

## MARINE BIODIVERSITY WORKING GROUP HIGHLIGHTS: MONDAY, 13 FEBRUARY 2006

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) opened on Monday, 13 February, at the United Nations (UN) headquarters in New York. Participants addressed organizational matters in the morning and held a general exchange of views throughout the day.

### OPENING PLENARY

Juan Manuel Gomez-Robledo (Mexico), Co-Chair of the Working Group, opened the meeting. Vladimir Golitsyn, Director of the UN Division for Ocean Affairs and the Law of the Sea (UNDOALOS), recalled that the UN General Assembly Resolution 59/24 established the Working Group to examine scientific, technologic, legal, economic, environmental and social issues relating to marine biodiversity beyond areas of national jurisdiction. He highlighted capacity building as a key issue, especially for developing countries. Co-Chair Gomez-Robledo encouraged participants to be: visionary in addressing the full range of issues related to marine biodiversity in an integrated and multidisciplinary fashion; aware of the impacts of anthropogenic activities on marine biodiversity, including vulnerable marine ecosystems; and guided by the principles of the UN Convention on the Law of the Sea (UNCLOS) and the Convention on Biological Diversity (CBD).

Noting the challenges of jurisdiction, complexity and different interests at stake related to marine biodiversity, Philip Burgess (Australia), Co-Chair of the Working Group, also highlighted the opportunity of addressing all relevant issues in the same forum, and looked forward to a frank and engaged debate. The Working Group adopted the agenda and the organization of work prepared by the Co-Chairs, without amendments.

### GENERAL EXCHANGE OF VIEWS

**Legal framework:** Austria, on behalf of the EUROPEAN UNION (EU), called for an integrated approach to ocean governance and for the development of an implementation agreement under UNCLOS to provide for the protection of

marine biodiversity in areas beyond national jurisdiction, including the establishment of marine protected areas (MPAs). He encouraged the Working Group to recommend concrete steps for the General Assembly to initiate a process to elaborate such an agreement. AUSTRALIA said the Working Group should consider whether better implementation of existing agreements will suffice, or whether new instruments or coordination mechanisms are needed. Highlighting the importance of integrated oceans management, CANADA suggested using existing regimes and mandates more efficiently as a pragmatic short-term approach. ICELAND called for further scientific research, and questioned the need for a new global agreement on areas beyond national jurisdiction. NORWAY stated that the greatest challenges remain in national zones, identified the need for further research involving developing country scientists, and argued that the existing legal framework is sufficient, if fully implemented. CHILE emphasized that the Area is governed by the *jus cogens* principle of common heritage of mankind, also applicable to UNCLOS non-parties. JAMAICA highlighted the need for additional legal arrangements to address marine biodiversity, taking into consideration the International Seabed Authority (ISA) and hoping the Working Group's meeting would be a part of the progressive development of UNCLOS. VENEZUELA and CHINA highlighted the need to review existing legal instruments governing the high seas before establishing a new regime. GREENPEACE emphasized the lack of comprehensive high seas governance necessary to ensure the protection of marine biodiversity, supported the development of a new UNCLOS implementation agreement to fill this gap and adapt to new uses and threats, and called for an immediate start of negotiations.

**MPAs:** AUSTRALIA urged consideration of methods for developing, establishing and monitoring effectively MPAs beyond national jurisdiction. NEW ZEALAND supported the establishment of a representative network of high seas MPAs as agreed at the World Summit on Sustainable Development. ARGENTINA cautioned against giving regional fisheries management organizations (RFMOs) the mandate to establish MPAs in the high seas. GREENPEACE called for the creation of a global network of no-take marine reserves to cover 40% of the oceans and a comprehensive adaptable regime for the rest of

the oceans, based on prior environmental impact assessment, the precautionary principle and the ecosystem-based management approach.

**Marine scientific research:** The US highlighted threats to marine biodiversity such as illegal, unreported and unregulated (IUU) fishing and climate change, and opposed the development of a regulatory regime on marine scientific research (MSR), favoring instead the consideration of guidelines on the conduct of MSR. Cautioning against the “hasty imposition” of regulations on MSR, JAPAN said the Working Group should focus on existing agreements, guidelines, and conservation and management measures, rather than discussing new instruments or amendments. BRAZIL proposed that MSR in the Area should bring benefits to mankind. NIGERIA highlighted the need for further research in the Area and the equitable sharing of its outcomes, and supported the elaboration of a code of conduct for coordinated research to minimize negative impacts on marine biodiversity and ecosystems.

**Marine genetic resources:** CANADA suggested addressing deep seabed genetic resources focusing on the environment and, with NEW ZEALAND, seeking a balance between conservation and commercial use. South Africa, on behalf of the G-77/CHINA, highlighted the common heritage of mankind, benefit-sharing and the precautionary approach in relation to deep seabed genetic resources. Emphasizing the role of ISA and the integrity of UNCLOS, he urged consideration of new or improved implementation mechanisms and options for institutional arrangements, including ISA’s existing capacity. BANGLADESH called for an ecosystem-based approach to the exploration and exploitation of marine genetic resources for the benefit of mankind, and for exploring possible mandatory regulations on MSR and bioprospecting. BRAZIL suggested that biological resources in the Area be used for the benefit of present generations and preserved for future generations. MEXICO highlighted the need for an internationally agreed definition of bioprospecting and the establishment of a new regime regulating the protection of marine biodiversity in the high seas. ARGENTINA suggested, as a first step, establishing norms on access to, and distribution of benefits deriving from, marine genetic resources. CUBA proposed considering a new UNCLOS implementation agreement to ensure genetic resources are administered for the benefit of mankind. IUCN underlined the need to adopt interim measures to conserve vulnerable areas, and encouraged States to reconfirm principles under existing regimes that apply to activities in areas beyond national jurisdiction, which could provide the basis for voluntary codes and guidelines on deep seabed genetic resources.

**Fisheries:** Papua New Guinea, on behalf of PACIFIC ISLANDS FORUM GROUP, recommended the sustainable development and the promotion of peaceful uses of the oceans, and expressed concern about deep sea bottom trawling and IUU fishing. PALAU advocated an interim prohibition on bottom trawling in areas beyond national jurisdiction outside of RFMOs’ competence. FIJI called for sharing the benefits deriving from the use of new technologies in areas beyond national jurisdiction and the elimination of fisheries subsidies contributing to IUU fishing. The MARSHALL ISLANDS expressed concern about IUU fishing in areas with vulnerable ecosystems and supported the establishment of new governance arrangements

in areas beyond national jurisdiction. The REPUBLIC OF KOREA argued that the UN Food and Agriculture Organization (FAO) is the appropriate forum to address destructive fishing practices. The RUSSIAN FEDERATION said that a regime aimed at protecting vulnerable deep sea ecosystems should be scientifically justified and practically feasible, and maintained that the General Assembly is the appropriate forum to discuss bottom trawling. NATURAL RESOURCES DEFENSE COUNCIL argued that, while bottom trawling should not be the sole focus of this meeting, its destructive impact on deep sea ecosystems should not be ignored. INTERNATIONAL OCEAN INSTITUTE highlighted the link between IUU fishing, bottom trawling and flags of convenience, and called for the appointment by the Secretary-General of a special representative for oceans matters to provide good offices for consensus building in support of the Working Group. CONSERVATION INTERNATIONAL called for an interim prohibition on all high seas bottom trawling.

**Other issues:** Several participants welcomed the integrated approach to the discussions on conservation and sustainable use of marine biodiversity in the Working Group. CHINA encouraged countries to seek a balance between protection and use of the oceans, emphasizing the importance of capacity building and transfer of marine technology for developing countries. NIGERIA noted the need to avoid adverse economic and environmental practices in the Area, particularly destructive fishing practices, overexploitation and the dumping of conventional and chemical weapons and radioactive wastes in the seas. UNITED NATIONS ENVIRONMENT PROGRAMME (UNEP) called for urgent action on high seas governance, based on the precautionary principle and the ecosystem approach, and recognized the need for a discussion involving all stakeholders. INTERNATIONAL COMMISSION FOR CONSERVATION OF THE ATLANTIC TUNA outlined the Commission’s activities and emphasized that parties not complying with the recommendations of the Commission are subject to trade sanctions.

Highlighting the range of topics covered during the day, Co-Chair Burgess called for focused discussion in the remainder of the week.

### **IN THE CORRIDORS**

After the blizzard blanketed New York during the weekend, most delegates made their way to the meeting through 27 inches of snow. Comfortable with the informal style of the Working Group, many took this early opportunity to lay their cards on the table and frankly share their diverse expectations on how to address the wide but intertwined array of issues relating to the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction. Several participants welcomed this meeting as the first opportunity to address, and to clarify country positions on, these multiple issues in an integrated way. However, others said the range of issues identified in the statements “looked like a Christmas tree” and were wondering whether it will be possible to focus the discussion without it becoming fragmented. Looking ahead, one delegate was heard regretting that the Working Group was not geared towards an outcome more ambitious than a Co-Chair’s collection of possible options, while another noted that “haste will lead to nowhere.”