

## SECOND MEETING OF THE WORKING GROUP ON MARINE BIODIVERSITY BEYOND AREAS OF NATIONAL JURISDICTION: 28 APRIL-2 MAY 2008

The second meeting of the *Ad Hoc* Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction (hereinafter, the Working Group) will convene from 28 April-2 May 2008, at UN headquarters in New York.

The Working Group was mandated by General Assembly resolution 61/223 of 20 December 2006, to consider:

- the environmental impacts of anthropogenic activities on marine biological diversity beyond areas of national jurisdiction;
- coordination and cooperation among states as well as relevant intergovernmental organizations and bodies for the conservation and management of marine biological diversity beyond areas of national jurisdiction;
- the role of area-based management tools;
- genetic resources beyond areas of national jurisdiction; and
- whether there is a governance or regulatory gap, and if so, how it should be addressed.

The Working Group is expected to produce a Co-Chairs' report of issues, questions and ideas related to the above topics. The report will be transmitted, as an addendum to the report of the Secretary-General on oceans and the law of the sea, to the 63rd session of the General Assembly.

### A BRIEF HISTORY OF MARINE BIODIVERSITY BEYOND AREAS OF NATIONAL JURISDICTION

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

The UN Convention on the Law of the 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 and coastal 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 (Article 2) and aims to promote 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, the Convention applies only to processes and activities carried out under the jurisdiction or control of its parties.

**CBD COP-2:** At its second meeting (November 1995, Jakarta, Indonesia), the Conference of the Parties (COP) to the CBD agreed on a programme of action called the "Jakarta Mandate on Marine and Coastal Biological Diversity," which led to the creation of a work programme in this area. COP-2 also adopted a decision requiring the Executive Secretary, in consultation with the UN Division for Ocean Affairs and the Law of the Sea (UNDOALOS), to undertake a study of the relationship between the CBD and UNCLOS with regard to the conservation and sustainable use of genetic resources on the deep seabed.

**WORLD SUMMIT ON SUSTAINABLE DEVELOPMENT:** In the Johannesburg Plan of Implementation, the UN World Summit on Sustainable Development (September 2002, Johannesburg, South Africa) underlined the need to: maintain the productivity and biodiversity of important and vulnerable marine and coastal areas, including in areas beyond national jurisdiction; facilitate the elimination of destructive fishing practices and the establishment of marine protected areas (MPAs), including representative networks by 2012 and time/area closures for the protection of nursery grounds and periods; and develop international programmes for halting the loss of marine biodiversity.

**UNGA-57:** In resolution 57/141, the General Assembly in 2002 encouraged relevant international organizations to consider urgently ways to integrate and improve, on a scientific basis, the management of risks to marine biodiversity of seamounts and certain other underwater features within the framework of UNCLOS.

**ICP-4:** At its fourth meeting (June 2003, New York), the UN Open-ended Informal Consultative Process on Oceans and the Law of the Sea (ICP) recommended that the General Assembly, *inter alia*, invite relevant international bodies at all levels to consider urgently how to better address, on a scientific and precautionary basis, threats and risks to vulnerable and threatened marine ecosystems and biodiversity beyond national jurisdiction, consistent with international law and the principles of integrated ecosystem-based management.

**UNGA-58:** In resolution 58/240, the General Assembly in 2003 invited the relevant global and regional bodies to investigate urgently how to better address, on a scientific basis, including the application of precaution, the threats and risks to vulnerable and threatened marine ecosystems and biodiversity in areas beyond national jurisdiction.

**CBD COP-7:** At its seventh meeting (February 2004, Kuala Lumpur, Malaysia), the COP: included in the programme of work on marine and coastal biodiversity new items on MPAs and high seas biodiversity; highlighted an urgent need for international cooperation and action to improve conservation and sustainable use of biodiversity in marine areas beyond national jurisdiction, including through the establishment of further MPAs; and recommended that parties, the General Assembly and other relevant international and regional organizations urgently take the necessary short-, medium- and long-term measures to eliminate and avoid destructive practices. COP-7 also adopted a programme of work and established an *ad hoc* open-ended working group on protected areas (PAs).

**ICP-5:** At its fifth meeting (June 2004, New York), the ICP held a panel discussion on new sustainable uses of the oceans focusing on high seas bottom fisheries and biodiversity in the deep seabed and noting increasing levels of concern over the ineffective conservation and management of such biodiversity. The ICP proposed that the General Assembly encourage regional fisheries management organizations (RFMOs) with a mandate to regulate deep sea bottom fisheries to address the impact of bottom trawling, and urge states to consider, on a case-by-case basis, the prohibition of practices having an adverse impact on vulnerable marine ecosystems in areas beyond national jurisdiction, including hydrothermal vents, cold water corals and seamounts.

**UNGA-59:** In resolution 59/24, the General Assembly in 2004 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, and established an *ad hoc* open-ended informal working group to study issues relating to the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction.

**ICP-6:** At its sixth meeting (June 2005, New York), the ICP proposed, in relation to the conservation and management of marine living resources, that the General Assembly encourage progress to establish criteria on the objectives and management of MPAs for fisheries, welcome the proposed work of the UN Food and Agriculture Organization (FAO) to develop technical guidelines on implementation of MPAs and urge close coordination and cooperation with relevant international organizations including the CBD.

**CBD WORKING GROUP ON PROTECTED AREAS:** The CBD Working Group on PAs (June 2005, Montecatini, Italy) discussed options for cooperation for the establishment of MPAs in areas beyond national jurisdiction. Delegates initiated work to compile and synthesize existing ecological criteria for future identification of potential sites for protection, and recommended the COP note that the establishment of such sites must be in accordance with international law, including UNCLOS, and based on the best available scientific information, the precautionary and the ecosystem approaches.

**UNGA-60:** In resolution 60/30, the General Assembly in 2005 recommended that states should support work in various forums to prevent further destruction of marine ecosystems and associated losses of biodiversity, and be prepared to engage in discussions on the conservation and sustainable use of marine biodiversity in the Working Group.

**CBD EXPERT GROUP ON PROTECTED AREAS:** At its first meeting (17-18 March 2006, Curitiba, Brazil), the Expert Group addressed the implementation of activities/elements of the work programme on protected areas and noted the difficulties in reporting progress in implementation, and also suggested modifications to the evaluation matrix.

**CBD COP-8:** At its eighth meeting (20-31 March 2006, Curitiba, Brazil), the COP addressed MPAs, and discussions focused on process and redefining the Convention's role in relation to high seas PAs. The COP also took decisions on: marine genetic resources and noted the preliminary range of options for the protection of deep seabed genetic resources beyond national jurisdiction, and emphasized the need for further work in developing these and other options, in particular within the UN framework; and integrated marine and coastal area management (IMCAM) and noted the need to facilitate effective implementation of IMCAM.

**ICP-7:** The seventh meeting of the Consultative Process (12-16 June 2006, New York) discussed the need for enhanced understanding of ecosystem-based management, and adopted recommendations on ecosystem approaches and oceans.

**FIRST MEETING OF THE WORKING GROUP ON MARINE BIODIVERSITY BEYOND AREAS OF NATIONAL JURISDICTION:** The first meeting of the Working Group (13-17 February 2006, New York): exchanged views on marine biodiversity beyond areas of national jurisdiction; considered past and present activities of the UN and other relevant international organizations; discussed the scientific, technical, economic, legal, environmental, socioeconomic and other aspects of the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction; addressed key issues and questions requiring more detailed background studies; and considered possible options and approaches to promote international cooperation and coordination.

#### INTERSESSIONAL HIGHLIGHTS

**UNGA-61:** In resolution 61/222 the General Assembly in 2006 took note of the report of the Working Group on Marine Biodiversity and requested a second meeting of the Working Group be convened in 2008 to consider *inter alia*: environmental impacts of anthropogenic activities on marine biological diversity; coordination and cooperation among states; and genetic resources.

**ICP-8:** The eighth meeting of the Consultative Process (25-29 June 2007, New York) discussed cooperation and coordination on oceans issues, particularly as they relate to marine genetic resources and issues that could benefit from attention in future work of the General Assembly on oceans and the law of the sea.

**SBSTTA-12:** At its twelfth meeting (2-13 July 2007, Paris, France), SBSTTA recommended that the COP invite parties to give consideration to the challenge of incorporating land and marine tenure into application of the ecosystem approach.

**SECOND MEETING OF THE CBD EXPERT GROUP ON PROTECTED AREAS:** At its second meeting (11-12 February 2008, Rome, Italy), the Expert Group adopted two heavily bracketed recommendations for consideration by the CBD's ninth Conference of the Parties (COP 9), which will take place from 19-30 May 2008 in Bonn, Germany, on the review of implementation of the programme of work and on options for mobilizing financial resources for its implementation.

**SBSTTA-13:** At its thirteenth meeting (13-22 February 2008, Rome, Italy), SBSTTA addressed scientific and technical issues of relevance to the implementation of the CBD's 2010 target to achieve a significant reduction in the rate of loss of marine and coastal biodiversity.