

Agenda Item 7.2: Support for Members negotiating the International Legally Binding Instrument on Biodiversity Beyond National Jurisdiction under the Law of the Sea

Purpose of paper

1. To provide an update on SPREP support for Members negotiating the international legally binding instrument under the United Nations Convention on the Law of the Sea (UNCLOS) on the conservation and sustainable use of biodiversity beyond national jurisdiction (BBNJ).
2. To provide an update of the status of BBNJ negotiations.
3. To seek endorsement to continue this work in cooperation with other CROP agencies.

Background:

4. In [resolution 72/249](#) of 24 December 2017, the UN General Assembly decided to convene an Intergovernmental Conference, under the auspices of the United Nations, to consider the recommendations of the [Preparatory Committee](#) established by [resolution 69/292](#) of 19 June 2015 on the elements and to elaborate the text of an international legally binding instrument under UNCLOS on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, with a view to developing the instrument as soon as possible.
5. The legally binding instrument on BBNJ is a crucial development in the Law of the Sea. The instrument will address gaps in international law in dealing with present and emerging threats to biodiversity in areas beyond national jurisdiction.
6. The instrument has a number of elements which directly align with the work and expertise of the Secretariat, including environmental impact assessment and strategic environmental assessment, marine protected areas and other area-based management tools, marine genetic resources and associated access and benefit sharing. Furthermore, there are cross overs with other international multilateral environmental agreements and the work of SPREP in management of threatened and migratory species.
7. As the region's environmental intergovernmental organisation and member of the UNEP Regional Seas programme it is crucial that SPREP is engaged in this process and supports Members with legal and technical advice to ensure that a good outcome is achieved for the region.

8. SPREP has been supporting Members with technical and legal advice other aspects of the agreement in the negotiations since the process began, along with other CROP agencies. CROP support is coordinated through the Office of the Pacific Ocean Commissioner (OPOC). Advice is given primarily to the PSIDS group in New York and involves collaboration with Australia and New Zealand in PIF who are very supportive of PSID positions, where national interests align.
9. After delays due to COVID constraints, the instrument is in the final stages of negotiation and the fifth intergovernmental conference (IGC5) is due to be held at UN Headquarters, New York in August 12 – 26 2022.
10. The zero draft of the Instrument has been provided by the President of the Conference on 30 May 2022. The draft contains many elements that are important for PSIDS, but there is still some ground to cover on the special case of SIDS and the special consideration for adjacent coastal states, particularly in the case of the high seas pockets in the Pacific region.
11. Also of key importance will be the institutional arrangements, the degree of internationalization in the EIA process, and the role of the various bodies which will be established under the instrument.
12. It will also be crucial to ensure that there are clear provisions for resourcing and capacity building for Pacific Island countries to implement this agreement.
13. Negotiators from PIF member states recently met in Honolulu from 22-25 May, to discuss the positions of various delegations and establish areas of common ground. This was a very productive and cooperative meeting and will facilitate the region to enter IGC5 with a clear and cohesive approach. SPREP attended the meeting virtually.
14. The advice of CROP experts is crucial for PSIDS negotiators to ensure that the New York representatives have technical advice from all sectors and can incorporate the relevant information and regional perspective with each CROP agency's mandate. As the Pacific region's intergovernmental environmental organisation advice from SPREP is crucial to ensure that the legal framework is grounded in practicality.

Recommendation

15. The Executive Board Meeting is invited to:
 - 1) **Note** SPREP long-standing and continuing support for BBNJ negotiators and the key issues for the region in the latest draft.
 - 2) **Note** the key updates in the negotiation process.
 - 3) **Endorse** SPREP continued engagement to support Members in the BBNJ negotiations.