

ICP-12 HIGHLIGHTS: WEDNESDAY, 22 JUNE 2011

On Wednesday, 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) heard a summary report of the international earth system expert workshop on ocean stresses and impacts. Participants then convened in a discussion panel on new and emerging challenges for the sustainable development and use of oceans and seas. In the morning and early afternoon, presentations and discussions were held on: global warming as a new and emerging challenge to the sustainable use of marine fish resources; a legal perspective on the conservation and sustainable use of marine biodiversity within and beyond the limits of national jurisdiction, including marine genetic resources; and other new and emerging challenges. Also in the afternoon, delegates convened in a discussion panel on the road to Rio+20 and beyond, with presentations held on: achieving a significant outcome on oceans; and a blueprint for overcoming poverty and attaining sustainable growth and equity.

SPECIAL REPORT

Alex Rogers, University of Oxford, discussed research revealing very rapid changes in oceans, beyond the projections of the Intergovernmental Panel on Climate Change. Findings included: pollution from fragrances in soaps and cosmetics and other new contaminants, which exacerbate the spread of dead zones; northern movement of zooplankton; and rapid acidification. Rogers stressed the importance of the rate of change in pH and CO₂ levels. Coral reefs could collapse within a generation, he said, while mass extinctions in the oceans may follow within the next few generations.

DISCUSSION PANEL

NEW AND EMERGING CHALLENGES FOR THE SUSTAINABLE DEVELOPMENT AND USE OF OCEANS AND SEAS: Presentations: Ussif Rashid Sumaila, University of British Columbia, noted that fisheries are in trouble even without global warming. He delineated the additional impacts of global warming, including on human welfare, and said modeling of Mexico's exclusive economic zone (EEZ) shows movement of fish catch from tropical to cooler regions of the EEZ, and predicts serious implications for fishing communities.

Tullio Scovazzi, University of Milano-Bicocca, discussed the divergent legal perspectives on addressing the conservation and sustainable use of marine biodiversity in areas beyond national

jurisdiction (BBNJ), including marine genetic resources. The conflict, Scovazzi said, is whether the principle of the common heritage of mankind or freedom of the seas should guide management. He added that both positions stem from the incorrect understanding that UNCLOS governs all activities in the oceans and seas, explaining that the common heritage principle cannot be extended to non-mineral resources in the Area, and the freedom of the seas cannot be applied to genetic resources. Scovazzi therefore suggested a third alternative emerging from the BBNJ Working Group (WG), namely an implementation agreement to bridge the legal gap.

Jacqueline Alder, Division of Environmental Policy Implementation, UNEP, discussed new and emerging challenges for the sustainable development and use of oceans and seas, including those related to governance, pollution and industrialization. On pollution, she discussed, *inter alia*: marine litter, including microplastics and their impacts; hypoxia and anoxia caused by eutrophication; and marine noise. She said the way forward requires: further assessments to understand the scope and scale of the problems and the cost of inaction; strengthening the role of ecosystem-based management; and implementation of the Regular Process for Global Reporting and Assessment of the State of the Marine Environment (Regular Process).

Discussion: BBNJ: In response to a question from MADAGASCAR on whether UNCLOS is outdated, Scovazzi said UNCLOS is not obsolete, but cannot be expected to address issues that are not included in the text, such as genetic resources, and it therefore needs updating. To a question from TRINIDAD AND TOBAGO on interpreting marine genetic resources in ABNJ as part of the common heritage of mankind, Scovazzi reiterated that UNCLOS' language prevents the application of this principle to non-mineral resources. On the US' concern that some delegations incorrectly represented the recommendations from the fourth meeting of the BBNJ WG as a commitment to start negotiations on an implementation agreement to UNCLOS, which was echoed by CANADA, ICELAND, the RUSSIAN FEDERATION, and NORWAY, he noted that the WG agreed to the possible development of a multilateral agreement under UNCLOS, and that this implies an implementing agreement. Responding to G77/ CHINA about legal gaps concerning marine genetic resources, Scovazzi said UNCLOS contains applicable principles for bio-prospecting in the Area. To GREENPEACE's question on high seas MPAs, he suggested that the Mediterranean Network of Protected Areas serves as a model for a global implementation agreement.

Climate Change: In response to questions from BRAZIL and PEW ENVIRONMENT GROUP on climate change impacts on oceans, Sumaila stressed the tendency of fish migratory patterns to move away from the tropics, where most developing countries are located, adding that these countries contribute the least to CO₂ emissions. Responding to NORWAY about potential positive impacts of climate change for fisheries, Sumaila said certain regions may experience benefits, but they will be short lived. AUSTRALIA highlighted the important role of marine spatial planning for climate change adaptation. MOROCCO suggested including ocean-related discussions in the Durban Climate Change Conference in December 2011.

Subsidies: On PEW ENVIRONMENT GROUP's question on subsidies, Sumaila said harmful subsidies are the ones that contribute to overfishing, and recommended that the money be redirected to communities and adaptation-related measures. To questions from ARGENTINA and the NATURAL RESOURCES DEFENSE COUNCIL (NRDC), Sumaila said subsidies are a global problem, but are even less excusable in developed countries, and believed that they warrant attention at Rio+20.

Fisheries: In response to NRDC, Sebastian Mathew, a panelist from Tuesday, stressed the sustainable development benefits of small-scale fisheries, calling for these to be recognized at Rio+20. BRAZIL echoed this call. Alder noted that the industrialization of aquaculture is driven by demand and our inability to sustainably manage fish stocks.

Role of UNEP: To ARGENTINA's question on UNEP's lead role in contributing to the environmental pillar for Rio+20 and the inclusion of ocean issues in this preparatory work, Alder said UNEP's expert panel tackles all issues, and that UN-Oceans has been involved in the process. She supported an integrated approach, as discussed by the EU, and, responding to NEW ZEALAND, noted UNEP's recent work with the US on marine debris and litter.

Other: On ARGENTINA's question about the effectiveness of non-legally binding instruments, Alder noted that the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities (GPA) has helped address land-based sources of ocean pollution. Sumaila repeated JAPAN's call for cooperation, and said Japan's recent earthquake illustrates that the confluence of stresses, such as natural and industrial disasters and environmental change, represent another critical emerging challenge.

THE ROAD TO RIO+20 AND BEYOND: Presentations: In the afternoon, Biliana Cicin-Sain, Global Oceans Forum, called for ocean leaders to achieve a significant ocean outcome at the UNCSD. She also observed that whereas Rio 1992 had a "manifesto" in the form of the Brundtland Report, she has not seen an equivalent transformative vision for the UNCSD. Reflecting on what has and has not been achieved on oceans, Cicin-Sain said a foundation and frame exist for integrated ocean and coastal management (ICM), and the next phase is enhancing its implementation. Also, despite the strong interplay between oceans and climate, Cicin-Sain said oceans have not featured in UNFCCC negotiations, which view oceans as a "sectoral nuisance." She outlined possible elements of a UNCSD oceans package, including: directing half of global adaptation funds to coastal and island communities; certifying ICM best practices and scaling it up to all countries and regions; creating a coordination mechanism on oceans at the UN Secretary-General level; and supporting the Regular Process and Intergovernmental Science-Policy Platform on Biodiversity and Ecosystem Services.

Maria Teresa Mesquita Pessôa, Permanent Mission of Brazil to the UN, discussed the road to Rio+20. She provided a history of sustainable development milestones since 1972, highlighting

the Consultative Process' roots in Rio 1992. Of the many ocean-related commitments resulting from these events, Mesquita Pessôa detailed those that have not been fulfilled, and discussed additional challenges, such as acidification, SIDS' ongoing vulnerabilities, and BBNJ. She noted that BBNJ has important industrial applications and therefore garners special interest from developing countries. Regarding Rio+20, she said it must reassert the regulatory role of the State to address the failure to integrate environmental and social priorities into economic policies. Finally, Mesquita Pessôa said unsustainable production and consumption is the major cause of environmental deterioration.

Discussion: Rio+20 Considerations: Mesquita Pessôa agreed with THAILAND's comments on the need for setting realistic targets at Rio. Cicin-Sain added that targets are useful as they provide a measurable indicator for evaluation. NRDC suggested that Rio+20 give sustainable seafood consumption significant consideration. COSTA RICA suggested that ICP-12 recommend that the UNCSD act on the protection of the high seas, recognizing the recommendations of the BBNJ WG. On CHINA's question on procedural considerations for the Rio+20 process, Mesquita Pessôa said ICP-12 is not part of the official process, but hopefully will contribute to deliberations in Rio. She noted that the formal process encompasses three preparatory meetings, and that a number of informal initiatives will also contribute to the process.

Governance: In response to questions from ARGENTINA, TRINIDAD AND TOBAGO and SOUTH AFRICA on the role of the UN, Cicin-Sain said UN-Oceans is good for sharing information, but integrated governance requires political engagement from a higher level. In response to ARGENTINA's question on the interface between ocean and climate negotiations, Cicin-Sain emphasized the importance of participation by the oceans community in UNFCCC discussions, and said additional issues lie outside the UNFCCC, such as marine renewable energy. PALAU called for the UN to hold accountable underperforming RFMOs.

Transfer of Technology: On ARGENTINA's question on capacity building and transfer of technology, Mesquita Pessôa noted that cooperation, as called for by UNCLOS, can be envisioned in different and creative ways. She added that transfer of technology requires enabling environments for attracting investments.

ICP-12 Outcomes: Spain, for the EU, suggested the outcome of this meeting should address, *inter alia*: food security; poverty eradication; green economy; marine litter; cumulative impacts, including in ABNJ; the need to enhance resilience of marine ecosystems; and endorsement of the BBNJ WG recommendations.

IN THE CORRIDORS

Presenters kicked off the day with a gloomy view of the state of our oceans, describing ocean warming, acidification, plummeting fish stocks, dead zones, marine litter, and radioactive pollution, among many others. The silver lining, said one panelist, is that "there is still time to act," but the time is now. Some delegates confessed to feeling awash in an overwhelming sea of challenges as they puzzled over how best to use Rio+20's window of opportunity for the ocean agenda. But, one primary topic of discourse and discordance surfaced: marine biodiversity in areas beyond national jurisdiction and the need for an implementing agreement to UNCLOS. Delegates left the North Lawn Building reflecting on what this unrest could mean for consideration of the meeting's outcomes during the busy Friday session.