

MARINE BIODIVERSITY WORKING GROUP HIGHLIGHTS: WEDNESDAY, 15 FEBRUARY 2006

On Wednesday, 15 February, the *Ad Hoc* Open-ended Informal Working Group of the General Assembly to study issues relating to the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction (the Working Group) continued discussions on the scientific, technical, economic, legal, environmental and socioeconomic aspects. In the afternoon, delegates discussed key issues and questions requiring more detailed background studies.

ASPECTS OF THE CONSERVATION AND SUSTAINABLE USE OF MARINE BIODIVERSITY

Co-Chair Gomez-Robledo presented delegates with an overview of questions requiring further reflection, including: the socioeconomic value of marine biodiversity and of illegal, unreported and unregulated (IUU) fishing; criteria for the designation of marine protected areas (MPAs); enhancing marine science; the role of flag and port States; assessing present legal and institutional frameworks; agreeing on the relationship between mineral and genetic resources; and enhancing the role of UN-OCEANS.

NEW ZEALAND outlined key emerging themes, such as the need for: integrated oceans management; establishing multi-purpose MPAs; agreeing on a regime on biological, including genetic, resources; involving developing countries; and adopting interim measures to address destructive fishing practices.

SCIENTIFIC ASPECTS: The EU stressed the need to promote a holistic understanding of the oceans, and said marine scientific research (MSR) should entail capacity building and technology transfer to enable developing country participation. BRAZIL prioritized expanding scientific studies on marine biodiversity and involving developing country scientists. The US underscored the need for additional research before taking action on area-based management, stressing that different aspects required different solutions.

Elva Escobar Briones, Mexico's National Autonomous University, made a presentation on international cooperation between developed and developing countries, highlighting the new discovery of asphalt volcanoes in the abyss. CONSERVATION INTERNATIONAL prioritized immediate research on and conservation of seamounts, deep and remote coral reefs, the continental slope, canyons and cold seeps, and

marine cave habitats. He urged delegates to consider the need to invest in data infrastructure for improved support for both research and conservation.

LEGAL ASPECTS: NEW ZEALAND emphasized that climate change and ocean noise are inadequately addressed by existing mechanisms. CUBA called for the establishment of a new mechanism regulating genetic resources in areas beyond national jurisdiction, in line with the existing mechanism on mineral resources. ICELAND emphasized the need to better understand the relationship between oceans and climate change before deciding on appropriate policy instruments to address the conservation and sustainable uses of marine biodiversity.

NORWAY emphasized States' obligations to avoid activities destroying marine biodiversity in areas beyond national jurisdiction. Highlighting the overlapping forums on marine biodiversity, CANADA called for a coherent, cooperative agenda and reiterated the importance of integrated oceans management. While endorsing the idea of integrated oceans management, the US said that integration also brings about bureaucracy, centralization and inefficiency. BRAZIL called for better institutional coordination on marine biodiversity.

NATURAL RESOURCES DEFENSE COUNCIL listed principles that should guide the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction, including: the precautionary approach; integrated ecosystem-based management; environmental impact assessment; prohibiting potentially damaging activities; establishing MPAs networks; and ensuring the sustainable and fair use of resources. The EU reiterated that MSR is regulated by UNCLOS Part XIII and UNCLOS provisions on environmental protection.

Fishing practices: JAPAN and the REPUBLIC OF KOREA preferred discussing IUU fishing in regional fisheries management organizations (RFMOs) and FAO, arguing that the Working Group should focus on raising awareness and gathering political support. The REPUBLIC OF KOREA favored empowering regional fisheries bodies and focusing on better managing the Exclusive Economic Zones, before introducing new legal frameworks.

INTERNATIONAL COALITION OF FISHERIES ASSOCIATIONS cautioned against expanding the mandate of RFMOs beyond sustainable fishing. ARGENTINA argued that institutions more representative than RFMOs are needed to properly address all aspects of the conservation and sustainable uses of high seas biodiversity. ICELAND encouraged all countries that have not done so, to ratify the 1995 Fish Stocks Agreement (FSA), noting its importance for regional fisheries

management. GREENPEACE urged States to effectively implement the FSA, and to move from species-based to ecosystem-based fisheries management.

Marine protected areas: Outlining efforts to establish MPAs under the Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR), Henning von Nordheim, Germany, explained that none of the 70 nominated areas are located beyond national jurisdiction. JAPAN said the establishment of MPAs should follow a step-by-step process, which includes defining a programme, objectives, protection measures, enforcement and monitoring. ARGENTINA underscored the need to identify consequences of non-compliance, and said that the establishment of high seas MPAs in the proximity to a coastal State should take into account the interests of such a State. AUSTRALIA lamented the inadequate implementation of measures for the conservation of biodiversity in areas beyond national jurisdiction and the limited application of the ecosystem approach.

ENVIRONMENTAL ASPECTS: While recognizing the need for further studies, the EU highlighted that both the precautionary principle and current scientific research point to the need to urgently address both the implementation and governance gaps. CUBA favored a comprehensive approach to address threats to the marine environment, including the exploitation of high seas resources and dumping.

SOCIOECONOMIC ASPECTS: The EU highlighted the need for an integrated cost-benefit analysis of activities impacting on marine resources. ARGENTINA said the distribution of profits from the exploitation of genetic resources in the seabed needs further discussion, underscoring domestic rules on genetic resources that disrespect international intellectual property rights (IPRs) regulation. CANADA highlighted the role of incentives and self-regulation. BRAZIL stressed the importance of studying the economic value of marine biodiversity. VENEZUELA called for a study on socioeconomic aspects to inform decisions on the use of market-based incentives for the sustainable use of biodiversity, favoring the framework of the Convention on Biological Diversity (CBD).

UNDOALOS Director Golitsyn noted that the Secretary-General's report underscored the need for practical measures to coordinate and share the costs of the technology necessary for further scientific research on marine biodiversity and to assign direct, indirect and non-use value to marine biodiversity. Co-Chair Burgess proposed focusing discussions on three issues: science; the conservation imperatives for marine biodiversity; and the sustainable use imperatives, linked to the freedom of the high seas.

ISSUES AND QUESTIONS REQUIRING MORE DETAILED BACKGROUND STUDIES

VENEZUELA identified institutional coordination between organizations, programmes and agencies within and outside the UN system as an issue for further study, recommending it be conducted with the participation of developing country experts. CANADA highlighted: better understanding of deep seas; consolidating available information and data for assisting decision-making processes; gathering information on capacity building and the role of incentives; and analyzing governance and management issues. She also called for further studies on: deep seabed ecology; commercial interests in deep seabed genetic resources; environmental impacts of deep seabed research; and benefit-sharing.

TRINIDAD AND TOBAGO emphasized the need to clarify the legal framework applicable to marine biodiversity and listed as other issues requiring further attention: IUU fishing;

bottom trawling; inter-State cooperation; capacity building; and shipping, including possible accidents involving nuclear waste. JAPAN noted the lack of definitions of MPAs, ecosystem approach and precautionary approach. NORWAY suggested a study on the threats to marine biodiversity beyond the scope of the current legal framework and on the tools presently available, while INDIA requested focusing on the legal regime for marine genetic resources in the high seas in the framework of UNCLOS. AUSTRALIA prioritized: combining fisheries, mining and other data; allowing for scientific comparison of collected data; developing frameworks for RFMOs' cooperation in harmonizing and exchanging data; and undertaking further studies on measures to address IUU fishing and, with the US, on other human impacts on marine biodiversity.

The US and ICELAND encouraged developing countries to communicate their MSR capacity-building needs. AUSTRALIA proposed accounting for the work on the conservation of high seas biodiversity undertaken by other multilateral agreements, such as the Convention on Migratory Species and the Convention on International Trade in Endangered Species, and called for an update on the activities of UN-OCEANS. BRAZIL requested further consideration of the applicability of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) to genetic resources in areas beyond national jurisdiction.

NIGERIA suggested considering the reasons for the lack of political will to ratify and implement existing instruments, and the possibility of imposing sanctions on States violating existing rules. IUCN highlighted the need to disseminate information arising from MSR to relevant stakeholders. CBD suggested prioritizing research on the distribution of seamounts and other ecosystem functioning in a range of different depths, and on the behavior of marine species. CANADA called for further discussions to define the structure and methodology for undertaking the studies suggested by delegates.

Noting that marine genetic resources do not fall under the competence of the International Seabed Authority, the EU argued that the UNCLOS regime on high seas fisheries may not be appropriate for genetic resources. He proposed: clarifying their legal status; ensuring effective environmental management guided by the precautionary and ecosystem approaches; and, as an initial step, adopting voluntary instruments. ARGENTINA reiterated the call for regulating access to, exploitation of and benefit-sharing from genetic resources in areas beyond national jurisdiction. INDONESIA emphasized that the freedom of the high seas, including the freedom of fishing, is subject to restrictions, which also applies to activities related to genetic resources.

Co-Chair Gomez-Robledo informed participants that the Co-Chairs' summary of trends will be circulated on Thursday evening and commented upon on Friday.

IN THE CORRIDORS

Halfway through the week, delegates continued testing the waters of deep sea marine biodiversity. Some interpreted the willingness to set aside the complex question of a legal regime on marine genetic resources (freedom of the high seas versus common heritage of mankind) articulated by countries at the different ends of the spectrum, as a good omen. Others appeared pleased with the small signs of progress in recognizing the need for urgent interim and short-term measures to protect marine biodiversity from its most pressing threats. As delegates left the UN building wondering what the initial draft of the Co-Chairs' summary of trends will look like, a general sentiment of optimism permeated their chats.