

## Summary of the ‘The High Seas, What’s at Stake?’ Conference

The conference ‘The High Seas, What’s at Stake?’ took place at the Maison des Océans, Oceanographic Institute in Paris, France, on 21 June 2018. The meeting was convened by the The High Seas Alliance and organized jointly by the Albert I Prince of Monaco Foundation, the Albert II of Monaco Foundation, the Tara Foundation, the Institute for Sustainable Development and International Relations (IDDRI) and Nausicaa, with support from the Natural Resources Defense Council (NRDC), the Nature Conservancy (TNC) and the Pew Charitable Trusts. The event was managed by The Varda Group.

The conference brought together 250 participants representing governments, research institutions, non-governmental organizations and civil society. Participants addressed the importance of the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction (BBNJ), diverging views on the protection of BBNJ, and expectations for the negotiations of an international legally binding instrument (ILBI) for the conservation and sustainable use of BBNJ, scheduled to begin in September 2018 and expected to continue until at least 2020.

In the morning, after the opening ceremony, the first roundtable ‘Why we must act now?’ was held. In the afternoon, two other round-tables took place: ‘What obstacles must be removed?’ and ‘What can we expect from negotiations in New York?’ The one-day event concluded with a closing ceremony with the participation of France’s State Secretary for the Environment Brune Poirson.

### A Brief History of the Debate On Marine BBNJ

The conservation and sustainable use of BBNJ is increasingly attracting international attention. The UN Convention on the Law of the Sea (UNCLOS), which entered into force in 1994, sets forth the rights and obligations of states regarding the use of the ocean, its resources, and the protection of the marine and coastal environment. Although UNCLOS does not explicitly refer to marine biodiversity, it is commonly regarded as establishing the legal framework for all activities in the ocean.

In November 2004, the UN General Assembly Resolution 59/24 established an *ad hoc* open-ended informal working group to study issues relating to the conservation and sustainable use of BBNJ (hereinafter, the Working Group). The Working Group met



Round-Table 1: Why We Must Act Now?

nine times between 2006 and 2015. In 2011, the Working Group developed a set of recommendations to initiate a process on the legal framework for conservation and sustainable use of BBNJ.

In June 2012, the UN Conference on Sustainable Development (Rio+20) in Rio de Janeiro, Brazil expressed the commitment of states to address the issue of the conservation and sustainable use of BBNJ, including by taking a decision on the development of an ILBI under UNCLOS before the end of the sixty-ninth session of the General Assembly (UNGA) in 2015. The final five sessions of the Working Group meetings engaged in substantive debates on the scope, parameters and feasibility of an ILBI under UNCLOS. The ninth meeting reached consensus on

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**Peter Thomson**, Special Envoy for the Ocean of the UN Secretary-General

recommendations for a decision to be taken during the sixty-ninth session of the UNGA to develop a new ILBI under UNCLOS on the conservation and sustainable use of BBNJ.

In June 2015, the UNGA adopted Resolution 69/292 which agrees to develop an ILBI under UNCLOS on the conservation and sustainable use of BBNJ. A Preparatory Committee (PrepCom) was established, to make substantive recommendations on the elements of a draft text of an ILBI, and for the Assembly to decide, before the end of its seventy-second session in 2017, whether to convene an intergovernmental conference (IGC) to elaborate the text of the agreement. The PrepCom met four times between 2016 and 2017 and engaged in detailed discussion on the possible elements of an ILBI. PrepCom 4's outcome includes elements of a draft ILBI text, and a recommendation to the UNGA to convene an IGC.

In December 2017, the UNGA adopted Resolution 72/249 which agrees to convene an IGC and undertake formal negotiations for an ILBI under UNCLOS for the conservation and sustainable use of BBNJ. The IGC will convene for a series of four two-week meetings between September 2018 and early 2020.

### **‘The High Seas, What’s at Stake?’ Report**

#### ***Opening Ceremony***

Master of ceremonies for the conference, Valéry Laramée de Tannenberg, Editor, le Journal de l’Environnement, noted the meeting goal was to gather multiple stakeholders to discuss the governance of the high seas in relation to the conservation and

sustainable use of BBNJ. He said that BBNJ belongs to everyone but belonged to no one until recently, and stressed that France and the EU have a major role to play in negotiating the ILBI.

Via video, HSH Prince Albert II of Monaco highlighted the importance of working together on solving problems, and exploring unknown areas, mechanisms, balances and needs with regard to managing the high seas. He welcomed all the participants at the conference, including multilateral institutions, governments, academia, NGOs and civil society organizations, remarking on the good progress made on the multiple issues concerning high seas initiatives currently underway.

Peter Thomson, Special Envoy for the Ocean of the UN Secretary-General, highlighted multiple initiatives such as the Commonwealth Blue Charter and progress on advancing conservation of fisheries and corals. He cautioned that the world is losing the battle on high seas management on many fronts, citing the accelerating rates of ocean acidification, pollution and the decline of fish stocks. However, he said that the integrity of the implementation of SDG 14, conserve and sustainably use the oceans, seas and marine resources for sustainable development, including the four targets set for implementation in 2020, would lead the way to victory. He underscored the importance of showing the same political resolve for BBNJ that was reflected in the Paris Agreement on climate change and highlighted the necessity of diverse partnerships and particularly the work of NGOs.

In a video message, Karmenu Vella, Commissioner for the Environment, Maritime Affairs and Fisheries, European Commission, stressed the importance of partnerships between multiple stakeholders to achieve conservation and sustainable use of high seas biodiversity, and stressed that the EU remains fully committed to establishing an effective international instrument for the conservation and sustainable use of BBNJ.

Serge Ségura, French Ambassador for Ocean Affairs, stressed the need to protect the oceans, particularly the conservation and sustainable use of BBNJ for future generations. He discussed the content of the ILBI, including: the need to establish rules and procedures for marine protected areas (MPAs); the challenges of assessing which activities to cover under environmental impact assessments (EIAs); the importance of addressing benefit-sharing



**Serge Ségura**, French Ambassador for Ocean Affairs

of the use of high seas marine genetic resources; and capacity building and marine technology transfer to enable states to meet all of their obligations.

### **Round-Table 1: Why we must act now?**

This round-table was moderated by Julien Rochette, Director, Ocean Programme, IDDRI.

Joachim Claudet, Researcher, National Center for Scientific Research (CNRS), France, noted that the high seas are a very particular ecosystem, with processes occurring in the water column and on the surface with many migratory species. For example, he highlighted that the species occupying hydrothermal vents are unique and long-lived, but do not invest as much in reproduction relative to coastal species and thus are very vulnerable to impacts. Claudet noted emerging threats such as bioprospecting, mining and geo-engineering, and stressed that MPAs are a powerful tool to protect high seas ecosystems.

Françoise Gaill, Scientific Director, Ocean & Climate Platform, highlighted the impacts of increased temperatures and carbon dioxide concentrations on high seas ecosystems and species. She discussed the role of cumulative stressors on increasing the vulnerability of the ocean biosphere. Gaill also emphasized the importance of marine genetic resources for society, including industrial applications in cosmetics, medicine and biotechnologies.

Rashid Sumaila, Director, Fisheries Economics Research Unit, University of British Columbia, noted that the high seas represent half of Earth's surface which is essential to supporting life. He noted that the top high-seas fishing nations include China, with high annual volume of catches. Sumaila highlighted the problem of destructive fishing practices such as bottom trawling and longline fisheries which result in a high amount of bycatch. He underscored that high seas fishing is not economic as it is expensive, represents less than 10% of total catches, and relies upon subsidies, and expressed his view that it would be socially, environmentally and economically beneficial to the world to close the high seas to fishing.

In the ensuing discussions, participants asked the panelists about lessons learned from the establishment of the high seas MPA established in the Ross Sea, highlighting that it took over four years to negotiate its establishment by the Parties to the Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR). Speaking on behalf of commercial

fishing interests, one participant argued that the use of MPAs has the potential to increase poaching and could impact fisheries livelihoods. In response, Claudet emphasized that on the contrary MPAs are a tool for maintaining fisheries, and noted the positive role of MPAs in re-seeding adjacent areas. Sumaila described MPAs as being part of a toolkit to 'help buy insurance,' and Gaill noted that there needs to be greater involvement of scientists on this issue.

One participant noted that the rapid establishment of patents by companies and some states gives greater credence to the need to address benefit-sharing, and stressed that fisheries must be included in a future treaty. Participants also discussed, *inter alia*: the emerging threat of geo-engineering; how ocean protection in the high seas is linked to the economic development of countries; the need to expand research on ecosystem services provided by the high seas; the importance of technology for monitoring human activities in the high seas; the distinction between bioprospecting and biodiscovery; and the importance of scientists in the process of establishing an ILBI.

### **The Last Frontier, a film produced by the IUCN and FFEM.**

A film produced by IUCN and FFEM, title 'The Last Frontier,' was screened which follows the 26-day expedition-at-sea which studied the Walters Shoal seamount in international waters off the southern coast of Madagascar. It calls for increased science for high seas and better international governance in areas beyond national jurisdiction.

### **Round-Table 2: What obstacles must be removed?**

This round-table was moderated by Romain Troublé, CEO, Tara Foundation.

By video, Teresa Ribera, Minister of Energy and Ecological Transition, Spain, noted the importance of the economic and scientific activities of Spain in areas beyond national jurisdiction for SDG 14 implementation and for the adoption of an ILBI on the conservation and sustainable use of BBNJ. She stressed the important role different stakeholders play including governments, researchers, scientists, NGOs and other civil society groups, as well as the business community.



(L-R): **Romain Troublé**, CEO, Tara Foundation; **Andreas Papaconstantinou**, Head of Unit, Ocean Governance, Law of the Sea, Arctic Policy, DG MARE, European Commission; **Anca Leroy**, Ministry of Ecological and Inclusive Transition, France; **Tidiani Couma**, Secretary of External Relations, Department of External Relations and Cooperation, Government of Monaco; and **Pierre Boussaroque**, Deputy Director, Legal Affairs, Ministry for Foreign Affairs, France

Andreas Papaconstantinou, Head of Unit, Ocean Governance, Law of the Sea, Arctic Policy, DG MARE, European Commission, highlighted the EU's approach to the holistic governance of the ocean and stressed how the ocean has become a matter of political interest, noting the 2018 statement on oceans at the G7 Summit in Canada. He outlined a number of issues related to developing a BBNJ agreement, such as: ensuring reluctant parties join without lowering the level of ambition; the lines between the developed and developing world and the importance of capacity building in this regard; and the challenges associated with a new policy, scientific and economic frontier.

Anca Leroy, Lawyer, Ministry of Ecological and Inclusive Transition, France, noted that the G77 would like marine genetic resources to benefit from common heritage of mankind legal status applicable to mineral resources, but stressed that developed and developing countries do not want to reopen UNCLOS on legal definitions. She highlighted that the utilisation of fish as a biological resource for its genetic properties may be covered in the negotiated agreement, but that fisheries management and fish as a commodity are covered in existing agreements.

Tidiani Couma, Secretary of External Relations, Department of External Relations and Cooperation, Government of Monaco, stressed the importance of working together, as has been done on MPAs, to resolve divergences on the common heritage of mankind, and to move forward quickly on the issue of BBNJ. He stressed the importance of the role played by civil society and NGOs.

Pierre Boussaroque, Deputy Director, Legal Affairs, Ministry for Foreign Affairs, France, underscored the need to find common ground to achieve a position palatable for all engaged in the negotiation processes. He said that obstacles are part of the lifecycle of negotiations, and that achieving agreement to begin treaty negotiations is in itself a victory. He underscored that certain states such as China are torn between commercial

interests in the high seas and attachment to the G-77, whereas the United States is a powerful player even though it has yet to ratify UNCLOS.

In the ensuing discussions, participants questioned if Brexit posed a hindrance to negotiations, and whether it would be better to have a framework that could be achieved relatively quickly instead of a detailed agreement that may delay its adoption. Papaconstantinou noted the potential for a framework convention approach that can deliver on the big objectives of conservation and sustainable use, and Couma noted that such an agreement should include as many elements as possible.

Participants and panelists discussed, *inter alia*: France's leadership capacity in the coming weeks to obtain consensus; the need to monitor performance criteria; a fear of having the treaty held hostage by a handful of states; the expertise of the EU and its continuity of engagement in the high seas processes; the position of negotiators to do for oceans what was done for climate change in the Paris Agreement; building on the preamble in the Paris Agreement related to the ocean; and that negotiators must avoid lowering expectations in order to reach a consensus.

### **Round-Table 3: What can we expect from negotiations in New York?**

This round-table was moderated by Rémi Parmentier, The Varda Group.

Elie Jarmache, Advisor to the President of the French Research Institute for Exploitation of the Sea (IFREMER), stressed the importance of ensuring the implementation agreement includes explicit mention of MPAs and that its structural elements are agreed by 2020. He stated that negotiations will be starting in favorable conditions given the technical and scientific knowledge that has accumulated, the strength of civil society and the availability of resources.

Kristina Gjerde, High Seas Policy Advisor, IUCN, noted that this process rose out of a crisis in biodiversity and governance, and that success will consist of a firm framework for the future to promote a system of MPAs and also engrain good ocean governance. She emphasized the need to bring communities



(L-R): **Rémi Parmentier**, The Varda Group; **Kristina Gjerde**, High Seas Policy Advisor, IUCN; **Elie Jarmache**, Advisor to the President of the French Research Institute for Exploitation of the Sea (IFREMER); **Eden Charles**, Former Ambassador of Trinidad & Tobago to the UN; and **Christine Valentin**, Chief Operating Officer, World Ocean Council



Peggy Kalas, Coordinator, High Seas Alliance



Brune Poirson, Secretary of State for the Environment, France

together to address high seas governance, citing the example of the spiritual connection of Arctic communities to the high seas. Gjerdie highlighted that the most effective MPAs have the strongest protection measures in place with a long term focus, and that these experiences need to be transposed to work on the high seas. She underscored the importance of lessening impacts of fisheries on marine biodiversity and ecosystems, and sharing information and data to enable fisheries to live up to the promise of longevity and sustainable use.

Eden Charles, Former Ambassador of Trinidad & Tobago to the UN, said success would entail that a BBNJ agreement is delivered by 2020, with a proper governance structure and approval by an overwhelming majority of UN states, and noted his optimism on questions regarding area-based management tools and MPAs. In relation to Small Island Developing States (SIDS), he stressed that BBNJ is seen as the most important step since UNCLOS and stressed the importance of benefit-sharing, capacity building and technology transfer.

Christine Valentin, Chief Operating Officer, World Ocean Council, stressed, *inter alia*: that economic actors are a heterogeneous group, that this complexity must be understood; and that the BBNJ agreement should be implemented promptly and be applicable to all. She noted that corporations' shareholders are not just interested in the bottom line, but also in good management which minimizes risk in the long term, including environmental risk. She added that it is important to think about the variety of types of MPAs that are possible, as well as the diverse actors that can participate in their design and implementation.

One participant noted that fishers also suffer from reduced catches as a result of climate change impacts so are taking initiative, and that there are powerful provisions on biodiversity conservation in the recent UN Fish Stocks Agreement, but a major weakness is lack of enforcement. In the ensuing discussion, participants and panelists highlighted, *inter alia*: the extent to which a high level commitment is needed for the high seas; the legal implications for combining conservation and sustainable use together in a treaty; that definitions, including of MPAs, should

not be a hindrance to agreeing on concepts; and the important role of France in fast-tracking implementation in partnership with other states and maritime clusters.

### **Closing ceremony**

Peggy Kalas, Coordinator, High Seas Alliance, thanked all involved in hosting, organizing and speaking at the conference. She underscored the need to act urgently on the unprecedented opportunity to negotiate a new treaty, remarking that it will be the first time governments will gather in thirty years to address high seas management and marine biodiversity in high seas ecosystems. Kalas called on participants to seize the 'incredible opportunity to protect half the planet.'

Brune Poirson, Secretary of State for the Environment, France, congratulated the conference organizers and participants on raising awareness of the upcoming BBNJ negotiations in New York. She emphasized the importance of positive partnerships in tapping into the potential of oceans, and the need to act quickly and at a large scale as threats to high seas ecosystems become more urgent. Poirson stressed that by 2050, plastic pollution will overtake fish stocks, and that other pressures such as sea level rise and ocean acidification represent threats for biodiversity and for humans. She underscored the lack of measures for sustainable use in areas beyond national jurisdiction, noting that international governance in the high seas is fragmented and insufficient to address current and emerging challenges. Highlighting the unprecedented opportunity to achieve a BBNJ agreement by the end of 2020, she called on participants to pressure negotiators and decision-makers into increasing momentum and leadership, emphasizing the role of mobilizing civil society to convince the most skeptical states and to win inter-ministerial battles. Poirson highlighted France's efforts in oceans conservation, including limiting waste from reaching the ocean and halting the use of single-use plastics packaging, and said that France would work 'hand-in-hand' with negotiators to establish a successful treaty for the high seas.

## Upcoming Meetings

**Common Oceans-why Marine Areas Beyond National Jurisdiction Are Essential for People and Planet:** This conference will be held at Nausicaa, the French National Sea Center at Boulogne-sur-Mer, France in the margins of the launch of Nausicaa's large scale High Seas aquarium and exhibition. **dates:** 26-28 June **location:** Boulogne-sur-Mer, France **contact:** info@nausicaa.fr **www:** <https://www.nausicaa.fr/aquarium/voyage-en-haute-mer/>

**International Marine Conservation Congress (IMCC5):** This meeting will bring together conservation professionals and students to develop new and powerful tools to further marine conservation science and policy. **dates:** 24-29 June 2018 **location:** Sarawak, Malaysia **contact:** IMCC5 Organizers **email:** <http://conbio.org/mini-sites/imcc5/about/contact-us/> **www:** <http://conbio.org/mini-sites/imcc5/>

**CBD SBSTTA-22 and SBI-2:** The twenty-second meeting of the CBD Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA), and the second meeting of the CBD Subsidiary Body on Implementation (SBI) will be held consecutively. SBSTTA-22 will address ocean related issues, *inter alia*: protected areas, marine and coastal biodiversity, and biodiversity and climate change. **dates:** 2-7 July 2018 (SBSTTA-22) and 9-13 July 2018 (SBI-2) **location:** Montreal, Canada **contact:** CBD Secretariat **phone:** +1-514-288-2220 **fax:** +1-514-288-6588 **email:** secretariat@cbd.int **www:** <https://www.cbd.int/meetings/SBSTTA-22>

**CBD SBI-2:** The CBD Subsidiary Body on Implementation (SBI) will address, *inter alia*: review of progress in the implementation of the Convention and the Strategic Biodiversity Plan, biodiversity mainstreaming, the global multilateral benefit-sharing mechanism under the Nagoya Protocol on Access to Genetic Resources and Benefit-Sharing, cooperation with other conventions and processes, and mechanisms for review of implementation. **dates:** 9-13 July 2018 **location:** Montreal, Quebec, Canada **contact:** CBD Secretariat **phone:** +1-514-288-2220 **fax:** +1-514-288-6588 **email:** secretariat@cbd.int **www:** <https://www.cbd.int/meetings/SBI-02>

**4th GEO Blue Planet Symposium:** Under the theme of "Our future is blue: Linking ocean and coastal information with societal needs", the conference will serve as a forum for discussion of ocean and coastal information needs for sustainable development, blue growth and societal awareness. **dates:** 4-6 July 2018, **location:** Toulouse, France **contact:** Symposium Secretariat **phone:** +33 825 595 525 **fax:** +33 4 38 38 18 19 **email:** geobp2018@inviteo.fr **www:** <https://symposium.geoblueplanet.org/>

**24th Session of the International Seabed Authority (ISA) Assembly and the ISA Council (Part II):** The ISA Council will consider the 2017 report of the Finance Committee, including the 2019-2020 budget proposals, and the 2018 report of the Legal and Technical Commission. The ISA Assembly

will consider the 2019-2020 budget, a draft strategic plan for the ISA, and the Council's report. **dates:** 2-13 July 2018 for the Legal and Technical Commission; 9-12 July 2018 for the Finance Committee; 16-20 July 2018 for the Council; and 23-27 July 2018 for the Assembly. **location:** Kingston, Jamaica **contact:** ISA Secretariat **phone:** +1-876-922-9105 **fax:** +1-876-922-0195 **email:** <https://www.isa.org.jm/contact-us> **www:** <https://www.isa.org.jm/>

**International Whaling Commission (IWC67):** The IWC will continue its work on the conservation and management of whales and small cetaceans. **dates:** 4-14 September 2018 **location:** Florianopolis, Brazil **www:** <https://iwc.int/iwc67>

**First Session of the Intergovernmental Conference on BBNJ:** The first session of the Intergovernmental Conference (IGC) on an international legally binding instrument under the UN Convention on the Law of the Sea (UNCLOS) on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ) follows an organizational session (held in April 2018) and the conclusion of the fourth and concluding session of the Preparatory Committee (PrepCom) on the elements of a draft text of an international legally binding instrument (ILBI) on the conservation and sustainable use of marine BBNJ under UNCLOS, which was held in July 2017. **dates:** 4-17 September 2018 **venue:** UN Headquarters **location:** New York City, US **www:** [http://www.un.org/depts/los/reference\\_files/calendar\\_of\\_meetings.htm](http://www.un.org/depts/los/reference_files/calendar_of_meetings.htm)

**ICES/UNECE Symposium on Management tools and standards in support of Sustainable Development Goal 14 'Life below water':** This will be the first symposium organized by the International Council for the Exploration of the Sea (ICES) that will be held in collaboration with UN Economic Commission for Europe (UNECE) regarding the SDGs, creating an opportunity for managers, policy developers, and researchers to review concepts and address scientific, policy and regulatory challenges of operationalizing the ecosystem-based management through the use of technical standards and risk management approaches. **dates:** 9-12 October 2018 **location:** Reykjavik, Iceland **www:** <http://www.ices.dk/news-and-events/symposia/Pages/Management-tools-and-standards-in-support-of-Sustainable-Development-Goal-14-Life-below-water.aspx>

**2018 UN Biodiversity Conference:** The 14th meeting of the Conference of the Parties to the Convention on Biological Diversity (CBD), the 9th Meeting of the Parties to the Cartagena Protocol on Biosafety and the 3rd Meeting of the Parties to the Nagoya Protocol on Access and Benefit-sharing (CBD COP 14, Cartagena Protocol COP/MOP 9, and Nagoya Protocol COP/MOP 3) are expected to address a series of issues related to implementation of the Convention and its Protocols. **dates:** 7-22 November 2018 **location:** Sharm el-Sheikh, Egypt **contact:** CBD Secretariat **phone:** +1-514-288-2220 **e-mail:** secretariat@cbd.int **www:** <https://www.cbd.int/meetings/>