

## ICP-12 HIGHLIGHTS: TUESDAY, 21 JUNE 2011

On Tuesday, delegates to the twelfth meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea (Consultative Process or ICP-12) convened in a discussion panel on the overview of progress to date and the remaining gaps in the implementation of relevant oceans and seas outcomes of the major summits on sustainable development. In the morning, presentations and discussions were held on: progress and gaps in marine scientific research, emerging challenges, and links between science and policy making; gaps and challenges in capacity building and transfer of technology to implement ocean-related outcomes of the relevant summits; and implementation of the ocean-related outcomes affecting the social aspects of fisheries. This panel continued in the afternoon with presentations and discussions on: deep-sea research and international ocean governance; assessment of progress in marine pollution control and challenges; and integrated management of the oceans and seas.

### DISCUSSION PANEL

#### OVERVIEW OF PROGRESS TO DATE AND THE REMAINING GAPS IN THE IMPLEMENTATION OF THE OUTCOMES OF THE MAJOR SUMMITS ON SUSTAINABLE DEVELOPMENT: Morning Presentations:

Luis Valdés, Head of the Ocean Science Section of the Intergovernmental Oceanographic Commission (IOC), UNESCO, explained that much progress has been achieved in the field of marine research since Rio 1992 and the adoption of the Johannesburg Plan of Implementation (JPOI), yet it remains necessary to address gaps and emerging issues that jeopardize the management and sustainability of regional seas and oceans.

He then overviewed a number of these achievements and gaps related to: integrated management and sustainable development of coastal areas, highlighting IOC's Integrated Coastal Area Management and the Marine Spatial Planning initiative; marine environmental protection, noting that harmful algal bloom events are occurring more frequently, so their dynamics need to be better understood; global marine assessment; and sustainable use and conservation of marine living resources of the high seas and under national jurisdiction, biodiversity and MPAs, saying these targets have been very difficult to achieve since Rio 1992 and the adoption of JPOI, as only 1% of the global oceans are designated as MPAs. Valdés closed noting that the emerging

issues of geoengineering, marine plastics, and vulnerable deep-sea ecosystems are beginning to receive attention, but that dead zones, marine noise, and marine genetic resources.

Kriangsak Kittichaisaree, Thailand's Ambassador Extraordinary and Plenipotentiary to the Commonwealth of Australia, identified gaps and challenges in capacity building and transfer of marine technology to implement the ocean-related outcomes of the major summits on sustainable development. He underscored challenges such as the absence of funds or assistance programmes to promote the implementation of UNCLOS' provisions on development and transfer of marine technology. He suggested, *inter alia*, using UNCLOS' deep seabed mining model for transfer of marine technology, and that DOALOS, IOC or UN-Oceans could be the focal point for coordination and technology sharing.

Sebastian Mathew, International Collective in Support of Fishworkers, said that overall the environmental and social problems of fisheries had not improved following previous summits. He cited poor governance of coastal and marine ecosystems, and urged building inclusive governance structures on the basis of equity, sustainability, and respect for human rights. "Precursory" governance structures, he posed: could provide "institutional scaffolding" to achieve sustainable use and conservation of marine living resources; were a prerequisite for sustainable development's three pillars; and could help implement outcomes.

**Afternoon Presentations:** Philip Weaver, Hotspot Ecosystem Research and Man's Impact on European Seas (HERMIONE), presented the results of HERMIONE's scientific research, stressing that bottom trawling was identified as the most impactful activity in the North-East Atlantic area. Weaver called attention to the environmental impacts of bottom trawling on fish abundance and on vulnerable marine ecosystems (VMEs) such as: seamounts; corals and sponges; and deep-sea fish species. He presented the preliminary findings of the Scientists' Workshop to Review the Implementation of General Assembly Resolution 64/72, which took place in Lisbon, Portugal, in May 2011, including that the VME criteria have not been applied consistently. He called on States to, *inter alia*, widely apply the precautionary approach as provided for by the UN Fish Stocks Agreement (UNFSA), and to refrain from bottom fishing activities unless prior impact assessments are undertaken.

Babajide Alo, University of Lagos, spoke on progress in controlling land-based sources of marine pollution, and noted the adoption of a number of international legal instruments, but stressed that gaps and challenges regarding their implementation

still remain. He said since Rio 1992, the oceans have increasingly become more vulnerable, highlighting, *inter alia*: the destruction of 50% of the world's mangroves; increasing hypoxic and anoxic zones from excessive nutrients in sewage and agricultural runoff; and alien invasive species from ballast water. Alo underscored the need for: increased national action to implement the Agenda 21 paradigm "think globally, act locally;" the development of newer economic incentives and tools to calculate the cost of inaction; and increased support for the Large Marine Ecosystems concept and integrated management for coastal areas.

Yoshinobu Takei, Utrecht University, said actions needed to achieve integrated management of oceans include: national adoption and implementation of integrated ocean policies; regional level cooperation; and strengthening of global mechanisms such as UN-Oceans, which he said would benefit from a permanent secretariat. He also noted the need for marine spatial planning, which could help achieve a green economy by efficiently allocating ocean uses such as offshore wind farms. Takei said coral reefs urgently require integrated management, given the cumulative impact of various threats including acidification caused by climate change.

**Morning Discussion:** On the IOC Criteria and Guidelines on the Transfer of Marine Technology, Kittichaisaree said they are used by participants at IOC meetings, but are not shared effectively with the fishery sector. He said an implementing agreement on the transfer of marine technology would not be "too far-fetched."

Echoing a comment on the urgency of invasive species and marine debris issues, Valdés said national governments must implement the IMO's International Convention for the Control and Management of Ships Ballast Water and Sediments, and explained how plastic debris carries pollution. On UN-Oceans, Valdés said it had been effective in coordinating issues among the relevant UN agencies, but he hoped the upcoming review of UN-Oceans would enable it to further improve ocean activities, including by solving its lack of funding.

On meeting the governance needs of coastal states, Mathew suggested a bottom-up approach, and noted the relatively small number of States that incorporated the FAO Code of Conduct for Responsible Fisheries into national policies and legislation. Kittichaisaree clarified that the International Seabed Authority could serve as a model for bilateral technology transfer. When asked about the purpose of his suggested checklist to be developed jointly by fishing and coastal States to provide equitable balance of interests, Kittichaisaree said some coastal States need guidance on how to make the appropriate demands of foreign fishing fleets, so as to convert the benefits received into long-term capacity building.

On ocean science, Valdés noted that regular reviews are essential to the work of the International Council for the Exploration of the Sea, and the Joint Group of Experts on the Scientific Assessment of Marine Environmental Protection plays a key role for the UN but is underfunded. On the use of ocean resources, he said policy-makers using the upper limit of fish-stock estimates undermine their long-term sustainability. On disturbances caused by data gathering to designate MPAs, Valdés said it is critical for determining if protection is working.

On the UNFSA, Kittichaisaree said the capacity-building provisions are not legally binding and that these should become hard law after Rio+20. Mathew concurred with a participant's statement that ocean noise is an important problem and will become worse with increased oil exploration.

**Afternoon Discussion:** Responding to a question on the impacts of bottom trawling outside the trawled areas, Weaver said the area impacted can be larger than the fished area, because fish migrate up and down the slope, and noted consequences of these practices for non-target species and habitat degradation. He said these ecosystems, as communities, can take hundreds of years to recover after bottom trawling, and suggested establishing buffer zones to protect closed areas. In response to questions on the "move on rule" to avoid impacts on VMEs, Weaver noted that the rule may have two problems: the distance being moved; and inappropriate by-catch thresholds. He also noted that seamount areas may require a different move on rule from corals and sponges.

On the multilateral nature of ABNJ issues, Takei said some can be addressed bilaterally, highlighting the example of orange roughy fisheries between Australia and New Zealand.

On a question about whether bottom trawling is the most serious threat to biodiversity, Weaver said climate change and ocean acidification should be included in this category as well. Responding to a question about fishing vessels still lacking IMO identifiers, Weaver said vessels have to carry IMO identification for safety, and if fishing vessels also carried them it would improve tracking.

When asked about the lack of political will, Alo said this is compounded by the lack of laws and funds. With ocean pollution from transport and offshore oil development, he opined that this is inadequately addressed by existing instruments. On the role of UN-Oceans, Takei said it is meant to coordinate not interfere with its members' activities, but underscored that the agreement of States is critical before any such coordination take place.

In response to a question on the incorporation of ocean acidification into integrated management, Takei said assessing it would help achieve integrated management and noted that it is also necessary to mitigate GHG emissions, the cause of the problem.

On IUU fishing and the use of the IMO tracking system, the NORTH EAST ATLANTIC FISHERIES COMMISSION said the tracking system has not been discussed but there is collaboration between IMO, FAO and RFMOs to introduce the IMO numbers in fishing vessels to control IUU fishing all over the world, adding that VMS tracking can be used for security and fishing control.

Participants also discussed: the need for strengthening capacity building; concern over the current status of fish stocks and IUU fishing; the need for reducing fisheries over-capacity; the need for enhanced RFMO transparency; concerns over marine debris; eco-certification; and fisheries closures.

### IN THE CORRIDORS

By Tuesday, the panel presentations and deliberations were in full swing. Discussing gaps in implementation of past agreements, delegates weighed the elements that require redoubled effort. But instead of simply spotlighting such issues (an extended enough list that not even the longest day of the year could attend to), the question-and-answer sessions revealed nuanced views on the proper role of various bodies in the ocean framework. Privately, one delegation expressed strong doubts about strengthening UN-Oceans, while others were ambivalent on UN-Oceans at this stage but understood the need for an institutional champion. At a broader level, this is the conundrum facing the international community as it prepares for the UNCSD – not just what issues to deliberate, but which institutions and organizations should be central to addressing the gaps.