

MARINE BIODIVERSITY WORKING GROUP HIGHLIGHTS: TUESDAY, 29 APRIL 2008

The second meeting of 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) convened for its second day on Tuesday, 29 April, at the United Nations (UN) headquarters in New York. The Working Group addressed issues identified in General Assembly resolution 61/222, including the environmental impacts of anthropogenic activities on marine biological diversity, coordination and cooperation among states and organizations and the role of area-based management tools.

GENERAL ASSEMBLY RESOLUTION 61/222

ENVIRONMENTAL IMPACTS OF ANTHROPOGENIC ACTIVITIES: IRAN noted the applicability of the common heritage of mankind in the conservation and sustainable use of marine biodiversity, and said states are entitled to share benefits in an equitable manner. VENEZUELA called for an international legal framework on access and benefit-sharing of marine biodiversity in areas beyond national jurisdiction.

NORWAY argued that anthropogenic activities, especially those related to climate change, should be subject to environmental impact assessments (EIAs). MEXICO supported the use of EIAs, as well as observation of the precautionary principle.

The US, supported by ICELAND, expressed concern over the application of EIAs internationally, and supported implementation of existing agreements and enhanced coordination. CANADA urged updating existing instruments to contend with new challenges, and, supported by ICELAND, highlighted the need to link ocean issues to the climate change agenda.

CHINA called for a scientific report based on a stocktaking of existing scientific studies, and, due to the uniqueness of marine biosystems, suggested a case-by-case approach.

Citing scientific uncertainty, TRINIDAD AND TOBAGO urged caution regarding ocean fertilization. IUCN referred to its scientific studies depicting the threats posed by anthropogenic activities and called for an authoritative state of the world's oceans report modeled on the Intergovernmental Panel on Climate Change assessment reports. WWF discussed how EIAs might be undertaken, including using rules and guidelines established by UNGA and conducting regular reviews of how regulatory bodies exercise authority.

ASIAN AFRICAN LEGAL CONSULTATIVE ORGANIZATION called for the extension of marine protected areas (MPAs) to high seas, and greater efforts to combat IUU fishing, including through special tribunals. The NATURAL RESOURCES DEFENSE COUNCIL suggested that impact assessment requirements from resolution 61/105 on high seas bottom trawling be applied, *mutatis mutandis*, to all activities on the high seas. OSPAR called for increased mapping and visualization of uses of the high seas.

Co-Chair Hill summarized the key points regarding anthropogenic activities: the related deleterious impacts; the contribution of these activities to climate change and pollution; the enhanced application of precautionary and ecosystem approaches and use of EIAs; and the relevance of the Assessment of Assessments.

COOPERATION AND COORDINATION: BRAZIL urged efforts to improve coordination and cooperation, and to enforce implementation of existing agreements and fund existing competent bodies. She underscored strengthening of UNESCO-IOC as a priority.

Noting that the current fragmentation of instruments with independent agendas impedes the development of consistent policy, the EU called for organized cooperation among competent bodies, but stressed that implementation and enforcement of specific measures should remain within the competency of respective bodies. He said this concept should be a key element of a future implementation agreement under UNCLOS. Highlighting the usefulness of regional action, CANADA said new RFMOs should be created and that a novel overarching mechanism was not required.

AUSTRALIA highlighted that governance structures, including RFMOs, are characterized by sectoral approaches, and cited the hindrance posed by poor coordination among individual mechanisms. She said Australia was open to exploring avenues for improving institutional support and to the EU concept of organized cooperation. NEW ZEALAND emphasized the limitations and variable competence of RFMOs and suggested conducting regular performance reviews.

TRINIDAD AND TOBAGO stressed that common heritage principles would become null and void without adequate provision of technology transfer and capacity building, as developing states would not be able to share benefits. The US supported: bringing RFMO mandates in line with legal instruments; increasing coordination among RFMOs and cross-sectorally; enhancing market tools to combat IUU fishing; reducing by-catch; addressing harmful subsidies; and assisting developing states.

MEXICO called for ensuring compliance with international norms and standards and promoting coordination and cooperation, especially regarding scientific research.

JAPAN underscored the cost effectiveness of strengthening existing coordination frameworks rather than creating new ones. He highlighted the cooperation between the FAO and the Convention on International Trade in Endangered Species (CITES) as a good example of coordination. ARGENTINA argued that institutional mandates should be strengthened before new cooperation structures are created, underscored the limitations of RFMOs, and called for reaffirming coastal states' rights to their continental shelf resources. CHINA concurred but noted a reluctance by RFMO members to expand RFMO functions.

ICELAND highlighted the OSPAR, North East Atlantic Fisheries Commission and International Maritime Organisation (IMO) collaboration as a model of how existing institutions can cooperate, and did not support establishing new arrangements. MARSHALL ISLANDS called for capacity building for developing countries, and greater coordination and cooperation among RFMOs in reducing by-catch and enforcing oceans management.

UGANDA flagged dumping of toxic waste off the Somali coast as a potential future problem. Recalling the work of UNGA and other processes, VENEZUELA expressed surprise at the reluctance to recognize the cross-cutting nature of marine biodiversity beyond areas of national jurisdiction. ANGOLA expressed concern with deep sea oil exploration and European scientific marine research off its coast and called for capacity building and knowledge sharing.

IUCN described a joint project with Conservation International to assess 20,000 marine species, and INTERNATIONAL SEABED AUTHORITY described its collaborative scientific research projects and a new fund to support marine research in developing states.

UNEP explained its mid-term strategy for the period of 2010-2013 and described collaborative projects and publications relating to marine biodiversity in areas beyond national jurisdiction. CBD SECRETARIAT highlighted relevant CBD reports and COP decisions, as well as a review of databases containing information on marine areas beyond national jurisdiction.

GREENPEACE identified the need for standardized rules across sectors and better accountability of regional bodies with regard to meeting mandates. WWF called for progress on bioregionalization, embrace of CBD guidance on MPA development, assessment of progress made on MPAs, and strengthened compliance. He urged concrete decisions to address the gap between discussions at the international level and regional outcomes.

Co-Chair Hill summarized the key components of the discussion as the need for improved implementation of existing regulatory regimes, as well as improved contact between and among bodies, and the divergent perspectives regarding the creation of a new overarching body.

THE ROLE OF AREA-BASED MANAGEMENT TOOLS:

SOUTH AFRICA called for more consultation on criteria and norms for high seas MPAs, and said they should not function in isolation from those under national jurisdiction. The EU noted that urgent action is needed to meet commitments on MPAs made at the World Summit on Sustainable Development and CBD COP-7. He recommended application of scientific criteria to identify MPAs developed by a CBD experts' workshop and the establishment of pilot high seas MPAs.

AUSTRALIA expressed concern with the failure of existing sectoral institutions to effectively protect marine areas, and called

for cross-sectoral coordination concerning MPAs. She supported the CBD criteria and guidelines, and suggested their use by an UNGA-led process. CANADA supported collaboration among FAO, IMO and CBD to reconcile approaches and assist in MPA site selection.

MEXICO emphasized an ecosystem-based approach, inclusion of all states' interests and consistency with UNCLOS. The US supported a conservation approach consistent with UNCLOS that identifies the target marine species, effects and the impact area, and causal links and harms being addressed.

JAPAN said MPAs should be considered on a case-by-case basis and be informed by the best available scientific information. ARGENTINA suggested considering the need for MPAs as well as the implementing institution.

NORWAY noted regional variation among ecosystems and supported establishing new RFMOs or regulatory commissions. NEW ZEALAND emphasized the importance of coordination, strong enforcement and compliance and regional identification of vulnerable marine ecosystems.

Noting the cross-cutting nature of protecting marine biodiversity within and beyond national jurisdiction, VENEZUELA called for the establishment of a commission among IMO, UNCLOS and FAO. MARSHALL ISLANDS suggested using adaptable criteria that evolve with new scientific evidence. Describing the use of area-based management tools within national jurisdiction, BRAZIL noted her country's approach to designing policies to not only conserve, but also recover, fish stocks.

ICELAND stressed that MPAs are means, rather than an end, to protect biodiversity.

IUCN underscored that less than 1% of the world's seas are currently protected and that prior assessment and impact minimalization are prerequisites to effective ecosystem-based management. OSPAR noted that while general rules for coastal area-based tools tend to be based on numerous small areas, those relevant to areas beyond national jurisdiction should be fewer in number but larger in scope.

WWF highlighted the launch of its report, "Conservation of Marine Biodiversity beyond the Limits of National Jurisdiction," and noted its use of case studies. He called for a new implementing agreement to address gaps for some issues. DEEP SEA CONSERVATION COALITION supported a system for multipurpose pilot MPAs; the proposal to convene an expert group to develop guidelines for applying CBD MPA criteria; and the EU recommendation regarding the establishment of MPAs based on CBD guidance.

IN THE CORRIDORS

Delegates entered the second day of the meeting yet again with umbrellas and prepared statements in hand. While some were impressed by participants' willingness to shift away from entrenched positions and acknowledge other parties' statements, others lamented the exchange of prepared statements and wondered when the substantive discussion would begin. Some seasoned participants suggested that it was necessary to "get prepared statements over with," adding that the agenda item on consideration of the outcomes of the meeting would provide the opportunity for this needed exchange. However, given that the agenda item on outcomes of the meetings was scheduled for the last day, many felt that - unless the schedule moved along more rapidly than scheduled - there was little time to address the sticky issues, such as potential new instruments and genetic resources.