

**DEVELOPMENT OF AN INTERNATIONAL LEGALLY-BINDING  
INSTRUMENT UNDER UNCLOS ON THE CONSERVATION AND  
SUSTAINABLE USE OF MARINE BIOLOGICAL DIVERSITY OF  
AREAS BEYOND NATIONAL JURISDICTION (BBNJ PROCESS)**

**WRITTEN SUBMISSION OF THE EU AND ITS MEMBER STATES**

**CAPACITY-BUILDING AND TRANSFER OF MARINE TECHNOLOGY**

**31 January 2017**

The EU and its Member States wish to provide the following additional contribution which builds on their previous submission on capacity-building and the transfer of marine technology prior to the second session of the Preparatory Committee. It takes into consideration the discussion that took place on that occasion as well the Chair's understanding of possible areas of convergence of views and possible issues for further discussion emanating from the informal working group on capacity-building and the transfer of marine technology.

We would like to stress at the outset that, in our opinion, the discussion on capacity-building and technology transfer remains highly dependent on and linked to the evolution of the substantial discussions on the other issues under consideration by the Preparatory Committee.

Given the already detailed provisions on capacity-building and technology transfer contained in UNCLOS and other relevant agreements, political statements and implementing guidelines, one of the main challenges in drafting this part of the Implementing Agreement will be to focus on added value. We will need to find the appropriate level of detail, avoiding, insofar as possible, the repetition of existing provisions and achieving sufficient generality so as to "future-proof" the relevant provisions and allow for flexibility in their implementation so as to cater for evolving needs.

### **Objectives**

1. In the context of the future Implementing Agreement, the EU and its Member States see capacity-building and technology transfer as a means of increasing public awareness, disseminating, communicating and sharing knowledge on the conservation and sustainable use of marine biodiversity in ABNJ. It is also a means of empowering all States, and in particular developing States, to fully take part in achieving the Implementing Agreement's objectives, i.e. participating in and benefitting from the conservation and sustainable use of marine biodiversity in ABNJ and meeting their relevant obligations, in a perspective of sustainable development.

2. More specifically, capacity-building and technology transfer in the context of the future Implementing Agreement should contribute to assisting States, in particular developing States, to:

- a) Support the implementation of any marine genetic resources regime, which may be established by the new instrument, while ensuring that sustainability and conservation are achieved;
- b) Carry out or participate in environmental assessments of activities, including projects, plans and programmes that may have an impact on the marine biodiversity of areas beyond national jurisdiction; in that context, apply and/or participate in preventive and precautionary approaches, including the reduction of the risk of marine biodiversity degradation, unfavourable conservation status of marine species and/or long-term or irreversible adverse effects on marine biodiversity;
- c) Undertake and participate in measures to conserve and sustainably use marine biodiversity in areas beyond national jurisdiction, inter alia, through the establishment and the management of area based management tools, in particular marine protected areas.

### **Activities**

3. As many other delegations, we consider that, in reference to the objectives and material scope of the future Implementing Agreement, capacity-building and technology transfer measures should be clear, result oriented and guided by lessons learned, including from

other instruments. They should focus on demonstrable results and outcomes and be sustainable over time. Technology transfer measures should be carried out on a voluntary basis taking into account the UNESCO-IOC guidelines.

4. Broad and timely participation of relevant stakeholders – including regional fisheries management organisations and regional seas conventions or action plans, civil society, non-governmental organisations and other groups including the private sector, the scientific community, United Nations bodies, as appropriate – in the design, implementation and evaluation of these measures should be foreseen. In that context, the role and participation of women should be promoted.

5. Among the activities that, in our view, could contribute to achieving the objectives of the Implementing Agreement, we would propose the following:

- a) Raising awareness on the importance of conservation and sustainable use of marine biodiversity in ABNJ and means to achieve these objectives;
- b) Integrating protection, conservation, restoration and sustainable use of marine biodiversity in ABNJ into relevant national and regional policies, in support of sustainable development and in line with obligations under UNCLOS;
- c) Assisting States to comply with the obligations of the Implementing Agreement, to implement its various provisions and to monitor the progress made in its implementation, including by assisting them in developing, implementing and enforcing domestic legislative, administrative or policy measures;
- d) Increasing, disseminating and sharing knowledge for effective conservation and sustainable use of marine biodiversity in ABNJ;
- e) Promoting the development of human resources as well as technical and research capabilities related to the objectives and material scope of the Implementing Agreement, including by disseminating and creating training opportunities at national, regional and global levels;
- f) Developing, upgrading or strengthening systems and institutional structures capable of assessing marine biodiversity as well as of implementing and monitoring the objectives and activities related to the conservation and sustainable use of marine biodiversity in ABNJ;
- g) Assisting States, in particular developing States, to access, collect, analyse and use data, samples and information;
- h) Promoting cooperation on technology transfer with a view to identifying or developing the appropriate technologies for the achievement of the objectives of the Implementing Agreement and to assist States, in particular developing States, to access the relevant, appropriate, adequate and up-to-date marine technology, on a voluntary basis, according to mutually agreed terms respecting intellectual property rights, in line with the UNESCO-IOC guidelines.

6. Capacity-building and technology transfer provisions under the Implementing Agreement should be coherent with and contribute to making more operational the existing and sometimes detailed provisions on capacity-building and technology transfer included in UNCLOS and other international agreements.

### ***Identification of needs***

7. The future Implementing Agreement should recognise the needs of developing States in relation to the conservation and sustainable use of marine biodiversity in ABNJ. Therefore, the new instrument should provide for States, either directly or through appropriate international, regional organisations and bodies or any other relevant organisation, to provide assistance in the form of capacity-building and technology transfer to developing States.

8. This assistance should be "needs driven" and respond to the specific needs of the developing States relating to the objectives and scope of the agreement. It should be compatible and responsive to national and regional realities and priorities and should complement and not duplicate other efforts and resources. It should also optimize the use of available financial, human and technical resources and promote sustainable development.

9. Needs – which might change or evolve over time and therefore require adaptation – should be identified by the developing States, preferably in the context of an approach involving a periodical assessment, carried out at national and regional level through a joint collaborative exercise<sup>1</sup> involving all relevant States and stakeholders, including international, regional and civil society organizations.

10. In order to ensure the best possible outcomes, the identification of needs should be based on a holistic evaluation of existing capacities, including institutional and human resource capacities and abilities to utilize profitably the transferred technologies.

### ***Mechanism(s) for facilitating capacity-building and technology transfer***

11. Capacity-building and technical assistance may be delivered through international, regional and bilateral arrangements, including existing or new regional centres, as appropriate, through other multilateral and bilateral means, and through partnerships involving the private sector.

12. The EU and its Member States consider it important to ensure an integrated approach to capacity-building and technology transfer on marine biodiversity in ABNJ. This could be facilitated by improved coordination and strengthened links among the relevant national, regional and international institutions, both within and outside the United Nations system.

13. As previously stated, the EU and its Member States are ready to consider the mechanisms necessary to foster this coordination on capacity-building and the transfer of marine technology, including a clearing house mechanism.

In our view, such a clearing house mechanism could:

- a) Promote international coordination and collaboration on capacity-building and technology transfer in relation to the objectives and scope of the IA.
- b) Help to ensure quick/one-stop access to information on capacity-building and technologies in relation to the objectives and scope of the IA;
- c) Promote and facilitate access to the corresponding expertise and know-how.

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<sup>1</sup> The survey on marine capacity-building needs carried out by the Global Ocean Forum and the FAO and presented in a side event on the occasion of the second session of the Preparatory Committee or the process that has led to the synthesis of views and information on domestic needs and priorities and on the proposed elements of the strategic framework for capacity-building and development in support of the implementation of the Nagoya Protocol exemplify what such a collaborative exercise could mean.

14. This could, for instance, entail making capacity-building opportunities transparent, matching requests to providers for technology transfer and giving developing countries access to the related know-how and expertise, facilitating multi-stakeholder partnerships, promoting regional cooperation, enhancing developing countries' participation in scientific research and training, facilitating open access to samples and knowledge, etc.

15. Various bilateral and multilateral capacity-building and technology transfer initiatives and data-bases<sup>2</sup> relating to marine research, including in ABNJ, already exist. We believe it could be useful to carry out an inventory and gap assessment in relation to existing relevant international or regional mechanisms and information exchange systems, with a view to obtaining a clearer picture of the overall architecture that could support and complement any mechanism for ensuring capacity-building and technology transfer in the future instrument. The future Implementing Agreement could include a provision to improve the interoperability and linkages between these mechanisms, including in terms of data and sample collection and sharing.

16. At the previous sessions of the Preparatory Committee, we noted with great interest the numerous references made to the Intergovernmental Oceanic Commission of the UNESCO (IOC) as an organisation which is potentially able to play the role of catalyst and promoter for capacity-building and technology transfer in relation to the objectives of the new instrument. We also noted that, on the basis of the IOC Criteria and Guidelines on the transfer of marine technology, IOC has already been tasked with establishing and coordinating a clearing-house mechanism for the transfer of marine technology, to provide interested users with direct and rapid access to relevant sources of information, practical experience and scientific and technical expertise, as well as to facilitate effective scientific, technical and financial cooperation to that end. The components that this mechanism should include have thus already been described in detail<sup>3</sup>.

17. In our view, the further consideration of IOC as a possible clearing-house mechanism for the future Implementing Agreement would require an assessment of the current activities of this organisation with reference to the objectives of the future Implementing Agreement, as well as of the possible requirements and implications of strengthening and improving its existing structures to better address – beyond the technology transfer dimension – the capacity-building dimension and the focus on ABNJ, in a context of sustainable development.

### **Monitoring**

18. The EU and its Member States consider that the future Implementing Agreement should include a provision addressing the need for measuring the success of capacity-building and technology transfer efforts. The evaluation of capacity-building and technology transfer efforts could be based on an outcome-focused approach that utilises both quantitative and qualitative data, carried out in a joint collaborative effort undertaken at national, regional and international level.

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<sup>2</sup> Ocean Biogeographic Information System (OBIS), Global Ocean Observing System (GOOS), UNESCO-IOC's programme on oceanographic data and information exchange and network of 80 National Oceanographic Data Centres (IODE), etc. are examples of databases that disseminate data relevant to biodiversity in ABNJ.

<sup>3</sup> [\*IOC Criteria and Guidelines on the Transfer of Marine Technology, Section C 1. \(a\).\*](#)