

Transforming the ocean law by requirement of the marine environment conservation

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Summary

International Governance and Marine Genetic Resources in Areas Beyond National Jurisdiction (MGR in ABNJ)

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Since the middle of the 1990s, marine genetic resources from the high sea and its depths have proved extremely promising for the development of new products. Numerous research projects are currently being conducted in the pharmaceutical, chemical, and cosmetic fields to develop products based on marine genetic resources. Anticancer and AIDS drugs, pain killers, anti-inflammatory drugs, bioplastic, ultraviolet filters, water resistant glue, as well as depolluting agents, are being developed. Marine genetic resources are still widely underexploited, but they will be at the heart of future innovation processes, triggering the registration of new patents.

Today, the exploitation of marine genetic resources under national jurisdiction is clearly defined; however, the situation for marine genetic resources originating in areas beyond national jurisdiction (MGR in ABNJ) is unclear. Because the economic and political issues at stake are enormous, international discussions relating to questions concerning the appropriate enforceable law regime are intense and complex.

Currently, the regime of freedom of the high sea is applicable to the exploitation of marine genetic resources in areas beyond national jurisdictions. But this situation is unsatisfactory, and the international community is working within the context of the United Nations (UN) to develop a new treaty specific to MGR in ABNJ. In November 2017, UN members decided to arrange an intergovernmental conference to draft a text for this new treaty. My presentation will assess the current situation and give an outlook on the UN process pertaining to this issue. Furthermore, the possible main guidelines of the new treaty will be discussed. The acceptance of a new treaty is uncertain, because of diverging positions among States regarding this problem. For this reason, three alternatives are also analysed: the replacement of the current law regime with another - existing - one, the use of soft law measures, and the creation of an ecolabel.