

HIGH SEAS MARINE PROTECTED AREAS
&
UNITED NATIONS WORKING GROUP
ON MARINE BIODIVERSITY
BEYOND NATIONAL JURISDICTION

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UN BBNJ Working Group

- UNGA established working group 2004
 - ▣ to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction

UN BBNJ Working Group

- BBNJ includes
 - genes/organisms/species/ecosystems
 - in ocean waters or in or on seabed and subseabed
 - beyond States' EEZs and continental shelves

Hermit crab & soft coral
NOAA Okeanos Explorer Program



BBNJ Working Group: 2006, 2008

- Focused on marine genetic resources (MGR), especially sharing of benefits from products
- High seas regime (LOSC Part VII) vs common heritage of mankind (LOSC Part XI)

BBNJ Working Group: 2006, 2008

- Also discussed environmental impact assessments and area-based management tools (e.g., MPAs)
- Issues are interrelated; difficult to make progress

BBNJ Working Group: 2010

- Recommendations on MGR, MPAs & environmental impact assessments (EIAs) for UNGA, e.g.:
 - ▣ Should recognize importance of further developing scientific & technical guidance on EIAs
 - ▣ Should call on States to work towards development of common methodology for identification & selection of areas BNJ that may benefit from protection
 - ▣ Should call on States to continue discussing relevant legal regime on MGR conservation & sustainable use

Marine Protected Areas

- What is a marine protected area?
- How and by whom can MPAs BNJ be established?
- What international law is relevant?
- What are the challenges?



Bubblegum coral
NOAA Okeanos Explorer Program

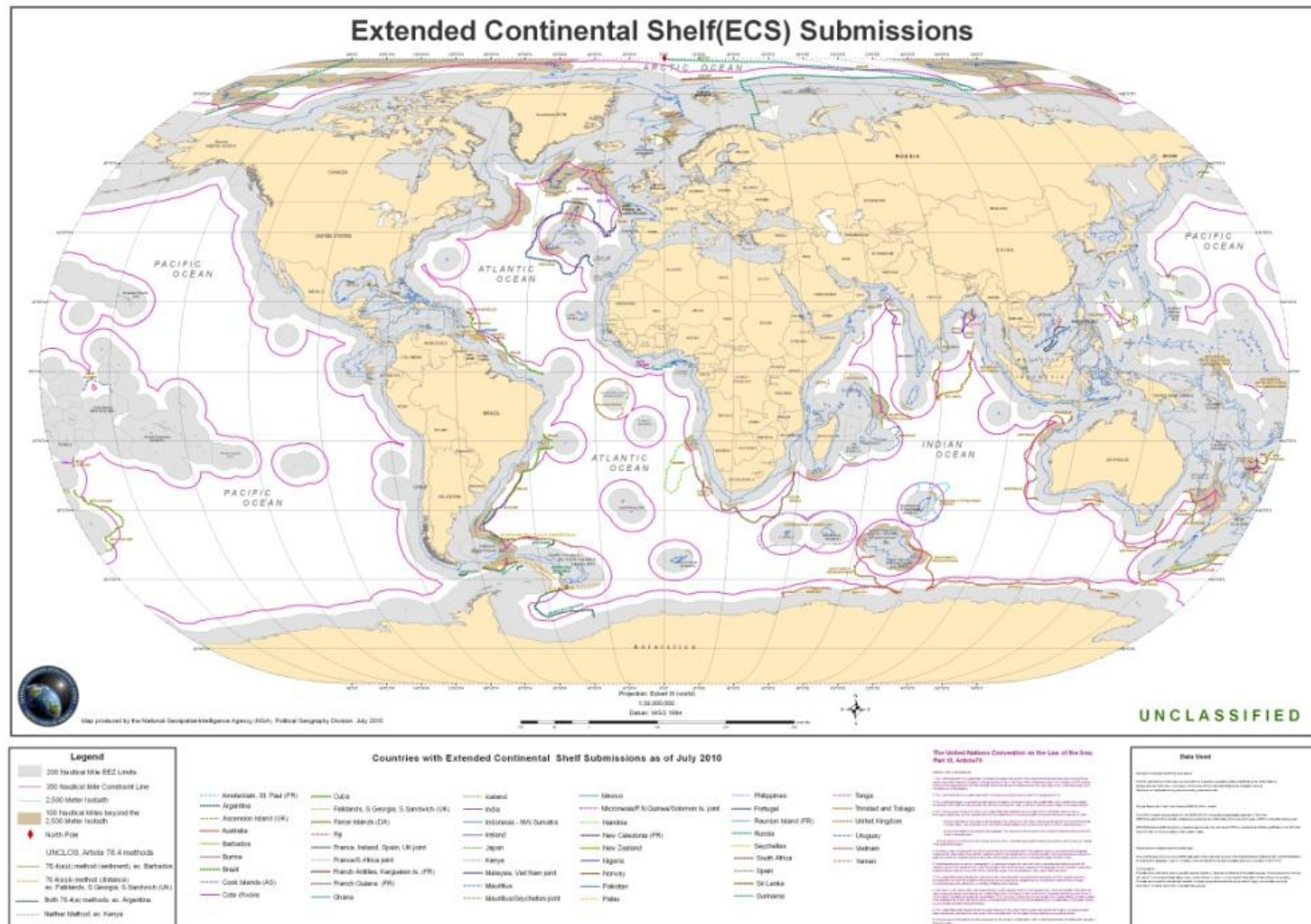
What is an MPA?

- Frequently assumed to be no-take or no-go zones, but this is rare in U.S.
- Umbrella term for wide variety of approaches to place-based conservation and management

What is an MPA?

- In practice, defined geographic areas where natural and/or cultural resources are given greater protection than in surrounding waters
- U.S. has developed classification system based on functional characteristics
 - ▣ e.g., conservation focus, level of protection

How can MPAs BNJ be established?



How can MPAs BNJ be established?

- STEP 1: Apply criteria to identify/select specific areas in need of protection
 - ▣ Existing or new criteria (e.g., FAO, CBD)
 - ▣ Can be done by any entity at any level (international, regional, national)
 - ▣ But needs buy-in to lead to step 2

How can MPAs BNJ be established?

- STEP 2: Establish management measures to protect these areas consistent with international law
 - ▣ By States through agreements which are applicable to and enforceable against the Parties to the agreement
 - ▣ By appropriate sectoral authorities addressing or regulating activities within their mandate/jurisdiction
 - ▣ For example, ...

Management measures

- Flag States and regional fisheries management organizations (RFMOs) may address fishing activities
- Parties to an agreement may address any activities on which they are willing to be bound
- International Maritime Organization may address activities by IMO members related to shipping
- International Seabed Authority may address activities related to exploration & exploitation of mineral resources in seabed beyond national jurisdiction

MPA BNJ

- Clear geographical boundary
- Strong link between threat of harm to resources and protective management measure(s)
- Implementation, compliance & enforcement consistent with international law

Gorgonian coral
NOAA Office of Ocean Exploration and Research



Examples of MPAs BNJ

- CCAMLR South Orkney Islands southern shelf MPA
 - ▣ MM on fishery-related activities by CCAMLR parties
- OSPAR NE Atlantic MPAs
 - ▣ MM on activities by OSPAR parties
- IMO Antarctic Special Area under MARPOL
 - ▣ MM on shipping activities by MARPOL parties

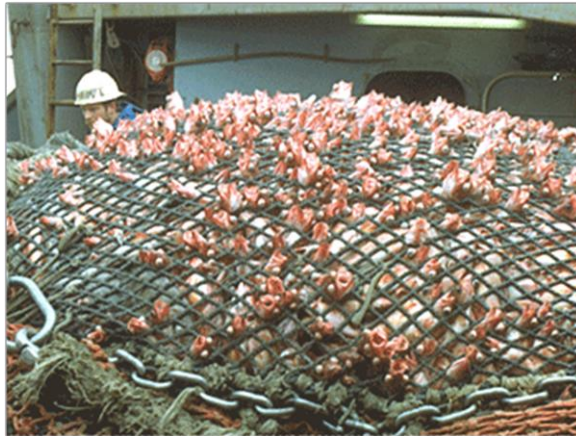
Relevant international law

- Law of the Sea Convention
- Fisheries agreements
- Regional agreements
- IMO Conventions



What we don't have & don't need

- Overarching international mechanism, institution, or process to oversee all activities in MPAs BNJ
- New international agreement or instrument to address conservation and sustainable use of BBNJ



Bottom trawler haul
NOAA



Deep-sea glass sponge
NOAA

Challenges for MPAs BBNJ

- How can we select areas in need of protection?
- What activities threaten BBNJ?
- How can we coordinate management measures?
- How can we measure progress?
- Will progress be tied to MGR benefit sharing?



Venus flytrap sea anemone
NOAA Office of Ocean Exploration and Research