The conservation and sustainable use of marine biodiversity, Siamese twins?

Prof Dr Liesbeth Lijnzaad
Maastricht University
Conservation and sustainable use – Siamese twins?

The conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction

• What does this mean?

• Necessary to know when we move towards an Implementing Agreement (IA)

• Question: are “conservation and sustainable use” one notion or two?

  -> [conservation and sustainable use] – cumulative, the Implementing Agreement will have ONE goal (conservation and sustainable use go together like Siamese twins);

  -> [conservation] and/or [sustainable use] – alternative, the Implementing Agreement will have TWO distinct goals.

-> Ongoing research – comments welcome!
Conservation and sustainable use – Siamese twins?

Why is the question relevant?

- Two notions go together in BBNJ discussions as the core goal for the development of measures in the IA
- In UNGA Res.59/24 (OP 73), establishing AHOEIWG BBNJ (2006 - 2015), has not changed since
- Not just semantics
- If two (separate) goals, each may require different activities
- IA will require specific measures to address concerns: not just precise drafting, but also precision in what is to be achieved, which activities are to be addressed
Conservation and sustainable use – Siamese twins?

**Conservation** of marine biodiversity

We all have a sense of what conservation is:

- Protection of known and unknown species, known and unknown ecosystems, incl. variability and relationships between them;
- Precautionary approach;
- **Perspective: threat(s) to marine biodiversity, do not interfere!**
Conservation and sustainable use – Siamese twins?

**Sustainable use** of marine biodiversity

What is sustainable use?
- Use -> **consumption**, use is once only -> similar to use in fisheries’ language, harvesting
- Use -> **use and re-use**, utilization, presumption of renewal, element of repetition

Cf. art.2 CBD – “the use of components of biological diversity in a way and at a rate that does not lead to the long-term decline of biological diversity, thereby...”

**Perspective: (commercial) utilization is possible**
Sustainable use does not prevent interference with marine biodiversity but sets limits to scope and scale, and monitoring/maintaining conditions
Conservation and sustainable use – Siamese twins?

Where does this language come from?

Fisheries
- UNCLOS – artt. 61(3), 119(1)(a) -> MSY
- UN Fish Stocks – artt. 2, 5(b) and Ann.2 (2) -> MSY
  - Nb UN Fish Stocks speaks about management, not sustainable use

Biodiversity instruments
- CBD - art.10 ‘Sustainable Use of Components of Biological Diversity’
- Addis Ababa Principles
- COP Decision VII/12 (and other decisions)

-> Factual and legal framework for marine biodiversity is similar but different
-> No copy – paste!
Conservation and sustainable use – Siamese twins?

To legislate and regulate, one needs to understand the (potential, future) type of activities, and how invasive or detrimental to BBNJ they would potentially be.

What **type of activities** need to be regulated in order to “sustainably use” marine biodiversity?

Do we have a complete picture of activities yet (is that possible)?
- Bio prospecting, commercial potential of marine genetic resources
- Marine scientific research
- Future: Deep seabed tourism?

Current debate is generic, not focused on specific activities: marine genetic resources/area-based management tools/environmental impact assessment/marine scientific research/capacity-building and technology transfer.
Conservation and sustainable use – Siamese twins?

**Why does it matter?**

Our (limited) knowledge of ecosystems and biodiversity demonstrates direct connection between living resources and non-living resources

- Living resources may be renewable, and sustainable when sensibly managed  
  ➢ sustainable use is possible

- Non-living resources are not renewable – use means ‘harvesting’  
  ➢ not sustainable, no renewal

Management through different organizational structures (role of ISA)?

How do conservation and sustainable use go together when addressing BBNJ?