

Panel
A DISPUTE SETTLEMENT MECHANISM FOR THE BBNJ INSTRUMENT
On 17th November, 10:00 – 11:30 am (EST) / MS Teams

Hosted by:
The Permanent Mission of Colombia to the United Nations
And
Independent International Legal Advocates (IILA)

Background

After three sessions of the UN Intergovernmental Conference on Biodiversity Beyond National Jurisdiction, there is still a lot to discuss on important cross-cutting issues related to the new instrument.

Although the focus of the process has been to advance in the negotiation of the four topics identified in the package that was agreed in 2011 and confirmed by the UN General Assembly in Resolutions 69/292 and 72/249, the cross-cutting issues remain a vital element for a treaty, as ambitious as the one under negotiation, to be successful.

At the end of the Third Session, delegations engaged in a preliminary debate on articles 54 and 55, included in Part IX of the instrument, dealing with dispute settlement. The discussions about article 55 on the choice of mechanisms for the settlement of disputes highlighted very different views of the States on the topic.

In this intersessional period, it is important to engage in the discussion of this important aspect of the instrument.

Rationale

Some delegations argue that the universality principle that has guided these negotiations from the beginning, pursuant to what was agreed in Resolutions 69/292 and 72/249, must be echoed in the dispute resolution clause for the BBNJ instrument. An in-depth discussion on the matter should include deliberations on the merits of the dispute settlement system as laid down in UNCLOS and the feasibility of transporting it to the new treaty.

Starting from a reflection on how dispute settlement mechanisms have been laid out in environmental and law of the sea treaties, this panel will seek to analyze the scope of dispute settlement provisions that could eventually be included in the BBNJ treaty and their relation to other provisions to be included in this new instrument. Furthermore, some reflections on the role of dispute prevention in the instrument and how the dispute settlement system contained in UNCLOS has performed during the last 20 years will be addressed, in order to reflect on what should be the ideal provisions to be included in the BBNJ instrument.

Speakers

- *Prof. Cymie Payne* - Associate Professor, SEBS-Human Ecology, Law School, Rutgers University / Chair, Oceans, Coasts and Coral Reefs Specialist Group - International Union for Conservation of Nature - World Commission on Environmental Law
- *Dr. Nilüfer Oral* - Member of the International Law Commission / Director of the Centre of International Law (CIL) at the National University of Singapore
- *Mr. Eran Sthoeger* - Litigator, consultant and advisor in public international law, NY.

Thematic focus: Dispute settlement for the BBNJ treaty