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SUMMARY OF THE FIRST SESSION OF THE PREPARATORY COMMITTEE ON MARINE BIODIVERSITY OF AREAS BEYOND NATIONAL JURISDICTION: 28 MARCH – 8 APRIL 2016

The first session of the Preparatory Committee on the elements of a draft text of an international legally binding instrument under the UN Convention on the Law of the Sea (UNCLOS) on the conservation and sustainable use of marine biodiversity of areas beyond national jurisdiction (BBNJ) convened from 28 March – 8 April 2016 at UN Headquarters in New York.

Meeting in plenary and informal working group settings, the Committee considered: the scope of an international legally binding instrument and its relationship with other instruments; guiding approaches and principles; marine genetic resources, including questions on benefit-sharing; area-based management tools, including marine protected areas; environmental impact assessments; and capacity building and marine technology transfer.

Delegates engaged in frank discussions, outlining their detailed positions on the various elements related to the 2011 "package." On the final day, they agreed to a procedural roadmap outlining the structure of PrepCom 2, and on having a Chair's summary of the meeting and an indicative list of issues circulated during the intersessional period, to facilitate preparations for PrepCom 2. Several participants praised the pace and depth of the discussions, and the constructive spirit that marked the beginning of a formal process expected to lead to the adoption of a new UNCLOS implementing agreement on deep-sea biodiversity.

A BRIEF HISTORY OF MARINE BIODIVERSITY OF AREAS BEYOND NATIONAL JURISDICTION

The conservation and sustainable use of BBNJ is increasingly attracting international attention, as scientific information, albeit insufficient, reveals the richness and vulnerability of such biodiversity, particularly in seamounts, hydrothermal vents and of cold-water corals, while concerns grow about the increasing anthropogenic pressure posed by existing and emerging activities, such as fishing and bioprospecting, in the deep sea.

UNCLOS, which entered into force on 16 November 1994, sets forth the rights and obligations of states regarding the use of the oceans, their resources, and the protection of the marine environment. Although UNCLOS does not refer expressly to marine biodiversity, it is commonly regarded as establishing the legal framework for all activities in the oceans. The Convention on Biological Diversity (CBD), which entered into force on 29 December 1993, defines biodiversity and aims for its conservation, the sustainable use of its components, and the fair and equitable sharing of the benefits arising from the use of genetic resources. In areas beyond national jurisdiction (ABNJ), the Convention applies to processes and activities carried out under the jurisdiction or control of its parties. The Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization, which entered into force on 12 October 2014, applies to genetic resources within the scope of CBD Article 15 (Access to Genetic Resources) and to traditional knowledge associated with genetic resources within the scope of the Convention.

59TH SESSION OF THE GENERAL ASSEMBLY: In resolution 59/24, the General Assembly established an *ad hoc* open-ended informal working group to study issues relating to BBNJ conservation and sustainable use (hereinafter, the Working Group), and called upon states and international organizations to take action urgently to address, in accordance with international law, destructive practices that have adverse impacts on marine biodiversity and ecosystems.

IN THIS ISSUE

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FIRST MEETING OF THE WORKING GROUP: The first meeting of the Working Group (13-17 February 2006, New York) exchanged views on institutional coordination, the need for short-term measures to address illegal, unregulated and unreported (IUU) fishing and destructive fishing practices, marine genetic resources (MGRs), avoiding the adverse impacts of marine scientific research (MSR) on marine biodiversity, and facilitating the establishment of high seas marine protected areas (MPAs). A Co-Chairs' summary of trends and a report of the discussions on issues, questions and ideas related to the conservation and sustainable use of BBNJ was transmitted to the General Assembly.

SECOND MEETING OF THE WORKING GROUP: The second meeting of the Working Group (28 April - 2 May 2008, New York) produced a Co-Chairs' Draft Joint Statement identifying issues for the General Assembly to consider referring back to the Working Group, including: more effective implementation and enforcement of existing agreements; strengthening of cooperation and coordination; development of an effective environmental impact assessment (EIA) tool for oceans management; development of area-based management tools (ABMTs); practical measures to address the conservation and sustainable use of MGRs; and continued and enhanced MSR.

THIRD MEETING OF THE WORKING GROUP: The third meeting of the Working Group (1-5 February 2010, New York) agreed, by consensus, to recommendations to the General Assembly on, *inter alia*: including in the Secretary-General's report on oceans and the law of the sea information on EIAs undertaken for planned activities in ABNJ; recognizing the importance of further developing scientific and technical guidance on the implementation of EIAs on planned activities in ABNJ, including consideration of assessments of cumulative impacts; and calling upon states to work through competent international organizations towards the development of a common methodology for the identification and selection of marine areas that may benefit from protection based on existing criteria, and in the context of the Working Group's mandate, to make progress in the discussions on MGRs of ABNJ.

FOURTH MEETING OF THE WORKING GROUP: The fourth meeting of the Working Group (31 May - 3 June 2011, New York) adopted, by consensus, a set of recommendations to initiate a process on the legal framework for BBNJ conservation and sustainable use, by identifying gaps and ways forward, including through the implementation of existing instruments and the possible development of a multilateral agreement under UNCLOS. The recommendations also include a "package" of issues to be addressed as a whole in this process, namely: MGRs, including questions on benefit-sharing; measures such as EIAs and ABMTs, including MPAs; and capacity building and marine technology transfer.

FIFTH MEETING OF THE WORKING GROUP: The fifth meeting of the Working Group (7-11 May 2012, New York) engaged in substantive debates on the gaps and ways forward in plenary and intense negotiations, mostly in a government-only informal setting, on whether to recommend the launch of formal negotiations on a new UNCLOS implementing agreement. The Working Group eventually recommended by consensus that the General Assembly task it to continue to consider all issues under its mandate as a package, with a view to making progress on ways forward to fulfill its mandate.

UN CONFERENCE ON SUSTAINABLE DEVELOPMENT (RIO+20): The UN Conference on Sustainable Development (20-22 June 2012, Rio de Janeiro, Brazil) expressed states' commitment to address, on an urgent basis, building on the work of the Working Group and before the end of the sixty-ninth session of the General Assembly, BBNJ conservation and sustainable use, including by taking a decision on the development of an international instrument under UNCLOS.

SIXTH MEETING OF THE WORKING GROUP: The sixth meeting of the Working Group (19-23 August 2013, New York) resulted in a consensus recommendation on establishing a preparatory process within the Working Group to fulfill the Rio+20 commitment by focusing on the scope, parameters and feasibility of an international instrument under UNCLOS, with a view to preparing for a decision on BBNJ by the General Assembly before the end of its sixty-ninth session.

SEVENTH MEETING OF THE WORKING GROUP: The seventh meeting of the Working Group (1-4 April 2014, New York) engaged in an interactive substantive debate on the scope, parameters and feasibility of an international instrument under UNCLOS, focusing on: the overall objective and starting point; the legal framework for an international instrument; the relationship to other instruments; guiding approaches and principles; each of the elements of the "package"; and enabling elements and means of implementation.

EIGHTH MEETING OF THE WORKING GROUP: The eighth meeting of the Working Group (16-19 June 2014, New York) engaged in a more detailed substantive discussion on the scope, parameters and feasibility of an international instrument under UNCLOS, and called upon the Co-Chairs to prepare draft elements of a recommendation to the General Assembly, based on the "package," also outlining the main elements of convergence that emerged in the Working Group, for consideration at the next meeting.

NINTH MEETING OF THE WORKING GROUP: At the ninth meeting of the Working Group (20-23 January 2015, New York), following intense informal negotiations, delegates reached consensus on recommendations for a decision to be taken at the sixty-ninth session of the UN General Assembly to develop a new legally binding instrument on BBNJ under UNCLOS. Delegates also reached consensus on a negotiating process, by establishing a Preparatory Committee to make recommendations on elements of a draft text of a legally binding instrument to the General Assembly in 2017 and for the Assembly to decide at its seventy-second session whether to convene an intergovernmental conference to elaborate the text of the agreement. This effectively concluded the mandate of the Working Group.

69TH SESSION OF THE GENERAL ASSEMBLY: In its resolution 69/292, the General Assembly decided to develop an international legally binding instrument (ILBI) under UNCLOS on BBNJ conservation and sustainable use. To that end, the Assembly established a Preparatory Committee (PrepCom) to make substantive recommendations to the General Assembly on the elements of a draft text of an ILBI under UNCLOS, taking

into account the various reports of the Co-Chairs on the Working Group's work. The resolution also indicated that negotiations will address topics identified in the 2011 "package."

PREPCOM 1 REPORT

On Monday, 28 March 2016, Chair Eden Charles (Trinidad and Tobago) opened the session, noting the full-capacity attendance reflects the importance of the PrepCom, which, following more than a decade of work, is no longer a consultative process. On behalf of UN Secretary-General Ban Ki-moon, Miguel de Serpa Soares, Under-Secretary-General for Legal Affairs and UN Legal Counsel, stressed that a turning point has been reached in relation to the future of the oceans, time is of the essence, and negotiations should be conducted in a spirit of cooperation. Chair Charles reviewed the PrepCom's mandate, underscoring that consensus should be used in a constructive way and that elements where consensus is not reached may be included in the recommendations to the General Assembly. He encouraged open, transparent and flexible deliberations.

ORGANIZATIONAL MATTERS: Chair Charles reported on procedural preparatory meetings held prior to PrepCom 1. Delegates approved without amendment the provisional agenda (A/AC.287/2016/PC.1/L.1) and the programme of work (A/AC.287/2016/PC.1/L.2).

Regional groups nominated two members each to the Bureau, as follows: Mohammed Atlassi (Morocco) and Thembile Joyini (South Africa) for the African Group; Xinmin Ma (China) and Kaitaro Nonomura (Japan) for Asia-Pacific countries; Konrad Marciniak (Poland) and Maxim Musikhin (Russian Federation) for Central and Eastern European countries; Javier Gorostegui (Chile) and Gina Guillén Grillo (Costa Rica) for the Latin America and the Caribbean Group; and Giles Norman (Canada) and Antoine Misonne (Belgium) for the Western European and Others Group.

Chair Charles introduced, and delegates agreed to appoint, a facilitator for each of the informal working groups proposed to be convened during PrepCom 1. Carlos Sobral Duarte (Brazil) facilitated the informal working group on MGRs, including questions on benefit-sharing; John Adank (New Zealand) facilitated the informal working group on measures such as ABMTs, including MPAs; René Lefeber (the Netherlands) facilitated the informal working group on EIAs; and Rena Lee (Singapore) facilitated the informal working group on capacity building and technology transfer. The facilitators reported orally to plenary on Thursday, 7 April.

GENERAL STATEMENTS: On Monday and Tuesday, 28-29 March 2016, delegates delivered opening statements.

Thailand, on behalf of Group of 77 and China (G-77/China), called for "unpacking" the 2011 "package," pointing to the principle of common heritage of mankind as the basis of the new legal regime for BBNJ and to the need for capacity building for developing countries on BBNJ issues. He suggested identifying new elements for the instrument, including dispute settlement and funding mechanisms; and expressed concern about the status of the Voluntary Trust Fund, noting that wider participation is key for an inclusive process.

South Africa, on behalf of the African Group, recalled Amb. Arvid Pardo's reflections on "intolerable injustices" where "the strong get stronger and the rich get richer," underscoring that the common heritage principle is based on the pursuit of a more equitable framework to ensure a just and resilient regime for all humanity. Noting that the common heritage principle and high seas freedoms are not mutually exclusive, Barbados, for the Caribbean Community (CARICOM), called for a constructive, open and inclusive process; suggested a Chair's summary after each PrepCom meeting to assist countries to engage in intersessional discussions; and proposed that the PrepCom also discuss governance, compliance, dispute resolution and financial mechanisms. Lamenting a lack of funding for developing countries' participation, Nauru, for Pacific Small Island Developing States (PSIDS), called attention to the link between conservation and sustainable use of the oceans and to the health and productivity of small island developing states (SIDS) populations; and welcomed the stand-alone Sustainable Development Goal (SDG) on oceans.

Jamaica outlined that: the PrepCom outcome should be the body of ILBI draft text; and the overarching objective is oceans protection for present and future generations in light of the SDGs and the Paris Agreement on climate change. Emphasizing the importance of oceans for global sustainable development, food security, and climate change, El Salvador recalled that the General Assembly recognized that participation in the negotiations or their outcome does not affect the legal status of non-parties to UNCLOS.

Singapore considered the PrepCom a landmark in the process, cautioning against repeating Working Group discussions. Brazil prioritized access to and equitable benefit-sharing from MGRs of ABNJ, argued that common heritage must apply to biodiversity in the Area (the sea-bed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction), and called for improved coordination among organizations designating MPAs.

Trinidad and Tobago called for an open, inclusive discussion with industry and civil society and a new institution, similar to the International Seabed Authority (ISA), to implement the ILBI. Chile called for more and better MPAs including through regional fisheries management organizations (RFMOs), or by creating new, small and effective institutions. Iran recommended using as an example the ISA structure and function. Nepal underscored that landlocked developing countries (LLDCs) suffer the consequences of over-use and over-exploitation of BBNJ. China emphasized: the need for the ILBI not to conflict with other global and regional instruments and not to deviate from UNCLOS principles; the importance of consensus; and the need for a reasonable balance between conservation and sustainable use of BBNJ.

Drawing attention to the ILBI objectives, the European Union (EU) underscored the need to focus on substantive issues to unpack the 2011 package and address the different elements in an integral manner. New Zealand underlined: enhanced coordination and cooperation, including on information- and data-sharing, for improving BBNJ conservation and sustainable use; the precautionary and ecosystem approaches, and the use of best scientific information; and the importance of civil society participation in this process.

Australia expressed optimism about a balanced set of recommendations to the General Assembly, calling for: a pragmatic outcome regarding MGRs; and best-practices regarding EIA standards, without undermining or duplicating regional or sectoral management efforts. Switzerland noted the need for the ILBI to fill gaps and promote coherence, contributing to CBD implementation and achievement of the Aichi targets. Encouraging delegates to do their utmost to reach agreement by consensus, the Republic of Korea stressed that the ILBI should strike a balance between conservation and sustainable use, without undermining existing legal frameworks, and global and regional bodies.

The US welcomed discussion of topics such as MPAs and EIAs as part of an ecosystem-based approach to address adverse impacts on BBNJ, underscoring that EIAs are an important part of international law, including UNCLOS. On MGRs, he expressed doubts on whether a benefit-sharing regime can be successfully negotiated, cautioning that it should not impede entrepreneurship, intellectual property rights (IPR) practices, and innovation. He emphasized that all major activities, including fisheries, should be covered by the scope of the ILBI, without undermining or duplicating existing instruments, frameworks and bodies.

Reiterating that high seas fisheries should not be part of the scope of the new ILBI, Iceland underscored: openness, inclusiveness and transparency; the need for balance between conservation and sustainable use; and caution against reopening settled issues and undermining existing frameworks and instruments. Calling for caution in discussing the management of MGRs of BBNJ, the Russian Federation objected to the inclusion of any provisions pertaining to fisheries, as they are governed by existing agreements and RFMOs; and stated that common heritage cannot apply to MGRs, and that MPAs should not be permanent. Japan stressed that: the ILBI should not overlap with the mandates of RFMOs and other existing instruments; any measures restricting high seas freedoms should be carefully considered; and the ILBI cannot regulate MSR. He also stated that MPAs are not marine reserves and should not be permanent; and suggested formulating EIA guidelines.

Norway suggested that the ILBI, *inter alia*: be fully integrated into the law of the sea, without altering established rights and obligations; balance competing interests and empower regional frameworks; and provide an umbrella for sectoral frameworks. Canada called for respecting the mandates of global and regional instruments and processes, while supporting better collaboration and cooperation among them; and on MGRs, cautioned against creating disincentives for MSR, underscoring that IPRs be addressed in the proper forum.

Full coverage of general statements can be found at http://www.iisd.ca/vol25/enb2597e.html and http://www.iisd.ca/vol25/enb2598e.html.

DEVELOPMENT OF SUBSTANTIVE RECOMMENDATIONS ON THE ELEMENTS OF A DRAFT TEXT OF AN ILBI UNDER UNCLOS

SCOPE: The PrepCom considered this issue on Tuesday, 29 March, and Thursday, 7 April, in plenary. The G-77/China noted that the ILBI scope depends on the definition of terms, including MGRs, ABMTs and MPAs, and should address all activities that can impact BBNJ, without undermining the scope and mandates of existing relevant bodies, instruments and frameworks. Recalling General Assembly Resolution 69/292, Costa Rica argued for a broad scope, including fishing and all activities and processes with direct and indirect impacts on BBNJ, and for defining applicable terms. PSIDS called for a broad scope covering all living resources in ABNJ, cautioning against regulating the continental shelf where coastal states have rights. Papua New Guinea noted that the definition of MGRs "goes to the heart" of the ILBI, and called for discussing how fisheries will be affected by the ILBI. Belize, for CARICOM, supported covering all BBNJ, and noted that the scope needs to be ambitious but also maintain a delicate balance. The Federated States of Micronesia (FSM) called to address BBNJ conservation and sustainable use, without undermining the UN Fish Stocks Agreement (UNFSA) or the ISA mandate. Jamaica called for including fisheries, as the ILBI should adopt an integrated approach to BBNJ management.

Noting that the Working Group could not reach agreement on the issue of scope, Iceland reiterated that high seas fisheries fall outside the scope. Japan stressed that fisheries are addressed under the UNFSA, by RFMOs, and by the Food and Agriculture Organization of the UN (FAO) instruments. The Russian Federation urged more detailed discussions on scope, focusing on "real legal gaps" and noting that fishing is not among these. With Japan, he suggested involving RFMOs in the PrepCom discussions. New Zealand suggested that the ILBI complement existing agreements to ensure a comprehensive global framework, noting that excluding specific sectors, such as fisheries, would undermine governance coherence. The US called for a clear and broad scope, without excluding fisheries, welcoming the expertise of global fisheries instruments and RFMOs in the process.

The African Group stated that RFMOs: are often limited to a particular oceanic area; have mandates limited to a specific resource; do not address marine biodiversity in general; and have varying degrees of effectiveness. He stressed the need for a comprehensive global regime, including fisheries, to address fragmentation and lack of coordination. Norway, Peru, Indonesia and IUCN supported including fisheries in the ILBI. Chile clarified that including fisheries would not modify the RFMOs' mandates, but would serve to coordinate with them. He added that the ISA could, with a new, broader mandate, manage MGRs.

Mexico underscored the need for complementarity in scope. New Zealand reiterated that fisheries should be included in the ILBI, but the question is "how," and called for giving effect to UNCLOS obligations on cooperation on a global or regional basis. Bangladesh proposed the ILBI cover new discoveries and organisms in ABNJ and better describe UNCLOS provisions. IUCN emphasized the need for the broadest scope possible to prevent new gaps from emerging in the near future.

Stressing that the entire set of rights and obligations under UNCLOS should be respected, the EU noted that: the issue of scope is complex and cuts across the whole package; the ILBI should implement and strengthen UNCLOS obligations, addressing regulatory gaps; and, supported by Peru, UNCLOS non-parties should be entitled to become parties to the ILBI, as

is the case with the UNFSA. He stressed the role of civil society and other stakeholders, and the need to include international organizations like the ISA, International Maritime Organization (IMO), and regional seas conventions in ILBI implementation. Australia urged engaging collaboratively with existing instruments and bodies, without undermining their mandates.

Canada highlighted the role of science in defining the scope, supporting the inclusion of RFMOs and other bodies with relevant expertise in further discussions. Argentina underscored the need for a global approach to provide a coherent and comprehensive universal mechanism for BBNJ conservation.

IUCN suggested the scope include: processes and activities under parties' jurisdiction and control, regardless of where their effects occur; and activities related to MGRs sourced from ABNJ. Greenpeace, Pew Charitable Trusts (Pew), Natural Resources Defense Council (NRDC) and the High Seas Alliance argued for a comprehensive ILBI, establishing a framework for cooperation and coordination between states and institutions, complementing other regimes, and addressing parties and non-parties similarly to the UNFSA.

Costa Rica, supported by many, suggested convening an informal working group on scope and related definitions at future PrepCom sessions. Ecuador suggested an informal working group on principles, scope, cooperation with other arrangements, and UNCLOS non-parties' concerns. New Zealand suggested that if a working group is created, it focus on crosscutting issues related to the PrepCom's mandate, rather than scope. The US noted that a general discussion on scope will not "get us very far," and called for a pragmatic approach. Iceland recommended discussing scope in relation to specific threats and how they are addressed by existing organizations.

RELATIONSHIP WITH EXISTING INSTRUMENTS AND BODIES: This issue was considered in plenary on Thursday, 7 April. The G-77/China considered the ILBI's geographical, substantive and functional scope critical for determining how not to undermine existing instruments. The Russian Federation called for a practical approach for the ILBI not to "undermine" existing instruments and bodies. The African Group cautioned against overstating concerns about the ILBI undermining other instruments. Costa Rica highlighted the need to: address existing gaps, while respecting mandates of other bodies; and harmonize requirements and standards to enable coordination, as the status quo is unacceptable. Norway identified, as a crosscutting issue, filling gaps without undermining other instruments.

Australia recalled that General Assembly Resolution 69/292 recognizes the need not to undermine instruments, frameworks and relevant bodies, which, he noted, does not mean that there should be no relationship between the ILBI and these instruments and bodies; and, with Chile, pointed to the relationship between UNFSA and UNCLOS.

Argentina noted: challenges associated with the inter-relationship between agreements and dispute-settlement procedures, and the possible need to change existing mandates, such as the ISA's. Canada, with Japan, the US and the Russian Federation, cautioned against presuming that certain relationships would not alter rights and obligations under existing agreements.

The Philippines underscored, with New Zealand, states' rights over the continental shelf, and called for mutually supportive activities with other conventions, like the CBD. Sri Lanka noted the ILBI must complement UNCLOS and other related instruments. Monaco noted that the ILBI is under UNCLOS, and UNCLOS rights and relationships must be respected. China underscored that the ILBI should supplement UNCLOS and fill legal gaps, building on existing practices.

Argentina argued that the ILBI cannot undermine something that does not exist, such as a universally accepted instrument on MPAs. Belize stressed that "not undermining" is not synonymous with "not discussing," underscoring the need to identify overlaps and fragmentation. IUCN stressed that establishing a global structure to manage BBNJ is different from replacing current structures. Japan noted existing criteria to determine when other organizations are undermined. Eritrea suggested mapping relevant instruments, and enabling and disabling mechanisms derived from these relationships.

GUIDING PRINCIPLES AND APPROACHES: The PrepCom considered this issue in plenary on Tuesday, 29 March, Thursday and Friday, 7 and 8 April.

The EU suggested as general principles: protection and preservation of the marine environment, cooperation and coordination, precautionary and ecosystem approaches, polluter pays principle, sustainable and equitable use, and transparent and open decision-making. Monaco pointed to: close links between conservation and sustainable use, capacity building together with effective participation and transparency in decision-making, and science-based and precautionary approaches.

The G-77/China favored as principles: common heritage of mankind, high seas freedoms subject to the conditions set under UNCLOS, protection and preservation of the marine environment, precautionary and ecosystem approaches, transparency and public participation. Underscoring that disproportionate burdens of conservation measures should not be placed on developing countries, PSIDS pointed to the: common heritage, precautionary and ecosystem approaches, and decision-making according to best available scientific knowledge; with the FSM stressing integrity, effectiveness and the polluter pays principle. The EU underscored: intergenerational equity as part of the sustainable development principle; the need to respect the entire balance of UNCLOS rights and obligations, pointing to the rights of all states to BBNJ, including LLDCs and states at different levels of development; and the fact that disproportionate burdens will be addressed at the UNFSA Resumed Review Conference.

Mexico, New Zealand, Fiji and Australia referred to the international cooperation principle. New Zealand suggested also good governance, with Fiji, Venezuela, the Philippines and Jamaica referring specifically to transparency and accountability. Australia proposed referring to UNFSA Article 5 (General Principles) as a model for the ILBI. Costa Rica proposed including principles on: common but differentiated responsibilities; sustainable and equitable use of natural resources; availability of information; and state liability for damage to the marine environment in line with the polluter pays principle. Chile recalled the preamble of the Paris Agreement on climate change, which addresses oceans' importance for

adaptation and mitigation, and General Assembly Resolution 2749 (1970) in connection with the common heritage principle.

Opining that the discussion on principles is premature, the Russian Federation opposed including the common heritage principle, and supported including the ecosystem approach when the ILBI is "more concrete." Norway proposed as principles: respect for existing instruments, by stating that the ILBI does not enter into management if other frameworks already have responsibility; an obligation for the ILBI parties to cooperate in other fora; and institutional efficiency and cost-effectiveness.

Fiji proposed including reference to SIDS' special circumstances and vulnerabilities. PSIDS underscored that disproportionate burdens of conservation measures should not be placed on developing states, noting that guidance can be drawn from the principle of proportionality. The Philippines noted conservation and sustainable use are not inconsistent with each other, pointing to the need to balance them with economic development.

IUCN suggested: giving equal weight to state responsibilities in exercising high seas freedoms; reconciling economic development with environmental protection, balancing rights and interests of users and those of the international community; referencing intra- and inter-generational equity, fair and equitable benefit-sharing from the utilization of MGRs of ABNJ, capacity building, technology transfer and sharing of scientific knowledge; and ensuring international responsibility for all activities under national control or jurisdiction. Greenpeace, Pew, World Wildlife Fund (WWF), NRDC, Ocean Care and the High Seas Alliance stressed the protection and preservation of the marine environment, cooperation, science, stewardship, sustainability and equity, good governance, transparency, the polluter pays principle and ecosystem-based management, highlighting the need to establish procedures for stakeholder participation, instead of engaging in an exercise to identify these stakeholders.

Common heritage of mankind: The African Group argued that the common heritage of mankind is both a foundational and fundamental principle of UNCLOS and cannot be derogated from, pointing to the ISA as its "home." CARICOM opined that MGRs are common heritage of mankind. Trinidad and Tobago, with Mexico, underscored the importance of including the common heritage principle in the governance of marine resources of ABNJ.

Jamaica explained that common heritage includes: conservation and sustainable use of all resources of ABNJ, including MGRs and MSR; inter- and intra-generational equity; and monetary and non-monetary benefit-sharing. The Philippines called for balancing different states' interests. Venezuela and Algeria highlighted intergenerational concerns. Belize considered common heritage also as an ethical concept, which incorporates the need to preserve the environment. Chile proposed that MPAs are common heritage of mankind as they are intended to benefit the entire international community.

Japan, with the US, cautioned against focusing on common heritage with regard to living resources, preferring a pragmatic approach. The EU cautioned against counterproductive, theoretical considerations, calling for discussion of concrete measures. The US added that MGRs fall under the high seas regime, which does not provide for benefit-sharing. Bangladesh, supported by Trinidad and Tobago, argued that including fish as MGRs under the common heritage principle for sharing benefits will not undermine UNCLOS. Trinidad and Tobago opined that UNCLOS may be rather undermined by the alternative approach based on high seas freedoms, as it may influence the effective balance between conservation and sustainable use. Costa Rica emphasized that high seas freedoms are not absolute under UNCLOS.

The African Group elaborated that countries in the region do not benefit from the exploitation of resources from ABNJ, even in the Area. He noted that industrialized countries are exploiting resources in ABNJ, without an obligation to share benefits, underscoring moral obligations. He stressed that applying the common heritage principle in MPAs in ABNJ is feasible, noting that the principle can be applied in ABNJ in general, as long as modalities in the ILBI ensure the application of the freedom to conduct MSR. Calling for an effective balance between the high seas freedoms and the duty to preserve and protect the marine environment, he stressed that such balance can only be achieved if the common heritage principle is applied, underscoring solidarity and intergenerational equity.

MARINE GENETIC RESOURCES: The PrepCom took up this issue in plenary on Wednesday, 30 March, and Wednesday, 6 April; and in an informal working group on Thursday and Friday, 31 March - 1 April. Delegates discussed the status, definitions, access, benefit-sharing, IPRs and institutional mechanisms.

Status: The G-77/China stated that: legal gaps on access and benefit-sharing (ABS) for MGRs sourced from ABNJ allow some countries to exploit them unilaterally; common heritage is the applicable legal regime; benefit-sharing should be monetary and non-monetary, considering IPRs; and an institutional mechanism should manage ABS and ensure compliance. The African Group, supported by Chile: pointed to ambiguity in UNCLOS's narrow definition of "resources" in the Area, which excludes MGRs because of limited scientific knowledge at the time of its drafting; and argued that such a definition does not affect the applicability of common heritage, as UNCLOS Article 136 (Common Heritage of Mankind) applies to the Area itself. Viet Nam argued that the water column and the seabed should be considered as a whole, underscoring that the Area and its resources are common heritage.

The US: stressed that the high seas regime applies to MGRs of ABNJ; listed differences between mineral and genetic resources; and favored promoting research and development (R&D) benefiting humanity without further administrative and financial burdens. Japan underlined that minimum access restrictions should be considered on a case-by-case basis; cautioned against including commodities in the definition of MGRs; and called for further discussions on the grounds for benefit-sharing. The Russian Federation stressed that the CBD and its Nagoya Protocol regulate resources within national jurisdiction.

Algeria called for a pragmatic approach based on common heritage, facilitating access and clarity of procedures, and focused on non-monetary benefits, including technology transfer and capacity building. PSIDS suggested reflecting common heritage and equity in a benefit-sharing regime, and considering

synergies with the Nagoya Protocol and other relevant instruments. CARICOM suggested covering, under the ILBI, MGRs in the high seas and the Area, and considering: *ex situ* MGRs; ABS obligations, types of benefits and the institutional framework; and the relationship among ABS, MSR, EIAs and capacity building. Jamaica recommended: promoting regulatory coherence through a single regime for the Area and high seas; avoiding a contractual approach to ABS; conducting MSR for the benefit of humankind; and considering Nagoya Protocol Article 10 (Global Multilateral Benefit-sharing Mechanism).

Cameroon favored the ILBI addressing procedures for access, information exchange, capacity building and technology transfer. Zambia called for the ILBI to support MSR by LLDCs.

Bangladesh stated that MGRs do not respect jurisdictional boundaries, and the ILBI should encourage benefit-sharing throughout the chain of discovery and R&D, with additional benefit-sharing from commercialization. Trinidad and Tobago underscored the "fair and equitable" dimension of benefit-sharing, and, supported by the African Group, the centrality and non-derogable nature of the common heritage principle.

Norway favored an ABS regime based on best available scientific information and commercial profit-making, within the limits of sustainability; and, with Australia, proposed a "light" approach that would not create obstacles to MSR or other activities in ABNJ, recalling the link between benefit-sharing and the overall goal of BBNJ conservation. Favoring minimum restrictions on a case-by-case basis on MSR, Japan, with the US, cautioned against renegotiating UNCLOS with regard to common heritage. Costa Rica, supported by Brazil, Mexico and the African Group, explained that the ILBI is addressing gaps under UNCLOS, clarifying that common heritage governs MGRs in all ABNJ. Noting that the legal status of MGRs in ABNJ is not a precondition for regulating access, the EU preferred a pragmatic approach, building on existing efficient regimes, including the International Treaty on Plant Genetic Resources (ITPGR) Multilateral System as a source of inspiration. Japan underscored that existing ABS mechanisms, such as under the ITPGR, are not based on common heritage. IUCN invited delegates to explore "how, not if" enhanced benefit-sharing can be based on scientific best practices. WWF supported a *sui generis* regime recognizing that MGRs "know no boundaries" within or beyond national jurisdiction, and respecting freedom of MSR, as well as UNCLOS conservation obligations.

Definitions: The G-77/China, Australia and others, underscored the need for defining MGRs, with Fiji highlighting that the CBD definition includes language on actual or potential use or value for humanity. Papua New Guinea cautioned against a definition of MGRs overlapping with fisheries or biological resources, suggesting consideration of mechanisms similar to the ISA or RFMOs to regulate access to MGRs.

Jamaica suggested a definition for MGRs including fish. Costa Rica suggested a definition including genetic information from marine organisms with current or potential value, and taking into account economic value and ecosystem services. The FSM and Sri Lanka favored including reference to "potential" value. Peru proposed adding reference to marine ecosystems or habitats. The African Group emphasized that MGRs should include genetic compounds from fish, as excluding fish would affect the package. The Russian Federation stated that the definition of MGRs should exclude reference to fisheries resources. Japan opposed including commodities in the definition of MGRs, while Chile and PSIDS suggested differentiation between fisheries as a commodity and as a source of genetic information.

Many supported drawing on CBD Article 2 (definitions), with New Zealand noting that it should be tailored to the marine context. Canada, supported by Iceland, noted that definitions are logical within their specific contexts, while the FSM stressed that CBD Article 2 reflects baseline definitions. The EU suggested referring also to definitions under the Nagoya Protocol and ITPGR. The Philippines suggested new definitions in the ILBI on "utilization" of MGRs. Trinidad and Tobago proposed discussing the difference between MSR and bioprospecting. Mexico pointed to connections between the definition of MGRs and other elements of the package, cautioning against definitions that can become obsolete due to scientific advancements. Cameroon noted that definitions may overlap with the issue of scope of the ILBI, suggesting consideration of *in situ* and *ex situ* MGRs. Australia, New Zealand and the Russian Federation, opposed by Fiji, the African Group, El Salvador, and Trinidad and Tobago, called for delinking discussions on definitions and on scope. Indonesia underscored the need to address resources within the continental shelf, some of which fall both within and beyond national jurisdiction. The US suggested discussing the rationale for different proposals related to the inclusion of the high seas within the geographical scope, with Costa Rica highlighting that MGRs cover marine organisms wherever they occur. PSIDS supported a broad definition of MGRs, ensuring adaptability to emerging knowledge and technology.

Fiji pointed to definitions under the CBD, Nagoya Protocol and ITPGR, noting that under existing regimes, benefit-sharing provisions are not fully operationalized. IUCN urged aligning the definition of MGRs with the CBD to avoid unintentional non-compliance, and including scientists in the PrepCom work on definitions. Iceland cautioned against drawing definitions from other treaties that may not fit the BBNJ context.

Access: The EU stressed that access to MGRs should be environmentally sound. PSIDS supported including access to resources, as well as to biological data. The G-77/China underscored the interrelationship between *in situ*, *ex situ* and *in silico* access and resources falling under the benefit-sharing regime, with Chile explaining that *in silico* access refers to genetic resources in digital form. Brazil pointed to the link with fair and democratic access to MGRs, including *in situ*, *ex situ* and *in silico* access. Argentina stressed the need for an ABS system to cover all research activities, including *in silico* access, and noted that the ISA and ITPGR are useful models that could be adjusted to the MGR context. Canada cautioned against prohibiting or appearing to prohibit MSR, or, with the US, creating a new regime for MSR. Brazil pointed to challenges concerning MGR traceability.

Benefit-sharing: The FSM called for an equitable ABS regime, granting exploration rights to developed countries in exchange for payments into an ABS fund to support developing countries. Argentina suggested concrete norms and modalities for effective benefit-distribution. Mexico proposed: a pragmatic approach to benefit-sharing at different steps of R&D and

commercialization; and international cooperation for MSR, marine technology transfer, and information-sharing on scientific programmes.

The Philippines pointed to the relevance of the Nagoya Protocol, the ITPGR, and ecosystem-based approaches utilized by RFMOs. Peru called attention to the ITPGR and the Pandemic Influenza Preparedness Framework under the World Health Organization.

Referring to the ITPGR and the Nagoya Protocol as potential models, the EU called for: minimal administrative burdens and cost-effective institutions; due regard for the interest of all states and future generations; and ABS that is facilitative and conducive for research. Switzerland called for a pragmatic approach to MGRs in the high seas to increase legal certainty, while maintaining the freedom of MSR. Australia preferred an ABS model that would not restrict access to MGRs and a "light" approach to benefit-sharing to support conservation objectives.

Indonesia highlighted the need to develop a pragmatic, *sui generis* regime, taking into account monetary and non-monetary benefits, and bridging the gap between common heritage and high seas freedoms. New Zealand favored encouraging R&D of MGRs of ABNJ and data- and knowledge-sharing. Iceland expressed skepticism over suggestions that minerals and living resources should be treated similarly, or that existing ABS regimes serve the needs of MGRs in ABNJ, suggesting a hybrid or alternative solution. Canada supported a *sui generis* regime that would not provide disincentives for access. Norway favored a pragmatic approach, promoting research and use of MGRs, and distinguishing genetic material from organisms as such.

Calling for a global benefit-sharing mechanism, Cameroon noted that the issue of benefits determines the understanding of the scope, highlighting the need for: a holistic approach, and involving developing countries in MGR research; and drawing attention to derivatives from MGRs, continuous utilization of MGRs, bioprospecting and MSR. Peru focused on the distinction between MSR and bioprospecting. Jamaica stated that benefit-sharing could cover commercial or non-commercial activities, information-sharing, royalties and shared research; and called for transparent access to *in situ* and molecular data from research and databanks.

The G-77/China highlighted monetary and non-monetary benefit-sharing. Chile referred to UNCLOS Part XI (the Area). PSIDS pointed to technology transfer, information sharing and capacity building as benefits, highlighting the need for flexibility to ensure fair and equitable distribution. Jamaica drew attention to Article 10 of the Nagoya Protocol, and, with the EU, to its annex (monetary and non-monetary benefits) as well as, supported by the African Group, to UNCLOS Article 82 (payments from the exploitation of the outer continental shelf) as guidance on equitable criteria. Peru pointed to the ITPGR as a general model only; and provisions on non-monetary benefits under UNCLOS and the Nagoya Protocol.

The EU noted the Tara Expeditions as an example of non-monetary benefits by making publicly available research on MGRs. Australia emphasized the need to include access to research opportunities, pointing to fairness and equity as the underpinnings of a benefit-sharing "structure." Mexico noted the appeal of the CBD Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA) to ensure effective dissemination of MSR related to MGRs.

IPRs: Costa Rica recalled that patents on MGRs have been issued in 31 countries, with 90% of these patents belonging to 10 technologically advanced countries and representing 10% of coastal areas globally. Trinidad and Tobago supported developing an IPR framework to address MGRs. Sri Lanka called for careful consideration of IPRs and countries' differing scientific capabilities. Jamaica noted the constraints under the ITPGR with respect to chemical and pharmaceutical uses, and IPRs. The EU, supported by the US, Canada and Japan, cautioned against discussing IPRs in this forum, given the mandates of the World Trade Organization (WTO) and the World Intellectual Property Organization (WIPO). Papua New Guinea proposed addressing process and requirements for IPRs related to MGRs. Jamaica noted the need not to duplicate WIPO's work, but called for further discussion on IPRs in relation to commercialization of MGRs. Iran, supported by the African Group, underscored the need for patent disclosure to ensure transparency, predictability and compliance with a fair and equitable benefit-sharing regime based on common heritage. Indonesia recommended discussion of mandatory disclosure. Noting that a mandatory disclosure requirement could exist under patent law, the EU referred to the ITPGR's Standard Material Transfer Agreement including IPRs, cautioning against including IPRs as such in the ILBI text.

Institutional matters: Costa Rica, with Mexico, suggested extending the ISA's mandate to cover MGRs, to develop codes for exploitation and exploration, administering the benefit-sharing regime, and, with Jamaica, establishing a clearinghouse. The Russian Federation argued that including MGRs under the ISA's mandate would entail a violation of UNCLOS.

Peru pointed to the need for an institutional framework to address monetary benefit-sharing. Barbados suggested: a framework promoting partnerships among SIDS institutions and private companies; a central repository facilitating access to MGRs; and discussion of potential disincentives for MSR.

Supporting the establishment of a trust fund, Trinidad and Tobago underscored the need: for an institutional mechanism ensuring accountability, monitoring and compliance with the ABS regime, expressing skepticism about a "light" approach; and to protect the rights of states over the outer continental shelf.

Report to plenary: Facilitator Carlos Sobral Duarte (Brazil) highlighted, *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. PSIDS 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. The FSM highlighted use of MGRs derived from traditional knowledge from indigenous communities, calling for prior informed consent and benefit-sharing.

AREA-BASED MANAGEMENT TOOLS INCLUDING MARINE PROTECTED AREAS: Delegates discussed this issue in plenary on Wednesday, 30 March, and Wednesday,

6 April; and on Friday, 1 April, and Monday, 4 April, in an informal working group setting. Following a more general exchange, delegates focused on definitions, objectives and principles, criteria, governance, institutional mechanisms, and links with regional approaches.

The G-77/China called for a global institutional mechanism to coordinate ABMTs, on the basis of a science-based approach, precaution, transparency and accountability, without undermining existing MPAs. Noting that existing regional and sectoral bodies have limited mandates, CARICOM called for the ILBI to: ensure cooperation, funding and compliance regarding MPA management; multilaterally monitor MPAs; and make available research results on MPAs, while notifying and reporting on experimental activities. The African Group suggested that the ILBI provide a more unified approach to MPA establishment. PSIDS recommended effective management, monitoring, control, financing and capacity building for MPA systems.

The EU recommended: the ILBI create a mechanism to establish and manage a global MPA network; a list of general criteria for MPA identification; recognition of existing MPAs fulfilling the criteria, through a simplified procedure; and relevant organizations be responsible for management measures and report to an overarching mechanism that will review effectiveness of MPAs and their management plans. Switzerland supported building on tools from other bodies, such as the IMO, RFMOs, international shipping associations and non-governmental organizations (NGOs), adding that ecologically or biologically significant marine areas (EBSAs) should also be considered. Monaco highlighted the need to prioritize areas for protection, adopt standards on permanence and conservation goals, as well as a framework and criteria for MPA establishment, monitoring and control, and stakeholder participation. New Zealand expressed concern over the lack of an overarching framework for MPAs in ABNJ, calling for developing a common understanding of ABMTs.

The Russian Federation stated that: a universal standard for MPA establishment is not possible; MPAs should be reconsidered when issues are resolved; and rights over the continental shelf should be respected when establishing MPAs. Iceland expressed skepticism over the need for a global body to designate MPAs in the high seas. Norway called attention to the cost-effectiveness of relying on existing structures, such as the IMO, RFMOs and regional seas organizations, rather than establishing a new structure. Japan recommended focusing on ways to decide the location and range of MPAs, and monitoring. The US favored MPAs that are science-based and work in concert with other ABMTs. Australia cautioned against ABMTs that require global management and review, or that duplicate existing bodies' efforts. China stressed that MPAs should balance conservation and sustainable use, without compromising coastal states' activities on the continental shelf; and opposed a one-size-fits-all approach to ABMTs. Canada emphasized best available science in determining MPAs, as well as the precautionary approach.

The FSM recommended avoiding disproportionate burdens on coastal states, especially for measures regulating living resources that are crucial for livelihoods in developing countries and SIDS. Papua New Guinea argued that MPAs are to be defined against current practices, such as on vulnerable marine ecosystems (VMEs). Argentina emphasized the need for a coherent mechanism going beyond merely complementing existing mechanisms. The Philippines called for provisions on Particularly Sensitive Sea Areas (PSSAs), EBSAs and RFMOs to avoid overlapping mandates and ensure coordination and monitoring. Brazil called attention to unregulated activities in the high seas. Japan outlined RFMOs' establishment of no-fishing zones and *de facto* MPA designation if fishing vessels encounter VMEs, and recommended including presentations by RFMOs at PrepCom 2.

IUCN, Pew, Greenpeace and NRDC urged for the ILBI to require the identification, designation and effective management of a global MPA network, with IUCN calling for binding principles, objectives and obligations for states and competent organizations to adopt ABMTs. Ocean Care urged the establishment of large MPAs to address underwater noise.

Definitions: Jamaica, with Japan, New Zealand, IUCN and others, pointed to IUCN's definition of MPAs; and distinguished sectoral ABMTs such as MARPOL Special Areas and VMEs, from cross-sectoral ABMTs, including MPAs and marine spatial planning (MSP). Costa Rica supported the definition of single-, multi- and cross-sectoral ABMTs. Jamaica, Brazil and New Zealand suggested using an adapted version of the CBD definition of MPAs. Australia recalled that the CBD Technical Expert Group on Marine and Coastal Protected Areas has an MPA definition. The EU noted the lack of a universally accepted definition for MPAs, calling for tailoring existing definitions to specific needs.

Some delegations noted that MPAs are a type of ABMTs. Singapore proposed taking into account in the characterization of ABMTs a range of tools, including MSP, as well as existing descriptions of MPAs. The FSM suggested defining spatial and regulatory characteristics of ABMTs, and highlighted the difference between VMEs and EBSAs, noting that they are not ABMTs but could be used in the definition of MPAs and other tools. The US suggested that the MPA definition should be sufficiently broad to encompass specific types of conservation and impact restrictions, depending on the management body in question, such as RFMOs. New Zealand suggested including different categories of MPAs.

Objectives and principles: Norway noted that the objective of ABMTs is regulating activities for the protection of BBNJ, and suggested focusing on the extent activities must be restricted to reach agreed protection levels. The EU, supported by Costa Rica and Monaco, recommended creating a global MPA network contributing to the ILBI overall objective of conservation and sustainable management of the marine environment and supported the polluter pays principle. IUCN suggested incorporating in the ILBI objective language from the Rio+20 outcome document "The Future We Want." The G-77/China and the EU underscored the precautionary and ecosystem approaches as basic governance principles. Noting that UNCLOS provisions are vague, the African Group called for balancing high seas freedoms and the duty to protect and preserve the marine environment, and for coordination between existing mechanisms and those to be established under the ILBI to create MPAs. Algeria highlighted transparency, accountability and cooperation. Chile drew attention to UNFSA principles. PSIDS emphasized

integrated management, and the need to avoid disproportionate burdens on SIDS, and called for objectives to include finance and capacity building.

Stressing that all the tools under ABMTs, not just MPAs, need to be explored, the G-77/China underscored the precautionary and science-based approaches, transparency and accountability. Fiji, supported by New Zealand, recommended that the ILBI specify universal objectives and obligations regarding ABMTs. Jamaica emphasized conservation and sustainable use objectives, drawing on relevant CBD provisions, as well as the Convention on the Conservation of Antarctic Marine Living Resources' (CCAMLR) MPA objectives. The Philippines stressed ecological connectivity, calling for coordination with academic institutions for better access to scientific data, and highlighting the goal for well-managed MPAs to restore ecosystem services, including food security and, with Mission Blue, climate resilience. India recommended finding an effective balance between high seas freedoms and the ILBI. The US, supported by New Zealand, recommended including fisheries in the scope of ABMTs.

Venezuela, despite reservations to SDG Target 14.c referring to UNCLOS, supported using the SDGs as a starting point for the ILBI, including on benefit-sharing, cooperation, and accountability; referred to relevant CBD provisions; and called for actively incorporating, without undermining the safeguards for, and reservations by, non-parties. Canada emphasized: effective and timely implementation of ABMTs, including MPAs; collaboration, cooperation and enhanced communication; and clarification of the content of the precautionary principle and ecosystem-based approach in the context of ABMTs. Mexico highlighted existing efforts under the CBD, FAO and MARPOL, calling for an organic, pragmatic and cost-effective approach to MPAs based on the development of regional schemes.

Criteria: Costa Rica proposed the creation of a global MPA network. Jamaica and IUCN highlighted the EBSA criteria, and CBD guidelines on MPA networks, with Jamaica noting that several CBD decisions address MPAs in ABNJ, recognizing UNCLOS as the appropriate forum. Monaco called for establishing MPAs in vulnerable areas and important areas for certain species. New Zealand and Australia suggested establishing MPAs to address particular threats and ensure representativity. The Philippines proposed as criteria for selecting areas: biodiversity richness, biophysical connectivity, and, supported by Brazil, importance of ecosystem services for food security and climate resilience. The EU suggested considering existing experiences and approaches, including EBSAs, relevant regional seas conventions, and national initiatives.

The US, with Papua New Guinea, recommended drawing from RFMOs' experience, and on EBSAs and VMEs. Fiji recommended that the ILBI take into account internationally recognized criteria and outline steps in establishing MPAs. PSIDS noted that criteria would vary depending on the regional circumstances and should include, *inter alia*, biological productivity and/or diversity. New Zealand proposed setting criteria on ABMTs to be used by states via RFMOs. Ocean Care called for ABMTs' criteria to include underwater noise considerations.

Governance: The EU called for: a consultation mechanism, including a wide range of stakeholders; incorporation of spatial boundaries, conservation objectives, identification of threats and elements of a management plan in the proposals; consideration of a voting mechanism; and respecting rights and obligations under UNCLOS. The EU clarified that proposals for MPA establishment should: be based on principles and criteria to be set by the ILBI; be made by state parties collectively, including through existing organizations, or individually, suggesting that civil society's role should be considered in this process; and contain: spatial boundaries, conservation objectives, identification of threats, and priority elements for a management plan. She noted the need to consider a process for endorsing existing MPAs under the ILBI.

Norway called for discussions on how to link existing management tools to the challenges identified within ABMTs, suggesting that the ILBI will not have management tools of its own, as these are already enshrined in other bodies' and states' competences; and suggesting that regional and sectoral bodies be allowed to develop measures to address the pressures and conservation goals identified by the ILBI. The FSM suggested: ensuring transparency and consultations with all relevant stakeholders and adjacent states; avoiding undermining national efforts in adjacent waters through ABMTs in ABNJ; and allowing both permanent and temporary MPAs. IUCN stressed the need to integrate conservation and sustainable use in decision-making, and to introduce measures aimed at minimizing adverse impacts.

The Russian Federation argued that: MPA establishment proposals must be assessed individually, considering geographical particularities and the status of the ecosystems, only on the basis of sufficient scientific data; and MPAs should not restrict all activities, or be permanent, recalling coastal state rights to the continental shelf. Jamaica called for a duty to refrain from activities while proposals are being reviewed, as well as a notification and reporting process, and stricter standards for EIAs in MPAs; and noted, on significant adverse impacts' thresholds, CBD Article 7(c) (identification and monitoring) and the FAO Guidelines on Deep-Sea Fisheries. Australia suggested that ABMTs: be established under regional leadership as guided by UNFSA, based on strong science and the identification of areas requiring attention, and work with existing organizations, including RFMOs; and include port and flag states as "levers." PSIDS called for consulting coastal states in designating and designing MPAs.

Institutional mechanisms: The G-77/China stressed the need for an international mechanism for cooperation, coordination and review of compliance, with Chile emphasizing: monitoring and control requirements, technology transfer, and flag state responsibility. The FSM, with Trinidad and Tobago, proposed creating or identifying a permanent scientific committee to inform the placement, character and scope of ABMTs. Algeria stressed that ABMTs require an institutional framework for standardizing criteria. Costa Rica proposed that the ILBI include a list of scientific criteria for MPA establishment and a global mechanism to monitor, review and ensure compliance. Barbados suggested a system of notification, review, and reporting by various ocean users, noting lessons to be learned from FAO and

other sectoral bodies. Mauritius called for extensive consultation on MPA proposals with coastal states, local communities and regional organizations, ensuring consensus.

Reiterating that an integrated approach to MPA establishment cannot be achieved through RFMOs, the African Group suggested promoting coordination between existing and ILBI mechanisms. Fiji recommended that the ILBI provide for a decision-making body to establish guidelines on area-based management. Costa Rica suggested creating standards binding states as well as upon global and regional organizations; a global body to monitor, review and ensure compliance; and, supported by Barbados, a geographically-balanced scientific committee. The FSM suggested establishing a scientific committee collating information on EBSAs, VMEs and PSSAs for identifying areas in need of protection. Bangladesh called for MPA enforcement measures, and a scientific body under the ILBI to clarify the definition of MPAs.

The EU underscored the absence of an overarching mechanism establishing MPAs in ABNJ, noting that currently active organizations' mandates have spatial and substantive limitations, and that international MPA commitments must be respected. The EU also highlighted: accountability; flag states' responsibilities; science-based decisions; cooperation and coordination with relevant bodies; relationship with non-parties; and regular reporting. The US recommended: adjusting management structures over time as scientific information evolves; including compliance and monitoring; and taking into account all relevant stakeholders' views.

IUCN stressed the need for: a global ABMT framework to ensure equal progress at the regional level; mechanisms to enhance ABMTs at regional and sectoral levels; a scientific and technical advisory body; and a decision-making body to designate new MPAs, adopt MPA objectives and measures applicable to states in ABMT management, and consult with states and stakeholders. WWF called attention to mechanisms for enhanced cooperation and dispute resolution.

Links with regional approaches: Argentina recalled RFMOs' geographical and participation limits, as well as limited mandates regarding activities and species they regulate. The EU proposed "a ping-pong approach" between global and regional approaches, arguing that further steps to achieve the ecosystem approach are necessary, in addition to RFMOs and other competent organizations. She stressed that MPAs established in the water column must respect coastal states' rights over the continental shelf; underscored the need to distinguish between "undermining" and "interfering with" existing organizations; suggested a simplified procedure to acknowledge MPAs established by existing organizations; and indicated that MPAs should not be temporary. The FSM noted that the ILBI should respect VMEs, PSSAs, RFMOs' work and national efforts to establish reserves.

Report to plenary: Facilitator John Adank (New Zealand) highlighted, *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.

In the ensuing discussion, 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.

Japan, supported by the Russian Federation, China, and Iceland, proposed that RFMOs 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. Chair Charles clarified that the RFMOs are expected to be present at the UNFSA Resumed Review Conference in May, as well as in the Workshop on the General Assembly resolution relating to the impacts of bottom fishing in early August, where delegates will have the opportunity to raise questions and discuss.

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.

ENVIRONMENTAL IMPACT ASSESSMENTS: The PrepCom took up this issue in plenary on Wednesday and Thursday, 30-31 March, and Wednesday, 6 April; and in an informal working group on Monday and Tuesday, 4-5 April. Discussions focused on general concepts, definitions, thresholds, governance, transparency, and monitoring.

Concepts: CARICOM lamented the lack of global requirements or frameworks for cumulative EIAs or strategic environmental assessments (SEAs) for ABNJ, suggesting that the ILBI address: thresholds for activities triggering EIAs; SEAs' role and use; and monitoring mechanisms. Highlighting interlinkages with ABMTs and responsibility to bear costs, PSIDS called for integrating EIAs in approval processes of extractive activities, coherence, transparency, information sharing, and provisions on how to conduct and evaluate assessments.

The EU called attention to the information that EIAs and SEAs can provide for designating and managing MPAs; and noted that the ILBI should establish screening thresholds and a follow-up procedure for completed assessments. Monaco highlighted cumulative effects, SEAs and long-term strategies, EIA thresholds, stakeholder participation, monitoring, and independent and publicly available decisions. Indonesia suggested a mechanism for addressing transboundary impacts. The US underscored the procedural, rather than the decision-making, nature of assessments. Jamaica stated that an EIA must be undertaken if there is risk, even reparable, of human or environmental harm. Indonesia recommended referencing UNCLOS, and the ecosystem and precautionary approaches. New Zealand suggested further exploring how SEAs can contribute to a

comprehensive regime and underscored challenges in extending SEAs to ABNJ. Australia considered SEAs broader, longer and more resource-intensive than EIAs. Argentina and Cameroon noted the crosscutting nature of environmental assessments. India recommended that SEAs take into account the different characteristics of each ocean. Brazil underscored the need to develop implementation criteria and minimum requirements, without creating additional burdens; and incorporate the ISA's expertise.

China stated: EIAs are a precautionary measure that should take into account the balance between conservation and sustainable use; the scope of EIAs should be clarified, subject to best scientific data and international best practice; and the ILBI should make reference to existing instruments in designing EIAs. The Philippines called for the ILBI to take into consideration developing countries' capacities to conduct EIAs. Australia called for: best practices for conducting EIAs; an obligation to share EIA outcomes in ABNJ; and global standards for SEAs.

Calling for EIA principles under the ILBI to be in line with existing instruments, Canada stressed that cumulative EIAs should avoid duplicative, cost-ineffective layers of assessments. Acknowledging jurisprudence from the International Court of Justice on EIA, New Zealand called for the ILBI to provide guidance on conducting EIAs. Japan underlined the need for a common understanding of EIAs; and called for the ILBI to develop EIA guidelines, balancing conservation and development, without undermining existing frameworks. India suggested defining these according to best scientific evidence; and implementation criteria and guidelines based on existing instruments. Costa Rica called for obliging states to conduct EIAs and SEAs within their jurisdictions in case of potential impacts on ABNJ. IUCN suggested that EIAs cover activities outside sectoral regimes' scope.

The CBD highlighted the Voluntary Guidelines for the Consideration of Biodiversity in EIAs and SEAs in Marine and Coastal Areas, noting that parties considered these "most useful" for unregulated activities and encouraged their application. FAO called attention to the International Guidelines for the Management of Deep-Sea Fisheries in the High Seas, noting that many RFMOs have developed relevant EIA procedures. Greenpeace, Pew, WWF, NRDC and the High Seas Alliance highlighted the Advisory Opinion on Seabed Mining of the International Tribunal for the Law of the Sea, recognizing EIAs as a customary international law obligation. They recommended that the ILBI permit activities only after they have proven to have no significant adverse effects; and make dispute settlement procedures applicable to EIAs and SEAs. IUCN suggested addressing climate change and ocean acidification concerns under cumulative assessments. Costa Rica and the FSM called for considering cumulative, as well as socio-economic, impacts of proposed activities. The FSM suggested that assessments include alternatives.

Definitions: The G-77/China called for the ILBI to develop a definition of EIA, noting the need to reflect on the nature of activities to be assessed, and optimize assessments, giving due consideration to all relevant stakeholders. Jamaica suggested drawing from: the CBD on EIAs, supported by Costa Rica, who also drew attention to UNEP guidance; and on SEAs from the Kiev Protocol to the Espoo Convention on Environmental Impact Assessment in a Transboundary Context, supported by the High Seas Alliance. The EU suggested drawing EIA and SEA definitions from relevant CBD guidelines. Trinidad and Tobago, supported by Chile, pointed to MARPOL and UNCLOS. Algeria recommended taking into account regional conventions. The High Seas Alliance pointed to the EU SEAs Directive. Bangladesh highlighted ISA and CBD definitions.

Thresholds: The African Group recommended requiring EIAs of unregulated, new and emerging activities. Jamaica recommended conducting cross-sectoral assessments of climate engineering, ocean fertilization, marine debris and underwater noise. Papua New Guinea emphasized cumulative EIAs for fishing and laying submarine cables. Indonesia and the US noted the need to distinguish submarine cables from pipelines.

Fiji underscored that EBSAs, VMEs and PSSAs could require more careful consideration, pointing to the process for environmental management plans under the ISA as a useful tool. Australia recalled existing experiences on EIAs in ABNJ in the context of the ISA and UN General Assembly Resolutions 61/105 and 64/72 on bottom fishing; and called for harmonizing transboundary EIAs. Australia highlighted that the same activity can have distinct impacts in different areas, depending on fragility and resilience, which can also be affected by climate change and ocean acidification. The High Seas Alliance proposed creating open-ended lists of habitats, features and areas, as well as of activities always subject to EIAs.

The Philippines called for identifying specific activities that may require full EIAs, taking into account environmentally sensitive or critical areas. New Zealand noted difficulty in listing activities requiring EIAs due to varying regional contexts. Chile suggested that a body be established under the ILBI to address possible thresholds. Eritrea proposed considering not only monitoring in relation to activities in ABNJ, which require an international mechanism accrediting activities that are not deemed a serious threat to BBNJ, but also land-based activities that can have an impact on BBNJ, which require capacity building. Canada called for caution in addressing indirect impacts from activities within national jurisdiction, and favored a "light EIA structure."

The US suggested focusing on: understanding activities in ABNJ that may adversely affect the marine environment, including cumulative effects; existing guidelines on EIAs; and understanding challenges related to assessments. Ocean Care urged comprehensive and mandatory EIAs for all activities in ABNJ, including underwater noise.

Governance: The African Group called for the ILBI to address EIA governance mechanisms, including a process for assessing previously unexamined activities and their impacts in ABNJ. Chile highlighted challenges concerning coordination and financing. FAO reported on challenges in conducting EIAs related to VMEs in ABNJ, including access to information, mapping areas containing VMEs, and evaluating impacts. The FSM suggested providing for joint EIAs by multiple relevant entities. The EU, with Cameroon and Algeria, suggested that a state party to the ILBI be responsible for ensuring EIAs are conducted. The EU argued that states under whose jurisdiction activities in ABNJ are to take place be responsible for decision-

making on authorizing such activities, noting the importance of reviewing implementation and compliance under the ILBI on agreed rules and procedures for completed EIAs and SEAs.

The US noted that: under UNCLOS Article 206, states are responsible for conducting EIAs; and under the Protocol on Environmental Protection to the Antarctic Treaty state parties decide how to incorporate comments received by other parties, without a decision-making body. Mauritius suggested that independent regional bodies, with consent from adjacent coastal states, conduct additional EIAs. Mexico proposed that if an EIA is carried out by a private entity, it should be reviewed by an ILBI body. The FSM, Chile, Costa Rica and Trinidad and Tobago suggested creating a permanent scientific committee to conduct SEAs. Costa Rica and IUCN suggested that proponents bear related costs.

The EU stressed that the ILBI should establish general rules and procedures for conducting SEAs. Algeria proposed discussing the possibility of an ILBI committee guaranteeing SEA conduct; and called for flexibility to allow assessments after activities have been authorized. Costa Rica called for a scientific and technical committee to take decisions binding on parties. Trinidad and Tobago recommended that an independent advisory scientific and technical body provide advice on EIAs, manage a public EIA database, evaluate cumulative impacts, and refine EIA guidelines.

Australia noted a disconnect between requiring countries to conduct EIAs and leaving decisions on authorizing activities to an international body. Singapore favored placing obligations to conduct EIAs on states, with stakeholders being able to comment on results. The FSM cautioned against the possibility for companies seeking authorization from countries with the least stringent regulations. Norway noted: technical challenges associated with assessing cumulative impacts; national experience in scaling down control with heavier responsibility on industry; and opportunities to build upon existing structures, citing the assessments required under General Assembly resolutions on bottom fisheries.

Transparency: The G-77/China recommended conducting EIAs with stakeholder consultation in a transparent manner. PSIDS proposed an expert panel to provide decision-making advice. Australia, with the EU, Algeria, Trinidad and Tobago, and New Zealand, highlighted the obligation for consultation and cooperation between states with identifiable interests, calling on the ILBI to ensure an inclusive process. New Zealand proposed that proponents provide information on: consideration of environmental pressures, including to neighboring jurisdictions; temporal effects of activities; ecological characteristics; possible alternatives; and cumulative effects. He noted that information to be collected from states and other entities in a repository includes impacts of activities and projects, as well as assessment procedures and stakeholders involvement. Cameroon suggested modeling a clearinghouse mechanism on the CBD and its protocols. The US noted: the need to support RFMOs' scientific processes; the cost of assessment processes; the need for developing countries' engagement; and transparency and inclusion. Indonesia stressed that assessments should be public and accessible. IUCN emphasized: providing EIA and SEA documentation to the public for comment; and including comments in decision-making procedures. Cameroon called for ensuring African states' participation in assessments. Greenpeace shared an experience of an EIA process in New Zealand on seabed mining of phosphate nodules, which promoted participation of stakeholders and indigenous peoples, best available science, and transparency.

Monitoring: Fiji, supported by Bangladesh and Costa Rica, underscored the lack of reporting mechanisms for EIAs under UNCLOS; and called for accessibility of information on BBNJ, including a repository. Bangladesh proposed requiring reporting, monitoring and compliance, and including a mechanism to identify new impacts. Kenya and PSIDS underscored the need for an enforcement and compliance mechanism. Jamaica and Trinidad and Tobago recommended that the ILBI establish a competent authority to review and monitor implementation of relevant obligations. Monaco recommended follow-up and compliance mechanisms. The FSM proposed that follow-up and monitoring by a proposed permanent scientific committee encompass previously unexamined issues, and suggested a sunset clause when EIAs are conducted and no activities take place for a given time period. Lebanon suggested considering an EIA review mechanism. Mexico proposed a technical and scientific advisory committee under the ILBI to, *inter alia*, identify criteria for activities requiring EIA. IUCN proposed the ILBI provide for a global review.

The EU suggested the ILBI include: public consultation; a process to update the list of activities subject to EIA before authorization; reporting obligations; and provisions on prevention, avoidance and mitigation of impacts. New Zealand underscored the need for an adaptive process to include monitoring and review mechanisms, suggesting that states require proponents to monitor impacts, including long-term ones, and report back. Trinidad and Tobago suggested: a mandatory mechanism to monitor and review activities in ABNJ; with the FSM, a permanent scientific committee to monitor SEAs; and a compliance mechanism to ensure effective EIAs. India proposed that the contractor monitor EIA activities and report back to an ILBI scientific or technical body. Cautioning against proliferation of reporting mechanisms, Eritrea, with Cameroon, favored an international monitoring and reporting body. Cameroon stressed links between monitoring activities conducted prior to the ILBI entry into force and the scope of the EIA regime; and, with the FSM, the need for a reparation mechanism, including a fund giving effect to the polluter pays principle, which should be separate from a benefit-sharing fund. Venezuela called for mandatory issuance of bond guarantees to ensure compliance.

Report to plenary: Facilitator Lefeber highlighted, *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 modeled after the CBD; and a fund bridging the gap between an incident's occurrence and the time the polluter actually pays. PSIDS 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 for an open-ended list of activities, to accommodate new and emerging activities.

CAPACITY BUILDING AND TECHNOLOGY TRANSFER: This element was dealt with in plenary on Wednesday, 30 March, and Wednesday, 6 April; and in an informal working group on Tuesday and Wednesday, 5-6 April. Following a general exchange of views, delegates focused on: approaches to technology transfer and capacity building; specific capacity-building measures; and institutional mechanisms, including a clearinghouse mechanism and a fund.

China stressed that the ILBI should give full regard to developing countries' needs and formulate new capacity-building and technology-transfer provisions based on UNCLOS Part XIV and the SDGs. Papua New Guinea highlighted provisions on special requirements for developing countries under UNCLOS, UNFSA, the SDGs and the Paris Agreement, including with respect to capacity building and technology transfer for climate mitigation and adaptation; and called for exploring means to operationalize UNCLOS Part XIV. Costa Rica proposed an indicative list of areas of cooperation between states and other partners, including international financial institutions, intergovernmental organizations (IGOs) and NGOs. The EU suggested that the ILBI develop capacity-building and technology-transfer tools relevant to developing countries' needs and UNCLOS' effective implementation, and scientific training programmes and joint scientific research be expanded and carried out with institutions in developing countries, involving private and public partners. Iceland proposed drawing from the UNFSA in emphasizing developing countries' capacity-building and technology-transfer needs in the ILBI.

Australia favored building capacities for EIAs, and taking into account SIDS' special requirements. Norway considered capacity building and technology transfer key for developing countries to fulfill obligations under the ILBI, including concerning MPAs and EIAs. New Zealand suggested drawing on existing expertise and better coordinating existing capacity-building and technology-transfer initiatives. Canada emphasized effectiveness, coordination and utilization of existing frameworks, where possible and appropriate.

Algeria underscored: with Bangladesh, UNCLOS Articles 268 and 269 (objectives and measures to achieve marine technology transfer); the importance of a balanced approach for capacity building and technology transfer; responsibilities of all partners and stakeholders; the need for binding provisions on capacity building and technology transfer; and the lack of formal obligations for the private sector to conduct capacity-building activities. New Zealand: underscored that capacity building and technology transfer need to respond to developing countries' needs and to ensure "no one is left behind"; called for discussions on ways to adjust, improve and complement good practices in areas under national jurisdiction to take into account new obligations under the ILBI; and suggested that capacity building under the ILBI focus on technical assistance for effective implementation.

Technology-transfer approaches: The G-77/China pointed to UNCLOS Part XIV as the legal basis for marine technology transfer regarding BBNJ, taking into account the Intergovernmental Oceanographic Commission (IOC) Criteria and Guidelines on the Transfer of Marine Technology. Indonesia argued for a practical approach, including in identifying or establishing a curator institution for capacity building and technology transfer. The African Group proposed that the ILBI draws from IOC Criteria and Guidelines and ISA.

CARICOM called for developing incentives for R&D of technology, compatible with local, national and regional realities. The US supported ILBI provisions on technology transfer, provided transfer is on a voluntary basis, on mutually agreed terms and conditions, and consistent with the IOC Criteria and Guidelines. 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. PSIDS called for the ILBI to go beyond existing provisions, with technology transfer 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, 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 the ILBI 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 fulfill ILBI aims. Peru highlighted partnerships and scientific cooperation on migratory species' routes and identification of critical habitats.

Capacity-building approaches: PSIDS said the ILBI should recognize SIDS special situation, with capacity building corresponding to needs assessed, including consistent and predictable funding, and addressing both human and institutional capacities. Brazil, with Argentina, suggested drawing lessons from the ISA, and addressing both scientific and institutional capacities. Mexico suggested facilitating scientific cooperation in the high seas through scientific programmes, training, and research, including technology-transfer criteria. Trinidad and Tobago called for capacity building and technology transfer in

MPA management, MSP and R&D for MGRs, and other areas that inform decision-making on BBNJ.

Drawing attention to North-South and South-South cooperation in building capacity to ensure access to MGRs in ABNJ, the G-77/China called for defining clear capacity-building obligations, and considering capacity building as a crosscutting issue for each element of the 2011 "package." PSIDS highlighted the difference between capacities and capabilities, and the need for: crosscutting capacity building for a wide range of stakeholders; and, with Barbados, both individual and institutional capacity building.

The Philippines suggested that critical capacities include taxonomy, genomics and bioinformatics, as well as advanced biotechnological and ocean engineering technologies. IUCN proposed that the ILBI: define capacity-development obligations; establish a central information repository for BBNJ; include proximal SIDS in marine research; and involve the private sector. Greenpeace, Pew, WWF, NRDC and the High Seas Alliance prioritized establishing means for the full implementation of UNCLOS Part XIV, taking into account the IOC Criteria and Guidelines, as highlighted in SDG 14.

The US supported "robust and ambitious" capacity-building provisions under the ILBI; and suggested involving developing country scientists in MSR. Noting that capacity building is more than training, Costa Rica called for an indicative list of priority areas for capacity building and technology transfer in the ILBI, taking into account SDG 14 and its targets, and the Addis Ababa Action Agenda on financing for development. Bangladesh identified maximizing participation and knowledge-sharing challenges.

Capacity-building measures: The EU stressed that tangible capacity-building measures are critical for successfully designing and implementing other aspects of the ILBI. Norway highlighted experiences in building developing countries' capacity in the fields of fisheries, oil and gas, and research on the continental shelf; and suggested further exploring means for fulfilling capacity-building needs under the ILBI. Australia, with New Zealand, emphasized South-South and triangular cooperation, the lack of reference to the special needs of country groupings like SIDS at the time of UNCLOS' drafting, and the need for better dissemination of existing efforts, such as maritime boundaries training and workshops, scholarship programmes for fisheries management, and the Pacific Patrol Boat Program.

Pointing to "pockets" of capacity-building activities, the African Group suggested taxing certain activities in ABNJ and depositing revenue in a capacity-building and participation fund to be used for "meaningful" capacity building, including university scholarships, "training the trainers" programmes and building the capacity of unemployed graduates in Africa. Barbados pointed to concrete measures, such as central repositories, public-private partnerships, and training and research opportunities for scientists from SIDS.

Japan called for strengthening coordination and information sharing among IGOs, and pointed to effective knowledge sharing through the Ocean Biogeographic Information System. Jamaica, with Argentina, referred to the definition of capacity building in Agenda 21, and suggested: sharing research results; exchanging researchers; ensuring participation in research cruises; and conducting joint research, noting the ISA's experience.

Trinidad and Tobago called for: with the FSM, institutional strengthening; information sharing; exchange of research visits; training of scientists from SIDS; and addressing data gaps. Mexico suggested that the ILBI define monetary compensation obligations for the exploitation of MGRs in ABNJ. Indonesia highlighted mandatory capacity building near the areas of BBNJ exploration and exploitation. Fiji pointed to needed assistance for MSR, cumulative EIAs, SEAs, MGRs, and monitoring. Papua New Guinea suggested the ILBI support: participation in conservation, research and training; EIAs; access to technology transfer; and science-policy interface. Zambia drew attention to LLDCs' special situation, and proposed the ILBI provide for: North-South regional cooperation; global scholarship programmes on marine science, research and governance.

The Philippines called for: enhanced collaboration and capacity-building provisions, supported by intergovernmental agencies such as the IOC; prioritization of research programmes, scholarships, and targeted training programmes including on ABMTs, EIA protocols, genomics and informatics; and involvement of researchers from adjacent coastal states in research programmes 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 programme 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 by-catch 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 programmes, 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.

Institutional mechanisms: Cameroon called for: an *ad hoc* body to assess, discuss and agree on capacity-building needs and priorities for interventions linked to ILBI implementation; as well as capacity-building delivery and funding mechanisms. Zambia supported the call for an *ad hoc* body, which could also coordinate initiatives, including cooperation on MSR and information exchange. Ecuador underscored the need for an efficient, universal, intergovernmental, transparent, participatory, accessible and crosscutting mechanism for capacity building and technology transfer. 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.

Mauritius suggested a centralized multilateral organization responsible for mid- to long-term training on ocean affairs and marine technology. PSIDS 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. 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 characteristics and existing structures such as the IOC. Algeria suggested: exchanging information under the ILBI through a network of national authorities under the IOC's auspices, with national authorities overseeing technology transfer and refining technical and legal criteria for research.

Clearinghouse mechanism: The G-77/China called for a clearinghouse mechanism, with the FSM suggesting it include information on MGRs. Sri Lanka supported a central data-sharing repository. Chile called for establishing an effective mechanism to transfer scientific information, with incentives for developing countries to improve their capacities. Australia favored creating a clearinghouse to receive and disseminate information. PSIDS proposed drawing on existing clearinghouse mechanisms under the CBD and Nagoya Protocol. The US supported a clearinghouse mechanism modeled after the IOC.

Jamaica pointed to the IOC as a clearinghouse for technology transfer. Fiji stressed that a clearinghouse mechanism should facilitate technology transfer and address the needs of developing countries. The FSM called for a free and publicly available clearinghouse incorporating information on: national legislation, policies, and the 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 decision-making and ILBI implementation. The EU stated that a clearinghouse mechanism on ABNJ and their resources could be considered. IUCN recommended the ILBI establish a repository with documents on EIAs, SEAs and research.

Fund: Jamaica, Mexico, Zambia, Indonesia, Barbados, Bangladesh and IUCN supported a global fund to support developing countries' ILBI implementation, with Trinidad and Tobago underscoring that funding can come from different contributions, including from international donors, the Global Environment Facility, and a new trust fund. Papua New Guinea suggested the capacity-building fund address each aspect of the package. The FSM called for a fund ensuring developing countries' participation in ILBI-related meetings and activities. 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.

Report to plenary: Facilitator Rena Lee (Singapore) highlighted, *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. PSIDS reiterated the need for an effective, non-cumbersome capacity-building and technology-transfer system, delivering meaningful results.

INSTITUTIONAL ASPECTS: On Thursday and Friday, 7-8 April, in plenary, delegates offered preliminary views on the institutional aspects of the ILBI, including dispute settlement. Many pointed to the ISA's experience. Recalling suggestions to the ISA to monitor BBNJ by expanding its mandate to include living resources, the African Group, with Bangladesh, noted that this cost-effective option should be considered, with the African Group, supported by the FSM, suggesting that two distinct divisions be established within the ISA to deal with living resources and non-living ones, respectively. Bangladesh recalled UNCLOS Article 164 on an ISA economic planning commission, suggesting that it be tasked with addressing living resources under the common heritage principle.

The US cautioned against deciding on the structure of an institutional mechanism before addressing its scope and tasks, stressing that expanding the ISA's mandate may provide a disincentive for UNCLOS non-parties to participate in a benefit-sharing regime. Costa Rica noted that if the ISA is used, a parallel mechanism will be necessary to ensure full representation of all ILBI parties, including those that are not parties to UNCLOS. She proposed further discussions of an oversight mechanism, ensuring monitoring, review and compliance with EIAs. Mexico proposed discussing liability, including in relation to UNCLOS provisions on responsibility and liability with regard to the Area.

Dispute settlement: Chile, with Indonesia, Australia and the FSM, stressed that dispute-settlement mechanisms under UNCLOS and UNFSA provide a satisfactory framework, suggesting consideration of additional mechanisms for solving disputes of a more technical nature. Indonesia pointed to the ISA dispute settlement procedure as a model. Bangladesh proposed including the UNCLOS special arbitration procedure.

Peru queried the type of disputes that could arise under the ILBI. New Zealand noted the need to clarify ILBI obligations first. Bangladesh highlighted possible disputes over MGRs between states or contractors, or on access to MGRs in the same area, or, with Costa Rica, jurisdictional disputes when conducting EIAs. Costa Rica pointed also to possible disputes over ABMTs. The FSM noted that under UNFSA, a formal tribunal is not always necessary, as technical matters are settled by experts.

Liability: Bangladesh emphasized the relevance of UNCLOS Article 235 (responsibility and liability) as a starting point. Mexico, supported by Costa Rica, called for an objective liability regime. Costa Rica proposed replicating the UNCLOS experience of establishing a fund to address damage. Australia considered it early to discuss responsibility and liability prior to the establishment of obligations under the ILBI; highlighted the International Law Commission's Draft Articles on Responsibility of States for Internationally Wrongful Acts; and suggested differentiating between state responsibility and operator liability, but establishing linkages between the two.

ROADMAP

On Friday, 8 April, Chair Charles verbally presented a procedural roadmap to PrepCom 2, agreed upon by the Bureau and including:

- a short opening plenary, without general statements;
- five four-hour informal working groups on: MGRs; ABMTs; EIAs; capacity building and technology transfer; and crosscutting issues, including scope;
- the reconvening of plenary to "park" issues on which there is consensus or wide acceptance, and to further discuss others; and
- a plenary session to discuss next steps.

Chair Charles announced that he would: circulate an indicative list of substantive issues put forward at PrepCom 1, based on discussions in informal working groups and plenary; convene a procedural preparatory meeting before PrepCom 2; and prepare a Chair's summary of PrepCom 1 to be disseminated prior to PrepCom 2. He called on delegations to share position papers on the UN Division for Ocean Affairs and the Law of the Sea website to facilitate discussions. Noting that there would be no intersessional meetings, he stressed the importance of workshops and seminars to build bridges between differing opinions, suggesting that they be convened in New York to facilitate wide participation. IUCN highlighted their readiness to facilitate, subject to the availability of resources, workshops and webinars on issues raised during the meeting.

The G-77/China supported the roadmap as outlined, welcomed the proposed indicative list of issues, and preferred that the meetings of the informal working groups be convened sequentially and not in parallel. CARICOM praised the open format of the meeting, the creation of a working group on scope and other crosscutting issues, and the need to elaborate on UNCLOS provisions and other aspects of customary international law, addressing gaps in UNCLOS implementation and current fragmentation in BBNJ governance. She proposed as possible elements for the indicative list: the common heritage principle; terminology; obligations derived from UNCLOS and other related international legal instruments, including the duties to cooperate; capacity building and technology transfer; institutional mechanisms that cut across the four elements of the "package," including creation of new institutions, expansion of existing ones and clearinghouse mechanisms; issues that need further deliberations, including the relationship between the ILBI and other instruments, fisheries, IPRs, and duties and responsibilities in relation to the ILBI; the need to avoid disproportionate burdens for SIDS; and the key role of technical experts.

The African Group underscored: the importance of intersessional work, including workshops and panel discussions, the role of civil society and well-prepared inputs during PrepCom 1, allowing for fruitful deliberations; the usefulness of dealing with procedural matters during preparatory meetings held prior to PrepCom 1; and the desirability of bilateral meetings on contentious issues to take the process forward.

The EU: suggested the indicative list of issues be open-ended, to allow for the inclusion of all ideas; welcomed, with Argentina, a preparatory meeting prior to PrepCom 2, preferably on the margins of another meeting; stressed the usefulness of informal meetings, side events and workshops bringing together delegates, scientists, industry and civil society; and asked for clarifications with regard to the working group on crosscutting issues, organization of work in future plenary sessions, and parked issues. Chair Charles responded that the working group on crosscutting issues will address scope, principles, dispute settlement and any additional ideas that states will raise; and, supported by Argentina, that parking topics on which delegations have wide agreement will allow more time for controversial issues. He added that towards the end of the series of PrepCom sessions, a drafting committee will ensure that what was agreed is properly drafted.

PSIDS highlighted: with Norway, the usefulness of guiding questions or a refined set of topics for discussion, to be provided to delegations prior to PrepCom 2; additional work on overarching principles, including common heritage, intra- and inter-generational equity, precautionary and ecosystem approaches, science-based decision-making, and consideration of SIDS' special situation, avoiding disproportionate burdens; and the Voluntary Trust Fund to enable full participation. Chile underscored the importance of intersessional work, including side events on technical and legal aspects. Norway stressed that the working group on crosscutting issues is closely linked to the ILBI substance and called for flexibility in allocating time to the working groups' respective deliberations, and, with Canada, for interplay between the working groups. Argentina underscored the importance of side events, especially those on scientific and technical issues.

CLOSING PLENARY

On Friday, 8 April, delegates expressed appreciation for the work of the Chair, the Bureau, the informal working group facilitators, and the Secretariat. Many also expressed support for the roadmap, and the indicative list of issues to be circulated during the intersessional period. Brazil noted, with Norway, that PrepCom 1 had gone beyond the Working Group and began to unpack the package in a constructive way, stressing that the stage is set for exploring the various points of convergence and common threads identified. Canada underscored the constructive spirit of deliberations, noting PrepCom 1 set the stage for all issues to be further discussed during the next session, following careful intersessional consideration.

Calling on delegates to defend the oceans because "our lives depend on them," Jamaica noted progress on understanding issues concerning terminology. Noting that the PrepCom is one step closer to agreement on an ILBI, Indonesia called for further discussions on IPRs, mandatory capacity building and technology transfer, and the ISA as a reference for the ILBI's institutional mechanism.

Australia expressed appreciation for the genuine exchange of views furthering progress towards an ILBI. Morocco lauded the work done under the informal working groups, and welcomed intersessional workshops. Tonga noted the need for further discussion on guiding principles, institutional arrangements, the application of best available science, and capacity building. Japan recalled his proposal to include RFMO presentations to inform the PrepCom. Costa Rica underlined the need for PrepCom 2 to build on, and not repeat, discussions from PrepCom 1.

The US noted that it may be difficult to join the consensus on certain principles with seeming agreement, without clear understanding on which elements they apply to, as in the case of the polluter pays principle. Chair Charles stressed the need to agree on aspects of the elements that would be included in the ILBI, and to avoid reaching consensus at the last minute through political exchanges.

The Asian-African Legal Consultative Organization emphasized benefit-sharing and capacity building, cautioning against discussing conservation measures in abstract terms. NRDC, Greenpeace, Pew, WWF, the High Seas Alliance and Mission Blue lauded PrepCom 1 for having set the bar for productive and transparent deliberations with inputs from all stakeholders, and allowed the exchange of thoughtful contributions; and expressed hope that an intergovernmental conference can adopt the ILBI by the end of 2017. France emphasized that PrepCom delegates are "on the same boat and cannot make navigational mistakes," suggesting that "Mother Earth" should be called "Mother Sea," pointing to the multiple benefits of and from the sea.

Chair Charles encouraged delegates to keep up the good spirit as discussions "get tougher," and expressed optimism regarding agreement on the ILBI by 2018. He gaveled the meeting to a close at 1:44 pm.

A BRIEF ANALYSIS OF THE MEETING

"UNPACKING THE PACKAGE"… DEFRAGMENTING AND UNTANGLING IT, TOO

"This is a whole new game!" If there was any doubt that a Preparatory Committee for a new treaty on marine biodiversity of areas beyond national jurisdiction would not be much different from its predecessor—the BBNJ Working Group—it was quickly dispelled. It was clear from the start that, after taking ten years to find consensus on the legally binding nature of a new instrument to fill gaps in oceans governance, delegations were well prepared to exchange detailed suggestions on "how" to do it, rather than to linger on any remaining "ifs."

The veterans of the process also remarked that the PrepCom was different from the Working Group in other significant ways. Several delegations have grown in size and rank, with those that were more skeptical of the process having switched to a (in some cases, much) more cooperative attitude. In addition, a new Chair, Eden Charles, and a series of facilitators of informal working groups, were praised repeatedly for their able and good-humored steering of the process. Furthermore, the transparency, notably to allow NGOs and IGOs to contribute to the discussions, was guaranteed in the "hard-fought" UN General Assembly Resolution 69/292 that established the PrepCom. On-the-spot reassurances from Chair Charles and several delegations served to drive out concerns about a possible repetition of the past practice of the Working Group to close lengthy sessions to civil society and IGOs.

As delegations remarked throughout the two weeks, PrepCom 1 engaged in "unpacking the package" of elements that were agreed in 2011—the core of a future treaty. Informally, many confirmed that the PrepCom has placed on the table a wide range of options for each of the different elements, detailing country and regional positions to an unprecedented degree in the process (although they were occasionally "all over the place," as one delegate observed). The exercise also served to start defragmenting the elements of the package, which brought—according to those concerned with the biological interconnectivity of the oceans—an overdue, albeit still incipient, understanding of inter-linkages necessary to build a truly integrated approach to the conservation and sustainable use of marine biodiversity.

In addition, the unpacking exercise also served to untangle connections with several other processes, which revealed an even more multi-faceted structure than many veterans expected. That is because over the ten years it took the BBNJ process to formalize into a PrepCom, several international bodies have given birth to guidelines, tools and practices that relate to each element of the package. These developments make more complex the task of not "undermining" existing instruments and bodies in moving forward with negotiations (as agreed at the last BBNJ Working Group and reiterated in General Assembly Resolution 69/292). These developments also provide a wealth of materials and lessons learned to build upon.

This brief analysis will discuss progress in unpacking, defragmenting and untangling each element of the package, and provide an outlook of the next stage in the process.

HARMONIZING, BUT NOT UNDERMINING, CONSERVATION EFFORTS

Unpacking and defragmenting the elements related to area-based management tools, including marine protected areas, and environmental impact assessments, brought to the surface the sheer number of relevant international developments that have occurred and continue to mushroom "elsewhere." With that, the opportunities for harmonization and the challenges of the "non-undermining task" of the PrepCom came into sharper contrast.

The most notable examples are the Convention on Biological Diversity criteria on ecologically or significant marine areas and the vulnerable marine ecosystem criteria. The latter were developed under the FAO International Guidelines for the Management of Deep-Sea Fisheries in the High Seas, as a follow up to General Assembly resolutions on bottom fisheries. One key difference between EBSAs and VMEs is that while the

identification of the latter requires specific sectoral conservation and management measures by RFMOs (including EIAs, and what Japan called "de facto MPAs"), the description of areas meeting the EBSA criteria is a scientific and technical exercise, since the CBD was not given the mandate to adopt management measures. Nevertheless, CBD decisions have noted that these areas may require enhanced conservation and management measures, including MPAs and EIAs, which is up to states and competent intergovernmental organizations to undertake. Of the roughly 55 EBSAs located (wholly or partially) in ABNJ to date, however, very few have been granted conservation and management measures (one example can be found in the Sargasso Sea EBSA), although the CBD voluntary guidelines on EIAs in marine and coastal areas, which are applicable to ABNJ, recommend consideration of EBSAs (and VMEs) at different stages of assessments, with the FAO Guidelines providing detailed guidance on EIA standards.

In considering how to factor these new tools into the ILBI, a few countries (like Japan, Iceland, and the Russian Federation) cautioned against interfering with the work of RFMOs mapping VMEs and conducting EIAs to prevent significant adverse impacts, including by closing areas where these are likely to occur. In the corridors, however, NGOs considered positive appraisals of RFMOs significantly overstated, recalling disgruntled voices at the 2009 and 2011 reviews of implementation of the General Assembly resolutions on bottom fishing, with the most recent concluding that "urgent actions" are needed as the relevant provisions of these General Assembly resolutions "have not been fully implemented in all cases." Chair Charles thus encouraged delegates to keep an eye on the upcoming Fish Stocks Agreement Resumed Review Conference scheduled in May, as well as the bottom fishing workshop in early August, in preparation for PrepCom 2.

But even the BBNJ experts who habitually live out of their suitcases realized that they may need to clone themselves to keep abreast of all relevant processes. The upcoming CBD SBSTTA meeting is not only scheduled to continue work on EBSAs, but also underwater noise, which NGOs recommended integrating under EIAs and MPAs in the ILBI, and biodiversity mainstreaming in the fisheries sector. In addition, SBSTTA will consider guidance and a toolkit for marine spatial planning—a notion that was only sporadically mentioned at PrepCom 1 but appears critical for building a comprehensive and integrated conservation regime, according to some delegations. In addition, while negotiators digest the proposals on institutional mechanisms for establishing, managing, monitoring and/or overseeing MPAs (and ecologically MPA networks), as well as coordinating, conducting, reviewing and/or following up on EIAs and strategic environmental assessments, the role of the regional seas conventions, which was hardly ever mentioned at the PrepCom, may be discussed elsewhere. In effect, some BBNJ veterans only became aware in New York that the May meeting of the United Nations Environment Assembly will consider a proposal from the US and the EU on the possible extension of the mandates of these conventions to ABNJ.

BENEFITS AND CAPABILITIES

On marine genetic resources, the PrepCom featured the well-known divergence of views on the applicable regime. On the one hand, the G-77/China argued that the common heritage of mankind applies to marine genetic resources in the Area and in the high seas, with a wealth of legal arguments offered up by the African Group. On the other hand, some developed countries remain skeptical of this interpretation (as the text of UNCLOS specifically subjects mineral resources to the common heritage), or favor the catch-all regime of freedoms of the high seas. Many developed and developing countries alike, however, emphasized equity as the ultimate rationale for this element—a key qualification that was not explicit in the 2011 package, which refers laconically to "benefit-sharing questions" rather than to "fair and equitable benefit-sharing." On that basis, developing country delegates appear to be showing increasing signs of openness to discuss a "pragmatic," "creative" or "*sui generis*" approach that may be able to build on the complementarity, rather than mutual exclusion, between common heritage and high seas freedoms.

According to many, this is certainly one if not the most difficult issue in the negotiations ahead, and it was pointed out in plenary and on the sidelines that bilateral negotiations may be needed to find common ground. The discussion might have been made even more complex by the recent calls for including access *in silico*—access to digital genetic information. For some, this is a growing trend in bio-based research and development that may well render obsolete an access and benefit-sharing regime solely focused on physical access to the resource. For others, however, digital information is no longer biodiversity and thereby falls outside of the ILBI scope.

Another thorny question that was unpacked by reference to lessons learned in other benefit-sharing mechanisms that have evolved or have been created since the start of the BBNJ process (notably the ITPGR, but also the International Seabed Authority and the Nagoya Protocol) is the viability of non-monetary benefit-sharing when it solely depends on voluntary contributions. The World Health Organization's Pandemic Influenza Preparedness framework, which was cited by some in the process, has introduced a system of annual contributions from industry to address this issue. While it remains unclear to what extent experiences in other benefit-sharing processes can be replicated in the BBNJ context, this and other considerations also led to a discussion about voluntary vs mandatory approaches to capacity building and technology transfer, not only as a form of non-monetary benefit but also as a separate element of the 2011 package.

Voluntary approaches were, in effect, one of the reasons identified for the limited implementation of UNCLOS provisions on capacity building and technology transfer. Nevertheless, several developing countries appeared encouraged by the multiple suggestions from all sides for badly needed "tangible" capacity building and technology transfer measures. What remains less clear, however, is the reception of the proposals from developing countries and civil society for a multilateral institutional approach. Countries that are likely to shoulder the expense of new institutions are expected to very carefully study the multifarious institutional desiderata that have been

put on the table, although some already expressed openness to consider a clearinghouse that could, similar to that under the Nagoya Protocol, also contribute to monitoring compliance with benefit-sharing. In unpacking the elements on MGRs, capacity and technology, therefore, link with the need to support implementation of the ILBI, including its future conservation provisions, and this became much clearer than in the past. The interface with conservation was also evident in the NGO interventions on benefit-sharing, which were the first ones on this topic since the BBNJ process started.

A BUSY ROAD(MAP) AHEAD

As PrepCom 1 concluded amidst expressions of enthusiasm for the productive and transparent start of official negotiations, perhaps partly explained by the comparison with the exceedingly slow pace of and polarized views at the earlier BBNJ Working Group, delegates braced themselves for a lot of substantive homework back in capital and in other fora throughout the next few months. Now that several concrete options are on the table, some felt that PrepCom 2 can only "keep up the good work" if delegations return to New York in August ready to support some options and explain why they are not willing to take on board others.

And as Chair Charles suggested, in the procedural roadmap approved at the end of the meeting, "parking" options on which wide acceptance has already been achieved, BBNJ delegates were reminded, once again, of the foundational role of General Assembly Resolution 69/292 recognizing "the importance of proceeding efficiently in the PrepCom" and that "any elements where consensus is not attained, even after exhausting every effort, may also be included in a section of the recommendations" to be transmitted from the PrepCom to the General Assembly by its 72nd Session. After unpacking, defragmenting and disentangling the package, those ardently hoping for the adoption of the new instrument by 2018 wish to proceed as expediently as possible to create a strong, universally acceptable and implementable agreement to preserve, as a delegate fervently remarked in closing, our planet – Mother Sea.

UPCOMING MEETINGS

IMO – MEPC 69: The 69th session of the Marine Environment Protection Committee (MEPC) of the International Maritime Organization (IMO) will consider matters concerned with the prevention and control of pollution from ships. **dates:** 18-22 April 2016 **location:** IMO headquarters, London, UK **contact:** IMO Secretariat **phone:** +44-20-7735-7611 **fax:** +44-20-7587-3210 **email:** info@imo.org **www:** http://www.imo.org/en/MediaCentre/MeetingSummaries/Pages/Default.aspx

CBD SBSTTA 20 and First Meeting of the Subsidiary Body on Implementation: The 20th meeting of the Convention on Biological Diversity's (CBD) Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA) and the first meeting of the CBD Subsidiary Body on Implementation (SBI) will be held back to back. SBSTTA will consider, *inter alia*, ecologically or biologically significant marine areas, biodiversity and acidification in cold-water areas, and marine spatial planning. **dates**: 25 April - 6 May 2016 **location**: Montreal, Canada **contact**: CBD Secretariat **phone:** +1-514-288-2220 **email:** secretariat@cbd.org **www**: https://www.cbd.int/doc/?meeting=SBSTTA-20 and https://www.cbd.int/doc/?meeting=SBI-01

Resumed Review Conference on the UN Fish Stocks Agreement: The third Resumed Review Conference on the Agreement for the Implementation of the Provisions of UNCLOS relating to the UN Fish Stocks Agreement is mandated to assess the effectiveness of the agreement and the adequacy of its provisions and, if necessary, to propose means of strengthening the substance and methods of implementation. **dates:** 23-27 May 2016 **location:** UN Headquarters, New York **contact:** UN Division for Ocean Affairs and the Law of the Sea **phone:** +1-212-963-3962 **email:** doalos@un.org **www:** http://www.un.org/Depts/los/convention_agreements/review_conf_fish_stocks.htm

Second Meeting of the UN Environment Assembly: The UN Environment Assembly (UNEA) will convene for the second time in 2016. The UNEA represents the highest level of governance of international environmental affairs in the UN system. **dates**: 23-27 May 2016 **location**: Nairobi, Kenya **contact**: Jorge Laguna-Celis, Secretary of Governing Bodies **phone:** +254-20-7623431 **email**: unep.sgb@unep.org **www**: http://web.unep.org/unea/

17th Meeting of the UN Open-ended Consultative Process on Oceans and the Law of the Sea: This consultative process will facilitate the annual review by the UN General Assembly on ocean affairs and the law of the sea, by considering the UN Secretary-General's report on marine debris, and by suggesting issues to be considered by the General Assembly, with an emphasis on identifying areas where coordination and cooperation at the intergovernmental and inter-agency levels should be enhanced. **dates:** 13-17 June 2016 **location:** UN Headquarters, New York **contact:** UN Division for Ocean Affairs and the Law of the Sea Secretariat **phone:** +1-212-963-3962 **email:** doalos@un.org **www:** http://www.un.org/Depts/los/consultative_process/consultative_process.htm

40th Annual Conference of the Center for Oceans Law and Policy: The 2016 Conference will be held under the theme "Legal Order in the World's Oceans: UN Convention on the Law of the Sea," in cooperation with the Division for Ocean Affairs and the Law of the Sea and the Office of Legal Affairs of the United Nations. **dates:** 27-28 June 2016 **location:** UN Headquarters, New York **contact:** University of Virginia School of Law **phone:** +1-434-924-7441 **e mail:** colp@virginia.edu **www:** http://www.virginia.edu/colp/annual-conference.html

COFI 32: The 32nd session of the FAO Committee on Fisheries (COFI) will review, among other things, international fishery problems and examine possible solutions through national, FAO and intergovernmental programmes. **dates**: 11-15 July 2016 location: Rome, Italy **contact:** COFI Secretariat **email:** FAO-COFI@fao.org **www**: http://www.fao.org/unfao/govbodies/gsbhome/committee-fi/en/

High-Level Political Forum on Sustainable Development: The Fourth High-Level Political Forum on Sustainable Development (HLPF), convening under the auspices of the UN Economic and Social Council (ECOSOC), will take place on 11-15 July 2016, followed by a three-day ministerial meeting of the Forum on 18-20 July 2016. **dates:** 11-20 July 2016

location: UN Headquarters, New York **contact:** UN Department of Economic and Social Affairs Division for Sustainable Development **fax:** +1-212-963-4260 **email:** dsd@un.org **www:** https://sustainabledevelopment.un.org/hlpf

22nd Annual Meeting of the International Seabed Authority: During the 22nd annual meeting of the International Seabed Authority, representatives from member states of the Authority will discuss the work of the Authority and its Secretariat. **dates**: 11-22 July 2016 **location**: Kingston, Jamaica **contact**: ISA Secretariat **phone:** +1-876-922-9105 **fax:** +1-876-922-0195 **www**: https://www.isa.org.jm/

IMCC4: The Society for Conservation Biology's 4th International Marine Conservation Congress will bring together conservation professionals and students to develop new and powerful tools to further marine conservation science and policy. **dates**: 30 July - 3 August 2016 **location**: St. John's, Newfoundland and Labrador, Canada **contact**: Lori Strong, Meeting Manager **email:** lstrong@burkinc.com **www**: http://conbio.org/mini-sites/imcc-2016

Bottom Fishing Workshop: This workshop will discuss implementation of paragraphs 113, 117 and 119 to 124 of General Assembly Resolution 64/72 and paragraphs 121, 126, 129, 130 and 132 to 134 of Resolution 66/68 on sustainable fisheries, addressing the impacts of bottom fishing on vulnerable marine ecosystems and the long-term sustainability of deep-sea fish stocks. **dates**: 1-2 August 2016 **location**: UN Headquarters, New York **contact**: UN Division for Ocean Affairs and the Law of the Sea Secretariat **phone:** +1-212-963-3962 **email:** doalos@un.org **www**: http://www.un.org/depts/los/

Seventh Meeting of the Regular Process for World Ocean Assessment: The seventh Meeting of the *Ad Hoc* Working Group of the Whole on the Regular Process for Global Reporting and Assessment of the State of the Marine Environment, including Socioeconomic Aspects (World Ocean Assessment), aims to improve understanding of oceans and to develop a global mechanism for delivering science-based information to decision makers and the public. **dates:** 3- 9 August 2016 **location:** UN Headquarters, New York **contact:** UN Division for Ocean Affairs and the Law of the Sea Secretariat **phone:** +1-212-963-3962 **email:** doalos@un.org **www:** http://www.worldoceanassessment.org/ and http://www.un.org/depts/los/global_reporting/global_reporting.htm

PrepCom 2: The second meeting of the Preparatory Committee for an international legally binding instrument on marine biodiversity in areas beyond national jurisdiction will address marine genetic resources, area-based management tools, environmental impact assessments, capacity building, transfer of marine technology and crosscutting issues. **dates:** 26 August – 9 September 2016 **location:** UN Headquarters, New York **contact:** UN Division for Ocean Affairs and the Law of the Sea Secretariat **phone:** +1-212-963-3962 **email:** doalos@un.org **www:** http://www.un.org/depts/los/biodiversity/prepcom.htm

GLOSSARY

ABMTs	Area-based management tools
ABNJ	Areas beyond national jurisdiction
ABS	Access and benefit-sharing
Area	Sea-bed and ocean floor and subsoil thereof, beyond the limits of national jurisdiction
BBNJ	Biodiversity in areas beyond national jurisdiction
CARICOM	Caribbean Community
CBD	Convention on Biological Diversity
EBSAs	Ecologically or biologically significant marine areas
EIA	Environmental impact assessment
FAO	Food and Agriculture Organization of the UN
FSM	Federated States of Micronesia
IGOs	Intergovernmental organizations
ILBI	International legally binding instrument
IMO	International Maritime Organization
IOC	Intergovernmental Oceanographic Commission of the United Nations Educational, Scientific and Cultural Organization (UNESCO)
IPRs	Intellectual property rights
ISA	International Seabed Authority
ITPGR	International Treaty on Plant Genetic Resources for Food and Agriculture
LLDCs	Landlocked developing countries
MGRs	Marine genetic resources
MPAs	Marine protected areas
MSP	Marine spatial planning
MSR	Marine scientific research
NGOs	Non-governmental organizations
NRDC	Natural Resources Defense Council
PSIDS	Pacific Small Island Developing States
Pew	Pew Charitable Trusts
PrepCom	Preparatory Committee
PSSAs	Particularly Sensitive Sea Areas
R&D	Research and development
RFMOs	Regional fisheries management organizations
SBSTTA	Subsidiary Body for Scientific, Technical and Technological Advice of the CBD
SDGs	Sustainable Development Goals
SEA	Strategic environmental assessment
SIDS	Small island developing states
UNCLOS	UN Convention on the Law of the Sea
UNFSA	UN Fish Stocks Agreement
VMEs	Vulnerable marine ecosystems
WIPO	World Intellectual Property Organization
WTO	World Trade Organization
WWF	World Wildlife Fund