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Oceans and the law of the sea

Report on the work of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea at its twelfth meeting

Letter dated 22 July 2011 from the Co-Chairs of the Consultative Process addressed to the President of the General Assembly

Pursuant to General Assembly resolution 65/37 A of 7 December 2010, we were appointed as the Co-Chairs of the twelfth meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea.

We have the honour to submit to you the attached report on the work of the Informal Consultative Process at its twelfth meeting, which was held at United Nations Headquarters from 20 to 24 June 2011. The outcome of the meeting consists of our summary of issues and ideas discussed during the meeting. As per past practice, we kindly request that the present letter and the report of the Consultative Process be circulated as a document of the sixty-sixth session of the General Assembly under the agenda item entitled "Oceans and the law of the sea".

In addition, kindly note that the meeting entrusted us to bring the outcome of the twelfth meeting to the attention of the United Nations Conference on Sustainable Development to be held in Rio de Janeiro, Brazil, in 2012. Accordingly, we would be grateful if the attached document, which includes issues that could benefit from attention in the framework of the Conference, could also be transmitted to the Co-Chairs of the Bureau for the Preparatory Process of the Conference.

(Signed) Milan Jaya Nyamrajsingh Meetarbhan
Don MacKay
Co-Chairpersons

* A/66/150.



Twelfth meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea

(20-24 June 2011)

Co-Chairs' summary of discussions¹

1. 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 and, pursuant to General Assembly resolution 65/37 A, focused its discussions on the topic entitled "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".
2. The meeting was attended by representatives of 88 States, 17 intergovernmental organizations and other bodies and 12 non-governmental organizations.
3. The following supporting documentation was available to the meeting: (a) addendum to the report of the Secretary-General on oceans and the law of the sea (A/66/70/Add.1); and (b) format and annotated provisional agenda of the meeting (A/AC.259/L.12).
4. The meeting also had before it submissions from the European Union (A/AC.259/20) and the Pacific small island developing States (A/AC.259/21).

Agenda items 1 and 2

Opening of the meeting and adoption of the agenda

5. The two Co-Chairs, Don MacKay (New Zealand) and Milan Jaya Meetarbhan (Mauritius), highlighted in their opening statements the importance of the oceans and seas to sustainable development, in particular for coastal developing States and small island developing States, in the light of their dependence on healthy coastal and marine ecosystems for livelihood. There was a need for the oceans to feature prominently on the agenda of the United Nations Conference on Sustainable Development.
6. On behalf of the Secretary-General, Patricia O'Brien, the Under-Secretary-General for Legal Affairs and Legal Counsel, underlined the critical importance of oceans, seas, islands and coastal areas for global food security and for sustaining economic prosperity and the well-being of many nations. She noted that while progress had been made with regard to an institutional framework for the oceans with the establishment, inter alia, of the Consultative Process, much more remained to be done.
7. Sha Zukang, Under-Secretary-General for Economic and Social Affairs, stressed that billions of people around the world were dependent on the oceans and their resources for their livelihood. Yet, oceans were among the most threatened ecosystems, including from the loss of marine biodiversity, pollution, global warming, acidification, coral bleaching and declining fish stocks. These challenges

¹ The summary is intended for reference purposes only and not as a record of the discussions.

highlighted the urgency of taking action to ensure the sustainable management and use of marine resources for current and future generations.

8. The meeting adopted the format and annotated provisional agenda and approved the proposed organization of work.

Agenda item 3

General exchange of views

9. The discussions held on the topic of focus at the plenary meetings and within the panels are reflected in paragraphs 11 to 85 below.

10. Delegations expressed their appreciation for the addendum to the report of the Secretary-General on oceans and the law of the sea (A/66/70/Add.1). Several delegations highlighted the challenges and emerging issues identified in the report, noting its conclusion that while progress had been achieved, the full implementation of many of the goals and targets for the sustainable development of oceans and seas required further efforts by States, intergovernmental organizations and other relevant actors.

Area of focus: 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

11. In accordance with the annotated agenda, discussions in the panel were structured around four segments: (a) sustainable development, oceans and the law of the sea; (b) overview of progress to date and the remaining gaps in the implementation of the outcomes of the major summits on sustainable development; (c) new and emerging challenges for the sustainable development and use of oceans and seas; and (d) the road to Rio+20 and beyond. The segments were launched by presentations from panellists, which were followed by discussions.

12. Delegations highlighted the timeliness and critical importance of the topic of focus, noting that the oceans and seas, in the light of their economic, social and environmental significance, should feature prominently in the discussions and outcome of the United Nations Conference on Sustainable Development in 2012. The importance of the topic of focus to developing countries was particularly emphasized.

13. With reference to one of the themes of the conference, which was entitled “Green economy in the context of sustainable development and poverty eradication”, some delegations noted that for many countries, a “green economy” was a “blue economy”.

1. Sustainable development, oceans and the law of the sea

(a) Panel presentations

14. 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. Cherdasak 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) Plenary and panel discussions

15. The role of oceans in achieving the three pillars of sustainable development was emphasized. It was noted that the oceans, including coastal areas, were critical for life, food security and the prosperity of humankind. The health of the oceans and the management of their resources were directly related to development opportunities for many peoples, in particular in small island developing States. The role of healthy oceans in providing ecosystem services as part of the Earth's ecological cycles, including by absorbing carbon and providing oxygen, was also stressed. In particular, the significance of the contribution of fisheries to the social pillar was highlighted, as well-managed fisheries provided food security and employment. Fisheries were also essential for trade and commerce for many coastal States that rely heavily on those resources, in particular small island developing States.

16. Several delegations recalled that a central principle of sustainable development was intergenerational equity, which stressed the pursuance of development in a manner that used natural resources rationally and sustainably so that future generations could also enjoy the benefits of current development. Reference was also made to intragenerational equity. Many delegations noted the need to balance and strengthen linkages among the economic, social and environmental pillars of sustainable development. Some delegations stressed that all three elements should be considered as an integrated whole and not as separate pillars. The view was expressed that such an approach required consideration of the relevant economic, ecological and social aspects at the local, national, regional and global levels, and that there was no "one-size-fits-all" solution.

17. Several delegations were of the view that, in achieving sustainable development, fragmentation of the law of the sea should be avoided. They recalled that activities in the oceans were governed by the law of the sea as reflected in the 1982 United Nations Convention on the Law of the Sea, the integrity of which should be preserved. In that regard, it was recalled that ratification of the Convention was the most significant action a State could take towards sustainable development. It was also noted that the convening of the Conference on Sustainable Development in 2012 would coincide with the thirtieth anniversary of the adoption of the Convention.

18. With reference to the role of regional organizations in the sustainable development of oceans and the law of the sea, some delegations expressed concern at a proposal from a panellist that the mandates of regional fisheries management organizations and arrangements into regional ocean management organizations. It

was stressed that regional fisheries management organizations and arrangements were already coping with challenges in fulfilling existing mandates and that it was not likely that they would have either the capacity or the mandate to address issues such as marine protected areas. Other delegations emphasized the existing legal framework established by the Convention and its implementing agreements and the tools already available to face those challenges.

19. The central role of the General Assembly as a decision-making body, particularly in aspects related to the sustainable development of oceans and seas, was emphasized.

20. With regard to cooperation and coordination, some delegations noted the plethora of international conventions, conferences and legal frameworks dealing with marine issues, and highlighted the need to harmonize the vision of the international community and develop synergies in order to promote the sustainable management of the oceans. The importance of cross-sectoral cooperation between organizations with mandates to regulate different activities, particularly at the regional level, was noted. The need for integrated management and the sustainable development of coastal areas, as well as the adoption of ecosystem approaches, was also emphasized.

21. In this context, it was recalled that in the Plan of Implementation of the World Summit on Sustainable Development (Johannesburg Plan of Implementation), it was recommended that an effective, transparent and regular inter-agency coordination mechanism on ocean and coastal issues be established within the United Nations system, which led to the establishment of UN-Oceans. The view was expressed that there was a need to re-evaluate the role of UN-Oceans (see also paras. 87-91) in increasing coherence and supporting Member States in the implementation of ocean-related policies.

22. The attention of the meeting was drawn to the importance of applying a precautionary approach as called for in Principle 15 of the Rio Declaration on Environment and Development and as reiterated by the Seabed Disputes Chamber of the International Tribunal on the Law of the Sea in its advisory opinion on the responsibilities and obligations of States sponsoring persons and entities with respect to activities in the area. Several delegations supported the application of an ecosystem approach to managing human activities in the oceans, including by using tools, consistent with international law, such as marine protected areas and coastal and marine spatial planning. Reference was also made to Principle 2 of the Rio Declaration, according to which States had the responsibility to ensure that activities within their jurisdiction did not cause damage to the environment of other States or of areas beyond the limit of national jurisdiction. The principle of common but differentiated responsibilities was also recalled by many delegations.

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

(a) Panel presentations

23. 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.

(b) Plenary and panel discussions

24. Delegations recalled positive commitments made at major summits on sustainable development. Many delegations referred also to the Manado Ocean Declaration and the outcome of the tenth meeting of the Conference of the Parties to the Convention on Biological Diversity. However, many delegations noted with concern the gap between the adoption of commitments and their implementation. Several delegations stated that while important political efforts had been undertaken to meet these commitments, including by perfecting the normative framework, shortcomings in implementation remained in relation to oceans.

25. Several delegations noted that many of the commitments made at the United Nations Conference on Environment and Development and subscribed in the Johannesburg Plan of Implementation and the Millennium Development Goals, especially relating to coastal developing States and small island developing States, had not been met.

26. A number of delegations emphasized the need for greater efforts in the implementation of existing agreements and commitments, particularly at the national level, in order to advance the sustainable development agenda. In this regard, a key message from Agenda 21, "to think globally and act locally", was recalled. It was suggested that the aggregate of actions at the national level would translate into action at the international level. The need to develop policies at the local level, for example with small-scale fishing communities, was highlighted.

27. Some delegations stressed the importance of flag State responsibility and the need for States, in order to be responsible fishing nations, to become party to important international instruments such as the 1995 United Nations Fish Stocks Agreement and the Agreement on Port State Measures to Prevent, Deter and

Eliminate Illegal, Unreported and Unregulated Fishing approved by the Committee on Fisheries of the Food and Agriculture Organization of the United Nations (FAO). It was noted that States could be responsible fishing nations without becoming party to such Agreements and that their performance should be evaluated on the basis of their actions.

28. Noting the importance of scientific knowledge for the sound management and conservation of the oceans, some delegations expressed the need for greater efforts in strengthening the ability of the IOC/UNESCO and regional organizations in building capacity in marine science. Reference was also made to the International Seabed Authority as a possible model for the promotion of cooperation and coordination of capacity-building and transfer of marine technology.

29. The view was expressed that good governance was essential for poverty eradication and sustainable development but still constituted a considerable challenge for the United Nations system. In particular, the reference to good governance contained in the 2002 Monterrey Consensus of the International Conference on Financing for Development and the ocean governance goals identified at the World Summit on Sustainable Development were highlighted. In that regard, there was still a need to identify to what extent such goals had been achieved. The lack of clarity on the institutional and regulatory mechanisms needed for achieving the target of protection of 10 per cent of oceans by 2020 was also noted. A concern was expressed about the institutional and budgetary weakening of the international bodies mandated to examine the implementation of the rules relating to maritime protection.

30. Attention was drawn to the Marine Strategic Framework Directive of the European Union according to which, inter alia, an ecosystem-based approach would be applied to the management of human activities. In this context, from 2012, Member States of the European Union would need to assess, through regular assessments, the cost of degradation of the marine environment.

31. The central role of the Convention in the context of the recommendations adopted at the major summits on sustainable development was noted. It was suggested that the 1995 United Nations Fish Stocks Agreement had provided the foundation for a robust international fisheries regulatory regime and codified modern principles of fisheries conservation and management. The issue of transparency, with particular reference to the need of having States properly reporting their fishing efforts to the regional fisheries management organizations and arrangements in which they participated, was also highlighted.

32. It was also noted that the 1995 Agreement had included the establishment of an Assistance Fund under Part VII which was often underresourced and which therefore frustrated the expectations of developing States. An appeal was made for contributions to the Assistance Fund.

33. Several delegations expressed the view that the major remaining gaps in the implementation of Agenda 21 and the Johannesburg Plan of Implementation in respect of sustainable fisheries related to overfishing and fishing overcapacity, as well as fisheries subsidies. In this connection, noting that removing harmful subsidies had economic, environmental and developmental benefits, the view was expressed that it would be welcome if the issue of subsidies could be discussed in

the preparation for the 2012 Conference on Sustainable Development (see also para. 66).

34. Other delegations observed that a lack of monitoring, control and surveillance capacity affected the ability of some States to regulate activities in their exclusive economic zone. Delegations stressed the need to address illegal, unreported and unregulated fishing, destructive fishing practices, by-catch and discards, single-species management, data reporting and ineffective fisheries management. A concern was also expressed about continued shark finning.

35. With regard to bottom trawling, attention was drawn to the upcoming workshop to discuss implementation of relevant paragraphs of General Assembly resolutions 61/105 and 64/72 on the impact of bottom fishing on vulnerable marine ecosystems and the long-term sustainability of deep sea fish stocks, which was seen as the most suitable forum to deal with the technical aspects of bottom fishing.

36. The view was expressed that the economic benefits of deep sea fisheries were negligible in absolute terms and disproportionately small when compared with the negative impact on the marine environment.

37. Several delegations stressed the need to apply more effectively modern conservation and management principles to fisheries management, such as the precautionary and ecosystem approaches. In this connection, many delegations expressed concern that several of the goals set up by the sustainable development summits, in particular the application of the ecosystem approach by 2010, the achievement by 2010 of a significant reduction of the current rate of biodiversity loss at the global, regional and national levels, and the establishment of representative networks of marine protected networks by 2012, had not been met.

38. Reference was also made to the alarming statistics contained in the FAO report *State of World Fisheries and Aquaculture*, highlighting the need to strengthen the regulatory regime for regional fisheries management organizations and arrangements with a view to making them more accountable, transparent and open. In that regard, attention was drawn to the recommendations of the Resumed Review Conference on the United Nations Fish Stocks Agreement relating to the need to modernize the mandate of regional fisheries management organizations and arrangements and to undertake regular performance reviews. Attention was also drawn to the 1982 Nauru Agreement Concerning Cooperation in the Management of Fisheries of Common Interest. In this connection, the importance of the sustainability of tuna fishing for the economy of small island developing States was underscored, and attention was drawn to the 2010 Koror Declaration, which introduced innovative measures, such as expanded and targeted high seas closures. Some delegations proposed that the General Assembly exercise oversight of the performance of regional fisheries management organizations and arrangements. However, the North-East Atlantic was identified as an area where the competent regional fisheries management organization had successfully addressed illegal, unreported and unregulated fishing through, inter alia, the use of black lists.

39. Some delegations highlighted the importance and vulnerability of migrating cetaceans, which sustained coastal communities engaged in commercial whale and dolphin watching operations. They noted the ecosystem services provided by cetaceans, for example, baleen whales recycle organic iron and convert it into mineral iron. It was noted that only one fifth of cetaceans was covered by the

current legal and policy frameworks. The fragmented level of protection of whales, for example, constituted a substantial hindrance to the fair and sustainable development of the oceans. They observed that further international cooperation was needed on this issue, with the view to adopting a collective policy, in conformity with applicable international law, including the Convention, to ensure the protection of cetaceans on the high seas. Some other delegations highlighted in this regard the fundamental principle that renewable resources must be harvested in a sustainable way. They expressed their readiness to continue to cooperate within existing competent forums, namely the International Whaling Commission and the North Atlantic Marine Mammals Commission.

40. With regard to the conservation and sustainable use of marine biological diversity, many delegations highlighted that a step towards overcoming a major gap in the implementation of the Convention had been taken at the fourth meeting of the 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, held from 31 May to 3 June 2011. The Working Group had recommended that a process be initiated, by the General Assembly with a view to ensuring that the legal framework for the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction effectively addressed those issues by identifying gaps and ways forward, including through the implementation of existing instruments and the possible development of a multilateral agreement under the Convention. This process would address the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction, in particular, together and as whole, marine genetic resources, including questions on the sharing of benefits, measures such as area-based management tools, including marine protected areas, and environmental impact assessments, capacity-building and the transfer of marine technology.

41. Some delegations noted that marine protected areas had been recognized as an important management tool, including mitigating and buffering some of the impacts on the oceans from coastal and offshore development, overfishing, climate change, natural events, and other stressors. Some delegations pointed out the slow progress towards achieving the 2012 target for establishing marine protected areas, consistent with international law and based on the best scientific information available, including representative networks. Several delegations highlighted the need to establish marine protected areas in areas beyond national jurisdiction. With reference to the work of the Working Group (see para. 40), other delegations stressed the need to address jurisdictional issues and develop institutional structures for areas beyond national jurisdiction that represented the interests of the international community as a whole.

42. The absence of a global mechanism for the designation of marine protected areas beyond areas of national jurisdiction was also noted by some delegations. Reference was made to the relevant outcome of the tenth meeting of the Conference of the Parties to the Convention on Biological Diversity, emphasizing the adoption of a new Strategic Plan for Biodiversity 2011-2020, including targets on sustainable fisheries and on coastal and marine protected areas, as well as the process established in decision X/29 of the Conference of the Parties to identify ecologically or biologically significant areas.

43. In order to ensure the sustainable use of marine goods and services, several delegations noted the need to adequately assess and understand the state and functioning of the oceans to support an integrated and ecosystem-based approach to the management of human activities that had an impact on the marine environment. In that regard, reference was made to the importance of an operational regular process for global reporting and assessment of the state of the marine environment, including socio-economic aspects.

44. The view was expressed that an ecosystem approach was needed for the management of all users and uses, including tourism, merchant shipping, mining and fishing. In this connection, reference was made to the importance of establishing regional marine scientific and technological centres in small island developing States.

45. With regard to marine pollution, the need for further work in reducing the impacts of marine debris, underwater noise and land-based activities on the oceans was stressed. Marine debris was a transboundary issue, requiring regional cooperation and coordination. The phenomenon of invasive species was also underscored as a threat to biodiversity and a significant factor in its decline. The work of the International Maritime Organization in addressing ballast water was underlined (see also para. 92). It was noted that a decrease of biodiversity also affected fisheries, tourism and commerce. Attention was also drawn to the lack of a legal regime on liability and compensation related to damage caused by pollution generated in connection with offshore exploration and exploitation activities.

46. The view was expressed that transboundary pollution from offshore oil platforms constituted a concern which should be addressed, and noted ongoing work in this regard. Some delegations discussed the possibility of the development of new instruments to address emerging issues relating to activities such as offshore hydrocarbon exploration and exploitation. Other delegations emphasized that the issue was adequately covered by existing obligations under international law to protect the marine environment, including the Convention, and stressed the need to fully implement them.

47. Several delegations were of the view that pollution research projects should address these new threats to the marine environment. Research was also necessary on the impact of climate change on oceans.

48. Some delegations also expressed concern with regard to the risks associated with the transportation of hazardous and radioactive waste through the Caribbean Sea.

49. The general view was expressed that capacity-building was critical for the achievement of the sustainable development of oceans and seas. It was also noted that changes in technology had expanded access to data from the Global Ocean Observing System, which served as an important resource for scientists, ocean and coastal resource managers, emergency responders, policymakers, educators, and those who used the oceans for their recreation and livelihood.

50. Attention was drawn to the Intergovernmental Oceanographic Commission Criteria and Guidelines on the Transfer of Marine Technology and the need to apply them. It was noted that the role of IOC with regard to the transfer of technology should be further explored. With regard to activities in the Area, the competence of the International Seabed Authority for transfer of technology was underlined.

51. Reference was made to the need to consider balancing the requirements of developing States with proprietary rights linked to the transfer of technology.

52. The need for a coordinated approach to capacity-building and technology transfer was noted. In this regard, identifying the capacity gaps, which may hinder effective participation in the sustainable development of oceans and finding solutions to these gaps was considered necessary. Some delegations suggested that this could include the establishment of a clearing house mechanism for providers and recipients.

53. Several delegations also recognized that capacity-building was an important aspect of research. Examples of effective capacity-building programmes were referred to, including the Nansen Programme, which aimed at building capacity through fisheries research and management and institutional strengthening. Reference was also made to examples of South-South cooperation, in particular in regard to marine and coastal fish farming and the development of alternative, renewable energy.

Information session

54. 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. New and emerging challenges for the sustainable development and use of oceans and seas

(a) Panel presentations

55. 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.

(b) Plenary and panel discussions

56. A wide range of new and emerging challenges to the sustainable development and use of oceans and seas was highlighted as requiring attention. In particular, delegations expressed concern over the loss of biodiversity and related services; impacts on vulnerable marine ecosystems, including corals; overexploitation of resources; harmful subsidies; marine debris and microplastics; invasive alien species; underwater noise; and the accumulation of chemicals and excessive nutrients in the oceans.

57. Several delegations noted that the challenges affecting sustainable development were interlinked and could not be addressed in isolation. These delegations also stressed that the interplay between these issues could produce challenges that were not addressed under current policies. It was noted, for example, that research on climate change usually focused on individual impacts, and that cumulative impacts might have unknown consequences.

58. Many delegations also highlighted the environmental vulnerability and isolation of small island developing States, whose culture, livelihoods and economies were being threatened by unsustainable uses of marine resources and by climate change. In this regard several delegations raised concerns over the impacts of climate change on oceans including sea level rise and ocean acidification. Many delegations agreed on the need to address climate change in the context of the principles set out in the United Nations Framework for the Convention on Climate Change. In particular, reference was made to how climate change impacts relate to water supplies and food security.

59. It was noted that the lack of information and technology as well as institutional capacity within developing States to address, in particular climate change, needed to be taken into consideration. Other delegations called for increased international cooperation and data sharing on observations and research to better understand and anticipate the effects of ocean acidification on the marine environment. Several delegations also noted the role of renewable energy in sustainable development, including in the minimization of the risk of climate change and reduction of poverty. The importance of a precautionary approach in the development of renewable energies to manage environmental impacts was noted.

60. Several delegations also highlighted the impact of climate change on fish stocks, including redistribution of fish populations.

61. Some delegations emphasized that changes in the distribution of stocks could lead to the collapse of existing agreements in regional fisheries management organizations where allocations were based on the location of these resources. Some delegations suggested that there was a need for an international instrument on the allocation of fish stocks, since this issue was not dealt with in the United Nations Fish Stocks Agreement.

62. With regard to ocean acidification, concerns were expressed over the lack of capacity to monitor the impacts of acidification, particularly in developing countries.

63. With regard to ocean fertilization, concern was expressed about the possible impact on the marine environment.

64. Several delegations noted that although marine debris was not a new challenge, its effects on marine ecosystems were becoming more apparent due, in particular, to pervasiveness of microplastics. They suggested that this matter deserved particular attention at the 2012 Conference on Sustainable Development. It was noted by a panellist that UNEP had a comprehensive waste management programme in place.

65. In regard to underwater noise, several delegations highlighted that the marine environment had experienced an acute growth of noise events, particularly in the shipping and energy sectors and military activities. A panellist stressed that noise could seriously affect marine species, including mammals, and could cause dramatic reductions in fishing catch rates. Several delegations called for immediate action on this issue.

66. As to overfishing, the view was expressed that there was a need to eliminate harmful subsidies. Although attractive in the short term, subsidies could undermine the resource base in the long term. Several delegations emphasized that the appropriate forum for this issue was the Doha Round of the World Trade Organization. Some delegations stated that it was important not to treat all subsidies the same way since they could be used to fund adaptive measures, such as the diversification of local economies. It was suggested that the 2012 Conference on Sustainable Development process could provide a new important opportunity to address issues related to subsidies.

67. Some delegations emphasized the need to recognize the important contribution of artisanal and small scale fishing communities to sustainable development. In this regard, it was recalled that Agenda 21 had reflected and recognized the importance of artisanal and small scale fisheries to sustainable development. Some delegations suggested that the 2012 Conference on Sustainable Development should reaffirm the importance of these issues.

68. Reference was made to the use of industrial scale floating aquaculture farms. There was a need to increase national and international efforts to address aquaculture, including through data collection, best practices and certification guidelines.

69. Several delegations expressed views on possible solutions to the wide range of challenges to the sustainable development and use of oceans and seas, while emphasizing that ecosystems were at the centre of management efforts. These delegations also highlighted the need to preserve the integrity of ecosystems and to make the ecosystem approach operational. The potential role of the Regular Process was emphasized.

70. Many delegations stated that the outcome of the fourth meeting of the Working Group was a significant move forward and a delicately balanced outcome (see also para. 40).

71. Many delegations underlined the need to address the question of the relevant legal regime for marine genetic resources in areas beyond national jurisdiction. These delegations expressed support for the possible development of an implementing agreement to address the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction. Some delegations supported the inclusion of language in this regard in the outcome document of the 2012 Conference on Sustainable Development.

72. Other delegations expressed the view that the solution to the conservation and sustainable use of marine biological diversity should be sought by maximizing the implementation of existing instruments. With reference to the outcome of the fourth meeting of the Working Group, it was stressed by those delegations that the implementation of existing instruments and the identification of implementation gaps was an equally important part of the process.

4. The road to Rio+20 and beyond

(a) Panel presentations

73. 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.

(b) Plenary and panel discussions

74. Several delegations expressed the view that for the 2012 Conference on Sustainable Development to be a success, it should deliver a strong outcome for oceans, fisheries and biodiversity. The view was expressed that Governments should consider taking bold actions at Rio+20, including the need to reaffirm existing commitments and develop new initiatives. In the light of the various inputs to be made to the 2012 Conference, a coordinated approach with regard to oceans issues was needed in order to avoid a fragmentation of the law of the sea.

75. Many delegations called for linking the “blue economy” to the “green economy”, within the context of eradication of poverty and sustainable development. Ocean priorities could be raised to a higher level of international attention and awareness with a view to achieving sustainable development objectives. In the light of the fact that many of the commitments which had been agreed in Agenda 21 and the Johannesburg Plan of Implementation had not yet been implemented, the need for setting realistic targets and goals that would be fully implemented instead of more ambitious targets was also pointed out. The view was expressed that renewed efforts should be directed towards implementation and enforcement of existing measures. It was stressed that the ability of developing countries to attain those targets required continued assistance at the international, regional, national and local levels.

76. A suggestion was made to focus on specific issues, such as food security, ocean acidification and effective conservation and management of marine ecosystems. Several other delegations called for the 2012 Conference on Sustainable Development to place an emphasis on the particular vulnerability and needs of small island developing States. The need to give serious consideration to issues related to sustainable production and consumption, in particular sustainable seafood consumption, was also highlighted. The role of renewable and alternative sources of energy was identified as crucial for the fulfilment of the three pillars of sustainable development and the accomplishment of a “green economy”, with the importance of a precautionary approach noted (see also para. 59). The general view was expressed that the 2012 Conference on Sustainable Development should assist the international community in its consideration of effective conservation and management measures for the oceans, including through adequate frameworks, policies and mechanisms.

77. It was noted that the 2012 Conference on Sustainable Development would provide an opportunity to consider the best policy tools for countries to move forward towards a “green economy” while avoiding new “green” barriers to trade. In that regard, the Conference should focus on reform and removal of existing disincentives to “green” growth such as harmful fossil fuel and fisheries subsidies. The proposals for special and differentiated treatment for developing countries, with respect to fisheries subsidies in the context of negotiations within the World Trade Organization were recalled.

78. With particular reference to fisheries, the view was expressed that the outcome of the 2012 Conference on Sustainable Development should ensure that global fisheries were fair, sustainable and accountable. In that regard, the important responsibility entrusted to regional fisheries management organizations and arrangements to conserve and manage global fish stocks was recalled. However, the need to improve the mandate of such organizations was underlined, as was the necessity to apply ecosystem approaches to fisheries. A proposal was made that the General Assembly exercise an oversight role over the performance of the regional fisheries management organizations.

79. With regard to marine biodiversity beyond areas of national jurisdiction, the need for a specific legal regime under the Convention was stressed by many delegations. The role of the International Seabed Authority with regard to the protection and preservation of the marine environment in the area, including marine

biodiversity, as evidenced by the regulations adopted by its Assembly, was pointed out.

80. With respect to area-based management tools, a view was expressed that the 2012 Conference should recognize the need to improve the effectiveness of existing and future marine protected areas to increase marine resilience to climate change and ocean acidification.

81. The need to evaluate the impacts of human activities on the environment to inform policy planning was highlighted. In that regard, the view was expressed that the Conference on Sustainable Development would contribute to raising awareness about the need for impact assessments. A proposal was made that the Conference promote the development of assessment processes, including for cumulative impact assessments of human activities on the marine environment.

82. The role of marine technology transfer in building capacity and in contributing to sustainable development was underscored. It was noted that the cooperation called for under Part XIV of the Convention in relation to the transfer of marine technology could be envisaged in both a North-South and South-South context. It was also observed that the transfer of marine technology required enabling environments that would attract investments.

83. With regard to the institutional framework, it was proposed that a focus be placed on pragmatic reforms of existing institutions rather than larger scale institutional change. The need to enhance cooperation and coordination among the agencies of the United Nations in accelerating the achievement of the goals and targets set in the Johannesburg Plan of Implementation was stressed. A concern was expressed, however, that the establishment of new structures could lead to fragmentation of the law of the sea.

84. The essential role of regional and national institutions was also recognized. The need for institutional frameworks, including at the international level, allowing for integration across the three pillars of sustainable development was highlighted. Closer cooperation among fisheries, environmental and other ocean bodies was considered crucial for an integrated approach to managing ocean issues and addressing cumulative impacts of various human activities.

85. Several delegations proposed that the Informal Consultative Process should agree on specific elements to be forwarded to the Conference on Sustainable Development. These could include: the close link among the three pillars of sustainable development, including seas and oceans, in particular for small island developing States; the need for sustainable development to take into consideration environmental, economic, social and human aspects; the importance of restoring the health of ocean ecosystems as a priority for realizing sustainable development, food security, poverty eradication and the establishment of a sustainable blue economy; the fact that many of the goals on oceans and sustainable development agreed upon at previous summits had not been achieved, in particular those included in chapter 17 of Agenda 21 and in the Johannesburg Plan of Implementation; reconfirming and, where necessary, updating such commitments; taking concrete steps to achieve an integrated and ecosystem-based approach for the management of human activities having an effect on marine ecosystems; tackling emerging issues, such as marine debris, underwater noise, invasive species and their cumulative impacts on biodiversity, including beyond areas of national jurisdiction; enhancing

resilience of marine ecosystems in the face of ocean acidification; linking an ecosystem approach and commitments for the regular assessment of the state of the marine environment as a basis for informed decision-making; further integrating the value of ecosystem services, including the cost of degradation, in decision-making processes, including through market-based mechanisms; the importance of management of fisheries resources in a manner that guarantees their long-term sustainability, including by ensuring that fishing capacity is commensurate with fishing possibilities, through the elimination of harmful subsidies and the application of an ecosystem-based approach to fisheries management; renewing commitments for all economic sectors having an impact on the marine environment, including shipping, offshore energy and land-based impacts; capacity-building and technology transfer; confirming commitments made at other processes, in particular at the tenth meeting of the Conference of the Parties to the Convention on Biological Diversity on marine biodiversity; the importance of marine biodiversity beyond areas of national jurisdiction for the integrity of marine ecosystems, and their related goods and services as an essential element for sustainable development, including for developing countries. The specific legal regime for biodiversity beyond areas of national jurisdiction under the Convention was noted as an element for consideration. They considered that these matters could be brought before the Conference on Sustainable Development for the endorsement of a way forward.

Agenda item 4

Inter-agency cooperation and coordination

86. Andrew Hudson, Principal Technical Advisor, International Waters, United Nations Development Programme, and UN-Oceans Coordinator, reported on the most recent work of UN-Oceans and of the Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection.

87. He informed the meeting about the main outcomes of the ninth meeting of UN-Oceans, held in New York on 17 June 2011, at which participating agencies discussed the possibility of conducting a review of UN-Oceans aimed at identifying its strengths, weaknesses and opportunities for improvement.

88. Mr. Hudson also briefed the meeting about the initiatives taken by member agencies to ensure the visibility of ocean-related topics at the 2012 Conference on Sustainable Development, as well as in the planning and preparation for the Expo 2012, to be held in Yeosu, Republic of Korea, on the theme “The living ocean and coast — diversity of resources and sustainable activities”.

89. He provided updates about the various activities of UN-Oceans task forces and informed the meeting about the decision to establish a new Task Force on Marine Debris, co-led by UNEP and IMO, with strong links to the Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection. Mr. Hudson also described ongoing upgrades to the United Nations Atlas of the Oceans, welcomed \$45,000 of new funding, and expressed the hope that such financial support would continue on an annual basis. Responding to questions, Mr. Hudson observed that the establishment of new task forces had been made pursuant to one of the core mandates of UN-Oceans on the identification of emerging issues and the establishment of task teams to deal with them, as appropriate.

90. A view was expressed that UN-Oceans should be strengthened and that its transparency, visibility and relevance increased in view of the 2012 Conference on Sustainable Development in accordance with the mandate contained in General Assembly resolution 57/141 and that participation of member States in the work of UN-Oceans should be given consideration. The suggestion was made that a review of UN-Oceans may also benefit from lessons learned from other inter-agency coordination mechanisms, such as UN-Water and UN-Energy.

91. With regard to how UN-Oceans could coordinate the scheduling of ocean-related meetings to avoid overlaps, Mr. Hudson suggested that the circulation of a calendar of existing ocean-related events could assist UN-Oceans members in planning future events. It was further noted that such a task is expected to be done by the secretariats, which are part of UN-Oceans.

92. Mr. Hudson recalled the scientific contribution of the Joint Group of Experts towards the advancement of chapter 17 of Agenda 21 and the Johannesburg Plan of Implementation, and drew attention to its work, including on ballast waters, atmospheric emissions from ships and coastal pollution sources, and ocean acidification in areas of heavy shipping traffic. In the light of the harmful effects of invasive species on marine ecosystems, States were called upon to ratify the International Convention for the Control and Management of Ships Ballast Water and Sediments.

93. Mr. Hudson also underscored the continuing availability of the Joint Group of Experts to contribute to the Regular Process, if requested, and recalled the partnership with the Global Environment Facility Transboundary Waters Assessment Programme. He further highlighted the work of the Joint Group of Experts on emerging issues, such as microplastics, and the availability of the Joint Group of Experts to provide its scientific contributions to States and international organizations.

94. The role of the Joint Group of Experts as an inter-agency scientific committee was noted, and reference was made to the difficulties the Joint Group of Experts continued to face in its work because of a lack of funding.

Agenda item 5

Process for the selection of topics and panellists so as to facilitate the work of the General Assembly

95. With regard to the topics to be discussed at upcoming meetings of the Informal Consultative Process, several delegations recalled the conclusion reached at the tenth meeting that the Informal Consultative Process should address issues related to the three pillars of sustainable development. The view was expressed that conservation and development were interlinked and therefore could not be examined independently from each other.

96. Several delegations reiterated the need for concept papers to be preferably circulated no later than the first round of informal consultations of the General Assembly on the resolution on oceans and the law of the sea, to allow delegations sufficient time to study them. The practice of choosing topics for at least two consecutive years was considered productive, although caution was raised at this suggestion, as adequate examination of proposed topics is needed.

97. The difficulty of organizing panels was recognized and several delegations noted the need to allow the Co-Chairs some degree of flexibility. The important role of the Co-Chairs in identifying and inviting competent individuals to participate as panellists and in maintaining the appropriate regional balance was also stressed.

98. Some delegations stressed the usefulness of the preparatory meeting and in this connection welcomed the efforts of the Co-Chairs to consult Member States.

99. The Co-Chairs reiterated their appeal to contribute to the voluntary trust fund established under General Assembly resolution 55/7 to assist the representatives of developing States, in particular least developed States, small island developing States and landlocked developing States, to attend the meetings of the Consultative Process as an essential means to ensure participation of both experts and attendees from developing countries. The Secretariat provided an update on the status of the Trust Fund.

Agenda item 6

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

100. 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.² 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.

² Available from http://www.un.org/depts/los/consultative_process/consultative_process_info.htm#-List%20of%20issues.