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Special MARIPOLDATA Report

COVID-19 and the BBNJ negotiations
March 2021

This project has received funding from the European Research Council (ERC) under the European Union's Horizon 2020 research and innovation programme (grant agreement No 804599)

Special MARIPOLDATA Report

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Key Messages

- The COVID-19 pandemic and following cancellation and postponement of international conferences has had a negative impact on the BBNJ negotiations
- The use of digital communication tools differs across continents
- Online negotiations can partly replace face-to-face negotiations and come with opportunities and challenges

Opportunities

- Less funding needed for delegates to travel to IGCs
- Awareness raising
- More scientific input
- Textual work possible

Challenges

- Differences in access to technologies
- Temporal and spatial scales
- Lack of leadership
- Timezones

The MARIPOLDATA COVID-19 Survey

The COVID-19 pandemic is dramatically affecting our societies and economies around the globe with far-reaching consequences for the social and political order in the years to come. The pandemic and the measures that governments put in place to reduce the pace of its spread, affected all of us in our daily routines, life-work balance and research practice. We saw that transportation shut down, national borders closed and long-planned conferences were cancelled or postponed. These include, for instance, the SDG 14 Conference in Lisbon (Portugal), the CBD COP in Kunming (China), and several negotiations and meetings such as the Intergovernmental Conference on 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).

The BBNJ Treaty will be an implementing agreement of UNCLOS and seeks to regulate the use and protection of marine biodiversity through 4 package items in all of which substantial disagreements persist (De Santo et al. 2020; Vadrot, 2020): access and benefit-sharing regarding marine genetic resources (MGRs) (Blasiak et al. 2020; Humphries et al. 2020), establishment of area-based management tools (ABMTs), including marine protected areas (MPAs) and conducting of EIAs to protect High Seas marine biodiversity in the currently fragmented ocean governance framework (Crespo et al. 2019; Maxwell et al. 2020), as well as fostering capacity building and transfer of marine technology (CB/TT) to promote marine scientific research in international waters (Harden-Davies and Gjerde 2019; Collins et al. 2019). Further, the Treaty draft has a cross-cutting section to set out the institutional framework which remains undefined although being crucial for the effective governance of high seas biodiversity (Cremers et al. 2020).

The year 2020 was supposed to terminate these negotiations; however, the last session was postponed due to the COVID-19 measures with the current Treaty draft text remaining far from being agreed upon leaving crucial decisions to be made in the final stages of the negotiations (Cremers et al. 2020). One of the open questions concerns the potential role of a scientific body which could play a key role in the monitoring, control and surveillance part under the new BBNJ instrument. MARIPOLDATA researchers have identified gaps in BBNJ literature regarding science-policy interfaces within the BBNJ process and the link to transformative change (Tessnow-von Wysocki and Vadrot, 2020), especially given the significant and persisting global disbalances in the distribution of marine biodiversity research (Tolochko and Vadrot, 2020).

To continue the negotiations, different digital formats have been established. An alliance of non-governmental organizations – the High Seas Alliance – together with the governments of Belgium, Costa Rica and Monaco organize regular "Informal BBNJ Intersessional High Seas Treaty Dialogues" in which state delegates and civil-society organizations are invited to discuss provisions of the BBNJ Treaty draft text in an virtual conference format. The secretariat of the BBNJ conference holds intersessional working sessions in a written form on the MS Teams platform since September 2020 with the aim to continue dialogue and advance the written draft text.

To continue researching the BBNJ negotiations under these changed circumstances, the MARIPOLDATA research team conducted an online survey with stakeholders in the BBNJ process. The goals of this survey were manyfold: to assess the effects of the global lockdown on the BBNJ negotiations, collect ideas and suggestions for how to continue the negotiations, as well as assess the global use of digital communication channels. By doing so, it also aims to inform the ongoing BBNJ process on the opportunities and challenges of using digital communication, for example by providing ideas and initiatives on how to proceed through virtual channels and by giving an overview of preferences and problems in accessing these channels of different stakeholders.

The survey consisted of twenty-three questions, some open and some multiple-choice, allowing for cross-sectoral comparisons while providing the necessary space for individual suggestions and explanations. Based on the results of this survey the research note "Marine Biodiversity Negotiations During COVID-19: A New Role for Digital Diplomacy" (Vadrot et al. 2021) is simultaneously published in Global Environmental Politics. This report builds upon the article and complements it with additional data and a different analytical focus. Whereas the article in Global Environmental Politics analyses the survey results focusing on the differences between state and non-state actors, this report lays its focus on geographical differences.

It presents the results from the MARIPOLDATA Corona Survey from a geographical angle, exploring how respondents from different continents are affected by the COVID-19 situation and estimate its effect on the BBNJ process. The data was data gathered via an online survey conducted shortly after the peak of the COVID-19 related lockdown in Europe, between May 04 and May 26 2020 using the formr framework for online surveys (Arslan, Walther, and Tata 2020). The objective was to obtain a representative sample of all stakeholders involved in BBNJ negotiations, such as government representatives, Intergovernmental Organisations (IGOs), Nongovernmental Organisations (NGOs), business/industry representatives, research institutes/universities, as well as UN Staff and Media. In total, 366 persons were contacted, 709 accessed the survey site and 105 completed the questionnaire.

Our findings indicate that although the COVID-19 crisis has had a negative impact on the BBNJ negotiations, digital platforms and the continuation of negotiations through digital formats can partly replace personal meetings and has the potential to advance the negotiations. To make full use of digital communication tools we need to however take into account that access to and use of these technologies varies significantly across continents.

We thank all the respondents for their participation and hope that his report helps to continue the online efforts for the negotiation of the BBNJ agreement.

Alice Vadrot,
MARIPOLDATA Principal Investigator

Sample

This first section introduces the sample of the survey. Our final sample of respondents consists of 105 persons from 35 countries representing all continents. The survey targeted participants and observers of the BBNJ negotiations and indeed 73.3 % of participants indicated to have actively participated in the negotiations.

The sample is fairly mixed in terms of the participant's affiliation and educational background, representing stakeholders from all affiliations such as state (GOV) representatives, IGO and NGO representatives, the business sector as well as research. The research community makes up a large portion of the sample but also 27 state representatives completed the survey. In terms of their background, 27.6 % of the respondents have an educational background in natural sciences and 39.0 % in law, making up the two main groups of respondents and BBNJ participants.

Figure 1
Affiliation of participants

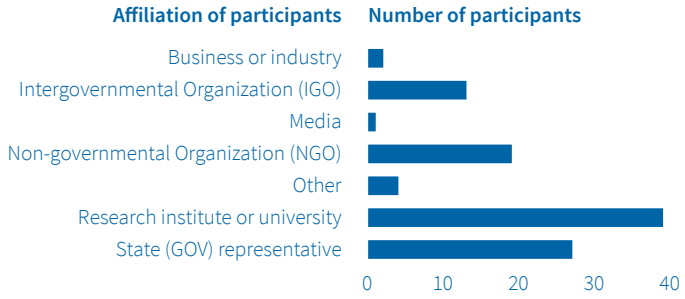
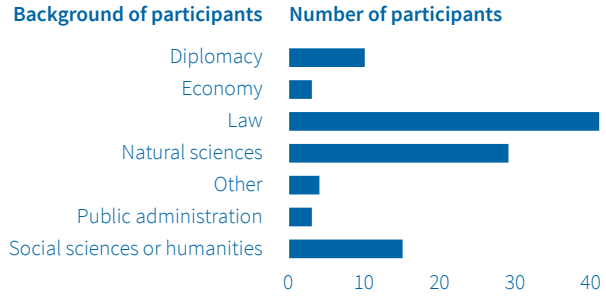


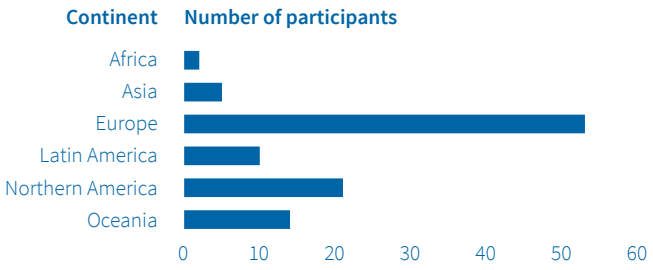
Figure 2
Background of participants



Although the sample includes participants from all continents, there are significant geographical differences. Europe is rather overrepresented while Africa is very scarcely represented. This may be due to a number of reasons: on the one hand, the MARIPOLDATA project is based in Europe and therefore has had closer contact with European institutions and delegations. Further, the survey was only available in English and therefore a language barrier may have prevented wider participation. The MARIPOLDATA Project will issue a second wave of the survey in additional languages such as French and Spanish to increase its outreach. The goal of the second wave is to research further how participants have adapted to the use of digital technologies in the BBNJ process during the ongoing travel restrictions. Finally, the distribution of the sample indicates one of the main findings of this research: the use of online tools does not guarantee inclusiveness and the access to relevant information and necessary technology is unequally distributed.

Figure 3

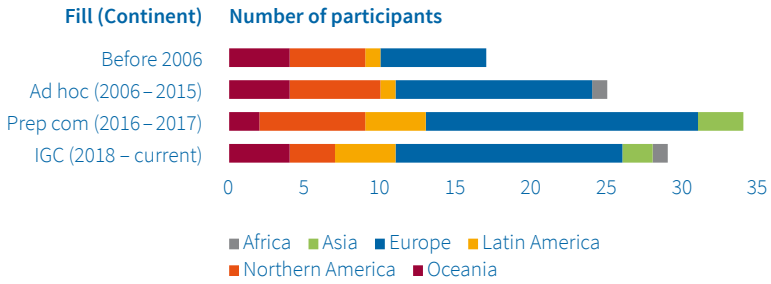
Geographic distribution of the sample



In terms of the experience of the respondents, the sample seems to consist of fairly experienced persons in the BBNJ process as the majority of participants follow the BBNJ process since 2017 or earlier.

Figure 4

Affiliation of participants

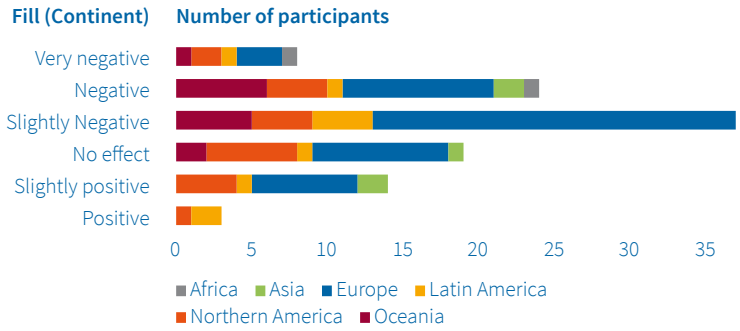


COVID-19 effect on BBNJ negotiations

The second section explores how the global public lockdowns and postponement of relevant conferences affected the BBNJ-related work of respondents. When being asked about the effect of the COVID-19 related lockdowns on their work, the participants reported an overall negative effect. Most respondents reported the effect to be to some extent negative, with the mean of the answers being at "slightly negative". This seems to have been caused by an overall decrease in their workload. Respondents from Oceania felt a negative impact the most (85.7 %); and in particular, 71.4 % stated that their BBNJ workload had decreased.

Figure 5

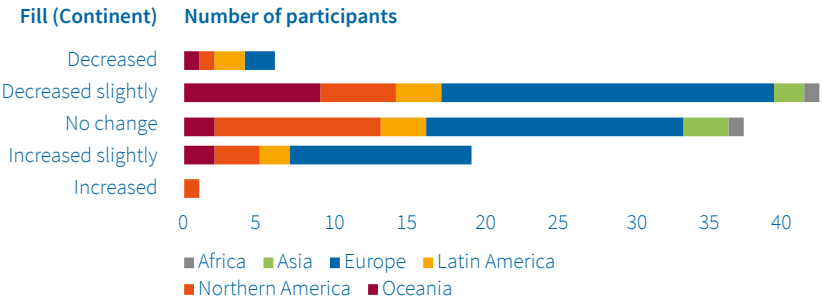
In what sense have COVID-19 lockdown measures influenced your work on BBNJ-related issues?



Trying to understand what exactly constituted the negative effect, the survey asked respondents to indicate in how far the amount and the quality of their BBNJ-related workload changed. The reported slightly negative effect of the COVID-19 related lockdowns can largely be attributed to the decrease of workload on BBNJ related issues that the respondents experienced. During the COVID-19 related lockdowns, many respondents indicated that due to the cancellation or postponement of conferences their work in progress got delayed. Further, they reported being occupied by other tasks caused by the lockdowns such as having to home-school their children. Due to remote working and difficulties in communicating via video conferences, delegates struggled to engage over digital technologies as well as in person and reported to be negatively affected. Interestingly, 80 % of respondents from Latin America reported that their workload remained the same or increased, describing the impact of the COVID-19 pandemic on their work as positive. This may be however due to the fact that in early May, many Latin American countries had not yet introduced measures to contain COVID-19.

Figure 6

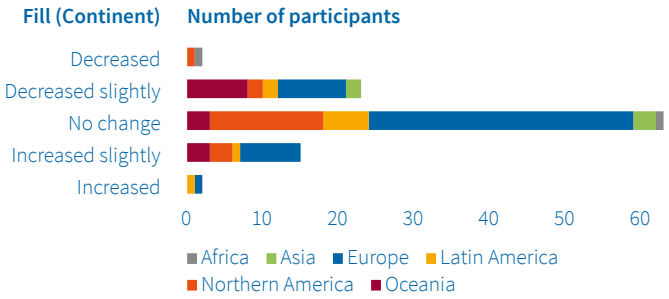
Do you feel that the amount of work you are putting into BBNJ-related issues has changed because of the COVID-19 lockdown?



In relation to the quality of work, however, most respondents indicated that the quality of their BBNJ-related work remained largely unchanged and did not experience a decrease due to COVID-19. In the qualitative part, many stated that they had largely been remote working before the COVID-19 pandemic and could easily adapt to the new situation. Previous experience with remote working helped to maintain the quality of the respondents work. However, the majority of participants from Oceania felt that the quality of their BBNJ related work suffered due to the COVID-19 related lockdown. This may be explained by the difficulties of participants from Oceania in accessing virtual meetings caused by unstable internet connection and timezone differences.

Figure 7

Do you feel that the quality of work going into BBNJ-related issues has changed because of the COVID-19 lockdown?



Summarizing the shift in activities, respondents reported having spent more time in research-related activities. Respondents gave examples of these activities such as: producing articles or books on BBNJ; developing databases; talking to researchers; participating in or organizing BBNJ webinars, videos or podcasts; reading publications and policy briefs; analyzing countries' submissions to the draft text and impact on national policies, as well as advising governments and NGOs.

Communication Tools

The lockdown not only has had an effect on BBNJ-related activities but has also changed the channels through which these activities take place. The survey aimed at understanding the use of different communication tools during the COVID-19 lockdowns. It was reported that almost no face-to-face meeting took place and Email is the most used communication tool, followed by virtual meetings. Hence, while the most frequently used tool remains Email, the rise of virtual meeting platforms replaced – also within the BBNJ community – face to face meetings. Some interesting geographical differences can be found when analyzing the change of communication tools: whereas the use of email did not increase in Europe or Northern America, participants from Asia, Oceania, and Latin America reported an increased use of email as a communication tool. An increase in the use of messenger apps is experienced by participants from Europe, Asia and Latin America. This seems to indicate that different regions have used different communication tools and that the use of digital tools such as email and messenger apps converges globally. The collapse of face-to-face meetings and the rise of virtual meetings however is experienced more or less equally on a global scale.

Figure 8

How are you maintaining these activities?

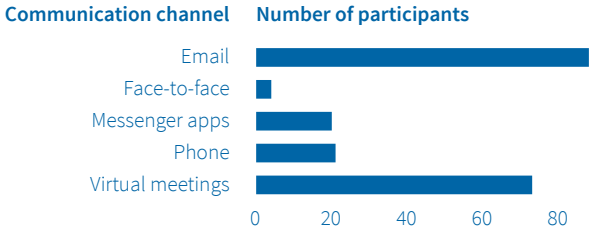
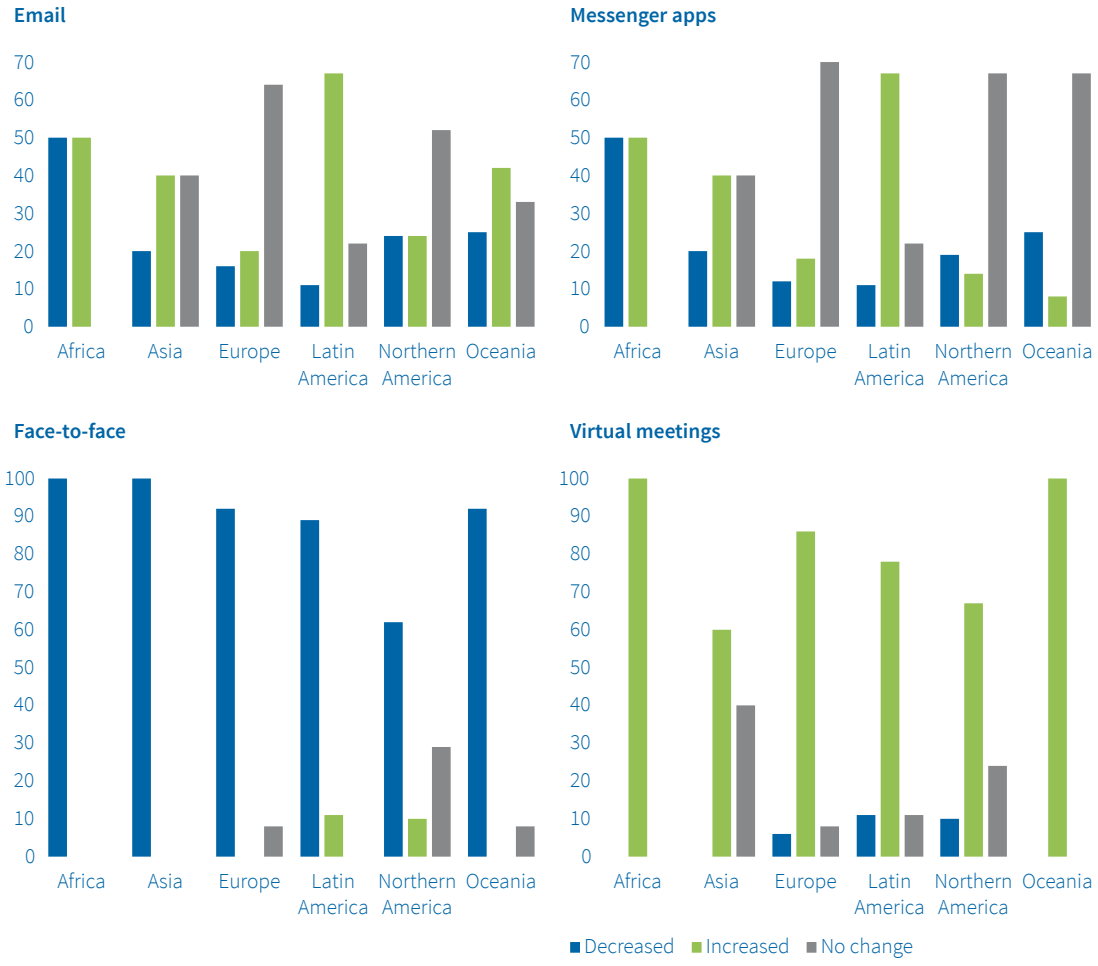


Figure 9

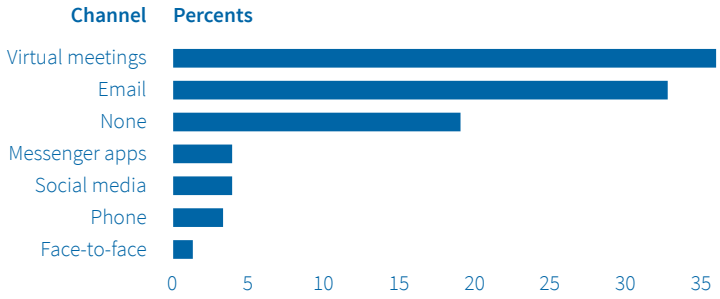
In how far has the use of these communication channels changed?



Further, confirming the growing role of digital communication in the BBNJ negotiation process, more than a third of the respondents reported that virtual meetings and email had become "an official channel of communication". Nevertheless, there appeared to be a difference in the use of virtual meetings according to their respective affiliation. Whereas some such as researchers and NGO representatives are more used to using virtual meetings and other online tools, state representatives and IGO employees seem to be more hesitant in employing these communication channels.

Figure 10

Has any of these channels become an official channel of communication



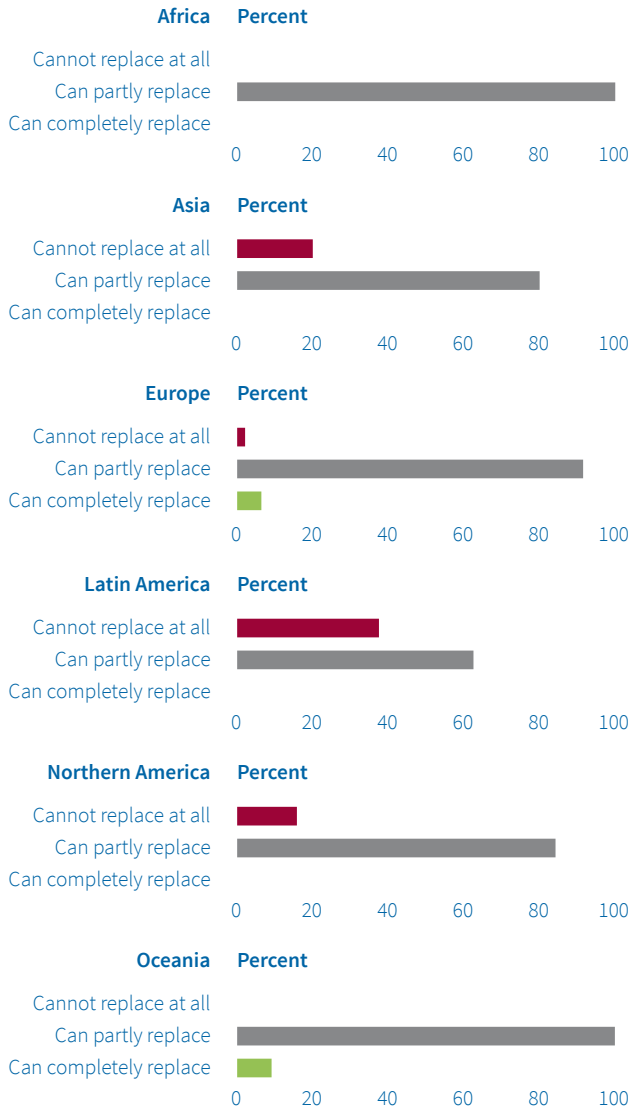
Changes in communication channels seem to have affected communication between different BBNJ groups as well. We asked respondents to what extent their working connections had changed during the lockdowns. Although, for most respondents, the intensity of communication with others had not changed, where change was reported, it suggested a decrease in communication with certain groups, such as UN staff and government representatives. All groups (except for the respective group itself) indicated that contact intensity with government representatives, UN staff, and business representatives had slightly decreased or remained unchanged. Only the contact between NGOs and research staff increased slightly.

Online communication and the BBNJ negotiations

At the current stage, different online dialogue formats are being used to uphold the discussions for a BBNJ Treaty. The president and facilitators invited delegations to partake in intersessional work on the MS Teams platform. In this format, in which the MARIPOLDATA team takes part as observers and researchers, the delegations upload comments and statements indicating their preferences and reasoning for certain provisions of the draft text. Simultaneously, this intersessional work is supported by regular virtual dialogues hosted by the High Seas Alliance, Belgium, Costa Rica, and Monaco. Confirming the role of online communication as part of the BBNJ negotiations process, 87 % of our respondents – irrespective of their geographical distribution – indicated that online communication could "partly" replace personal meetings.

Figure 11

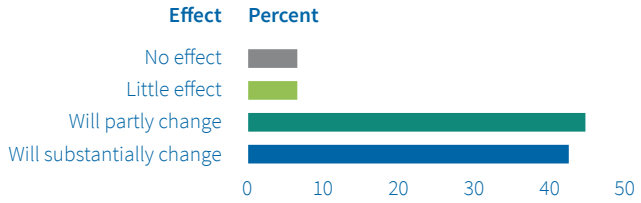
In how far can online communication replace personal meetings?



As a consequence of the COVID-19 lockdowns, the 4th intergovernmental conference (IGC-4) of the BBNJ negotiations is currently postponed without a defined date. Survey respondents agreed that the postponement will have an impact on the outcome of the negotiations. Only 6.52 % of respondents suggest that the BBNJ outcome will not be influenced by postponement, whereas 44.6 % indicate that it will partly be different, and 42.4 % suggest that it will be affected substantially. No substantial geographical differences could be found in the responses to this question. In the qualitative explanation of this result, respondents specified that the postponement has the opportunity to also improve the outcome.

Figure 12

To what extent do you think that the postponement of IGC-4 will affect the overall outcome of the BBNJ negotiations?



Nevertheless, the majority of respondents indicated that they would prefer to move back to physical formal negotiations when possible because they see a disadvantage for their own participation and for the outcome of the BBNJ negotiations if the whole negotiations were held online. This is mainly attributed to the fact that online negotiations could not replace the temporal and spatial scales of physical negotiations because they do not allow for an informal and personal conversation to some extent. The role of these informal talks (quiet chats) over coffee or in side-rooms in parallel to formal negotiations is reported to be necessary to build trust and consensus. Moreover, respondents emphasized the importance of immediacy in the communication in the formal negotiation room where negotiators exert pressure over each other to respond to proposals and come to a compromise. Because it is easier to ignore or block proposals online, respondents concluded that virtual meetings tended to progress much more slowly.

Figure 13

To what extent do you think that the postponement of IGC-4 will affect the overall outcome of the BBNJ negotiations?

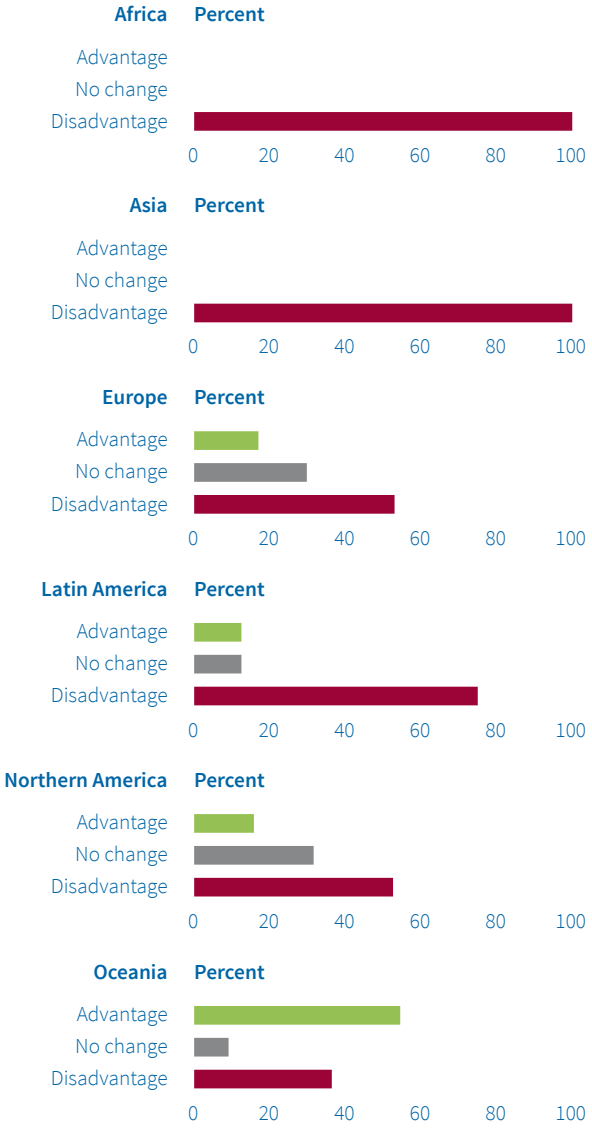
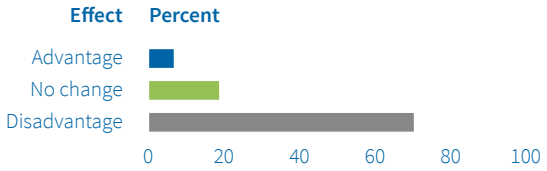


Figure 14

If BBNJ negotiations were to be held online, would this rather give an advantage or a disadvantage to their outcome?

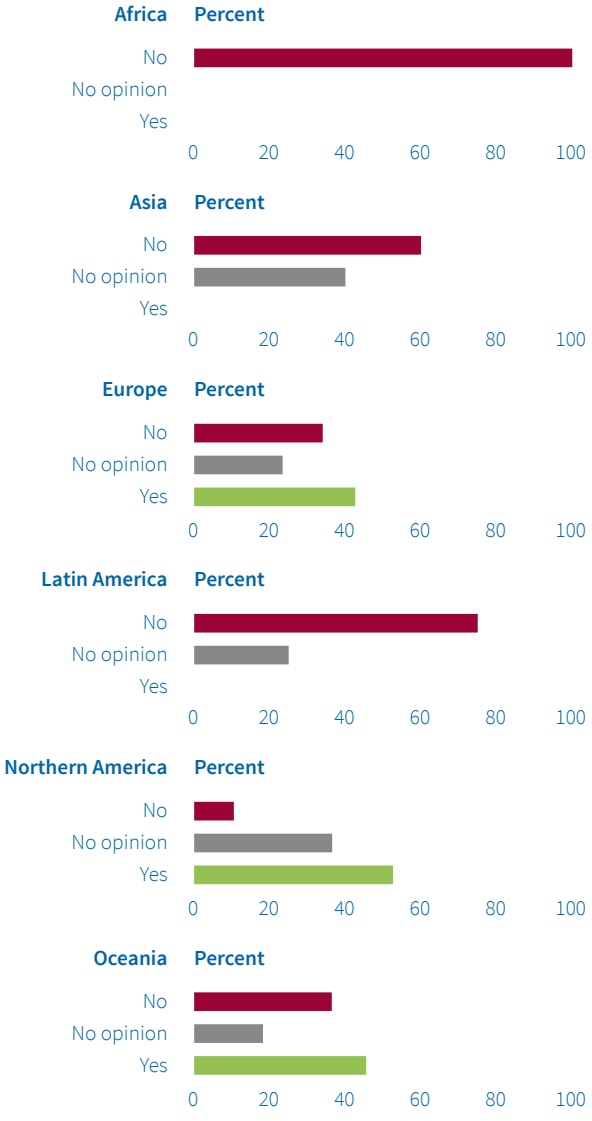


Overall, respondents agreed that online negotiations would be disadvantageous for the whole BBNJ agreement and specified that every package item would be affected negatively if negotiated online.

Respondents underlined that online meetings were characterized by unequal participation, and the sample was divided on whether online negotiations could make the BBNJ process more inclusive. Participants from Europe, North America and Oceania slightly leaned towards the view that online negotiations could make the process more inclusive whereas about a third of the overall sample, representing all continents indicated that online negotiations would not make the process more inclusive. It was explained that they are currently not more inclusive because of unequal access to necessary technologies and the problems in coordinating time zones or other organizational issues. On the other hand, the increased use of online communication for the BBNJ negotiations was said to potentially be more inclusive because it would require less funding for travelling.

Figure 15

In your view, could online negotiations make the BBNJ process more inclusive?



The way forward

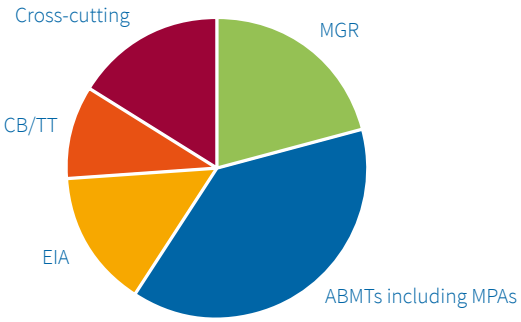
The survey also gathered ideas for initiatives and support that would help to maintain a strong momentum for the negotiation of the BBNJ Treaty. Respondents mentioned an online platform where delegates could consult marine science experts (Gaebel et al. 2020), an overview of relevant publications and webinars to assist delegates, easier access to relevant scientific papers, website-based (rather than video conference-based) moderated discussions, and the increased use of virtual dialogues and webinars to advance key points, engage all stakeholders, and raise public awareness. Several respondents mentioned the already running virtual High Seas dialogues hosted by the High Seas Alliance together with Belgium, Costa Rica, and Monaco. Respondents expressed positive feedback, called for continued online interaction, and acknowledged that they provides a strong opportunity to keep momentum.

Suggested topics for virtual dialogues until the next ICG included elements of the BBNJ packages that have not been fully developed yet such as definitions of MPA criteria and thresholds for EIAs, the structure of a clearinghouse mechanism and other cross-cutting governance issues for the future treaty. Further ideas are: addressing cumulative impacts of multiple uses of the ocean, linking the BBNJ negotiations to and food security (SDG2) and accommodating climate change in BBNJ decision-making.

When asked about which package items should be prioritized, interestingly 38.3 % responded that Package Item 2 (ABMTs, including MPAs) should be prioritized. Continuing the negotiations with Package Item 4 (CB/TT) received very weak support (9.88 %).

Figure 15

In your view, which package item should be prioritised?



Conclusion

While the COVID-19 related lockdowns affected the ongoing BBNJ negotiations rather negatively, its effect varied according to regional differences. At the time of the survey, respondents from Oceania seemed to experience a particularly negative effect on their work from COVID-19 related lockdown measures, whereas respondents from Latin America seemed to have been less impacted. Further, the use of digital communication tools differs across continents. Where Europe and North America seem to set the pace in using email and virtual meeting platforms to uphold communication, other continents such as Latin America, Africa and Oceania are adapting to digital communication channels. Using digital communication tools for advancing the negotiations online brings opportunities such as the increased chance of doing text-based work, increased time and opportunity for scientific input without the difficulties and financial constraints connected to intercontinental travel. But it also comes with challenges such as taking into account the difference in access to technologies, organizational issues related to the inclusion of participants from different timezones and the lack of organizational leadership. This move of international multilateral negotiations to digital formats is accompanied for need to update and adapt related research methods. With the increasing importance of digital diplomacy and digital multilateralism, we recommend for researchers to also take into account digital research methods such as digital ethnography. Summarizing it can be said that digital communication can partly replace physical meetings which, however, still have an important function in the final formulation of the treaty.

Recommendations for practitioners and researchers

Based on this report and the corresponding research article in Global Environmental Politics, we formulate a number of recommendations for practitioners and researchers involved in the digitalization of negotiation processes:

Practitioners	Researchers
Take into account institutional and geographical differences in the use of digital technologies	Adapt to digital research methods such as digital ethnography and online surveys
Create digital space for regular science-policy exchange	Advance conceptual work to include all variations of digital formats
Use full spectrum of digital tools to increase trust in their use	Establish similarities and differences across digital negotiation sites

This work was supported by the European Research Council (ERC) under the European Union's Horizon 2020 research and innovation programme (Grant No 804599). The research presented is part of the ERC project MARIPOLDATA led by Alice Vadrot. The authors would like to give special thanks to Dr. Julien Rochette, John Hanus and Dr. Thomas Loidl for their feedback on the survey. We also want to thank our distinguished partners who supported the survey dissemination. Finally, we are very grateful to all participants who took the time to answer our survey questions in this challenging time.

MARIPOLDATA is an ERC Starting Grant project running from November 2018 to October 2023. A research team led by the Principal Investigator Assoc. Prof. Mag. Dr. Alice Vadrot develops and applies a new interdisciplinary and multi-scale approach to study new forms of power at the intersection between science, and politics. The project uses ongoing negotiations on a new international legally binding instrument under the United Nation Convention on the Law of the Sea (UNCLOS) on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ) to study these processes in action.

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