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The Pacific environment, sustaining our livelihoods and natural heritage in harmony with our cultures.

Twenty Fourth SPREP Meeting

17-19 September 2013

Apia, Samoa

AGENDA ITEM 10.2: Items Proposed by Members -

Biodiversity Beyond National Jurisdiction

Update on the United Nations led discussions on the issue of the conservation and sustainable use of marine biological diversity in areas beyond national jurisdiction.

(Paper presented by Australia)



Australian Government

Background Paper

Purpose of Paper

1. The purpose of this paper is to inform members about the United Nations led discussions on biodiversity beyond national jurisdiction (BBNJ) which relates to the Island and Oceanic Ecosystems goal of the Biodiversity and Ecosystem Management section of the Pacific Regional Environment Programme Strategic Plan 2011-2015:

'Develop regional knowledge, and consider regional action on oceanic ecosystems in areas within and beyond national jurisdictions, in concert with relevant regional and international organisations and initiatives; and explore the feasibility of a project of the Global Environment Facility (GEF) on this issue'

Background

2. Areas beyond national jurisdiction are those areas of ocean for which no one nation has the specific or sole responsibility for management. They include the high seas water column and the international seabed. Some of the world's most important fisheries and marine ecosystems are found in or are connected with these areas. The high seas water column comprises 64 per cent of the surface of the ocean and nearly 95 per cent of its volume.

3. The use of areas beyond national jurisdiction has grown exponentially over the past decades, presenting risks to biodiversity beyond national jurisdiction (BBNJ). Established activities such as fishing and shipping have intensified, while the longer-term impacts of new and emerging activities in areas beyond national jurisdiction, such as bio-prospecting, deep seabed mining, benthic marine scientific research, climate-related geo-engineering, ocean fertilisation and proposals to store or sequester carbon dioxide in the water column or deep seabed, are difficult to predict with any certainty.

4. In response to these developments, there has been growing international support for the development of a multilateral instrument to better manage the conservation and sustainable use of BBNJ, including in the form of an implementing agreement to the United Nations Convention on the Law of the Sea (UNCLOS).

5. In 2004, the United Nations General Assembly (UNGA) established an *Ad Hoc Open-ended Informal Working Group to study issues relating to the conservation and sustainable use of marine biological diversity in areas beyond national jurisdiction* (The Working Group). The Working Group has a mandate "to indicate where appropriate, possible options and approaches to promote international cooperation and coordination for the conservation and sustainable use of marine biological diversity beyond national jurisdiction".

6. At the Working Group's fifth meeting in 2012 it was agreed that two intersessional workshops should be held in May 2013, one on marine genetic resources and the other on conservation and management tools. Further, the 2012 meeting introduced the concept of a decision point on the possible development of a multilateral instrument.

7. The concept of a multilateral agreement under UNCLOS was suggested as a means to improve governance in areas beyond national jurisdiction, including by creating a framework for the establishment of networks of marine protected areas based on scientific evidence. Such an agreement might help overcome the problems related to conservation and management of marine biodiversity that result from the fragmentation and sectoral nature of the current international regulatory framework.

United Nations Conference on Sustainable Development (Rio+20)

8. In June 2012 at Rio+20, building on the work of the Working Group, member states agreed to make a decision on whether to initiate negotiations on an instrument under UNCLOS with a deadline by the end of the 69th session of the UNGA (September 2015).

9. The full text of the Rio+20 outcome is:

"We recognize the importance of the conservation and sustainable use of marine biodiversity beyond areas of national jurisdiction. We note the ongoing work under the UN General Assembly of an 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. Building on the work of the ad hoc working group and before the end of the 69th Session of the UN General Assembly we commit to address, on an urgent basis, the issue of the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, including by taking a decision on the development of an international instrument under the UN Convention on the Law of the Sea."

10. The two intersessional workshops were held at UN Headquarters in New York in May 2013 with a view to improving understanding of the issues related to the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction.

11. The workshops further demonstrated that there are weaknesses in global oceans governance with respect to the conservation and sustainable use of biodiversity beyond national jurisdiction. These include:

- **Coordination across different sectoral and regional regimes:** there is no effective framework for coordination across different sectoral and regional regimes
- **Area-based management:** there is no global framework for area-based management arrangements including the identification and management of marine protected areas;
- **Environmental impact assessments:** There is no detailed regime specifying how the UNCLOS provision on the conduct of environmental impact assessments is to be implemented.
- **Marine genetic resources:** there is no global framework for the regulation of marine genetic resources, including issues of access and benefit sharing and environmental protection.

Forward process

12. The working group met from 19-23 August 2013 at UN Headquarters in New York.

Details of this meeting are available on the Division for Ocean Affairs and Law of the Sea website (<http://www.un.org/depts/los/biodiversityworkinggroup/biodiversityworkinggroup.htm>).

13. The Working Group has been mandated by the General Assembly to provide recommendations to UNGA. These recommendations will be considered for possible adoption by United Nations Member States as part of the annual UNGA Resolution on Oceans and Law of the Sea, which comes before UNGA in November each year.

14. The Working Group will likely make recommendations to UNGA on a forward process. The Co-chairs of the Working Group will propose draft recommendations for the consideration of member states.

15. Delegations will then have the opportunity to comment and propose amendments. It is anticipated that there will be a comprehensive discussion on various options for the forward process.

Recommendations:

16. The meeting is invited to:

- **note** the update on the United Nations led discussions on biodiversity beyond national jurisdiction and the forward process;
- **request** the Secretariat to facilitate a discussion amongst SPREP Members, over the next year, to ensure that BBNJ issues of particular relevant to Pacific nations are appropriately identified and taken into account in the United Nations led discussions; and
- **request** the Secretariat, in their additional role as the Secretariat for the Noumea Convention, to work with Parties to raise this issue through the Convention.

Attachment A provides a guide to some of the issues that could be relevant to SPREP members in discussions on a multilateral agreement on BBNJ.

Attachment A:

Issues and Questions Relevant to SPREP in the BBNJ discussions

8 August, 2013