



Integrating the traditional knowledge of Indigenous Peoples and local communities into the BBNJ instrument

Paper co-authored by:

**Clement Yow Mulalap, Tekau Frere, Elise Huffer, Edvard Hviding, Kenneth Paul, Anita
Smith, and Marjo Vierros**



Outline

- Working definitions
 - Working definitions of IPLCs
 - Working definition of TK
- TK and its holders in existing international instruments and processes
 - Three models: CBD, UNFCCC, CAOFA
 - Three extras: WIPO, IPBES, IPCC
- Types of TK of relevance to the BBNJ instrument
 - Connectivity, best practices, Moana
- Integrating TK and its holders into the BBNJ instrument



Working definitions for IPLCs

- Indigenous peoples and local communities
 - **Indigenous people**: descend from population that inhabited country at time of its conquest/colonization by foreign entity, **currently separate** from dominant population(s) in the country, and **retain** pre-conquest/colonization socio-economic/cultural/political institutions; or
 - **Local community**: long-standing historical/cultural/political **roots in the country**, **embodying/practicing traditional lifestyles**, and **not typically subservient** to other population(s) in country
- Citations: 1986 Martinez Cobo Study, ILO Convention 169, UNDRIP, ICCPR, ICESCR, CERD, CBD, WIPO



Working definition of TK

- **Living body** of knowledge, practices, skills, and innovations, including **intangible cultural heritage** such as a song, dance, or story, **passed down** through generations continuously and in a **locally meaningful context by IPLCs** who act as their **creators, developers, preservers, guardians, and custodians**
- **Agricultural** (e.g., optimal yield from land), **aquacultural** (e.g., fisheries-related, clam farming), **environmental** (e.g., conservation measures), **medicinal** (e.g., using plant and animal resources and produces as curatives)
- Knowledge associated with **genetic resources** of plant and animal life



TK in existing institutional arrangements: CBD

- Ad hoc open-ended Working Group on Article 8(j) and Related Provisions
 - Objective of the Working Group: Promote within the framework of the CBD a just implementation of Article 8(j) and related provisions, at local, national, regional and international levels and to ensure the **full and effective participation of indigenous and local communities at all stages and levels of its implementation.**
 - Article 8(j): Each contracting Party shall, as far as possible and as appropriate: Subject to national legislation, **respect, preserve and maintain knowledge, innovations and practices** of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and **promote their wider application** with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge innovations and practices.
 - IPLC representatives **directly participate** in meetings as well as **consulted** via regional processes
 - Outcomes so far: Plan of Action for retention of TK, innovations and practices; **Akwe: Kon Voluntary Guidelines**; Voluntary Funding mechanism for participation of IPLCs in CBD meetings; **Tkarihwaié:ri Code of Ethical Conduct** to Ensure Respect for the Cultural and Intellectual Heritage of Indigenous and Local Communities; **TK language in Nagoya Protocol**

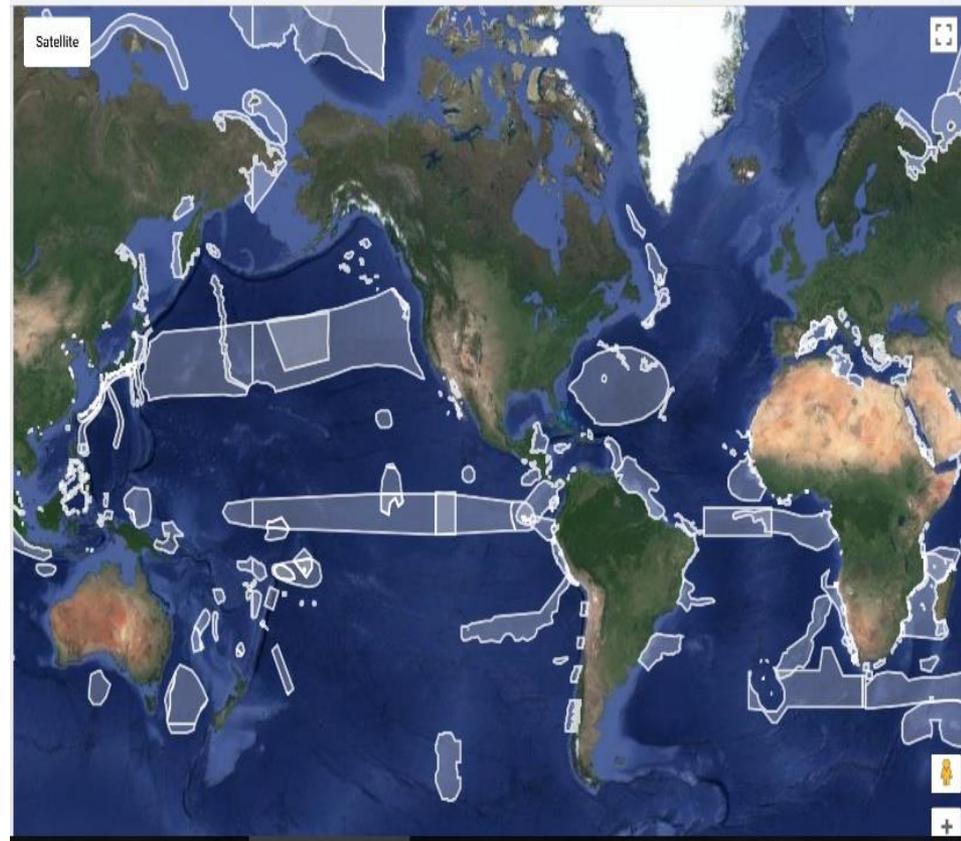


CBD

- **Regional workshops** to facilitate the description of Ecologically or Biologically Significant Marine Areas (“EBSAs”)

- Based on **criteria and methods that incorporate TK**
- EBSAs also cover **areas beyond national jurisdiction**
- **Direct participation** by IPLCs with relevant TK, as nominated

- Nominations from States as well as the seven recognized Indigenous Peoples socio-cultural regions: Africa; the Arctic; Asia; Central and South America and the Caribbean; Eastern Europe, Russian Federation, Central Asia and Transcaucasia; North America; and the Pacific.





TK in existing institutional arrangements: UNFCCC

- Paris Agreement, preamble
 - *Acknowledging* that climate change is a **common concern of humankind**, Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, **the rights of indigenous peoples, local communities**, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity
- COP21 Decision 1/CP.21, para. 136
 - *Recognizes* the need to strengthen knowledge, technologies, practices and efforts of local communities and indigenous peoples related to addressing and responding to climate change, and **establishes a platform for the exchange of experiences and sharing of best practices on mitigation and adaptation in a holistic and integrated manner;**



UN



UNFCCC

- Local communities and indigenous peoples platform (“LCIPP”)
 - COP23 Decision 2/CP.23:
 - 5. *Decides* that the overall purpose of the platform will be to **strengthen the knowledge, technologies, practices and efforts** of local communities and indigenous peoples related to addressing and responding to climate change, to **facilitate the exchange of experience and the sharing of best practices and lessons learned** on mitigation and adaptation in a holistic and integrated manner and to **enhance the engagement** of local communities and indigenous peoples in the UNFCCC process;





UNFCCC

Local communities and indigenous peoples platform (“LCIPP”): UNFCCC COP24 decision

1. Decides to establish the **Local Communities and Indigenous Peoples Platform Facilitative Working Group**;
2. Affirms that the Facilitative Working Group is established with the objective of **further operationalizing the Local Communities and Indigenous Peoples Platform** and facilitating the implementation of its functions;
3. Decides that the Facilitative Working Group shall comprise **14 representatives**, as follows:
 - (a) One representative of a Party from **each of the five United Nations regional groups**;
 - (b) One representative of a Party from a **small island developing State**;
 - (c) One representative of a **least developed country Party**;
 - (d) Seven representatives from **indigenous peoples organizations**, one from each of the seven United Nations indigenous sociocultural regions;





TK in existing institutional arrangements: CAOFA

- Central Arctic Ocean Fisheries Agreement (“CAOFA”)
 - Last summer, the Arctic Ocean States—Canada, Denmark (representing Greenland), Norway, Russian Federation, and the United States—along with major distant-water fishing nations/entities—China, Iceland, Japan, South Korea, and the European Union—signed the CAOFA, which establishes a moratorium on commercial fishing in the international waters of the Central Arctic Ocean for 16 years, with automatic renewals of five years each unless a Party to the CAOFA formally objects or science-based fisheries quotas and/or rules are established for the Central Arctic Ocean; now pending ratification
 - During the negotiations for the CAOFA, IPLC representatives participated actively, both directly through their individual organizations and on State delegations

Fisheries Accord Would Protect International Waters of Central Arctic Ocean

1.1 million square miles of high seas covered by proposed agreement



Source: Flanders Marine Institute, Maritime Boundaries Geodatabase: Maritime Boundaries and Exclusive Economic Zones (200NM), version 9 (2016), <http://www.marinerregions.org/> <http://dx.doi.org/10.14284/242>. Consulted on 2017-02-17

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CAOFA

■ Central Arctic Ocean Fisheries Agreement (“CAOFA”)

■ Preamble:

- Recognizing the interests of Arctic residents, including **Arctic indigenous peoples**, in the long-term conservation and sustainable use of living marine resources and in healthy marine ecosystems in the Arctic Ocean and **underlining the importance of involving them and their communities**; and
- Desiring to promote the **use of both scientific knowledge and indigenous and local knowledge** of the living marine resources of the Arctic Ocean and the ecosystems in which they occur as a basis for fisheries conservation and management in the high seas portion of the central Arctic Ocean

■ Article 4(4)

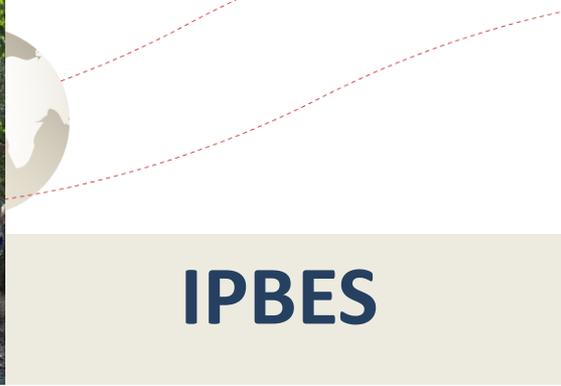
- The Parties shall ensure that the **Joint Program of Scientific Research and Monitoring** [i.e., a committee for monitoring fish stock levels and assessing possible impacts of fisheries on the ecosystems of the Central Arctic Ocean, in order to inform decision-making by CAOFA Parties] takes into account the work of relevant scientific and technical organizations, bodies and programs, as well **as indigenous and local knowledge**

■ Article 5(2)

- To promote implementation of this Agreement, including with respect to the Joint Program of Scientific Research and Monitoring and other activities undertaken pursuant to Article 4, the Parties **may form committees or similar bodies in which representatives of Arctic communities, including Arctic indigenous peoples, may participate**

WIPO

- WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (“WIPO IGC”)
 - Established in 2000; tasked by WIPO General Assembly with reaching an agreement on (an) international legal instrument(s) relating to IP which will ensure the balanced and effective protection of genetic resources, TK, and traditional cultural expressions
 - Since 2004, each WIPO IGC session has commenced with panel presentations chaired and populated by IPLC representatives with relevant TK
 - Presentations by IPLC representatives from PNG, Solomon Islands, and Vanuatu
 - IPLC representatives participate with speaking rights in informals and expert contact groups during each WIPO IGC session, usually two representatives in each informal and one expert representative in each contact group, as nominated by IPLCs in attendance at the WIPO IGC session. Other IPLC representatives participated without speaking rights.
 - Daily meetings of the Indigenous Caucus during each session as well as with chair of the WIPO IGC
 - WIPO Voluntary Fund for Accredited Indigenous and Local Communities



IPBES

- **Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services (“IPBES”)**
 - **Intergovernmental body (133 States members)** which **assesses the state of biodiversity and associated ecosystem services**, in response to requests from decision-makers
 - Recognizes “importance of **indigenous and local knowledge** to the **conservation and sustainable use** of ecosystems as a **cross-cutting issue** relevant to all of its activities” and commits to “promote **effective engagement** with **indigenous and local knowledge holders** in all relevant aspects of its work” (2014-2018 Work Programme, Deliverable 1(c))
 - Established **task force on indigenous and local knowledge** to operationalize that commitment: one member from each of the 5 UN regions, up to 20 additional experts on indigenous and local knowledge systems, and **“limited number” of experts of Indigenous and local knowledge systems and representatives of Indigenous and local organizations**
 - Future establishment of **a formal participatory mechanism under the Platform** for Indigenous and local knowledge systems
 - In the **SPM for First Global Assessment Report on Biodiversity and Ecosystem Services** (May 2019), **over 100 references** to Indigenous and local knowledge and IPLCs as **expert managers of natural ecosystems** as well **particularly vulnerable to biodiversity loss and ecosystem decline** – **systematic inclusion of all knowledge systems**
 - “D5: **Recognizing the knowledge, innovations, practices, institutions and values of indigenous peoples and local communities, and ensuring their inclusion and participation in environmental governance, often enhances their quality of life and the conservation, restoration and sustainable use of nature, which is relevant to broader society.**”
 - Numerous references to IPLCs and their knowledge in the approach of “Promoting sustainable governance and management of seascapes, oceans and marine systems”



IPCC



- Intergovernmental Panel on Climate Change (“IPCC”) **Special Report on Global Warming of 1.5 Degrees**: Half-dozen references to IPLCs and their knowledge
 - D.5.6. Education, information, and community approaches, including those that are informed by **indigenous knowledge and local knowledge**, can **accelerate the wide-scale behaviour changes consistent with adapting to and limiting global warming to 1.5°C**. (high confidence)
- IPCC **Special Report on Climate Change and Land**: Half-dozen references to IPLCs and their knowledge
 - C 4. The effectiveness of **decision-making and governance is enhanced by the involvement of local stakeholders** (particularly those most vulnerable to climate change including **indigenous peoples and local communities**, women, and the poor and marginalised) in the selection, evaluation, implementation and monitoring of policy instruments for land-based climate change adaptation and mitigation (high confidence)
- Ongoing discussions on better integration of IPLCs and their knowledge in **Working Group(s)** of the IPCC



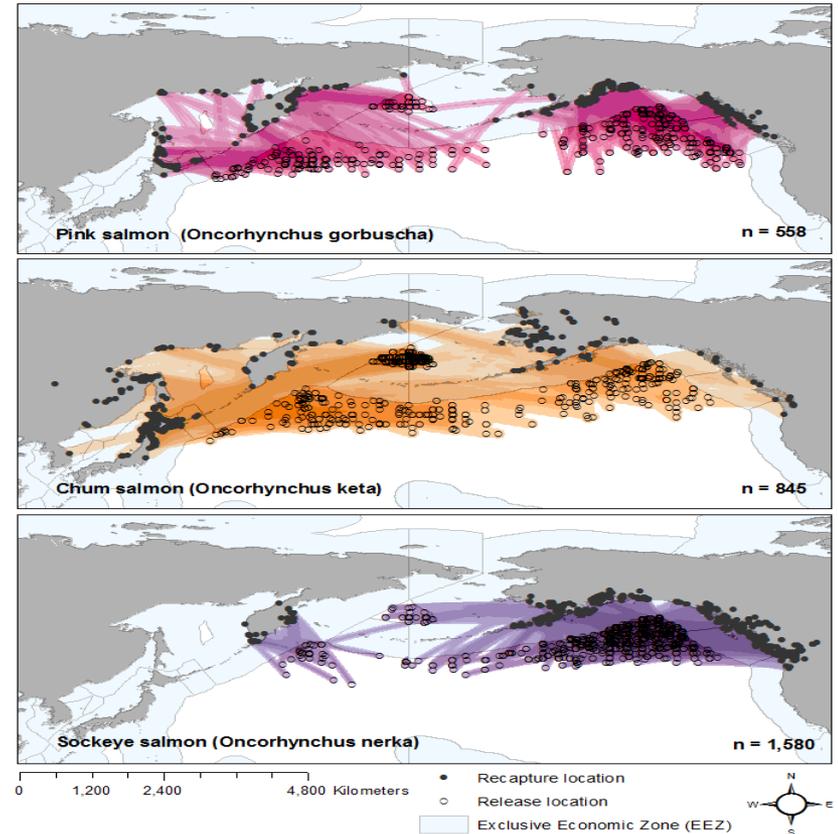
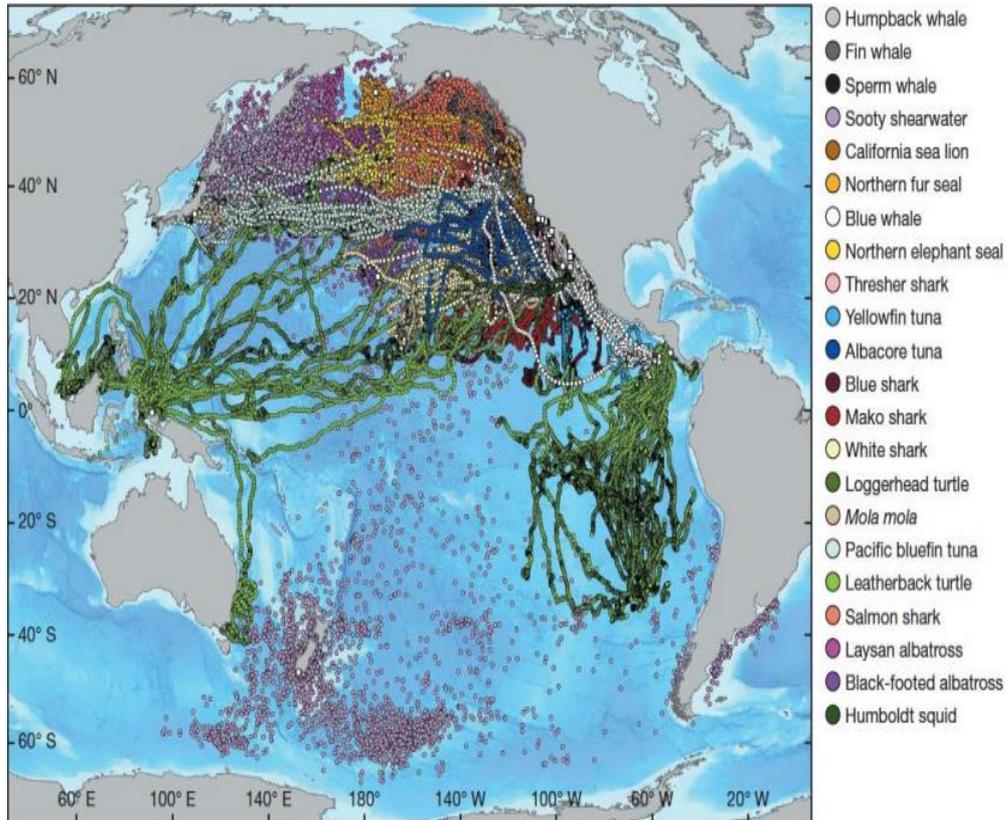
Types of TK and how to integrate in BBNJ instrument

- 1) **Connectivity (active and passive)**: The BBNJ instrument must incorporate TK and holders of TK with respect to **marine species and other biodiversity that migrate/span/move between the national waters of those TK holders and ABNJs**, including species with longstanding cultural significance for TK holders:
 - Sharks, sea turtles, whales, salmon, tuna, eels, etc.
 - Migratory paths, groupings, breeding patterns, environmental vulnerabilities, etc.
- 2) **Best practices**: The BBNJ instrument must incorporate TK and holders of TK with respect to **environmental management best practices in national waters** that are similar to and/or of relevance to management practices under the BBNJ instrument
 - Seasonal closures, *tabu*, *bul*, take-limits, pollution avoidance, etc.
- 3) **Traditional navigation**: The BBNJ instrument must incorporate TK and holders of TK of marine life in ABNJs derived from **open-Ocean traditional navigation** that can inform conservation and sustainable use measures in ABNJs:
 - Fish aggregation sites, spawning sites, migratory paths, wave patterns, etc.



Types of TK and how to integrate in BBNJ instrument

Connectivity



Block et al. (2011) Tracking apex marine predator movements in a dynamic ocean. *Nature*

North Pacific Anadromous Fish Commission (NPAFC). 2016. INPFC/NPAFC High-seas salmonid tag-recovery database. North Pacific Anadromous Fish Commission, Vancouver.

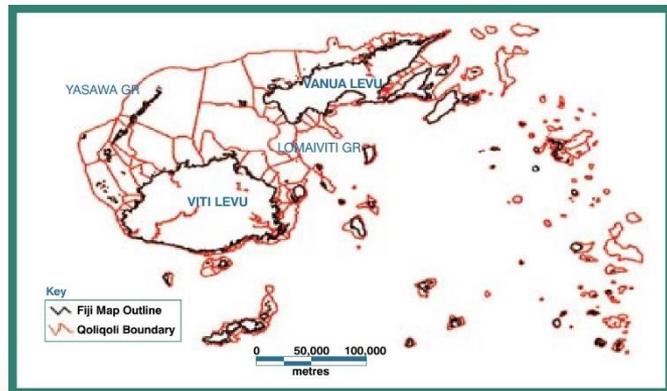


Types of TK and how to integrate in BBNJ instrument

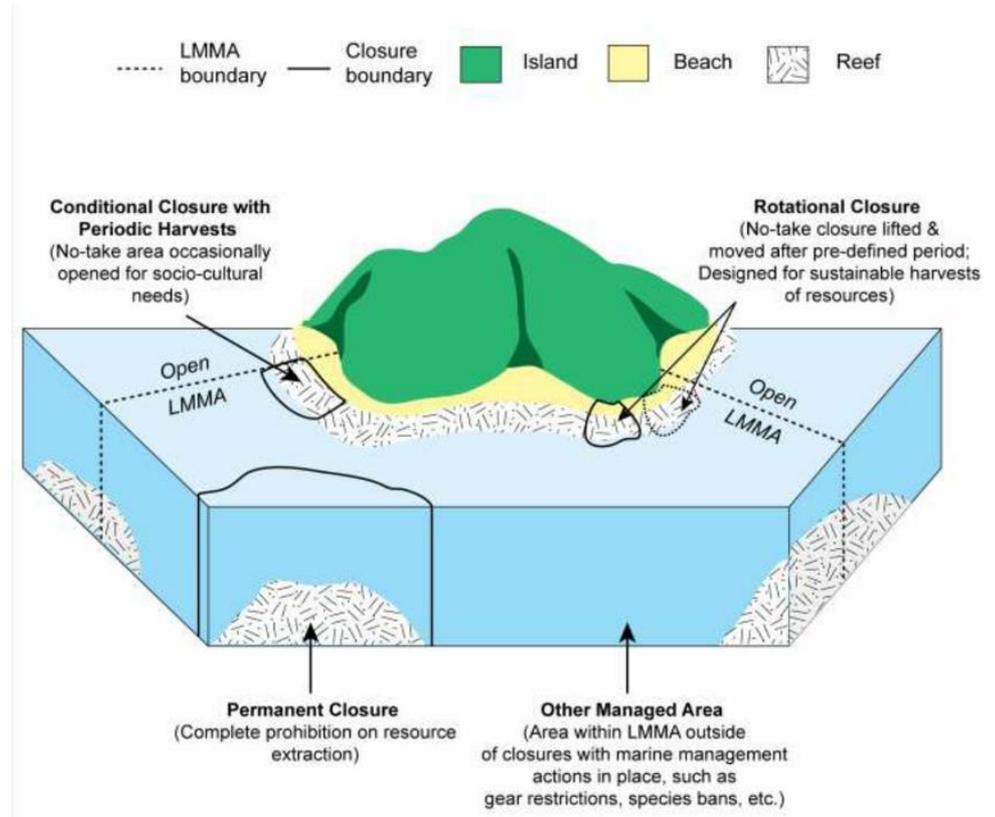
Environmental management best practices: One Ocean

Ecosystem approach: Ahupua'a (Hawaii), vanua (Fiji), tapere (Cook Islands), puava (Solomon Islands)

Marine tenure/management: Tabu + qoliqoli (Fiji), masalai (PNG), bul (Palau), rahui (Aotearoa), inati (Tokelau)



Map of qoliqoli boundaries in Fiji (in red). Source: Fiji LMMA Network Database, 2008, supplied by Alifereti Tawake.



Hugh Govan, Stacy Jupiter (2013), Can the IUCN 2008 protected areas management categories support Pacific islands approaches to conservation

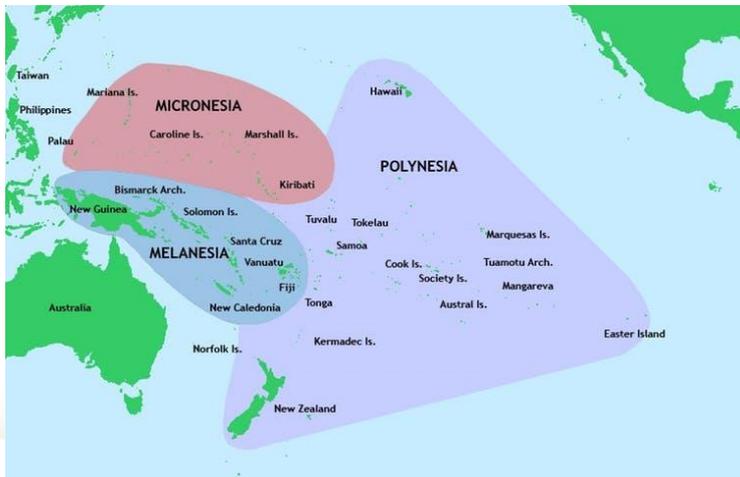


Types of TK and how to integrate in BBNJ instrument

Yap Visitors Bureau

Traditional navigation

AP



Knowledge from traditional navigation includes:

- Migratory paths, aggregation sites of tuna and other fish stocks
- Seamounts (high biodiversity, potential climate refugia)
- Wave patterns (early warning about changes in currents)
- Bioluminescent jellyfish and plankton
- Meteorological links with Ocean ecosystems



Types of TK and how to integrate in BBNJ instrument

- TK holders (from IPLCs) **participate directly** in **subsidiary bodies** (e.g., **scientific/technical committees**), **ad hoc working groups**, **experts groups**, and similar entities tasked with operationalizing main elements of the BBNJ instrument, **including ABMTs and EIAs**; those entities also **take TK into consideration in their design, assessments, recommendations, and decision-making, as complement to science (including as sources of observational data)**
- **Mandatory consultations** (including by private contractors/entities) with holders of relevant TK with respect to **management measures and impact assessments** under the BBNJ instrument, including **TK holders in adjacent coastal States**
- **Prior informed consent or approval and involvement** of TK holders before **accessing their relevant TK to unlock significant value of MGRs of BBNJ**; **benefit-sharing** also
- **Capacity building** for TK holders to participate in processes under the instrument + for States Parties and non-IPLCs to better understand TK; **two-way capacity building**
- Also, **financial and technical assistance** to TK holders to support their own Ocean conservation and sustainable use measures, so as to **promote coherence in Ocean management**



Thank You!

