

## MARINE BIODIVERSITY WORKING GROUP

### HIGHLIGHTS:

#### MONDAY, 28 APRIL 2008

The second meeting of the *Ad Hoc* Open-ended Informal Working Group of the General Assembly to study issues relating to the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction (the Working Group) opened on Monday, 28 April, at the United Nations (UN) headquarters in New York. Participants addressed organizational matters, heard scientific presentations and exchanged views on General Assembly Resolution 61/222.

#### OPENING PLENARY

Co-Chair Robert Hill (Australia) opened the meeting and noted that the session was not a negotiating forum. He elaborated that the aim was to move beyond the work of the first Working Group and to define the challenges to the conservation and sustainable use of marine biodiversity more explicitly.

On behalf of UN Secretary-General Ban Ki-Moon, Nicholas Michel, Under-Secretary-General for Legal Affairs drew attention to the Secretary General's Report (A/62/66/Add.2) prepared in order to facilitate the Working Group's discussions. In his opening remarks, Co-Chair Juan Manuel Gómez-Robledo (Mexico) said the Secretary-General's Report would serve as the basis for the Group's deliberations.

The Working Group adopted the agenda and the organization of work prepared by the Co-Chairs without amendment.

#### SCIENTIFIC PRESENTATIONS

Peter Auster, University of Connecticut at Avery Point, discussed deep sea biodiversity and its linkage to international management needs. He described seamount landscapes and species diversity, the impacts of human activities on the seafloor, and the challenges inherent in meeting both conservation and sustainable use goals. He highlighted the community variation among seamounts and seamount chains, and identified research gaps with regard to seamount ecosystem recovery time and unidentified species.

Elva Escobar Briones, *Ad Hoc* Steering Group of the Assessment of Assessments (AoA), discussed the progress made and ongoing work in the AoA, co-led by UNESCO-International Ocean Commission (IOC) and UNEP as the first phase of the UNGA regular process for global reporting and assessment of the state of the marine environment. She noted that a draft of the AoA Group of Experts' report would be distributed in May 2008, with the finished work to be presented in 2009 and finalized in 2010.

Les Watling, University of Hawaii, presented the biogeography of the deep sea benthos. Noting challenges in sampling biodiversity in seamounts and ridges due to topography, the difficulty in measuring vertical and horizontal distribution of species, and variations in the amount of available data on different ocean areas, he delineated biogeographic provinces based on water temperature, oxygenation and organic material content.

Regarding the science-policy nexus, Briones said the classification and bio-regionalization of marine biodiversity is needed for decision-making, stated that research undertaken so far provides a sufficient basis for action, and called for, *inter alia*, a bridge between policy demand and research and international cooperation to support scientific cooperation.

#### GENERAL STATEMENTS

Antigua and Barbuda, for G-77/CHINA, called for enhanced climate research and monitoring, greater understanding and regulation of several intellectual property aspects, and capacity building. She highlighted the need for coordination among sectors, agencies, parties, and with the Convention on Biological Diversity.

Slovenia, for the EU, expressed concerns regarding unregulated activities, poor implementation, and UNCLOS' fragmented approach. He called for an implementation agreement under UNCLOS that would serve as an integrated regime, and highlighted several proposals for short-term action.

Mexico, for the RIO GROUP, urged that discussions regarding the exploitation of marine resources consider the benefit of mankind as a whole, irrespective of the location of states.

Tonga, for the PACIFIC ISLANDS FORUM (PIF), stated that the Working Group is the appropriate forum to discuss needs, including enhanced regime implementation, consideration of new approaches and regimes, and the use of caution with regard to ocean sequestration technologies. AUSTRALIA supported PIF and stressed the need to address the causes and impacts of overfishing and destructive fishing practices and to focus on threats to, and protection of, vulnerable marine ecosystems.

CANADA suggested that the meeting should focus on: identifying facts and threats; finding realistic and pragmatic solutions; and applying ecosystem-based management and the precautionary approach. The US noted the need to address full implementation of existing agreements and commitments, as well as measures to regulate unmanaged fisheries.

TRINIDAD AND TOBAGO supported the statement of G77/CHINA and stressed the need to strengthen or establish mechanisms to encourage sharing of information and knowledge of resources, including technology transfer.

JAPAN, recalling UNGA's resolutions, emphasized the importance and expertise of FAO and Regional Fisheries Management Organizations (RFMOs). He said marine scientific research has minimal impact on the marine ecosystem and, thus, Japan does not support the introduction of new regulations.

NORWAY cautioned against establishing "paper parks," in which the relevant and most important issues are not dealt with, and against venturing into Marine Protected Areas (MPAs) for biodiversity conservation beyond national jurisdictions while ignoring action within national jurisdictions.

BRAZIL called for further studies on the seabed, exploration of the patenting of genetic resources and benefit sharing from the use of these resources, and examination of the deficit in the legal framework on implementing port- and flag-state measures. INDIA supported the G-77/CHINA and argued that the general principles of marine scientific research contained in articles of UNCLOS related to benefit of mankind and non-recognition of marine scientific research activities as a legal basis for claims should apply to bio-prospecting.

NEW ZEALAND supported PIF and urged, *inter alia*: action to protect marine biodiversity; establishment of MPA networks and guidance on multipurpose MPAs; further exploration of the status of marine genetic resources in areas beyond national jurisdiction; and options to address governance and regulatory gaps. MARSHALL ISLANDS supported PIF and called for, *inter alia*, implementation of the precautionary principle; reduction of the financial role of illegal, unreported and unregulated (IUU) fishing; research on ocean acidification and food security; increased information exchange; and establishment of MPA networks and buffers.

MEXICO urged consideration of the principles set forth in UNCLOS and of new and improved legal institutions and mechanisms for the conservation and sustainable use of marine biodiversity. VENEZUELA outlined the relevance of marine biodiversity beyond national jurisdiction to the CBD and emphasized the key role that the CBD could play on this issue in the future. He supported strengthening the mandate for the Working Group's research and discussion.

KENYA highlighted as its key concerns IUU fishing, marine safety and capacity building in meteorology and oceanography. SOUTH AFRICA noted the relationship between climate change and oceans management. He supported the ecosystems approach and area-based management of the oceans, but said implementation would be crucial.

Calling for implementation of UNCLOS and existing related specialized agreements on conservation and sustainable use of marine biodiversity, ICELAND questioned the need for a new global agreement on the issue.

CHINA highlighted the importance of science and technology in management of marine biodiversity beyond areas of national jurisdiction, and urged greater scientific research.

Noting that the economic and food security of small island developing states (SIDS) depends on ocean ecosystems, PALAU called for better implementation of existing regimes, such as RFMOs. ARGENTINA questioned the capability of RFMOs to guide the international community, noting that their decisions would not be binding on non-members, and stressed the need for a strong scientific basis for all regional divisions of the high seas.

IUCN called for the implementation of a representative network of MPA and decisive steps and immediate measures by flag-states to regulate activity on the high seas. Emphasizing the importance of biodiversity for food security, FAO highlighted its initiatives to establish mechanisms to manage aquaculture and to discourage IUU fishing.

The NORTHWEST ATLANTIC FISHERIES ORGANIZATION highlighted the reformulation of its mandate to conform to precautionary and ecosystem approaches. The COMMISSION FOR THE PROTECTION OF THE MARINE ENVIRONMENT IN THE NORTH-

EAST ATLANTIC and the NORTH EAST ATLANTIC FISHERIES COMMISSION underscored the Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR) as a case study for the consideration of the Working Group.

WWF suggested making the Working Group a standing process and called for prior informed environmental impact assessments (EIAs) and progress on MPAs.

The GLOBAL FORUM ON OCEANS, COASTS AND ISLANDS highlighted the outcomes of two workshops held on the issues mandated by UNGA resolution 61/222. The DEEP SEA CONSERVATION COALITION drew attention to the fragmented regime structure governing marine biodiversity. GREENPEACE announced its 2007 discovery of a sponge species in the Bering Sea, and called for new UNCLOS-related articles on marine biodiversity beyond national jurisdiction that complement existing agreements governing this geographic area.

#### **GENERAL ASSEMBLY RESOLUTION 61/222, PARAGRAPH 91**

Co-Chair Hill introduced discussion on issues identified by General Assembly resolution 61/222 and invited participants' views on environmental impacts of anthropogenic activities.

Ecuador expressed concern with geo-engineering methods for mitigating the effects of climate change, highlighting uncertainties regarding impacts.

The EU noted the need for urgent steps to conserve marine biodiversity and identified three core problems: the lack of implementation of existing commitments; governance and regulatory gaps; and the absence of an integrated regime.

SOUTH AFRICA argued that climate mitigation options that endanger the ocean should be avoided. He called for enhanced research and monitoring, establishment of early warning signals, capacity building for RFMOs, and strengthened adaptive capacity.

AUSTRALIA suggested that assessments be carried out before new and unregulated activities are allowed to proceed. NEW ZEALAND stated that a global approach to EIAs should consider existing models, urged consideration of how to contend with cumulative effects of activities, and highlighted its establishment of activity categories – permitted, prohibited or allowed on a discretionary basis – which could be embraced in an EIA rating.

MARSHALL ISLANDS urged global recognition of EIAs, especially with regard to oceans-based climate mitigation activities. He called for the establishment of best practices and EIA guidance to quantify and identify risks, with a focus on methods for evaluating cumulative impacts. SINGAPORE highlighted that the UNEP Global Programme of Action for the Protection of the Marine Environment from Land-Based Activities (GPA) estimates land-based sources are responsible for 80% of marine pollution, warranting consideration.

#### **IN THE CORRIDORS**

As spring rain soaked the City of New York, Working Group members entered the first day of discussions damp, but enthusiastic. Delegates seemed to agree that a governance gap existed in the management of marine biodiversity beyond national jurisdiction. However, views on addressing this gap were widely divergent. While some stressed the need for a new instrument, others contended that current agreements were not being effectively implemented and challenged the potential of novel instruments. They argued that lack of political will was the most pressing issue facing implementation, and noted the challenges inherent in addressing a cross-cutting issue while not stepping on others' toes, given the coverage of the issue in other arenas. Many reflected on the need to build on the work of the first meeting and the inherent restrictions placed on the Working Group, which does not have a mandate to negotiate, and wondered if priorities could be agreed by the end of the week.