

'One Ocean' Symposium

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Information paper

Beyond Global, Regional, and Hybrid: Institutional Arrangements for the new BBNJ Treaty

Nichola A. Clark¹

“Institutional Arrangements” generally refers to architecture of the bodies and subsidiary bodies that will carry forward the work of an agreement. Within the negotiations for a BBNJ Agreement,² “institutional arrangements” involves a discussion of the role of the BBNJ Agreement within the broader constellation of international ocean governance organizations. During the Preparatory Committee (PrepCom) phase of the BBNJ discussions, three different models emerged as possible institutional arrangements for the BBNJ Agreement: “regional”, “global”, and “hybrid.”

These models for institutional arrangements are best understood as existing on a spectrum rather than three discrete boxes. On one end of the spectrum lies the Regional model, which might resemble something like the United Nations Fish Stocks Agreement (UNFSA). On the other end of the spectrum lies the Global model, which would more closely resemble the International Seabed Authority (ISA). The Hybrid model falls somewhere between these two extremes. However, the details and components of these different models are not universally understood, which has presented challenges to negotiators and civil society alike in terms of understanding precisely which elements of institutional arrangements are supported (or not) by states.

Analytical framework for understanding Institutional Arrangements for the BBNJ Agreement
1. Which (if any) organs are critical for the implementation and operationalization of the BBNJ Agreement?
2. What are the powers and functions of each organ?
3. Are those powers and functions conditional? (If so, upon what)
4. What is the role of existing organizations?

Institutional Arrangements will underpin the function and effectiveness of the BBNJ Agreement, and it will be critical that states are able to clearly communicate their positions on this critical issue during the negotiations. To that end, this paper recommends that discussions should move away from the terminology of “regional,” “global,” and “hybrid” and shift instead to specifically describing the form and function. Answering the four key questions identified in the “Analytical framework” above will help negotiators shift from ambiguous nomenclature towards a more precise understanding of institutional function.

¹ Australian National Centre for Ocean Resources and Security (ANCORS), University of Wollongong, Australia

² Formally negotiations for an “international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction”, hereinafter “BBNJ”.