



## The United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea at its twelfth meeting 20-24 June 2012

### A note by the Secretariat

#### 1. Introduction

The twelfth meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea was held from 20 to 24 June 2011. It dealt with the topic:

“Contributing to the assessment, in the context of the United Nations Conference on Sustainable Development, of progress to date and the remaining gaps in the implementation of the outcomes of the major summits on sustainable development and addressing new and emerging challenges”

The meeting was as usual split between panel presentations and discussions of various issues, mainly between state parties.

The report from the meeting can be found at  
<http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N11/431/39/PDF/N1143139.pdf?OpenElement>

#### 2. The panellists

##### A. Sustainable development, oceans and the law of the sea

**Brice Lalonde, Co-Executive Coordinator, United Nations Conference on Sustainable Development**, provided a presentation on the challenges faced in the implementation of legal instruments relating to the oceans and the need to address the multiple threats to the oceans. In particular, Mr. Lalonde emphasized the important role of regional organizations, including in the gathering of scientific knowledge through cooperation and coordination. He stressed the need for science based measures and the importance of ecosystem-based approaches, integrated coastal management and environment impact assessments.

**Cherdsak Virapat, Executive Director, International Oceans Institute**, discussed the relationship between the oceans and the three pillars of sustainable development. He emphasized the nexus between oceans and coastal areas and the ever-increasing pressures on ocean ecosystems from human activities, despite efforts by the international community to develop a global and comprehensive governance regime for the oceans. Mr. Virapat stressed the need for human society to change its behaviour to achieve the goals of sustainable interaction with the environment and the oceans.



## **B. Overview of progress to date and the remaining gaps in the implementation of the outcomes of the major summits on sustainable development**

**Luis Valdés, Head of Ocean Sciences of the Intergovernmental Oceanographic Commission of the United Nations Educational, Cultural and Scientific Organization (IOC/UNESCO)**, noted gaps in marine scientific research, the fragmentation of the governance of oceans within the United Nations and the under-utilization of UN-Oceans. He cited geo-engineering, vulnerable deep-sea ecosystems and marine plastics as the most significant emerging issues.

**Kriangsak Kittichaisaree, Ambassador of Thailand to Australia**, presented the remaining gaps and challenges in capacity-building and the transfer of marine technology, including in the area of energy-related research; marine biotechnology, strengthening management structures, protection of the marine environment; disaster preparedness, sustainable fisheries development; sea-level rise; waste management and addressing the adverse effects of climate change.

**Sebastian Mathew, Executive Secretary, International Collective in Support of Fishworkers**, highlighted the existing gaps between summit outcomes, national legislations and policies for the sustainable development of capture fisheries and implementation at the national and local levels. He attributed such a gap mainly to lack of capacity, insufficient scientific knowledge, absence of political commitment and poor governance. Phil Weaver, Coordinator, Hotspot Ecosystem Research and Man's Impact on European Seas, noted the destructive impacts of bottom fishing on marine species and the seabed. He emphasized the importance of impact assessments, the application of a precautionary approach and the need for surveillance of fishing vessels.

**Alo Babajide, Professor, University of Lagos**, identified the gaps, challenges and priorities in marine environmental protection from marine pollution necessary to achieve the three pillars of sustainable development, highlighting the costs of inaction. He addressed implementing mechanisms and noted the role of the Large Marine Ecosystems projects in support of the ecosystem approach and integrated management.

## **C. New and emerging challenges for the sustainable development and use of oceans and seas**

**Yoshinobu Takei, Assistant Professor, School of Law, Utrecht University**, discussed the challenges and opportunities in achieving the goal of sustainable development through the integrated management of oceans and seas. He examined coral reef management as an example to illustrate ways in which States could achieve integrated management and the difficulties related thereto.



**Ussif Rashid Sumaila, Professor, University of British Columbia**, highlighted some of the impacts of global warming on the sustainable use of ocean fish resources such as changes in fish productivity, distributional range of species, migration patterns, increases in coral bleaching, ocean acidification, and changes in ecosystem composition; as well as economic effects through changes in catches and catch values. He noted, for example, that the value of fish stocks in West Africa could decrease by up to 50 per cent. **Tullio Scovazzi, Professor of International Law, University of Milan-Bicocca**, provided a legal perspective on the conservation and sustainable use of marine biodiversity within and beyond the limits of national jurisdiction while emphasizing the need to consider how the Convention could evolve to address new issues such as a regime for marine genetic resources and the establishment of a network of marine protected areas, as well as environmental impact assessments, capacity-building and the transfer of marine technology.

**Jacqueline Alder, Head of Freshwater and Marine Ecosystem Branch, Division of Environmental Policy Implementation, United Nations Environment Programme (UNEP)**, highlighted the scope and nature of globally significant emerging issues relating to governance, pollution and the industrialization of the oceans.

#### **D. The road to Rio+20 and beyond**

**Biliana Cicin-Sain, President of the Global Ocean Forum and Director of the Gerard J. Mangone Centre for Marine Policy, University of Delaware**, reflected on oceans and the Rio process, what had been achieved and what needed to be done, focusing on two issues, namely integrated ecosystem-based ocean governance and climate change. She also presented some elements of a possible “oceans package” at the Conference on Sustainable Development, within the framework of the Conference’s major themes.

**Maria Teresa Mesquita Pessôa, Minister Plenipotentiary in the Permanent Mission of Brazil to the United Nations**, and member ex officio of the Bureau for the Preparatory Process of the 2012 Conference on Sustainable Development, described the commitments undertaken with respect to sustainable development and oceans. She noted the following as persistent challenges to be addressed: unsustainable fisheries; capacity development for sustainable fisheries; loss of habitat, including coral reefs and mangrove areas; environmental impact assessments; invasive alien species; nuclear waste; ocean acidification and sea level rise; vulnerability of small island developing States; and biodiversity beyond areas of national jurisdiction. She also noted the need to address coordination and cooperation of ocean-related agencies and organizations in the future discussions on an institutional framework for sustainable development. She also recalled that the Johannesburg Plan of Implementation had also called for strengthening the ability of IOC/UNESCO, FAO and other relevant international and regional and subregional



organizations to build national and local capacity in marine science and the sustainable management of oceans and their resources.

### **Information session**

The Co-Chairs invited **Professor Alex Rogers, Department of Zoology, University of Oxford**, to inform delegations of a recently released report on an international expert workshop on ocean stresses and impacts. Professor Rogers highlighted a wide range of impacts on the oceans due to human activities, which had major implications for the function and resilience of marine ecosystems. He expressed particular concern over the unprecedented rate of climate change and the need for action to protect ecosystems. He recommended urgent action to reduce carbon dioxide emissions, a coherent strategy of ecosystems restoration and effective management of the high seas.

### **3. Issues that could benefit from attention in the future work of the General Assembly on oceans and the law of the sea**

In addition to the main topic the parties discussed issues that could benefit from attention in the future work of the General Assembly on oceans and the law of the sea: The following list was suggested.

The attention of the meeting was drawn to the composite streamlined list prepared by the Co-Chairs of issues that could benefit from attention in the future work of the General Assembly on oceans and the law of the sea. An intergovernmental organization highlighted the issue of climate change and, in particular ocean acidification, as directly linked to all three pillars of sustainable development. It noted, in this regard, that the increase of ocean acidification was directly linked to shifts in concentration of fish, negative impacts on corals and to the transmission of ocean noise. Another source of concern was the harmful effect of acidification on coral reefs that serve as vital fish habitats that protect food and employment and also coastal communities from storm surges.

### **4. Statements by the NEAFC Secretariat at the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea - Twelfth meeting 20-24 June 2011 UN New York**

The three statements by the NEAFC Secretariat are found in Annexes 1, 2 and 3. The Secretariat also made a presentation at a CBD side event. The presentation is found in Annex 4.

### **5. Annex 1 First Statement (for logistical reasons not read at the meeting)**



The NEAFC Secretariat has participated in ICP meetings since 2005. I have personally found ICP meetings useful for gathering information. This meeting is no exception. This does not mean that I have found ICP an efficient vehicle to point out relevant marine issues that could benefit from the attention of the UN General Assembly. In several instances discussions in ICP have led to doubtful approaches in the UN General Assembly, not based on sound science, and has involved UNGA in specific management issues that are not global in nature and could have been better dealt with by regional and local organisations.

At the centre of the concern of UNGA must be the totality of impacts of all human activities on marine ecosystems and that these are limited appropriately to avoid irreversible changes to marine ecosystems.

Based on the complex and majestic legal framework of UNCLOS, dealing with all human activities in the oceans, fisheries are singled out in separate General Assembly resolutions, which over the years have become more and more detailed in prescribing what States, and States through RFMOs and RFMAs, have to do in particular fisheries.

This is rather surprising. Where a good case for oversight from the UN can be made with respect to ocean issues that are global in nature (climate change, transboundary pollution, release of chemicals, hazardous substances, Persistent Organic Pollutants, oil in produced water, radioactive discharges, non-indigenous species and marine litter) the impact on the environment from fishing activity is generally local or regional and therefore best addressed in regional and sub-regional cooperation.

Other users of the marine environment have externalities that affect fisheries. Polluters, the user of fossil fuels, shipping, cable companies, hydrocarbon and other extraction industries would still be able to operate in a polluted ocean with low biodiversity, fisheries cannot. Fisheries have to operate in a clean and healthy ocean. The consequences of mismanagement of fisheries and marine biodiversity primarily affect fisheries themselves.

The disproportionate focus on fisheries is even more surprising, when considering the ecological importance of the biodiversity of the Oceans. The huge importance of the oceans lies in its role in the carbon and sulphur cycles. The biodiversity that matters is the diversity of microscopic organisms. The importance of the marine organisms exploited by hunters and fishermen is marginal in that context. These microscopic organisms are not affected by fisheries, but perhaps by other anthropogenic activities on a global scale.

Looking at the types of fisheries the UN General Assembly has been most concerned with shows a further lack of proportion. Linking legitimate concerns for vulnerable marine ecosystems in areas beyond national jurisdiction with deep bottom trawling gives a misleading picture of what is important for protecting biodiversity in the world's seas and oceans.



IUU fishing and deep sea bottom trawling in areas beyond national jurisdiction are problems, which should be eminently manageable, if there is a political will. The key is of course controlling directly the limited number of vessels involved, as it has been done by some RFMOs, especially in the North Atlantic.

The real challenge for the General Assembly must lie in supporting governance and sustainable utilisation in inland, coastal area, small scale and shelf fisheries, because of their huge importance in poverty alleviation, food security and employment, and addressing the perverse economic incentives in fisheries, which lead to a massive reduction in wealth generation.

The RFMOs do not need global mandates. Their conventions already give them regional mandates and the necessary tools to perform their job according to their own conventions and international law. They do not need an UNGA resolution to prescribe to them what they already are obliged to do and can be held to account for. Regional Fisheries Bodies, RFBs, which support states and regional cooperation, are also able to define their own priorities. The ecosystem approach combines sustainable fisheries management and protection of biodiversity and RFMOs have increasingly both mandates.

Finally, there is too much duplication and repetition with respect to ocean matters in the UN family.

To keep track of discussions of ocean matters I have in recent years, representing a RFMO with a small Secretariat, annually had to participate in discussions in FAO (where the expertise on substance in fisheries and the ecosystem approach resides firmly) in 3-4 meetings at UN, meetings at regional level with other RFMOs and RSOs. Lately, it has become necessary to follow developments in CBD and UNEP. This is very demanding and in effect means that many RFBs do not have a chance to participate. At this meeting NEAFC is the only RFMO present - last time there were more than 5.

A rethink of how to organise more efficiently the sharing of scientific information and information with respect to existing best practices and good governance in ocean matters is long overdue. Getting that right before Rio +20 would be notable progress.

Kjartan Hoydal, Secretary  
NEAFC Secretariat 22 Berners Street, London W1T 3DY  
Telephone + 44 (0) 20 7631 0016  
Facsimile + 44 (0) 20 7636 9225  
[www.neafc.org](http://www.neafc.org)

## 6. Annex 2 Second Statement

Prof Sumaila is right in highlighting the problems when the distribution of resources changes as a result of climate change. One major consequence is that this rips up agreements on allocations of the shared and straddling stocks. These allocations



agreements have been reached with great difficulty and are an important part of the limitation of the outtake from fish stocks.

The situation is exacerbated, because there is no international agreement on principles for sharing and allocating catch opportunities. FSA prescribes in much detail how fisheries and their impact on the environment shall be managed, but there is nothing in international agreements on allocation.

Changes in the distribution of important fish stocks calls for international agreement on principles for the sharing of fish stocks, to avoid gaps in management, while new allocations are negotiated.

By the way I know that is conventional wisdom among some groups of scientists that all fish stocks have declined dramatically in the last fifty years. This is probably true when proper management is not in place. However, there is a growing number of examples that in well managed fisheries stocks have reached historical high levels. Two examples from the North East Atlantic will suffice. The Norwegian Spring Spawning (Atlanto-Scandian) herring and North East Arctic Cod spawning stocks have reached levels at or close to levels after the Second World War and now together are at an impressive 20 million tonnes.

## **7. Annex 3 Third Statement**

### **Reply to the presentation of Prof Weaver.**

I am afraid that I not agree with a number of comments on the panel presentations. I regret to say that I was very disappointed by Professor Weaver presentation. He described issues and areas I work with on a daily basis, so I was also somewhat surprised. I am familiar with the Hermione project and for a fisheries biologist the findings do not come as a surprise. Bottom trawling certainly affects fish stocks and structures on the bottom, that has been common knowledge for a long time. The question is the extent of the impact in space and time.

There were a number of inaccuracies and somewhat misleading observations in the presentation, but I do not think that ICP is suited for a technical discussion. I am ready to discuss these with Prof Weaver in the margin of the meeting – perhaps at the side event tomorrow.

Prof Weaver did not present any information about the real fishing activities of deep sea fishing fleets the last 5- 6 years after the introduction of a number of management measures, including MPAs and bottom fishing regulations. NEAFC data have been available to the scientific community, through ICES, for the last 5-6 years. I can also refer to the submission of NEAFC reports to the Secretary General, which give detailed information. The Angela Benn paper, Prof Weaver referred to, which describes positions



and sailing tracks of fishing vessels, but not impact, are in fact based on NEAFC data for the high seas.

IUU fishing is not a problem in the North Atlantic as stated. It has been eradicated by appropriate blacklisting and port state measures.

It would be very sad if ICP was only informed on the situation in the North Atlantic by this presentation of misleading advocacy science or, as Prof Ray Hilborn has termed it, faith based science. Luckily there is sound scientific information available through ICES and NEAFC and a number of projects, which can and will be brought forward.

Finally I would like to ask Prof Weaver if it is his scientific opinion that deep sea bottom trawling is the most serious threat to marine biodiversity, it was my impression after the presentation that this was the message.