

MARINE GENETIC RESOURCES AND THE LAW OF THE SEA

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Marine biodiversity, in particular issues related to marine genetic resources, have become a central topic of discussions of international policy-makers and lawyers. At stake are a number of political, economic, social, environmental, legal and ethical interests. In recent years, in the context of the United Nations, States have sought to ensure the sustainable use of marine biodiversity, while at the same time protecting vulnerable ecosystems from various impacts. Marine biodiversity beyond areas of national jurisdiction is particularly vulnerable owing to the current legal and institutional framework, which remains sector-based. Several international instruments apply, yet none of those instruments specifically addresses this issue. First and foremost among those instruments is the United Nations Convention on the Law of the Sea (UNCLOS), which sets out the framework for all activities in the oceans and seas and establishes various regimes within different maritime zones. Several global and regional intergovernmental organisations also have sectoral competences in areas beyond national jurisdiction but coordination remains minimal.

Discussions at the General Assembly are now seeking to ensure that the legal framework for the conservation and sustainable use of marine biodiversity beyond areas of 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 UNCLOS. The issue of marine genetic resources of areas beyond national jurisdiction is a key component of the discussions, including with a view to addressing questions of access and equitable sharing of the benefits arising out of their utilization as well as capacity-building needs and technology transfer. In the context of those discussions, Member States are to consider, inter alia, the extent and types of research, uses and applications of those resources, technological, environmental, social and economic aspects, intellectual property rights issues, as well as global and regional regimes on genetic resources, experiences and best practices.

The presentation will provide an overview of the on-going process at the United Nations, highlighting the relevant legal and institutional aspects, including the rights and obligations of States within various maritime zones as set out under UNCLOS, issues of access and benefit sharing as well as intellectual property rights.

References

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- General Assembly resolution 66/288, 'The future we want', 27 July 2012.
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- 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, United Nations document A/66/119, 30 June 2011.
- Letter dated 16 March 2010 from the Co-Chairpersons of the Ad Hoc Open-ended Informal Working Group to the President of the General Assembly, United Nations document A/65/68, 17 March 2010.
- Report 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: Letter dated 15 May 2008 from the Co-Chairpersons of the Ad Hoc Open-ended Informal Working Group to the President of the General Assembly, United Nations document A/63/79 and Corr.1, 16 May 2008 and 3 December 2008.
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