent the views of the Global Ocean Forum. The study is a systematic analysis of the intergovernmental ABNJ debates taking place from 2003 to 2011. For length considerations, only a summarized version of the conclusions is reported here. For more information on this study, including the full results and analysis, please contact Joe Appiott at jappiott@udel.edu.

As human activities expand further offshore and new activities are proposed in open ocean and deep sea areas, various stakeholders have identified potential gaps and weaknesses in the international legal and regulatory framework for marine areas beyond national jurisdiction, including the lack of provisions for new and emerging activities, potentially inadequate legal frameworks for implementing management tools, and lack of coordination between different instruments and organizations. As a result, this topic has become a prominent area of intergovernmental debate. However, differing perspectives and conflicting legal interpretations among governments have prevented these debates from reaching consensus on means to ensure conservation and sustainable use of marine biodiversity beyond national jurisdiction.

Numerous studies have analyzed various aspects of this topic, yet no study to date has directly analyzed government preferences to identify a potential resolution to the debates. In an effort to fill this gap, an independent, university-based study was undertaken aimed at characterizing State preferences articulated in major UN fora addressing issues related to marine biodiversity beyond national jurisdiction, identifying and analyzing major areas of contention and commonality between States, and outlining potential elements of a resolution to these debates in the context of State preferences. The study characterizes State preferences in the main issue-areas discussed in the debates on marine biodiversity beyond national jurisdiction: marine genetic resources of the deep seabed, marine protected areas, environmental impact assessments, high seas fishing, cooperation and coordination, and governance and implementation gaps.

The following meetings, which have addressed issues related to marine biodiversity beyond national jurisdiction, were analyzed in this study:

- United Nations General Assembly--58th meeting (2003), 59th meeting (2004), 60th meeting (2005), 61st meeting (2006), 62nd meeting (2007), and 64th meeting (2009)
- United Nations Open-ended Informal Consultative Process on the Oceans and the Law of the Sea--4th meeting (2003), 5th meeting (2004), 8th meeting (2007), 10th meeting (2009), and 11th meeting (2010)
- 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--2006, 2008, and 2010 meetings
- Informal Consultations of State Parties to the UN Fish Stocks Agreement--2006, 2009, and 2010 meetings
- Review Conference on the Agreement for the Implementation of the Provisions of the United

The analysis finds that, despite prominent areas of disagreement, there are significant areas of commonality among States on various issue-areas discussed that can serve as building blocks for potential agreement and facilitate action-oriented dialogue in future discussions. It is important to note that the areas of commonality identified in the study emerged following the data analysis and were not derived by the researcher.

A number of important areas of commonality and agreement among States have emerged from the analysis of State preferences; they are as follows:

- *Principles of modern ocean governance*—The ecosystem-based, integrated, and precautionary approaches are all principles that have been widely accepted by the global community and incorporated into management frameworks at global, regional and national levels. They can provide valuable policy guidance at various levels and can guide the implementation of management approaches, which must be flexible and respond to the unique circumstances of different areas and to the varying needs and interests of States. Principles of modern ocean governance are especially important at this stage in the debates on ABNJ. In light of the lack of experience in implementing governance and management of ABNJ and important legal and technical uncertainties, these principles will be important to providing the appropriate guidance needed in this policy development and implementation process.
- *Implementation of management tools*—There is widespread consensus on the need for greater efforts in implementing management tools, such as marine protected areas (MPAs) and environment impact assessments (EIAs) (which the global community has much experience in applying to terrestrial and coastal areas) in ABNJ. There are some differences in opinion as to the general approach and implementation of these tools, but States strongly agree on the need to further apply these tools. Application of management tools in ABNJ has, thus far, been limited by important logistical issues and technical uncertainties, lack of general policy guidance, and lack of political support.
- *Cross-sectoral approaches*—A large number of States have articulated the need to pursue a cross-sectoral and integrated approaches to governance and management of activities in ABNJ. States differ, however, on the means by which to implement cross-sectoral approaches. Some States support the need to rely more strongly upon, or create new, cross-sectoral institutional mechanisms at different scales. Other States support improved cross-sectoral collaboration and coordination between sectoral mechanisms, as some sectoral management bodies often have a strong legal and institutional basis and have proven effective within their mandates. The appropriate approach (cross-sectoral mechanisms vs. coordination between sectoral mechanisms) will likely vary depending on a number of factors, including the political support for existing or new mechanisms, the effectiveness of existing sectoral mechanisms, and the activities and resources being managed.
- *Voluntary approaches and codes of conduct*—Voluntary approaches to mitigating the potentially adverse impacts of various activities, such as scientific research, have been emphasized by States as valuable tools for environmental protection. In these debates, States have recognized the value of codes of conduct and guidelines for scientific researchers, such as the InterRidge Code of Conduct, to mitigate the potential adverse impacts of research activities.
- *Flag State responsibility*—The effectiveness of any international regime is largely dependent on how it is implemented by countries. States have strongly emphasized the existence of a clear

implementation gap for marine biodiversity in ABNJ. Many States, however, lack the capacity to effectively implement these provisions. This general lack of capacity among many states outlines the need for developing States to articulate their capacity needs to effectively govern activities of their flagged vessels and nationals in ABNJ, and for developed States and the global community to provide the necessary support to developing States in supporting effective governance and enforcement.

- *Regional approaches*—There is an increasing focus on the opportunities for collaborative and cross-sectoral regional approaches to ocean governance. Regional approaches present a number of key benefits for addressing issues related to marine biodiversity in ABNJ. They facilitate an ecosystem-based approach, as marine ecosystems and species don't recognize political maritime boundaries. Regional multilateral approaches are often facilitated by the fact that neighboring States often have similar levels of development and management capacity, similar concerns regarding the marine environment, similar commercial interests, and often have long histories of regional cooperation, including through existing institutional mechanisms. Regional approaches can also more effectively facilitate data-sharing and sharing of best practices and can also provide a viable institutional mechanism for capacity building and benefit-sharing. Regional approaches can be tailored to the unique circumstances of different regions. There are a number of existing regional mechanisms that can prove valuable in facilitating cooperation in the conservation and sustainable use of marine biodiversity beyond national jurisdiction, including Regional Fishery Bodies (RFBs), Regional Seas Programs (RSPs), and Large Marine Ecosystem (LME) programs. Regional institutional mechanisms could also be vested with the authority for implementing and managing tools such as environmental impact assessments (EIAs) and marine protected areas (MPAs), as developing standardized global approaches and designating a global authority for management would likely be difficult and would encounter significant political, technical, and logistical obstacles.
- *Greater participation in the global framework*—States in the ABNJ discussions have emphasized the importance for more States to ratify global instruments, such as the UN Fish Stocks Agreement, to actively participate in multilateral discussions and deliberations regarding their implementation, and to implement the duties and responsibilities under these instruments. However, as previously stated, implementing the provisions of these instruments requires a certain degree of capacity that many States lack. In this respect, many developing States have noted that ratifying international conventions is meaningless if States are unable to implement their provisions. As well, some developing States lack the capacity to effectively participate in policy making processes.
- *Capacity building*—Both developed and developing States have clearly articulated the need to build the capacity of developing States both to participate in activities in ABNJ, allowing them to equitably enjoy the benefits of these resources, and to effectively govern and manage the activities of their flagged vessels in ABNJ. This becomes especially important in light of the significant costs of conducting activities in ABNJ and the financial and technical requirements for effective governance, including through adequate monitoring, control, and surveillance (MCS). Supporting developing States in this respect will likely yield benefits to the global community as a whole by strengthening the global regime and closing gaps and opportunities for potential violators. In spite of the clear recognition of the need for capacity building for developing States, there has been relatively little tangible action in pursuit of this common goal.
- *Cooperative research*—Cooperative marine scientific research between developed and developing States could prove highly valuable to improving the capacity of developing States to undertake research in ABNJ, namely through the development of important technical knowledge and

applicable skills. This type of North-South cooperation in scientific research could provide developing States with a valuable form of capacity-building through training and technology transfer for research.

- *Emerging issues*—Many States have voiced strong support for the need to gain a fuller understanding of the potential impacts of emerging issues in ABNJ, including on activities such as ocean fertilization and carbon sequestration, and to ensure that viable regulatory mechanisms are in place to prevent adverse impacts on the marine environment in ABNJ. In light of the relative lack of knowledge of these areas, the inadequate understanding of their sensitivity to changes in factors such as ocean chemistry, and in the inherent difficulty in monitoring these activities and their potential impacts, many States have identified a gap in the international ocean framework to effectively manage new activities and address emerging threats.

When examining State perspectives on the various issues under discussion in the intergovernmental debates on marine biodiversity beyond national jurisdiction, it becomes clear that there are a number of key areas of commonality and agreement that hold much potential for tangible progress in ensuring conservation and sustainable use of marine biodiversity beyond national jurisdiction. A large number of the initial discussions on ABNJ (2003-2008) focused centrally on areas of differing opinions and perspectives, rather than on the clear opportunities inherent in the many areas of commonality. As the debates progressed, however, States began to focus more on clear opportunities for progress and converge towards consensus on some key aspects of a potential resolution. While there remain some important questions and some potentially irreconcilable differences, there are a number of potential options and avenues in need of further examination and promising opportunities to build on commonality and work towards common goals.
