

## GLOBAL OCEAN FORUM NEWSLETTER—JUNE 2013

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### OVERVIEW

In this issue, we bring news of some positive outcomes and strategic movement on post-Rio+20 implementation and planning, including a set of UN workshops on areas beyond jurisdiction (ABNJ) to support ongoing government deliberations on ABNJ issues, building of strategic collaboration between the Global Ocean Forum and the Korea Institute of Ocean Science and Technology (KIOST), and strategic planning through a UN-organized expert group meeting on oceans and coasts in the post-Rio+20 context.

The robust mobilization of the ocean community in the Rio+20 process resulted in relatively strong outcome from the Rio+20 Conference, embodied in 20 paragraphs of the outcome document (one of the largest thematic sections of the document). However, a set of new challenges lie ahead: Implementing the Rio+20 ocean outcomes and advocating for ocean issues in the ongoing Post-Rio and Post-2015 Development Agenda processes.

There has been some movement by actors in various sectors in implementing the outcomes of the Rio+20 Conference. Discussion of Rio+20 implementation related to oceans took place at two expert group meetings convened, respectively, by the Global Ocean Forum, and UNDESA. The implementation activities discussed at these meetings represent encouraging news: There is considerable action taking place on the part of States and of international agencies and NGOs to implement the various parts of the oceans package emanating from Rio+20. However, the emphasis is on the implementation of sectorally-based initiatives (e.g., pollution, marine tourism, shipping, etc.), with less emphasis being given to the cross-sectoral aspects of ecosystem-based integrated governance. This represents a recurrent problem and relates to the fact that no single UN agency has responsibility for the integrated governance of oceans.

Despite some encouraging news on implementation, however, the Rio+20 Conference was merely the beginning of a new set of processes, including the development of a set of Sustainable Development Goals, deliberations on a new High-Level Political Forum to replace the Commission on Sustainable Development, and the development of a Post-2015 development agenda which will define the future development framework that will succeed the UN Millennium Development Goals (MDGs). These parallel and related processes have significant implications for the future of oceans, but are also involve a number of moving parts, making these processes difficult to engage as a whole. If ocean issues are to have a prominent place in the future global development framework, remobilization of governments and civil society must happen again; “constant advocacy” on oceans is needed.

The bottom line is that oceans are not faring very well in these processes. Ocean issues are frequently being relegated to the “environmental” pillar of sustainable development, with little emphasis on their critical role in supporting productive economies and social development and equity. This is problematic because oceans are essential to global food security and poverty eradication, two of the most prominent areas of interest in these processes. The ocean community must move forward with advancing the commitments put forth at Rio+20 but also maintain high-level political attention and multi-stakeholder mobilization in these ongoing processes, emphasizing the critical role played in all three pillars of sustainable development.

Biliana Cicin-Sain, President, Global Ocean Forum

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## **UN Workshops on Marine Biodiversity in Areas Beyond National Jurisdiction: Key Information Emerged, But Will it Affect the Debates?**

*Summary and Analysis by Joseph Appiott, Policy Researcher, Global Ocean Forum*

Marine biodiversity in areas beyond national jurisdiction has become a prominent topic of international discussion and debate in various fora, but most notably within the United Nations. In 2006, the UN General Assembly created 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 (also called the “BBNJ Working Group”) to advance intergovernmental policy discussions on means to improve governance and management of marine biodiversity in ABNJ.

However, after five meetings, many of the most contentious issues have not been resolved in the BBNJ Working Group. At its fourth (2011) and fifth (2012) meetings, many argued that many of the complex scientific, legal, and technical issues have not yet been sufficiently examined and that substantive workshops hosting expert presentations would support and inform the discussions and elucidate tangible policy options.

States agreed to hold two substantive workshops (one on marine genetic resources and another on conservation and management tools) at the United Nations in New York hosting panels of experts on key issues as well as question and answer sessions with State delegations.

### *Workshop on Marine Genetic Resources*

The workshop addressing issues related to marine genetic resources (MGRs) was held on May 2-3 and addressed issues such as:

- Types of MGRs and potential applications
- Technical and economic aspects of MGR research
- Environmental impacts related to research for MGRs
- Access-related issues and approaches to benefit sharing
- Intellectual property rights issues
- Lessons learned from global and regional regimes on genetic resources
- International cooperation on MGR research, including capacity building and transfer of marine technology

Panelists opened the workshop by discussing the genetic basis for MGRs and what an MGR actually is. They laid out the process for exploration and development of MGRs, discussing various types of

commercial application for MGRs, including as pharmaceuticals, industrial catalysts, and cosmetics, as well as the growing industry of nutraceuticals (health supplements, collagen creams, etc.). Panelists highlighted that the development chain for MGRs involves a number of actors from discovery of the source material to the development of a commercial product, including government and private sector actors. Panelists described the difficulty of developing a product from MGRs, which can often take upwards of 20 years and enormous financial investments. In this respect, discussions focused on how to value MGRs and to what extent incremental value is added further along the development chain by subsequent laboratory research.

In addition to commercial value, experts also shed light on other values of MGRs, including the health benefits of EPA and DHA omega-3 fatty acids found in MGRs as well as the important role of MGRs in supporting ecosystem services. In light of their role in ABNJ ecosystems, experts also described the potential environmental impacts of harvesting MGRs, noting that the development of some MGRs requires continuous harvesting, which could carry impacts for ecosystems in ABNJ. Environmental impact is also a concern if the target organism is rare, has a restricted distribution, and/or is found in a pristine or sensitive environment.

A prominent topic of discussion regarding MGRs was intellectual property rights (IPRs) and how they can be applied to MGRs. Discussions among the experts and countries focused on the patentability of MGRs under the three general requirements of patents, in that they must (1) Be novel (or new), (2) Involve an inventive step, and (3) Demonstrate potential for commercial application. Panelists noted that, in some countries, the 'inventive step' requirement is loosely applied, thus allowing for the proliferation of patents that would have been obvious for an expert in a particular field. IPRs, such as patents, are used to guarantee that the developer of a product obtains the benefits from the utilization of the product, providing incentive for innovative (a key aspect of MGRs given the large investment required to develop MGRs). However, some panelists noted that patents can actually infringe innovation in some ways. Specifically, when things are patented, the information within becomes proprietary, which inhibits access to this material that might be further researched for useful application in other areas. Some panelists raised the question as to whether a potential ABS regime might have a "chilling effect" on ABNJ research and development. In the discussion, countries asked some the following interesting questions, among others:

- Where to set up "checkpoints" (where in the development process users would have to disclose origin)?
- Are microorganisms in their natural state are patentable under the three requirements of the TRIPS agreement (novel, inventive step, commercial application)?
- Since different actors are involved in different steps of the MGR development process, who should bear the benefit-sharing responsibility?

While panelists weren't able to definitely address all of the questions, they noted that it is better to place checkpoints and any requirements for disclosure early in the development process, so that users and developers are aware of their responsibilities prior to significant investment. It was clear that there are few clear-cut general answers that apply to all types of genetic resources, and that these questions would need to be further explored in the specific context of a potential regime for MGRs in ABNJ.

Discussions also focused on issues related to access to MGRs and potential means of sharing benefits derived from the research and utilization of MGRs. One panelist noted the value of looking at experience at the national level in regulating access, and also highlighted how industry, contrary to some assumptions, often prefers the certainty of a regulatory regime for access, despite concerns regarding fee structures. Expert panelists also discussed various options for benefit-sharing derived from experience in different global and regional regimes, focusing on the Nagoya Protocol of the Convention on Biological Diversity

and the FAO International Treaty on Plant Genetic Resources. They reviewed the applicability of the provisions of existing regimes to MGRs in ABNJ and also discussed various types of monetary and non-monetary benefit sharing. Some panelists noted that, while monetary benefits are a frequent topic of discussion, non-monetary benefit sharing, including information sharing and capacity development for research, can prove beneficial in the case of MGRs as monetary benefits often take a long time to be realized from commercial development. One panelist highlighted that the most meaningful aspects of benefit sharing could come through building the capacity of developing nations to conduct research and using monetary benefits for a conservation fund for ABNJ.

*Workshop on Conservation and Management Tools, including Area-Based Management and Environmental Impact Assessments*

On May 6-7, the workshops process moved on to the topic of conservation and management tools, with a focus on area-based management and environmental impact assessments.

Expert panels addressed issues such as:

- Knowledge of ecosystem processes in ABNJ
- New and emerging uses in ABNJ
- Experience and possible approaches to area-based management and impact assessment in ABNJ
- Capacity development needs with respect to conservation and management of ABNJ

The panels first addressed the state of knowledge of ecosystems in ABNJ, characterizing our present understanding of ecosystem dynamics and vulnerabilities. One panelist highlighted knowledge of food web energy transfer and its role in top-down control of ecosystem function as an important knowledge gap. As ecosystems and habitats can often be highly fragile, an understanding of ecosystem processes and relative vulnerability is an important part of developing and implementing viable and effective management measures.

Discussions also touched on the CBD-driven process on identifying ecologically and biologically significant area (EBSAs), addressing some of the challenges associated with our attempts to better understand impacts on marine biodiversity, such as data gaps, capacity disparity among different regions/countries, and the need to strengthen regional and sub - regional scientific collaboration. Further, panelists highlighted how the EBSA process has supported the identification of capacity gaps and facilitated collaboration and capacity building.

Panelists also addressed major activities and threats to marine biodiversity in ABNJ, including from high seas fishing as well as from new and emerging activities. Bottom - trawling, purse - seining and long - lining were identified as the three most important fishing activities on the high seas and some highlighted the poor performance of many RFMOs in regulating impacts to fisheries in ABNJ. Despite their failings, some experts and delegations noted that RFMOs have made improvements in recent years and that providing accurate quantitative estimates regarding the impacts of high seas is difficult due to limited statistical and scientific information available for most high seas fisheries.

On new and emerging uses in ABNJ, panelists addressed prospects for, and potential impacts of, activities such as geoengineering and ocean fertilization. These activities, many of which are geared towards climate change mitigation, can have significant impacts on the chemical and biological processes of the oceans. Some noted that there are lessons to be learned from policy development in other areas, such as mining and fishing, which can inform the implementation of the precautionary approach in the potential development of new and emerging uses. Many highlighted the need for assessments of new and emerging uses, as well as existing uses, to take account of cumulative as well as cross-sectoral impacts.

A prominent topic of discussion was the use of area-based management tools, and especially marine protected areas, in ABNJ. Panelists addressed different types of area-based management tools, including those addressing specific sectors as well as cross-sectoral approaches. Panelists discussed experience in implementing area-based management through sectoral approaches in ABNJ, mainly through the use of vulnerable marine ecosystems (VMEs), fishery closures by RFMOs, and particularly sensitive sea areas (PSSAs) by the IMO (although the latter have not been used). A relatively recent development in designating a network of MPAs in ABNJ in the North East Atlantic through the OSPAR Commission was also highlighted as an initiative that can be instructive to other regions and the global level. However, some States raised objection to the notion that this approach should be considered a model that other regions should follow. Discussions also touched on the major challenges faced with implementing marine protected areas at the global and regional levels. Global-level challenges include the difficulty in gaining political support from all States, the current lack of cross-sectoral tools, and the absence of a comprehensive legal framework for implementing MPAs in ABNJ. Regional-level challenges include the absence of RFMOs and Regional Seas Conventions in all regions, third-party State issues, lack of clarity regarding the appropriate authority for designating and managing MPAs, and potential difficulties related to inconsistent approaches among regions. Some countries noted, however, that, as regions are often different in many ways, regional approaches should be tailored to the unique context of the region.

Discussions also focused on environmental impact assessments (EIAs) in ABNJ, a tool commonly emphasized for its potential in ABNJ. As with other management tools, translating experience and lessons in implementing EIAs from areas within national jurisdiction to ABNJ is very difficult. This is due to a number of factors, including difficulty in identifying who the stakeholders are, lack of knowledge regarding potential impacts and vulnerabilities, and deciding who has the right to call for and approve the EIA. As well, carrying out EIAs in ABNJ is much more expensive than in areas closer to shore, adding to the already high costs of conducting activities in ABNJ. Some noted that experience in implementing EIAs in ABNJ is being developed in response to UNGA Resolutions addressing bottom-fishing, but that documenting the extent to which EIAs are performed in general has proven difficult. Some States noted that, compared to areas closer to shore, any given site in ABNJ is likely to experience much less pressure from human activities. One panelist noted that it is very difficult to identify the incremental impact of new activities versus existing impacts in ABNJ due to lack of data.

The social aspects of conservation and management have not been a major focus of discussion with respect to ABNJ, but were addressed in the workshop. Speakers discussed the need to consider social systems, in addition to ecological systems, in ABNJ management, as they are inextricably linked. As the social benefits derived from the use of ABNJ resources are somewhat similar to those in nearshore areas (food, minerals, pharmaceuticals, etc.) social factors should factor into ABNJ policies. However, some highlighted the difficulty in identifying ABNJ stakeholders and the need for social network analysis, which shows the benefit flows between stakeholders.

The workshop was concluded with a discussion on cooperation among governments and users and as a means to build the capacity of developing nations in ABNJ. Panelists highlighted the benefits of cooperation, including mitigating user conflicts and cumulative impacts, maximizing use of expertise, preventing duplication of efforts, and safeguarding areas currently free from direct human impacts. Coordination among competent authorities could also help to overcome narrow mandates of certain sectoral bodies. Panelists and governments highlighted the need for capacity building and technology transfer between developed and developing countries to facilitate enhanced conservation and sustainable use of biodiversity in ABNJ, including through partnership and mentoring arrangements between regional organizations with more advanced resources and capacity, or through a global scholarship program to

foster science, policy and governance research into biodiversity conservation and sustainable use of biodiversity in ABNJ. The value of coordination in data management was also discussed as a means to support informed decision-making and identify data gaps. One panelist noted that current efforts in data coordination, including through the Ocean Biogeographic Information System (OBIS), have demonstrated that data availability for the oceans are unevenly distributed with significant gaps in ABNJ and the southern hemisphere.

### **A Positive Step for the BBNJ Working Group and ABNJ Management in General**

Going into the Workshops, there was a great amount of uncertainty regarding their potential usefulness and any impact they would have on the discussions of the BBNJ Working Group, as well as the degree to which States would actively participate. In this respect, many in the room were pleasantly surprised by the usefulness of the presentations and discussions, as well as the active involvement of delegations. The discussions generally took a different tone than those of the BBNJ Working Group, with States seeking policy-oriented substantive information rather than reiterating well-known positions on contentious issues. However, it became evident during these workshops that there are complexities and uncertainties far deeper than many had anticipated.

Whether these discussions will have a positive effect on the BBNJ Working Group remains to be seen. It appears that many States focused on the utility of these workshops not only as a means to gain a greater understanding of the issues at hand, but also to acquire information to support their positions on key issues. Hopefully, this translates into more substantive and action-oriented discussion in the BBNJ Working Group.

Outside of the BBNJ Working Group, these workshops also proved useful in exposing the broad range and multifaceted nature of ABNJ issues to many stakeholders and serve to elucidate areas in need of greater research and collaboration. Whether or not tangible impacts are seen within the BBNJ Working Group, the workshops will surely spur new and interesting research initiatives and collaboration with ABNJ stakeholders in general.

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## **Global Ocean Forum Signs Framework Agreement for Collaboration with the Korea Institute of Ocean Science and Technology (KIOST)**

On May 9, 2013, representatives from the Korea Institute of Ocean Science and Technology (KIOST) visited the University of Delaware (UD) campus to sign a Framework Agreement for Collaboration with the Global Ocean Forum.

Dr. Jung-Keuk Kang, President of KIOST, Dr. Dosoo Jang, Senior Director of the International Cooperation Department of KIOST, and ten other colleagues from the various departments within KIOST met with Dr. Biliiana Cicin-Sain, President of the GOF, and the GOF Secretariat to formally sign a Framework Agreement, laying out a roadmap for collaboration between the GOF and KIOST in the coming years.

The Korea Institute of Ocean Science and Technology (KIOST) has emerged as a key global player in ocean science, technology, and policy, including in oceanographic exploration and research, research in polar regions, innovative approaches to the development of marine resources, and international cooperation in oceanographic research. In 2012, KIOST played a key role in a number of major ocean

events, co-organizing the 2012 Yeosu International Exposition (which was focused on the theme of “The Living Ocean and Coast”), leading the development of the Yeosu Ocean Declaration, co-organizing the East Asian Seas Congress, and supporting the Oceans Day at Rio+20.

The Global Ocean Forum (GOF) has a long history of collaboration with KIOST; in particular, collaborating in the Rio+20 Conference and the 2012 Yeosu Exposition that brought together more than 8 million visitors. The GOF worked closely with the Yeosu Exposition’s Organizing Committee and KIOST on the Yeosu Declaration on The Living Ocean and Coast, and in the organization of the Yeosu Declaration Roundtable and the Yeosu Declaration Forum, outlining a vision and tangible initiatives and recommendations to catalyze international action in pursuit of the new vision of “green growth from the sea,” which looks to the ocean as an engine of sustainable economic growth and innovative and sustainable approaches to address the challenges and opportunities of the ocean. In the past, GOF and KIOST have also worked together in co-organizing the Oceans Days at the UNFCCC climate negotiations in 2009 and 2011, the Global Ocean Conferences in 2008 and 2010, and a multi-stakeholder workshop in 2008 on strategic planning for marine areas beyond national jurisdiction.

Through this enhanced collaboration, GOF and KIOST have agreed to work together on a number of fronts in the next several years:

- Supporting the implementation of the outcomes of the Rio+20 Conference and the Yeosu Declaration at various levels through multi-stakeholder dialogues and cross-sectoral processes;
- Promoting the implementation of integrated and ecosystem-based ocean and coastal management in marine areas beyond national jurisdiction, including through collaboration in the development of an ABNJ Regional Leaders Fellowship Program and ABNJ Communities of Practice;
- Promoting capacity development in integrated and ecosystem-based ocean and coastal management through the Rio+20 Voluntary Commitment on *Building Oceans Readiness: Capacity Development for Integrated Ocean Governance*
- Identification and policy analysis of new opportunities for implementing green growth from the sea, as described in the Yeosu Declaration, focused on innovative approaches for using ocean resources in a sustainable, equitable, and environmentally-friendly manner

The University of Delaware’s College of Earth, Ocean, and Environment (CEOE) also hosted a special roundtable meeting between the KIOST delegation and CEOE researchers to discuss potential areas of cooperation between KIOST and CEOE. Dr. Nancy Targett, Dean of CEOE, Dr. Mohsen Badiy, Deputy Dean of CEOE, Dr. Bilana Cicin-Sain, Director of the Gerard J. Mangone Center for Marine Policy, and other UD researchers and faculty outlined the groundbreaking research conducted at CEOE and potential areas of cooperation between the two institutions, including in the areas of: climate change research, ocean observations and operational oceanography, deep-sea research, remote sensing, coastal engineering (offshore wind farms and renewable energy development), and coastal erosion.

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## **UNDESA Convenes Expert Group Meeting on Oceans, Seas, and Sustainable Development to Discuss Implementation of Rio+20 Ocean Outcomes**

On April 18-19, 2013, at the United Nations headquarters in New York, the UN Department of Economic and Social Affairs organized the Expert Group Meeting on Oceans, Seas and Sustainable Development of ocean leaders from governments, international organizations, and civil society to discuss opportunities and challenges in implementing the Rio+20 ocean outcomes. Specifically, the Expert Group meeting aimed to:

- Elaborate on the importance of oceans and seas for sustainable development;
- Present and discuss main oceans-related issues and challenges;
- Identify possible new measures and/or highlight existing proven measures with regard to the implementation of Rio+20 decisions and other oceans-related topics;
- Present “best practices” supporting the conservation and sustainable use of oceans, seas and their resources;
- Elaborate on how to enhance multi-stakeholder and international cooperation.

The meeting came at a key time in the deliberations of the Open Working Group on Sustainable Development Goals. As well, the Expert Group meeting aimed to provide background information to the upcoming 14th meeting of the UN Informal Consultative Process on Oceans and the Law of the Sea (ICP), which will be held June 17-20, 2013, in New York, and the 3<sup>rd</sup> International Conference on SIDS, which will be held in 2014 in Samoa.

The meeting hosted speeches and presentations from a number of key ocean leaders, including:

- Ambassador Isabelle Picco, Permanent Representative of Monaco to the UN
- Ambassador Ronald Jumeau, Ambassador for SIDS and Climate Change, Seychelles
- Nikil Seth, Director, Division for Sustainable Development, UNDESA
- Elizabeth Thompson, Former Minister for Energy And Environment of Barbados, and Executive Coordinator for the Rio+20 Conference, Executive Office of the United Nations Secretary-General
- Biliana Cicin-Sain, Director, Gerard J. Mangone Center, University of Delaware, and President, Global Ocean Forum
- Wendy Watson-Wright, Executive Secretary, Intergovernmental Oceanographic Commission (IOC)
- Andrew Hudson, UN-Oceans Coordinator and Head, Water and Ocean Governance Programme, Bureau for Development Policy, UNDP
- Jacqueline Alder, UN-Oceans Deputy Coordinator and Head, Marine and Coastal Ecosystems Branch, Division of Environment Policy Implementation, UNEP
- Edward Kleverlaan, Head, Office for the London Convention/Protocol and Ocean Affairs, International Maritime Organization (IMO)
- Christophe Lefebvre, Director, International Affairs, French Marine Protected Areas Agency and IUCN Ocean Councilor
- Peter J. Kristensen, Team Leader for Oceans, Biodiversity and Pollution, Environment Department, World Bank
- Aqqaluk Lynge, Chair, Inuit Circumpolar Council (ICC)
- Julie Ritz, Sustainable Development Officer, SIDS, Oceans and Climate Branch, Division for Sustainable Development, UNDESA
- Jake Rice, Chief Scientist, Fisheries and Oceans Canada (DFO) and Contributing Co-Author IPCC Fifth Assessment Report

Presentations focused on key issues facing the oceans, including climate change, pollution, overfishing, coral reef degradation, marine tourism, SIDS issues, scientific research and ocean monitoring, as well as the contribution of oceans to job production and poverty eradication. The need for improved ocean governance across sectors and uses, and greater efforts to build the capacity of developing nations were also key topics of discussion. New ocean-related initiatives were also highlighted, including the Global

## Partnership for Oceans and the UN Secretary-General's Oceans Compact.

Meeting participants stressed the importance of including oceans in post-Rio+20 processes and the need for oceans to be a central part of the Sustainable Development Goals (SDGs), through either a stand-alone ocean SDG or as part of cross-cutting SDGs. Participants also discussed a significant disconnect between science and policy-making, the importance of taking social and cultural issues into account when addressing ocean sustainability. Discussions also focused on the overexploitation of global fish stocks as a central obstacle to achieving sustainable development with respect to ocean and coasts. Many participants noted the important role of the tourism industry in sustainable development and stressed the difficulty faced by small and medium-scale hotels and tourism businesses in transitioning to sustainable practices. The complex relationship between SIDS economies and tourism was discussed as well, with some voicing the need for more studies on the carrying capacity for tourism in SIDS in order to find out how long tourism would be sustainable in these areas. Participants also discussed the disconnect between science and policy-making, and the need to make scientific evidence more effective by being honest about transition costs and linking it to a strategy that will specifically deal social impacts associated with the transition.

For more information on the Expert Group meeting on Oceans, Seas and Sustainable Development, including copies of all of the presentations delivered at the meeting, please see:

<http://sustainabledevelopment.un.org/index.php?page=view&nr=436&type=13&menu=232>