



Presentation Abstract

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Governance of areas beyond national jurisdiction – a LOSC unfinished agenda

Nearly 50% of the earth surface is covered by marine areas beyond national jurisdiction. That is, areas that are beyond the limits of the Exclusive Economic Zones recognized by the 1982 LOSC, and of the continental shelf which the Convention recognized may extend beyond 200 nautical miles to its outer geomorphological limits.¹ Since the finalization of the 1982 Convention, human activities in the ocean and in ABNJ have burgeoned, as have their impacts.² These impacts are not necessarily the result of new activities but of the unprecedented increase of existing activities such as maritime transport, the laying of submarine cables (for internet connections) and, of course, fishing.

In the thirty years since the conclusion of the 1982 UN Law of the Sea Convention it has become clear that the regime for Areas beyond National Jurisdiction (ABNJ) upon which the 1982 Convention seems to be premised has not materialised. This paper looks at the limitations of the current ocean governance regime, identifies important issues that need to be addressed more specifically in ABNJ – such as basic principles of ocean governance, environmental impact assessment for new activities and the establishment of marine protected areas. In 2004, in order to address the full range of issues particularly related to the conservation of biodiversity in areas beyond national jurisdiction, the UN General Assembly agreed on the recommendation of the UN Informal Consultative Process on the Oceans and the Law of the Sea (UNICPOLOS) to establish an *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 (known as the BBNJ process).³ This BBNJ Working Group met first in 2006; its most recent meeting (its fifth) was in May 2012. The Rio +20 UNCSD in June 2012 agreed a time line for this process.

The paper will also look in detail at the Sargasso Sea project – which is designed to see what protection measures can be put in place for a unique ecosystem in ABNJ using existing international institutions without waiting for the UN to take more comprehensive action.

¹ Art. 76, LOSC

² B. Halpern *et al.*, “A Global Map of Human Impact on Marine Ecosystems.” (2008) Vol. 319, no. 5865, *Science*, pp. 948-952 (15 February 2008). E. Ramirez-Llodra *et al.*, “Man and the Last Great Wilderness: Human Impacts on the Deep Sea” (2011) 6(7) *PLoS one* e22588.

³ For details of the meeting to date see

<http://www.un.org/Depts/los/biodiversityworkinggroup/biodiversityworkinggroup.htm>