



## HIGHLIGHTS OF THE FIFTH MEETING OF THE INFORMAL CONSULTATIVE PROCESS: WEDNESDAY, 9 JUNE 2004

Delegates to the fifth meeting of the UN Informal Consultative Process on Oceans and the Law of the Sea (Consultative Process) convened in Discussion Panel and Plenary sessions. The Discussion Panel heard keynote presentations on gas hydrates and practical uses of marine genetic resources, as well as statements on new sustainable uses of the oceans. Plenary continued exchanging views on areas of concern and actions needed.

### DISCUSSION PANEL ON NEW SUSTAINABLE USES

**KEYNOTE PRESENTATIONS:** Edith Allison, US Department of Energy, gave a presentation on gas hydrates. She explained that gas hydrates are solid crystallines consisting of gas molecules and methane, surrounded by water molecules, and can be found in the Arctic and ocean shelves. She stressed that the energy contained in gas hydrates is double that of other fossil energy sources, and noted their potential as: methane and freshwater sources; greenhouse gases sequesters; and support for biological communities. Allison said technologies are being developed for the commercial production by 2015 of methane from gas hydrates.

John Stegeman, Woods Hole Oceanographic Institution, presented on potential practical uses of marine genetic resources, including as: pharmaceutical agents; biomolecular materials; and materials for biomedical research. Noting that the majority of the 10 to 100 million species yet to be discovered are marine species, he stressed the importance of protecting marine biodiversity.

**DISCUSSION:** AUSTRALIA enquired about the appropriate degree of regulation of deep sea marine scientific research and, with ITALY, expressed concern over sharing of benefits from commercialization. CANADA noted an increasingly blurred distinction between curiosity and commercially-driven research, and asked about current conditions for bioprospecting. Stegeman said that due to stiffer bioprospecting regulations, it is harder to obtain desired research material.

FRANCE enquired about the involvement of researchers from developing countries in research on deep sea marine genetic resources, and Stegeman outlined programmes catering for developing country students.

**STATEMENTS: Legal framework:** GUYANA, MEXICO and CUBA stressed that the UN Convention on the Law of the Sea (UNCLOS) is the legal framework to regulate activities in the high seas, underlined its principles regarding marine scientific research, and called for the sustainable use and fair and equitable sharing of benefits arising from the use of, and access to, genetic resources.

FRANCE stressed that UNCLOS does not specifically state that seabed biodiversity is part of the common heritage of mankind, only that these resources need to be protected.

**Marine protected areas:** Noting the lacunae in the existing legal regime for the protection of marine biodiversity of the seabed beyond national jurisdiction, ITALY, supported by FRANCE and GREECE, suggested drafting a legal instrument on the establishment of high seas marine protected areas (MPAs), with FRANCE and GREECE stressing the need to balance the protection of biodiversity and the freedom of the high seas.

PORTUGAL highlighted efforts to protect deep sea biodiversity in the context of the Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR), including the creation of MPA networks and long-term monitoring projects.

**Destructive practices:** PORTUGAL said the Consultative Process should revisit the issue of destructive practices at its next meeting. CUBA expressed support for any initiative aimed at addressing the adverse effects of high seas bottom trawling.

While ITALY supported the adoption of a moratorium on bottom trawling in the high seas, AUSTRALIA said it is not yet in a position to make a final decision, and requested further details regarding the areas covered, modalities, enforcement and time-frame of the moratorium. AUSTRALIA also stressed the need to not overlook threats other than bottom trawling.

**Scientific research:** MEXICO suggested calling upon the UN General Assembly to adopt a declaration encouraging scientific research in the Area. The Permanent Commission of the South Pacific emphasized that marine scientific research should benefit mankind. FRANCE stressed that marine scientific research is not equivalent to bioprospecting.

**Fisheries management:** Stressing the importance of ecosystem-based management, AUSTRALIA suggested using the Convention for the Conservation of Antarctic Marine Living Resources as a model to balance biodiversity conservation, scientific research and fisheries management.

**Offshore energy generation:** The Netherlands, on behalf of OSPAR, presented an initiative aimed at the establishment of offshore wind farms.

**Governance:** AUSTRALIA said both the implementation of existing norms and gaps within the current regime should be addressed and, supported by CANADA, highlighted the following areas as requiring practical concerted action: the establishment of MPAs; bioprospecting; and fisheries management.

This issue of the *Earth Negotiations Bulletin* © <enb@iisd.org> is written and edited by Alice Bisiaux, Charlotte Salpin and Cecilia Vaverka. The Digital Editor is Francis Dejon. The Team Leader for this issue is Charlotte Salpin <charlotte@iisd.org>. The Editor is Pamela S. Chasek, Ph.D. <pam@iisd.org> and the Director of IISD Reporting Services is Langston James "Kimo" Goree VI <kimo@iisd.org>. The Sustaining Donors of the *Bulletin* are the Government of the United States of America (through the Department of State Bureau of Oceans and International Environmental and Scientific Affairs), the Government of Canada (through CIDA), the Swiss Agency for Environment, Forests and Landscape (SAEFL), the United Kingdom (through the Department for International Development - DFID), the Danish Ministry of Foreign Affairs, the Government of Germany (through the German Federal Ministry of Environment - BMU), and the German Federal Ministry of Development Cooperation - BMZ), and the Netherlands Ministry of Foreign Affairs. General Support for the *Bulletin* during 2004 is provided by the United Nations Environment Programme (UNEP), the Government of Australia, Austrian Federal Ministry of Agriculture, Forestry, Environment and Water Management, the Ministry of Environment and the Ministry of Foreign Affairs of Sweden, the Ministry of Environment and the Ministry of Foreign Affairs of Norway, Swan International, the Japanese Ministry of Environment (through the Institute for Global Environmental Strategies - IGES) and the Japanese Ministry of Economy, Trade and Industry (through the Global Industrial and Social Progress Research Institute - GISPRI). Funding for translation of the *Earth Negotiations Bulletin* in French has been provided by the International Organization of the Francophonie (IOF) and the French Ministry of Foreign Affairs. The opinions expressed in the *Earth Negotiations Bulletin* are those of the authors and do not necessarily reflect the views of IISD or other donors. Excerpts from the *Earth Negotiations Bulletin* may be used in non-commercial publications with appropriate academic citation. For information on the *Bulletin*, including requests to provide reporting services, contact the Director of IISD Reporting Services at <kimo@iisd.org>, +1-212-644-0217 or 212 East 47th St. #21F, New York, NY 10017, USA.



Noting that several bodies address ocean-related issues, CANADA said the Consultative Process could play a coordinating role, and called for a strategic approach to bring relevant agencies together.

**Capacity building:** MEXICO stressed the need for capacity building for developing countries to ensure that all will benefit from the sustainable exploitation of deep seabed resources.

#### PLENARY

**AREAS OF CONCERN AND ACTIONS NEEDED: Legal framework:** While CHILE, INDIA, NEPAL, PERU and Qatar, on behalf of the G-77/CHINA, stated that biodiversity in the Area falls under the regime of common heritage of mankind, JAPAN, ICELAND, FRANCE, ITALY and NORWAY stressed that only non-living resources are covered by the concept. ARGENTINA noted that mineral and genetic resources are inextricably linked and should equally be included in the regulation of activities carried out on the high seas.

Ireland, on behalf of the EUROPEAN UNION (EU), noted that UNCLOS is the framework within which all activities on oceans have to be addressed. The RUSSIAN FEDERATION said UNCLOS and the CONVENTION ON BIOLOGICAL DIVERSITY (CBD) provide the overall legal framework for the protection of deep seabed resources in areas beyond national jurisdiction, while TURKEY underscored the role of regional agreements.

**Flag State implementation:** The US expressed support for strengthening existing mechanisms regarding flag State implementation, and opposed the establishment of a committee focusing on the 'genuine link.' CHILE stressed the need to assert the 'genuine link' between a flag State and vessels flying its flag.

JAPAN outlined national trade-related measures to combat illegal, unreported and unregulated (IUU) fishing. Noting the growing number of vessels flying flags of convenience, NORWAY stressed the need for enhanced political will to implement IUU fishing-related instruments.

The EU and JAPAN noted that piracy and re-flagging continue to pose difficulties, with the EU encouraging all States to volunteer to be audited pursuant to the Voluntary IMO Member Audit Scheme, and expressing support for increasing non-compliance costs.

The EU suggested addressing the duty of flag States to prevent the proliferation of weapons of mass destruction.

**Deep sea biodiversity in areas beyond national jurisdiction:** PALAU recommended convening an intergovernmental conference to discuss measures to effectively manage and conserve biodiversity in areas beyond national jurisdiction.

FIJI welcomed the International Seabed Authority's (ISA) approach to ensure minimum interference with deep sea biodiversity. CHINA and the RUSSIAN FEDERATION called on the ISA to play an active role in the conservation of biodiversity in the Area.

INDIA stressed the importance of research on biodiversity hotspots, such as seamounts and hydrothermal vents. ICELAND expressed support for the call from Parties to the CBD to take urgent measures on threats to high seas biodiversity, adopting a precautionary and ecosystem approach, consistent with international law. THAILAND called for equitable access to deep seabed biodiversity resources.

JAPAN recommended establishing MPAs in areas within national jurisdiction before creating high seas MPAs, and underlined that these should be based on the best scientific knowledge. ICELAND said MPAs are an essential tool to ensure sustainable use of marine resources, but stressed that it should not be considered a "one-solve-all" option. CANADA suggested that the

Consultative Process address MPAs, including in the high seas, in a discussion panel at its next session, and stressed the need to address gaps in the current regime.

While PALAU and COSTA RICA supported a moratorium on bottom trawling in the high seas, CANADA said it cannot take a position on the issue yet. Noting the socioeconomic impacts of such a moratorium, JAPAN proposed to call on the Food and Agriculture Organization, regional fisheries organizations and States concerned to obtain scientific data through the identification of appropriate areas for action. SPAIN and THAILAND favored temporary fishing bans in specific areas of the high seas, with THAILAND highlighting seamounts and cold water coral reefs.

**New sustainable uses of the oceans:** FIJI stressed that, although wind farming in shallow waters offers alternatives for developing countries, their current economic situation does not permit investing in its development.

**Cooperation and coordination:** CANADA stressed the need for collective action on the basis of existing strengths, integrated and practical approaches, and better joint inter-agency reporting. She suggested that the Consultative Process consider using the workshop approach for other topics, such as flag State implementation, and stressed the benefit of peer review.

The US suggested that the UN Oceans Network focus on implementation of agreed goals, such as those included in the Johannesburg Plan of Implementation. The EU expressed support for enhancing cooperation, and recommended that coordination continue within the UN Oceans Network. SPAIN suggested defining the relationship between actors involved in marine biodiversity protection.

PERU said coordination should go hand-in-hand with providing means for developing countries to fulfil their obligations, including capacity building and technology transfer.

**Other issues:** CANADA and the EU called for integrated national marine policies that adopt an intersectoral, interdisciplinary and ecosystem approach. CANADA and NORWAY underscored capacity building as key to the implementation of UNCLOS. The NIPPON FOUNDATION presented its relevant capacity-building initiatives.

#### IN THE CORRIDORS

Growing concerns over a possible deadlock on the global marine assessment (GMA) do not seem to have altered the spirit of cooperation that has prevailed so far. Disagreements on the scope of the GMA and on the assessment of assessments, reported from the Friends of the Co-Chairs group, forecast gloomy days ahead. While some expressed hope that the informal consultations to be held in the evening would help soften entrenched positions, others alluded to the possibility of resorting to an "agreement to disagree" on the most contentious issues.

Similarly, the encouraging prospect of reaching consensus on the proposed moratorium on bottom trawling in the high seas was darkened by several expressions of doubt over its modalities and enforcement.

#### THINGS TO LOOK FOR TODAY

**GMA INTERNATIONAL WORKSHOP:** The International Workshop for the GMA will hold its second session throughout the day, starting at 10:00 am, in Conference Room 1. Delegates will consider the outcome of discussions from the Friends of the Co-Chairs group.

**DRAFT RECOMMENDATIONS:** Look for draft recommendations prepared by Co-Chairs Felipe Paolillo (Uruguay) and Philip Burgess (Australia) on: cooperation and coordination on ocean issues; new sustainable uses of the oceans; and areas of concern and actions needed.