

## MARINE BIODIVERSITY WORKING GROUP HIGHLIGHTS: THURSDAY, 2 JUNE 2011

On Thursday morning, Co-Chair Lijnzaad reported that the Friends of the Co-Chairs group's meeting on Wednesday evening discussed an initial draft of elements for the recommendations, and announced that a revised draft was going to be discussed by the Friends at lunchtime. Delegates exchanged views on issues and questions requiring detailed background studies. In the afternoon, Co-Chair Lijnzaad announced that plenary would only resume on Friday morning to allow more time for the Friends of the Co-Chairs group to discuss the draft recommendations.

### FURTHER STUDIES

On Thursday morning, Co-Chair Lijnzaad invited views on key issues and questions requiring detailed background studies. The EU recommended that this item not reappear in future agendas, to avoid postponement of, or delayed, action. CANADA drew delegates' attention to a non-paper containing their proposals on intersessional processes to inform the Working Group, outlining issues for further study. The RUSSIAN FEDERATION welcomed Canada's non-paper as it highlighted a number of issues requiring in-depth analysis. ARGENTINA expressed concern at Canada's non-paper suggestions saying that several policy issues currently on the Working Group's agenda were proposed for discussion by experts in these workshops, including: legal and policy instruments for the conservation and sustainable use of BBNJ, work on identification of EBSAs in ABNJ, the conduct of EIA, and the categorization of bioprospecting.

ICELAND and NEW ZEALAND supported Australia's non-paper on a series of workshops to generate clearer understanding of options and areas of agreement and disagreement, with NEW ZEALAND noting that workshops should not prevent progress. BRAZIL enquired about the nature of the workshops proposed by Australia. AUSTRALIA expressed willingness to hear other delegations' suggestions on possible formats for the workshops, stressing that workshops should facilitate "serious discussions" on all possibilities including a new UNCLOS implementation agreement and the potential for access to and benefit-sharing from MGRs in ABNJ; and underscored the need for the Working Group to define how the workshops can contribute to building consensus on these issues. Welcoming Australia's non-paper, TRINIDAD AND TOBAGO stressed the importance of obtaining the General Assembly's endorsement of the workshops and the need for workshops to allow for the recognition of State contributions to the discussions and feed into the next meeting of the Working Group, rather than follow Chatham House rules. UNDOALOS Director drew a distinction between workshops organized only by States and those organized by the UN or under UN auspices.

### IN THE CORRIDORS

As the Friends of the Co-Chairs did not meet for long on Wednesday afternoon, with national delegates seemingly repeating their plenary statements rather than engaging with an

initial draft of the recommendations prepared by the Co-Chairs, it was no surprise that most of Thursday was taken up by a continuation of the Friends' meeting. NGOs, marginalized from the discussions for most of the day, could not help but compare and contrast this peculiar understanding of "open-ended" as limited to national delegations, with practice under the Convention on Biological Diversity, where similar negotiations in contact groups are always open for accredited stakeholders to observe and even actively contribute.

As the afternoon progressed, delegates seemed to alternate between disappointment and cautious hope that a consensus bridge could be built between those advocating for an UNCLOS implementation agreement and those opposing it. The draft recommendations under discussion tried to facilitate that bridging exercise by containing a section on the legal framework and another on practical measures. The first suggested that a process be initiated by the General Assembly to address the "package" of issues on the Working Group's agenda, with a view to the possible development of an UNCLOS implementation agreement, including: options for the conservation, sustainable use, access and benefit-sharing from MGRs, capacity building and technology transfer; consideration of a coordination mechanism among states and intergovernmental organizations to identify EBSAs; the identification of a competent body for the designation and management of MPAs in ABNJ; the development of principles and criteria for MPA establishment in ABNJ; and the development of principles or guidelines for EIA in ABNJ. The second section on implementation and practical measures suggested: promoting developing country scientists' participation in MSR in ABNJ; promoting cross-sectoral cooperation among RFMOs and global sectoral organizations for conservation and sustainable use; fostering better understanding of ongoing and projected activities in ABNJ that may cause significant or harmful changes to the marine environment, including cumulative effects; facilitating implementation, or information-sharing, on EIA and SEA; assessing the feasibility of modalities for establishing and managing MPAs; fostering work on shared understanding of EBSAs using inter-governmentally agreed criteria; promoting information-sharing on MGR use and voluntary codes of conduct for research activities; and ascertaining the use of IPRs related to MGRs and their role in benefit-sharing. Delegates also considered whether to: convene workshops to generate clearer understanding of concerns and options; reviewing the mandate of the Working Group with a view to developing more focused recommendations; and convening the next meeting of the Working Group in 2012. The Friends continued their meeting into the evening, as agreement on the first portion of the draft recommendations – the legal framework – remained elusive.

**ENB SUMMARY AND ANALYSIS:** The *Earth Negotiations Bulletin* summary and analysis of the Marine Biodiversity Working Group will be available on Monday, 6 June 2011 online at: <http://www.iisd.ca/oceans/marinebiodiv4/>



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