

The Management of Marine Biodiversity in the Gulf of Guinea: *What Role for General Legal Principles?*

Brian McGarry

Lecturer in International Dispute Settlement
Graduate Institute of International and Development Studies
& University of Geneva Faculty of Law

Monaco, 10 October 2017

Discussion

1. History of UN BBNJ Process
2. General Principles?
 1. The Common Heritage of Mankind
 2. Precautionary and Ecosystem Approaches
3. The Relevant Controversies
4. Views of the African Group and G77
5. Application to the Gulf of Guinea
 1. Environmental and Economic Factors
 2. Regional Legal Frameworks

PrepCom Draft Recommendations

Adopted 21 July 2017

The Preparatory Committee, having met in accordance with resolution 69/292 of 19 June 2015, recommends to the General Assembly:

1. that the elements contained in Sections A and B below be considered with a view to the development of a draft text of an international legally binding instrument [...]. **Sections A and B do not reflect consensus. Section A includes non-exclusive elements that generated convergence among most delegations. Section B highlights some of the main issues on which there is divergence of views.** Sections A and B are for reference purposes because they do not reflect all options discussed. Both sections are without prejudice to the position of States during the negotiations.

PrepCom Draft Recommendations

Adopted 21 July 2017

Section A

III. Conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction

1. General principles and approaches¹²

The text would set out the general principles and approaches guiding the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.

Possible general principles and approaches could include:

- Ecosystem approach;
- Precautionary approach;

PrepCom Draft Recommendations

Adopted 21 July 2017

Section B

With regard to the common heritage of mankind and the freedom of the high seas, further discussions are required.

With regard to marine genetic resources, including the question of the sharing of benefits, further discussions are required on whether the instrument should regulate access to marine genetic resources; the nature of these resources; what benefits should be shared; whether to address intellectual property rights; and whether to provide for the monitoring of the utilization of marine genetic resources of areas beyond national jurisdiction.