



*Grupo
Latinoamericano
de Expertos en Pesca*

***THE PROCESS FOR DRAFTING A NEW AGREEMENT ON
CONSERVATION AND SUSTAINABLE USE OF MARINE
BIOLOGICAL DIVERSITY
BEYOND NATIONAL JURISDICTION (BBNJ).***

*Challenges and opportunities for the fisheries sector to ensure
consistency and soundness in global fisheries management.*



Symposium
**“For an active participation
in the international management
of living marine species**

Bernal Alberto Chavarría Valverde
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THE CONCEPT

The mandate from United Nations General Assembly: A/RES/72/249

72/249. International legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction

WHAT
SHOULD BE
DONE

1. *Decides* to convene an intergovernmental conference, under the auspices of the United Nations, to consider the recommendations of the Preparatory Committee on the elements and to elaborate the text of an international legally binding instrument under the United Nations Convention on the Law of the Sea² on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, with a view to developing the instrument as soon as possible;
2. *Also decides* that negotiations shall address the topics identified in the package agreed in 2011, namely, the conservation and sustainable use of marine biological diversity of 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, environmental impact assessments and capacity-building and the transfer of marine technology;

THE CONCEPT

The mandate from United Nations General Assembly

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WHAT
SHOULD
NOT BE
DONE

6. *Reaffirms* that the work and results of the conference should be fully consistent with the provisions of the United Nations Convention on the Law of the Sea;
7. *Recognizes* that this process and its result should not undermine existing relevant legal instruments and frameworks and relevant global, regional and sectoral bodies;

THE CONCEPT

The mandate from United Nations General Assembly

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UNCLOS
AND BBNJ



6. *Reaffirms* that the work and results of the conference should be fully consistent with the provisions of the United Nations Convention on the Law of the Sea;

BBNJ AND
RFMOs

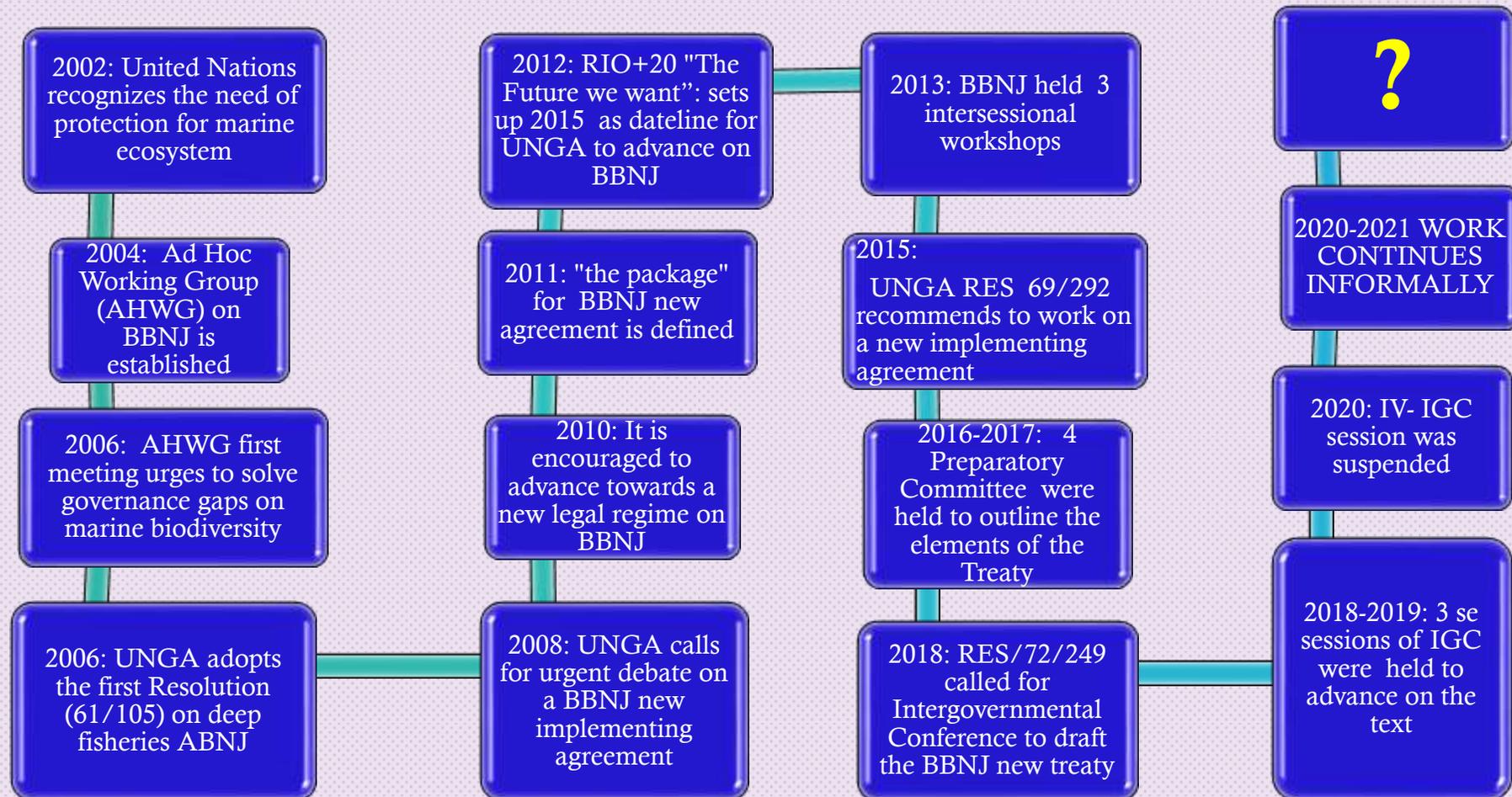


7. *Recognizes* that this process and its result should not undermine existing relevant legal instruments and frameworks and relevant global, regional and sectoral bodies;

The NO UNDERMINING principle mandated

THE PROCESS: How did it all start?

Biodiversity... A global concern



THE PROCESS: summarizing the advances

THE PACKAGE

1. marine genetic resources, including questions on the sharing of benefits,
2. measures such as area-based management tools, including marine protected areas,
3. environmental impact assessments, and
4. capacity-building and the transfer of marine technology;

THE PROCESS: summarizing the advances

FRAMEWORK

- 192 UN member states negotiating
- Strong NGOs promotion on conservation
- English language only in informal/technical meetings
- Few to none fisheries sector participation while fisheries is considered an ungoverned threat
- Only officially appointed negotiators can participate
- Several perspectives on the same target:
 - Developed countries
 - Developing countries
 - Small Island developing States
 - Landlock States
 - Least developed countries

THE PROCESS: summarizing the advances

TEXT PROPOSALS

- 1st ICG: Thematic áreas were identified. NO CONSENSUS
- 2nd IGC: Thematic Interlinked options were summarized
- 3rd IGC: First draft was prepared and substantial issues were addressed. No consensus yet.
- Previous to 4th IGC: a new document, 410 pages containing unsettled choices was prepared, no formal advances

THE PROCESS: summarizing the advances

UNSOLVED LINKS AND QUESTIONS REGARDING FISHERIES MANAGEMENT

- I. Will BBNJ treaty supersede UNFSA?
- II. How does the treaty would manage a fishing target species when it also is of interest as marine genetic resource?
- III. How does the new treaty will ensure that Marine Protected Areas do not affect rights to fish in ABNJ under management of a RFMO?
- IV. Which rules shall prevail in an ABNJ MPA which at the same time is declared a time-area closure under a RFMO's CMM?
- V. Does a vessel seeking to fish in the ABNJ requires Environmental Impact Assessment before obtaining a license to fish in the High Seas?
- VI. How does the coordination will work between The BBNJ Scientific Body and RFMOs
- VII. How does this treaty will encompass the participatory rights of those who are not parties to UNCLOS, or non-parties to BBNJ, but they are members to RFMOs?

And so many more...

THE PROCESS: summarizing the advances

HAS FISHERIES
SECTOR
SUBSTANTIALLY
PARTICIPATED
IN THE PROCESS?

- ❖ The role played by FAO
- ❖ The role Played by RFMOs
- ❖ The case of latin American fisheries sector, FAO and the Group of Experts
- ❖ Where are we now?
- ❖ What is to be expected

ENGAGEMENT AND PARTICIPATION

WHAT NEEDS TO BE CONSIDERED:

IS THERE A
NEED FOR A
NEW BBNJ
TREATY?

- a) UNGA already mandated the process and it has advanced
- b) Although several meetings (technical, informal and formal) have taken place, no specific gaps have been identified in areas already governed under UNCLOS
- c) Should there be gaps for the conservation and sustainable use of marine biodiversity, the specific areas should be closely and specifically identified
- d) Are there any grounds to qualify that the field of fisheries have governance gaps in ABNJ?
- e) Improvements in governance of the Ocean for the conservation and sustainable use of marine biodiversity is relevant to all, including fisheries sector, as we are all devoted for the long term conservation of the ecosystem, to secure enough fish for the future

ENGAGEMENT AND PARTICIPATION

WHAT NEEDS TO BE ADDRESSED

FISHERIES
SECTOR HAS A
LOT TO SAY, Can
we?

- Who talks in the negotiation?
- How national position is built?
- Are national fisheries authorities aware and engaged?
- Are fishermen and fisheries industry engaged?
 - The need of a fisheries sector global network
 - The need for a voice in the United Nations under ECOSOC

APPROACHES AND PERSPECTIVES

Is BBNJ for
fisheries an
opportunity?

- Is this the time for increasing awareness on the world's environmental trends?
- What kind of support we can provide to ensure that the new BBNJ treaty adds to the governance, without interfering with fisheries management and responsible fisheries?
- Should not be this the time to securing active and effective participation of fisheries sector in the global agenda?
- Should not be this the time to question ourselves how can we do better in strengthening our governance for responsible fisheries.

ENGAGEMENT AND PARTICIPATION

The upcoming IV Session of BBNJ IGC:

Will IGC IV
Session advance
enough to agree on
the text for final
recommendation?

- a) There is no clarity on when will the next IGC session take place.
- b) The text has not advanced to a level of consensus enough to close the negotiations
- c) The text is expected to be approved by consensus. However, the UN applicable rules also authorizes 2/3 vote.
- d) While developing countries have shown lots of expectations for receiving capacity building and transfer of marine technology mandatorily, developed countries have kept a strong position towards the voluntary basis
- e) The whole process lacks of a technical approach regarding fisheries management and governance
- f) In spite of the above, NGOs are encouraged to speed up the process, mostly to ensure that ABMT and specially the MPAs network can enter into force

ENGAGEMENT AND PARTICIPATION

Personal view:

- a) Fisheries should not be covered by BBNJ. No gaps on fisheries have been identified. If there is a gap on the governance for fisheries in the high seas, they should be identified to amend the United Nations Fish Stock Agreements as appropriate, but there is no mandate for that.
- b) Fisheries sector (both public and private) should engage and together actively participate in the forthcoming process
- c) There are informal and non-transparent advances that could place unwanted risks that can only be mitigated if fisheries sector is part of the national process
- d) The new treaty is mandated to work on both: Conservation and Sustainable Use. Conservation alone should not be accepted.
- e) Cooperation and Coordination must lead the interaction between this new treaty and the relevant global, sectoral or regional bodies or agreements. BBNJ must not supersede the competence of RFMOs and FAO in order to comply with the no undermining principle
- f) Fisheries sector should ensure its participation in the global debate, for ensure that global policy respect and align with responsible fisheries.