



WORKING GROUP HIGHLIGHTS: WEDNESDAY, 15 JUNE 2005

Delegates to the first meeting of the *Ad Hoc* Open-ended Working Group on Protected Areas (PAs) of the Convention on Biological Diversity (CBD) convened in two sub-working group sessions. Sub-Working Group I (SWG-I) considered a conference room paper (CRP) on options for cooperation for the establishment of marine protected areas (MPAs) beyond national jurisdiction. Sub-Working Group II (SWG-II) addressed a CRP on options for mobilizing financial resources.

SUB-WORKING GROUP I

HIGH SEAS PROTECTED AREAS: The UN FOOD AND AGRICULTURE ORGANIZATION (FAO) proposed additional operative language on subjecting the establishment of MPAs to their evaluation vis-à-vis other management tools. The Netherlands, on behalf of the EU, BULGARIA and ROMANIA, suggested retaining, and CANADA, ARGENTINA and NEW ZEALAND deleting, references to preliminary priority areas identified for the establishment of MPAs. COLOMBIA, supported by many, proposed retaining general language on noting the scientific study without mentioning specific areas. The paragraph was bracketed.

On text requesting collaboration in filling the identified data gaps on ecosystems and species, delegates discussed whether research should focus on areas beyond national jurisdiction or marine areas in general. The EU suggested studies on the ecology and behavior of high seas species that make them vulnerable to human activities. He also suggested gathering information on the distribution of seamounts and cold-water corals, ecosystem functioning and ecology of associated species from a range of depths, as well as a general reference to human activities that impact on marine biodiversity.

Regarding language requesting elaboration of a spatial database of biodiversity in marine areas beyond national jurisdiction, delegates debated specific references to its content, including information on representative marine areas, existing regional MPA systems and pressures on MPAs. NORWAY, ARGENTINA, ICELAND and COLOMBIA suggested the database address marine biodiversity in general. The EU, CAMEROON, the BAHAMAS and CANADA favored retaining specific references. SWG-I Chair Karen Brown (Canada) suggested informal consultations to reach consensus.

Delegates debated language on: the relationship between national MPAs and those beyond national jurisdiction; participation of indigenous and local communities in the identification, designation and management of MPAs beyond national jurisdiction; the status of the document on criteria for the establishment of high seas PAs referred to in the CRP; and

the target to establish five to 10 high seas PAs by 2008. Relevant sections of the document were bracketed.

Delegates agreed to recall language adopted by the UN General Assembly (UNGA) reaffirming that the UN Convention on the Law of the Sea (UNCLOS) sets out the legal framework within which all activities in oceans and seas must be carried out. The INTERNATIONAL MARITIME ORGANIZATION proposed language urging Parties to ratify relevant conventions not yet in force and delegates preferred to include this as an option rather than as a recommendation.

Delegates debated language on the lack of an effective integrated framework for biodiversity conservation and sustainable use, and agreed to a suggestion by CANADA to note the need for improved multi-sector coordination and integration.

During discussion on gaps in the existing international legal framework, NORWAY stressed the need to focus on implementation and enforcement of existing commitments, and AUSTRALIA proposed including references to illegal, unreported and unregulated fishing and overcapacity of the fishing effort. ICELAND suggested using the language on the issue agreed at the sixth meeting of the UN Open-ended Informal Consultative Process on Oceans and the Law of the Sea.

On references to the importance of national and regional MPAs as one of the essential tools and approaches for protecting biodiversity, a clause urging Parties to undertake actions towards the establishment of MPAs as a matter of priority was bracketed, with the EU, CUBA, the BAHAMAS and COSTA RICA supporting and NORWAY opposing it.

The UN LEGAL OFFICE informed delegates on the mandate of the informal working group on the conservation and sustainable use of marine biodiversity beyond national jurisdiction, established according to paragraph 73 of UNGA resolution 59/24 (Oceans and the Law of the Sea). Delegates decided to delete a request to the Executive Secretary to contribute to the work of the UNGA and its informal working group, following the clarification that such a process is already underway.

CANADA tabled a proposal on restructuring and redrafting a section on immediate options for cooperation for the establishment of MPAs in areas beyond national jurisdiction.

During an evening session, the EU proposed the terms of reference for an international negotiating committee for an implementing agreement under UNCLOS, addressing: conservation of ecosystems and species beyond national jurisdiction; human activities including destructive fishing practices; development of a global MPA network; and cooperation with other agreements. He also noted that the issue of bioprospecting needs to be addressed at the international



level. NORWAY, AUSTRALIA, ICELAND and JAPAN opposed the idea of an implementing agreement, cautioning that it may divert resources and would not be binding on UNCLOS Parties. Delegates agreed to consider it as one of the options for international cooperation, extending its mandate to conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction, and noting that the upcoming meeting of the UNGA informal working group would be the appropriate forum to discuss this further.

Many delegates suggested deleting a section on other options, such as an implementing agreement to the CBD, which would require amending the Convention.

Delegates then discussed the section on immediate options on the basis of the CRP. The FAO, supported by many, suggested language recognizing the respective mandates of each organization and calling upon relevant organizations to cooperate to effectively implement existing legal instruments.

Deliberations continued into the night.

SUB-WORKING GROUP II

FINANCIAL RESOURCES: Delegates continued consideration of a CRP containing recommendations on options for mobilizing financial resources. INDONESIA proposed new text on redirecting perverse incentives to support PAs, based on technical analyses of incentives in current national budgets and the identification, by 2008, of high potential opportunities for such reforms. The proposal was supported by many, but opposed by BRAZIL, NEW ZEALAND, and AUSTRALIA, who insisted on deleting the entire paragraph. SWG-II Chair Orlando Santos (Cuba) recalled that the issue is included in the work programme, and INDIA suggested reference to Decision VII/28. No consensus was reached.

Delegates agreed on text ensuring full and effective participation, and full respect for the rights, of indigenous and local communities, with amendments by COLOMBIA to include "in accordance with national legislation" and by the INTERNATIONAL INDIGENOUS FORUM ON BIODIVERSITY to ensure participation in all activities.

NORWAY, the EU, CANADA and MEXICO opposed convening a financial commitments conference in 2008 to address the longer-term funding needs for implementing the work programme. PERU, COTE D'IVOIRE and BRAZIL favored retaining reference to a specific conference. The EU proposed initiating a dialogue on financing to meet target 3.4 of the work programme (securing sufficient financial, technical and other resources by 2008) and to achieve assessment of this target by COP-9, and the RUSSIAN FEDERATION, LESOTHO and SWAZILAND suggested establishing a specific timeframe for this. MADAGASCAR proposed text on focusing one of the forthcoming Working Group meetings on financial commitments. Delegates agreed to merge texts proposed by the EU and MADAGASCAR.

Regarding other organizations supporting PA financing roundtables, LIBERIA suggested including all implementing agencies of the Global Environment Facility (GEF), while the EU noted this list does not exclude other agencies. TUNISIA and PERU suggested including multilateral and bilateral support. Delegates approved the text with these amendments.

The EU proposed new text inviting international development banks, including the World Bank, European Investment Bank and European Bank for Reconstruction and Development to incorporate criteria for biodiversity conservation into guidelines for development. After a lengthy debate on its relevance to financing options, delegates agreed to a compromise text, which invites international and regional development banks to incorporate criteria for biodiversity conservation and sustainable use into guidelines for investment decisions which have potential

impacts on the financial, social and ecological sustainability of PAs.

Following suggestions by GREENPEACE and LIBERIA, delegates agreed to invite the GEF to review, and revise as appropriate, its PA policies in relation to indigenous and local communities.

AUSTRALIA and CANADA requested, and delegates agreed, to delete text on dedicated funding support to PAs as part of development assistance directed to achieving the Millennium Development Goals. On enhancing support for conservation trust funds, COLOMBIA and PERU suggested text on developing the debt-for-nature swap system.

Many countries opposed AUSTRALIA and CANADA's suggestion to delete text on assessing past and current financial support to PAs under official development assistance (ODA) programmes. CANADA then suggested language on assessing current and future financial ODA support to PAs noting, with AUSTRALIA, the difficulty in identifying ODA specifically targeted at PAs. TANZANIA and others insisted on retaining language on using this assessment to develop sound financial strategies for PA management. AUSTRALIA called for deleting the text, stating it attempts to direct ODA. The text remained bracketed.

AUSTRALIA opposed a paragraph linking PA funding to the Clean Development Mechanism (CDM) under the Kyoto Protocol, while NORWAY, supported by others, favored its retention. BRAZIL and CANADA proposed a reference to funding supporting afforestation and reforestation projects under the CDM. LIBERIA said linking PA funding to the CDM could enhance synergies between biodiversity and climate change. The paragraph was bracketed.

Many delegates supported language urging developing countries to prioritize implementation of the work programme in national development strategies. Delegates approved the text following amendments by TANZANIA and GABON.

The EU, supported by MEXICO and the RUSSIAN FEDERATION, introduced new text on encouraging an ongoing and focused dialogue on the work programme financing by, *inter alia*: collecting information on the implementation of recommendations currently under discussion; compiling information on existing needs assessments and presenting it at each meeting of the Working Group; and inviting the participation of the donor community. AUSTRALIA and NEW ZEALAND expressed concern over increasing reporting burdens, and called for bracketing the text.

Discussion on the CRP will continue on Thursday.

IN THE BREEZEWAYS

As the meeting entered into its third day, optimism generated by smooth deliberations on financing options in the first two days seemed to be fading. Faced with the prospect of late-night sessions, many SWG-II participants expressed concern over the slowing pace of the proceedings. Some sticking points seem to have been carried over from past CBD meetings, such as a clear division between groups calling for a redirection of perverse subsidies or incentives to support PAs and those strongly opposing anything "perverse." Some delegates pointed to trade-related aspects of these incentives, notably agricultural subsidies currently discussed under the WTO, as the main barriers to adopting text on this issue. Another point of contention seems to be the reluctance of some developed-country delegates to accept text implying that funding be targeted to PAs through ODA, with no proposals being made on compromise language. One delegate commented that the level of participation at next week's donor meeting will be the key to cement commitments on PA financing.