

Marine Genetic Resources, the Nagoya Protocol and the Law of the Sea

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Abstract

The access and benefit-sharing (ABS) of marine genetic resources (MGRs) within national jurisdiction have received very little interest among scholars and in international discussions. This may seem somewhat surprising given the fact that the vast majority of MGRs with potential for scientific discovery and industrial applications, including deep-sea organisms, are currently predominantly sourced within national jurisdiction. Such neglect is regrettable. Many countries could undoubtedly benefit from better guidance on how to implement effective national ABS regulatory frameworks that address the governance of MGRs and marine bioprospecting activities in sea areas under their jurisdiction. Familiarising the scientific community with the evolving international framework governing the access and utilisation of those resources would be just as relevant. With this in mind, this contribution will examine the interplay between the Law of the Sea and the Nagoya Protocol, the two primary international instruments setting out the conditions for the ABS of MGRs within national jurisdiction and provide an overview of the core provisions on the various rights and obligations of coastal States (providers of MGRs) and researching States (users of MGRs) under both instruments. Finally, the importance of the involvement of the scientific community in the international ABS process will be highlighted.

Key Words

Marine Genetic Resources; Access and Benefit-Sharing; Marine Scientific Research; National Jurisdiction.