

국가관할권이원 해양생물자원의 법적 정의와 성격



모 영동

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국립해양생물지원관

NATIONAL MARINE BIODIVERSITY INSTITUTE OF KOREA

BBNJ PrepComm

기간

2016-2017 총 4회
1차: 2016.3.28~4.8 제2차: 2016.8.26~9.9
3차: 2016.3 4차: 2017.8

쟁점

MGR의 정의와 이익 공유
Area Based Management (MPA)
환경영향평가
능력배양 및 기술이전

목표

Development of 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

BBNJ PrepComm의 설립근거

United Nations
A/RES/69/292
General Assembly
Distr.: General
6 July 2015
Sixty-ninth session
Agenda item 74 (a)

Resolution adopted by the General Assembly on 19 June 2015

[without reference to a Main Committee (A/69/L.65 and Add.1)]

69/292. Development of 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

Development of 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

development of an international instrument under the Convention to be taken by the Assembly at its sixty-ninth session,

Stressing the need for the comprehensive global regime to better address the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, and having considered the feasibility of developing an international instrument under the Convention,

1. *Decides* to develop 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 and to that end:

(a) *Decides* to establish, prior to holding an intergovernmental conference, a preparatory committee, open to all States Members of the United Nations, members of the specialized agencies and parties to the Convention, with others invited as observers in accordance with past practice of the United Nations, to make substantive recommendations to the General Assembly on the elements of a draft text of an international legally binding instrument under the Convention, taking into account the various reports of the Co-Chairs on the work of the Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction, and that the preparatory committee will start its work in 2016 and, by the end of 2017, report to the Assembly on its progress;

(b) *Decides* that the preparatory committee shall meet for no less than two sessions of a duration of 10 working days each in 2016 as well as in 2017 with full conference services, with the recognition that, with respect to documentation, any documents of the preparatory committee other than the agenda, the programme of work and the report of the preparatory committee shall be considered informal working documents;

2. *Also decides* that negotiations shall address the topics identified in the package agreed in 2011, namely the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, in particular, together and as a whole, marine genetic resources, including questions on the sharing of benefits, measures such as area-based management tools, including marine protected areas, environmental impact assessments and capacity-building and the transfer of marine technology;

MGR의 법적 정의와 성격: 주요 쟁점

○ MGR의 정의와 범위

In-situ, ex-situ, in-silico

- 남북(North-South) 대립의 쟁점
- 한, 미, 일은 *in-situ* 개발도상국은 *in silico*까지
- 이익 공유의 범위와 밀접한 관련

MGR에 대한 인류공동유산원칙의 적용 여부

인류공동유산원칙의 적용 범위

- 개발도상국 UNCLOS 136조 인류공동유산원칙을 심해저와 공해에 모두 적용
- 선진국: UNCLSO 136조는 심해저와 그 자원에 제한적으로 적용

MGR의 정의에 대한 주요 입장

○ 성안 비교

○ 미국

“any marine genetic material of plant, animal or microbial origin of actual or potential value collected from the Area”;

Marine genetic material means “any material of plant, animal or microbial origin containing functional units of heredity, collected from the Area,”

○ 코스타리카

“any living resources including of marine plant, animal, microbial or other origin, found in or originating from ABNJ and containing functional units of heredity, as well as any material derivatives and data thereof with actual or potential value”

“any living resources including of marine plant, animal, microbial or other origin, found in or originating from ABNJ and containing functional units of heredity”

MGR의 정의

○ MGR 성안 제안

Marine genetic resources means all genetic materials in situ beyond national jurisdiction at or beneath the sea-bed

UNCLOS 133조(a)

resources means all solid, liquid or gaseous mineral resources in situ in the Area at or beneath the sea-bed, including polymetallic nodules



인류공동유산원칙

UNCLOS 136

The Area and its resources are the common heritage of mankind.

MGR



인류공동유산원칙의 적용

○ 적용가능성

The Area에 살고 있는 그리고 the Area에서 기원하는 MGR

UNCLOS 140

1. Activities in the Area shall... be carried out for the benefit of mankind as a whole,
2. The Authority shall provide for the equitable sharing of financial and other economic benefits derived from activities in the Area through any appropriate mechanism

Article 133

Use of terms

For the purposes of this Part:

- (a) "resources" means all solid, liquid or gaseous mineral resources in situ in the Area at or beneath the seabed, including polymetallic nodules;

토론

1. 국가관할권이원 해양생물자원의 적합한 법적 정의
2. 국가관할권이원 해양생물자원에 대한 인류공동유산원칙의 적용여부
3. 제3차 BBNJ 성안준비위원회에서 국가관할권이원 해양생물자원 논의에 대한 대응방안

감사합니다.

극지연구소

