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## CETAF Workshop on Access and Benefit Sharing

### Upcoming challenge BBNJ (The UN High Seas Treaty):

Implementation of the Agreement on Areas Beyond National Jurisdiction (ABNJ) on the conservation and sustainable use of Biodiversity Beyond National Jurisdiction (BBNJ)



# What is the BBNJ Agreement ?

- ▶ Agreement under the United Nations Convention on the Law of the Sea (UNCLOS) on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction (ABNJ) – [the High Seas Treaty](#)
- ▶ **Entered into force 17 Jan 2026**
- ▶ **Establishes a legally binding instrument for the conservation and sustainable use of Biodiversity Beyond National Jurisdiction (BBNJ)**
- ▶ The EU and all European Countries have ratified or are in the process of ratification
- ▶ **Set legally binding requirements on users of Marine Genetic Resources (MGR) and derived DSI**
- ▶ All of the following will be subject to national legislation – and this may vary between countries

# *What is the BBNJ Agreement ?*

- ▶ The BBNJ agreement covers
- ▷ Marine Genetic Resources (MGR), including the fair and equitable sharing of benefits for
- ▷ Measures such as area-based management tools, including marine protected areas
- ▷ Environmental impact assessments

[This presentation focuses exclusively on MGR]

# Scope of the BBNJ Agreement

## ▶ Applicability

### ▷ Its provisions apply to

- ▷ **activities with respect to MGR and DSI** collected and generated **after** the entry into force of Agreement for the respective Party
- ▷ **utilisation of MGR / DSI** collected or generated **before entry into force, unless a Party makes an exception**

### ▷ ABNJ elements are implemented through domestic legislation of Parties

- ▷ Responsibilities and obligations will differ based on national legislation, enforcement and extent of coverage of ABNJ details
- ▷ No harmonization across Member States although the main requirements of the Agreement must be met

# Requirements of the BBNJ Agreement

- ▶ Pre-cruise Notifications – information to be provided to Clearing House
- ▷ Application must be filed 6 months prior to cruise (7 month in UK)
- ▷ Cruise information must be filed:
  - a) Marine Genetic Resources (MGR) collected for research or, if known, the MGR to be targeted or collected, and purposes for which the MGR will be collected;
  - b) Geographical areas in which the collection is to be undertaken;
  - c) Summary of method and means to be used for collection, including vessel details, scientific equipment and/or study methods employed;
  - d) Information concerning any other contributions to proposed major programmes;
  - e) Expected dates of use of research vessels, or deployment of the equipment and its removal;
  - f) Name(s) of the sponsoring institution(s) and the person in charge of the project;
  - g) Opportunities for scientists of all States, in particular scientists from developing States, to be involved in or associated with the project
  - h) Extent to which ... States that may need and request technical assistance, in particular developing States, should be able to participate or to be represented in the project;
  - i) Data management plan

# Requirements of the BBNJ Agreement

- ▶ Pre-cruise Notifications – information to be provided to Clearing House
- ▷ Only **one submission per voyage by party to Clearing House (CHM); Voyage PI to report to national authority**, covering all research to be done (through country of flag of boat? - unclear from Agreement and may be determined by Party)
- ▷ “Unique” Standardised Batch Identifier (SBI) issued by CHM must be applied to all MGR and DSI retrieved from this journey
  - ▷ Multiple specimens and taxa, and multiple DSI records, will all have the same SBI
  - ▷ A single SBI may apply to MGR in multiple repositories
  - ▷ The CHM is not yet functional, and the form of the SBI not yet set
  - ▷ Parties will need to decide how to handle reporting requirement prior to the CHM being in place
- ▷ MGR acquired not on research vessels or on fish markets etc will not have an SBI

# Requirements of the BBNJ Agreement

- ▶ Post-cruise Notifications – information to be provided to Clearing House
- ▷ Must be submitted to CHM as soon as information becomes available, but no later than one year after in-situ collecting
- ▷ Post-Cruise information must be filed
  - a) The **repository or database** where DSI on MGR is or **will be deposited**;
  - b) **Where** all MGR collected in situ are or **will be deposited or held**;
  - c) **Geographical area** from which MGR were collected, including information on the latitude, longitude and depth of collection, and, to the extent available, the findings from the activity undertaken;
  - d) Any necessary **updates** to the data management plan provided under [the first notification];
- ▷ Parties “shall ensure” ensure that Post-Cruise information, along with the SBI, is notified to the CHM
- ▷ **No harmonised Post-Cruise reporting:**
  - ▷ UK the report should come from the voyage PI
  - ▷ DE individual project/scientist if on research vessel under German flag

# *Institutional Responsibilities for MGR held in collections*

- ▶ **Identifications of MGR originating from ABNJ**
- ▷ BBNJ-Parties shall ensure that samples of MGR and DSI (ABNJ) can be identified as originating from ABNJ, in accordance with current international practice and to the extent practicable
  - ▷ **Applies to all MGR (ABNJ) and its DSI, irrespective of when accessed or generated**
  - ▷ However, the ‘extent practicable’ allows for some not to be tagged
  - ▷ Any Pre-ABNJ will not have an SBI, but requires another (ideally standard) tag
  - ▷ Pre-Agreement DSI will lack an SBI, but requires (ideally standard) tag to allow positive ABNJ identification
- ▷ **Geographic Scope**
  - ▷ Both CBD and BBNJ ask for addition of geographical origin to DSI metadata
  - ▷ INSDC already asks for available geographical information, but currently does not distinguish between territorial waters and ABNJ

# *Institutional Responsibilities for MGR held in collections*

- ▶ Providing access to MGR originating from ABNJ held in collections
- ▷ Access provisions in BBNJ Agreement require that repositories and databases enable access to MGR and DSI held under the Party's jurisdiction; this may entail
  - ▷ The need to **preserved the physical integrity** of the MGR
  - ▷ Reasonable cost coverage for maintaining access to relevant gene banks, biorepositories or databases, in which samples, data or information is stored
  - ▷ Reasonable cost coverage for providing access to MGR, data or information
  - ▷ Other conditions such as fair and favourable terms for access , including concessional and preferential terms for researchers and research institutions from Developing Countries

# *Institutional Responsibilities for MGR held in collections*

- ▶ Providing access to MGR originating from ABNJ held in collections
- ▷ Access provisions in ABNJ Agreement require that repositories and databases enable access to MGR and DSI held under the Party's jurisdiction
- ▷ Requires parties to take necessary legislative, administrative and policy measures to ensure:
  - ▷ That MGR (ABNJ) and DSI (ABNJ) are deposited in public repositories and databases
    - ▷ no later than 3 years from the start of utilisation
    - ▷ As soon as they become available
  - ▷ Maintained either nationally or internationally

# *Institutional Responsibilities for MGR held in collections*

- ▶ Reporting obligations on access to MGR originating from ABNJ held in collections
- ▷ Biennial aggregate **report on access** to MGR and DSI linked to their SBI for collections and databases
  - ▷ DE has a reporting obligation (through the BfN)
- ▷ ‘Access’ unclear in meaning, as not defined in BBNJ
  - ▷ UK has decided it means “access to the samples for the purposes of their utilisation by another person”
  - ▷ Report to be made by institutions to the Party, which forwards it to the ABS Committee

# *Institutional Responsibilities for MGR held in collections*

- ▶ Reporting obligations on utilisation to MGR originating from ABNJ held in collections
  
- ▷ The BBNJ-Agreement requires reporting
  - ▷ on **utilisation of MGR(ABNJ)**, and, where practicable, [when] **DSI(ABNJ)**, the following information, including the SBI, if available, be notified to the CHM as soon as such information becomes available:
    - a) Where the results of the utilization, **such as publications**, patents granted, if available and to the extent possible, and products developed, can be found;
    - b) Where available, details of the **post-collection notification** to the Clearing-House Mechanism related to the marine genetic resources that were the subject of utilization;
    - c) Where the **original sample** that is the subject of utilisation **is held**;
    - d) The modalities envisaged for access to marine genetic resources and digital sequence information on marine genetic resources being utilized, and a data management plan for the same;
    - e) Once marketed, information, if available, on sales of relevant products and any further development

# *Benefit sharing for use of MGR and DSI held in collections*

- ▶ The Agreement lists the following non-monetary benefits (inter alia):
  - ▷ **Access to MGR** and sample collections in accordance with current international practice;
  - ▷ **Access to DSI** in accordance with current international practice;
  - ▷ Open access to findable, accessible, interoperable and reusable (FAIR) scientific data in accordance with current international practice and open and responsible data governance;
  - ▷ Information contained in the notifications, along with “BBNJ” standardised batch identifiers ... in publicly searchable and accessible forms
  - ▷ Transfer of marine technology
  - ▷ Capacity-building (directly relevant or substantial contributions), including by financing research programmes, and partnership opportunities, for scientists and researchers in research projects



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