



Earth Negotiations Bulletin

PrepCom 1

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Vol. 25 No. 104

Published by the International Institute for Sustainable Development (IISD)

Thursday, 7 April 2016

PREPCOM 1 HIGHLIGHTS: WEDNESDAY, 6 APRIL 2016

On Wednesday, 6 April, the informal working group on capacity building and marine technology transfer continued discussions in the morning. In the afternoon, the PrepCom plenary reconvened to hear, and offer comments on, reports from the informal working groups.

INFORMAL WORKING GROUP ON CAPACITY BUILDING AND TECHNOLOGY TRANSFER

ARGENTINA and the AFRICAN GROUP stated that for technology transfer to be effective, the capacity of those using it needs to be built. JAMAICA noted broad consensus on technology transfer, data sharing and capacity building at global and regional levels. CHILE stressed linking regional and global approaches, and the connection with benefit-sharing from MGR use. NEPAL underscored rights and interests of land-locked countries. The EU, with CHILE, called for gender equality in research in ABNJ. ALGERIA stressed the role of the Intergovernmental Oceanographic Commission (IOC) and the limitations of voluntary capacity-building and technology-transfer approaches.

CAPACITY BUILDING: The PHILIPPINES called for: enhanced collaboration and capacity-building provisions, supported by intergovernmental agencies such as IOC; prioritization of research programs, scholarships, and targeted training programs including on area-based management tools (ABMTs), EIA protocols, genomics and informatics; and involvement of researchers from adjacent coastal states in research programs in ABNJ. BRAZIL called for the ILBI to address administrative, technical, institutional and human capacity building.

IUCN, supported by SOUTH AFRICA, recommended the ILBI establish an obligation to cooperate on capacity building and training, and a global scholarship program on BBNJ. IUCN also highlighted the need for: improving scientific understanding, conservation and management of priority areas, including EBSAs; exchange of data relevant to ocean health, including catch and bycatch statistics; improving understanding of socio-ecological linkages between ABNJ and coastal livelihoods; and enhanced capacity for ILBI ratification and implementation. GREENPEACE recommended capacity-building measures should: establish or strengthen scientific and technical education programs, and training in marine biodiversity conservation and sustainable use; inform MSR design and conduct; and facilitate implementation of IOC Criteria and Guidelines on marine technology transfer.

TECHNOLOGY TRANSFER: The G-77/CHINA considered technology transfer essential for capacity building, referring to the SDGs and IOC Criteria and Guidelines, with the PHILIPPINES noting success of the latter in addressing responsiveness concerns. The AFRICAN GROUP urged operationalizing UNCLOS provisions on technology transfer

in the ILBI. P-SIDS called for the ILBI to go beyond existing provisions, with technology transfer being based on fair and equitable terms.

Emphasizing the IOC Criteria and Guidelines, the EU proposed including: information on marine science, manuals, guidelines, standards, sampling and laboratory equipment, analysis, computer hardware, expertise, knowledge, analytical methods, and recognition of private and public actors, and multi-stakeholder partnerships. JAMAICA underscored the distinction between technological collaboration and technology transfer, highlighting provisions on IPRs, and the need for incentives linked to voluntary approaches.

COSTA RICA recalled that the IOC Criteria and Guidelines recommend making scientific and technological research results available to all. BANGLADESH called for ILBI provisions to clarify: how to share data and technology, terms of transfer, and whether transfer will be voluntary. INDIA suggested encouraging bilateral and multilateral cooperation to operationalize UNCLOS technology-transfer obligations, with SINGAPORE noting that operationalization should be done through a participatory process.

CANADA called attention to cooperative approaches to technology transfer, including through trade and investment agreements, intermediaries' banks, UN initiatives, and regional institutions. AUSTRALIA reiterated that technology transfer should serve the ILBI objectives, and supported flexibility, transparency and responsiveness. IUCN called for updating marine technology needs assessments, and facilitating access to technology to fulfil the ILBI aims. PERU highlighted partnerships and scientific cooperation on migratory species' routes and identification of critical habitats.

INSTITUTIONAL ASPECTS: P-SIDS called for a mandatory, responsive, effective and flexible technology-transfer facilitation mechanism among regions. TRINIDAD AND TOBAGO recommended establishing regional technology transfer centers. ALGERIA called for clarifying technology-transfer responsibilities and institutional frameworks, involving both public and private sectors. Noting that capacity building takes place at bilateral or regional levels, MOROCCO called for a global, transparent and accessible mechanism. VENEZUELA noted that a potential technical and scientific body should be representative and inclusive, irrespective of UNCLOS membership status. INDONESIA called for a new implementation body to ensure technology transfer. PAPUA NEW GUINEA emphasized the need for: with IUCN, a body to promote capacity building and technology transfer; and a monitoring and information-sharing mechanism. MEXICO called for a mechanism to promote scientific and technical cooperation, and to coordinate with existing bodies under CBD, ISA and regional mechanisms.

The EU supported: establishing a global network of training centers to advance developing countries' knowledge of, and access to, ABNJ and their resources, taking into account regional

This issue of the *Earth Negotiations Bulletin* © <enb@iisd.org> is written and edited by Elisa Morgera, Ph.D., Daniela Diz, Ph.D., Tallash Kantai and Asterios Tsioumanis, Ph.D. The Digital Editor is Francis Dejon. The Editor is Pamela Chasek, Ph.D. <pam@iisd.org>. The Director of IISD Reporting Services is Langston James "Kimo" Goree VI <kimo@iisd.org>. The Sustaining Donors of the *Bulletin* are the European Union, the Government of Switzerland (the Swiss Federal Office for the Environment (FOEN)) and the Kingdom of Saudi Arabia. General Support for the *Bulletin* during 2016 is provided by the German Federal Ministry for the Environment, Nature Conservation, Building and Nuclear Safety (BMUB), the New Zealand Ministry of Foreign Affairs and Trade, SWAN International, the Finnish Ministry for Foreign Affairs, the Japanese Ministry of Environment (through the Institute for Global Environmental Strategies - IGES), the United Nations Environment Programme (UNEP), and the International Development Research Centre (IDRC). The opinions expressed in the *Bulletin* are those of the authors and do not necessarily reflect the views of IISD or other donors. Excerpts from the *Bulletin* may be used in non-commercial publications with appropriate academic citation. For information on the *Bulletin*, including requests to provide reporting services, contact the Director of IISD Reporting Services at <kimo@iisd.org>, +1-646-536-7556 or 300 East 56th St., 11D, New York, NY 10022 USA. The ENB team at the 1st Session of the PrepCom can be contacted by e-mail at <elisa@iisd.org>.



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characteristics and existing structures such as IOC. ALGERIA suggested: exchanging information under the ILBI through a network of national authorities under IOC's auspices, with national authorities overseeing technology transfer and refining technical and legal criteria for research.

IUCN, supported by the AFRICAN GROUP, recommended the ILBI establish a funding mechanism. TRINIDAD AND TOBAGO proposed establishing a trust fund based on a combination of voluntary and mandatory contributions, cautioning against relying solely on financial benefits derived from the commercialization of MGRs.

CLEARINGHOUSE: The G-77/CHINA called for a clearinghouse mechanism. SRI LANKA supported a central data-sharing repository. IUCN recommended the ILBI establish a repository with documents on EIAs, SEAs and research. JAMAICA pointed to IOC as a clearinghouse for technology transfer. FIJI stressed that this mechanism should facilitate technology transfer and address the needs of developing countries. The FEDERATED STATES OF MICRONESIA (FSM) called for a free and publicly available clearinghouse incorporating information on: national legislation, policies, and ILBI's implementation measures; and compliance or review procedures, and environmental assessments. AUSTRALIA supported a transparent, responsive, up-to-date and easy-to-engage clearinghouse mechanism to: receive and disseminate capacity-building opportunities and projects; allow articulation of countries' needs; and catalyze coordination between donors. COSTA RICA suggested drawing on the CBD and national clearinghouse mechanisms. ECUADOR called for a database for capacity-building and technology-transfer experts to share information and experiences, to facilitate decisionmaking and ILBI implementation. The EU stated that a clearinghouse mechanism on ABNJ and their resources could be considered.

PLENARY

Chair Charles praised the candid and animated discussions during the informal working groups, which helped to compartmentalize deliberations, notwithstanding the interconnectedness among issues. He suggested, and delegates agreed, to allow for comments after oral reports from informal working group facilitators, with a view to taking all items into consideration to formulate a roadmap for PrepCom 2.

JAPAN, supported by the RUSSIAN FEDERATION, CHINA, and ICELAND, reiterated the proposal to request RFMOs to deliver presentations at PrepCom 2. COSTA RICA, the EU and others suggested RFMOs' presentations be held at side events or intersessionally instead. CHILE and NORWAY remarked that states participating in the PrepCom, that are members of RFMOs, can also contribute relevant information.

VENEZUELA called for an intersessional group providing a legal review of the ILBI's universality, to address the concerns of non-parties to UNCLOS. Chair Charles recalled that non-parties are addressed in General Assembly Resolution 69/292 convening the PrepCom, suggesting considering non-parties to UNCLOS becoming parties to the ILBI later in the PrepCom process.

MGRs: Facilitator Duarte reported on the informal working group on MGRs, including benefit-sharing questions, highlighting, *inter alia*: as basis for a regime, common heritage or high seas freedoms; definitions of relevant terms; geographical, material, functional and temporal scope; benefit-sharing approaches; types of benefits to be considered; IPRs, including options to develop a *sui generis* system and relevant fora, such as WIPO and WTO; and institutional arrangements.

P-SIDS recalled challenges faced by SIDS concerning access to resources and biological data. IRAN reiterated the common heritage principle, prior informed consent, and mandatory disclosure in patent application.

ABMTs: Facilitator Adank reported on the informal working group on ABMTs, highlighting, *inter alia*: sectoral and regional bodies' limited mandates; global targets on MPAs; the need to define ABMTs, including MPAs; different categories of MPAs; balance between conservation and sustainable use, including

maintenance of ecosystem services and resilience to climate change and ocean acidification; transparency; capacity building; respect for rights over the continental shelf; and links with EIAs.

P-SIDS cautioned against placing disproportionate burdens on SIDS in relation to ABMTs. ARGENTINA recalled the need for a coherent and comprehensive mechanism to manage ABMTs. The EU underscored the need to balance all States' rights and obligations, including concerning high-seas fishing. IUCN emphasized the need for: a process for regular review of progress on MPAs by states and relevant organizations; a proposed scientific and technical body on ABMTs; and, with PEW, NRDC and GREENPEACE, the importance of marine reserves.

The RUSSIAN FEDERATION requested incorporation of his view that a global MPA network is "not wise," and that MPAs should be established on a case-by-case basis in light of specific data, and not on a permanent basis. COSTA RICA noted that the report cannot include all delegations' views in support of or against certain proposals.

EIAs: Facilitator Lefebvre reported on the informal working group on EIAs, including transboundary EIAs and SEAs, highlighting, *inter alia*, suggestions for: a tiered or light approach to identifying thresholds to trigger an environmental assessment; a new *ad hoc* body to ensure assessments are conducted; a mandate for RFMOs to conduct assessments; a central repository including baseline reports; a clearinghouse mechanism modelled after the CBD; and a fund bridging the gap between an incident's occurrence and the time the polluter actually pays.

P-SIDS called for support and assistance for EIAs. GREENPEACE underscored: the need to only permit an activity after having ascertained that it will not cause significant adverse effects, and that measures are in place to ensure prevention of such effects; the duty to refrain from certain activities while proposals are being assessed; and the proposal of an open-ended list of activities, to accommodate new and emerging activities.

CAPACITY BUILDING AND TECHNOLOGY

TRANSFER: Facilitator Lee reported on the informal working group on capacity building and technology transfer, highlighting, *inter alia*: implementation gaps; links with developing countries' capabilities to meet ILBI obligations and all other elements of the package; the need for an ambitious, robust, dynamic and effective system, and meaningful and tangible measures, including an *ad hoc* body for coordination and prioritization of areas; a global financing mechanism, combining voluntary and mandatory contributions; a clearinghouse mechanism; regional and national centers; and transparency and gender equality. P-SIDS reiterated the need for an effective, non-cumbersome capacity-building and technology-transfer system, delivering meaningful results.

IN THE CORRIDORS

As delegates recalled hard-law (albeit largely not implemented) obligations on capacity building and technology transfer and the recent political commitment enshrined in the Addis Ababa Action Agenda, many felt that Wednesday's discussions constructively focused on tangible and meaningful measures. In the same spirit, concrete challenges, such as reliable funding – in light of experiences under the Adaptation Fund – and possible synergies – including with the nascent Technology Facilitation Mechanism under the financing for development process – were pointed out. Whether these, and other, ideas will be enough for the ILBI to go "above and beyond the promises of other instruments," a seasoned delegate observed, "is anybody's guess" at this stage.

Meanwhile, speculation was rife on the content and form of the "roadmap" to be considered during the remainder of PrepCom 1, with some speculating that it could be a list of items to be expanded upon at PrepCom 2, and others suggesting a timeline mapping the PrepCom process to its conclusion.