

ABNJ Process also known as the “High Seas Treaty”

We need to calmly evaluate the outcome of the NGO-driven Areas Beyond National Jurisdiction (ABNJ process also known as the “High Seas Treaty”). NGO media outlets went wild prematurely announcing an agreement without even seeing the final text. Fact is it will not be approved until Member States (not NGOs) sign off in the near future. Some highlights:

1. Marine Technology Transfer

Technology cannot be transferred without know-how to be effective. It is protected by Intellectual Property Right (IPRs) and in the hands of the private sector. SIDS, LDCs and developing countries in general were sold the idea that they would get some sort of free high-tech gifts. It will not happen. Maybe technical assistance through NGOs. Even then, countries must have the capacity to absorb it.

2. Marines Genetic Resources (MGR)

13000 patents of genetic sequences have already been registered by 4 multinationals (BASF, Dow Chemical and Bayer which bought Monsanto's portfolio). The absence of the World Intellectual Property Organization (WIPO) from the negotiations was a gigantic error. They have more experience in Genetic Resources (GRs) after 20 years and some 30 sessions of text-based negotiations than anyone in the UN dysfunctional system or anywhere. Not inviting WIPO meant that they were afraid to hear the truth. It will be hard if not impossible to negotiate, much less implement with private sector companies any type of Access and Benefit Sharing (ABS) agreement, not only on account of IPRs but even in drafting an acceptable template to sign it. In reference to the fish species from which we have genetic sequences only ONE individual is needed to obtain its DNA so they shall continue to feed humanity. Some wanted to “protect” them.

3. Area-based Management Tools (ABMTs), including Marine Protected Areas (MPAs)

They are the NGO's holy grail out of BBNJ. They don't understand that the jury is out. If you close oceans to fishing, tourism or research, fishing fleets will, for example, congregate where there are no "no take" areas. You might be inducing overfishing and IUU fishing. MPAs are not one-size-fits all magical solutions. One may work for a limited time and then might not work at all. It is a case-by-case scenario at best. Why would countries like the US or Norway be punished when their fisheries are sustainable? Art 19.2 on area-based measures, including marine protected areas, establishes respect for the competences and not undermining global, regional, subregional, and sectoral frameworks and organizations. RFMO can do it. FAO can assist. Real scientists can cooperate but predetermined outcomes from self-righteous NGOs should not play a role.

4. Funding

Although it should be together with Tech Transfer, LDCs, SIDS, G-77+ China, Caribbean and African countries should not expect checks in the mail. Maybe some minor donations through NGOs or "look alikes". The money is somewhere else. Countries that are considered unlike-minded, unfriendly or else will not get support. Don't expect cooperation.

5. Fisheries are excluded (art 4.2 and 8.2 are clear). They finally conceded that trying to surreptitiously include it, would extend by years the approval of this still incoherent, weak, unfair and imbalance Treaty. Which major powers will ratify it?

Carlos Mazal

Senior Member of the Uruguayan Council for International Relations

Member of the Board of the National Academy of Economic of Uruguay