

ICP-9 HIGHLIGHTS: TUESDAY, 24 JUNE 2008

On Tuesday, delegates to the ninth meeting of the UN Open-ended Informal Consultative Process on Oceans and the Law of the Sea (Consultative Process or ICP-9) reconvened in a discussion panel on maritime security and safety. In the morning, presentations were made and a discussion was held on prevention and suppression of transnational organized crime. In the afternoon, panelists and delegates addressed issues relating to experiences and challenges in maritime safety.

DISCUSSION PANEL ON MARITIME SECURITY AND SAFETY

PREVENTION AND SUPPRESSION OF TRANSNATIONAL ORGANIZED CRIME: Presentations:

J. Ashley Roach, US Department of State, discussed the threats of, *inter alia*: drug smuggling's changing pathways particularly related to the shipment of cocaine from West Africa to Europe; armed robbery against ships; migrant smuggling at sea; and IUU fishing. He highlighted multilateral instruments on organized crime, migrant smuggling, illicit trafficking of drugs and threats posed by ships, and noted bilateral US agreements on counter-narcotics, maritime migration, and cooperative ship riding and boarding. To address these common threats, Roach stressed the importance of cooperation, capacity building, and respect for sovereignty, territorial integrity and political independence.

Anthony Franklin, Institute of Marine Affairs, Trinidad and Tobago, discussed prevention and suppression of transnational organized crime in the Caribbean, noting threats to maritime security, such as narcotics and arms trafficking, criminal deportees, irregular migration, terrorism and money laundering. On drug trafficking, he illustrated relationships between source countries in South America, transit countries in the Caribbean, and consumer countries such as the US and those in Europe. Franklin discussed regional security mechanisms as ways to prevent transnational crime, such as intelligence sharing. He discussed vulnerabilities in his region, including legislative challenges, inadequate information and intelligence, limited physical and human resources, porous borders and corruption.

Ana Isabel Sánchez Ruiz, Directorate-General for Justice, Freedom and Security, EC, explained that EU activities in combating smuggling of migrants and trafficking of persons by sea include the fight against organized crime and tighter border control. She elaborated on the EU's legal framework to tackle these issues. Ruiz discussed the challenges in controlling human trafficking and smuggling, which include: detection, identification, detention and prosecution of perpetrators or

facilitators; safety at sea; and return of migrants. She also emphasized that international cooperation is imperative.

Gunnar Stølsvik, Ministry of Fisheries and Coastal Affairs, Norway, discussed transnational organized fisheries crime as a maritime security issue, explaining that IUU fishing does not comply with national, regional or global fisheries conservation and management obligations. He stressed that large-scale IUU fishing is frequently conducted by global criminal networks, highlighting the South African abalone fishery, which has links with international criminal syndicates. Stølsvik emphasized the importance of identifying the types of vessels involved in such activities, and underscored that cooperation between IMO and the Food and Agriculture Organization (FAO), and international police are necessary to achieve this end. He noted that discussions between IMO and FAO on IUU fishing had started in 2007.

Discussion: Delegates had diverging views on linking IUU fishing to maritime security and safety. Many rejected linking IUU fishing to security threats, with some stating that the issue merits further discussion within the UN as the links remain unclear. Some suggested addressing a subset of IUU fishing as a security issue, and Stølsvik reiterated the existence of IUU fishing through international criminal groups, stating it would be disadvantageous to exclude it from discussions on transnational international crime.

Other delegates underscored IUU threats to human and food security, with some advocating interagency cooperation between the IMO and FAO in order to suppress IUU fishing. Roach noted that FAO is working on an international agreement for port state control to eliminate IUU fishing.

Stølsvik agreed with those concerned that IUU fishing is an issue of food security, environmental degradation, and sustainable development when it occurs within a state's coastal waters, since it can trigger the collapse of fish stocks. However, Stølsvik said that IUU fishing in the high seas was not an issue of sustainable development, but rather an issue of maritime security.

On the relationship between maritime security, IUU fishing and the marine environment, some participants pointed to evidence of criminal activities, such as illegal smuggling and trafficking of persons and narcotics, contributing to the destruction of marine habitats, and linked to IUU fishing, since these vessels are occasionally used by criminals. Participants also emphasized the need to implement measures such as, *inter alia*, port and flag state controls, and restricting distribution of IUU fish, including catch documentation schemes. One delegate suggested recognizing "silent partners" in transnational organized crime, such as banks and markets.

Responding to concern over South Africa being used as an example to highlight IUU fishing linked to transnational organized crime, Stølsvik commended South Africa for improved control over poaching abalone, and noted the problem is not exclusive to South Africa.

On strengthening border control in Europe, possible subsequent violations of human rights, and the inability to stop the worsening migratory flows, Sanchez reiterated that human rights is a component of EU policy. She emphasized that illegal immigrants cannot be compared to perpetrators of illegal activities. Regarding migrants transiting through the Caribbean, Franklin noted the ease with which migrants can reach the region.

Some participants reiterated the shared responsibility of all states to take action against human trafficking, and considered it a modern form of slavery. Responding to a query on ship riders and joint patrols, Roach reiterated the need for cooperation between neighboring countries. On suppressing illicit drug trafficking, it was stressed that the rights of coastal states and international law should be fully respected. One participant urged the UN to address deficiencies in flag state implementation, and supported negotiating a new implementing agreement with measures to ensure that responsibilities under UNCLOS are fulfilled.

Concerns were raised over the meeting's discussion of issues that some felt were already addressed in other fora.

EXPERIENCES AND CHALLENGES IN MARITIME SAFETY: Presentations: Koji Sekimizu, IMO, discussed ways in which IMO's security measures have expanded along with the growth of international shipping over the last 20 years through, *inter alia*, developing the 1993 International Safety Management (ISM) Code, amending the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW) in 1995, and adopting amendments to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation treaties in 2005. He highlighted IMO's new areas of focus, including enhancing operational measures, capacity building and implementing regional mechanisms.

Simon Bennett, International Chamber of Shipping, discussed his organization's experiences and challenges in maritime security, emphasizing how IMO's measures, particularly the ISM Code, STCW Convention, and Enhanced Survey Programme, have successfully reduced ship losses and major oil spills, even as the number of ships and cargo exports have increased. He also noted too much regulation, audits and paperwork can be counterproductive for achieving safety.

Walter Alfredo Guido, Viña del Mar Agreement Secretariat, emphasized the need for balance between shipping profitability and reliability. Guido emphasized that maritime safety relies on, *inter alia*, IMO and International Labour Organization (ILO) conventions, flag and port state control, and classification societies and insurance companies. He stressed the need to harmonize international and national standards and inspection procedures in order to prevent duplication of efforts, noting that the 1992 Latin American Agreement on Port State Control of Vessels established the basis for cooperating and harmonizing port state control, in accordance with international instruments on safety and security.

Majed Mastoor, Training Institute of the Yemen Coast Guard, spoke on challenges they face, including illegal immigration, piracy, smuggling, illegal fishing activities, pollution and terrorism. Mastoor highlighted that instability in Somalia contributes to the aggravation of maritime security and safety in Yemen's waters, particularly in the Gulf of Aden. He stressed the role of the recently established Yemen Coast Guard in helping provide security, emphasizing capacity building initiatives on maritime security and safety.

Brendan McRandle, Department of Infrastructure, Transport, Regional Development and Local Government, Australia, discussed Australian offshore oil and gas production, focusing on human and technical elements to improve security. He introduced the Australian legal framework on the issue, noting its successful implementation of the International Ship and Port Facility Security (ISPS) Code and the additional requirement for owners and operators of offshore facilities to develop security plans. He emphasized the importance of industry's responsibility for risk management with government support, and concluded that safety and security measures are complementary, not competing priorities.

Discussion: Many delegates congratulated the IMO on its leadership in maritime security and safety. On implementing a search and rescue network in Africa, Sekimizu acknowledged that there is no established system, and noted the ongoing process set forth by the 2000 IMO Conference on Search and Rescue and the Global Maritime Distress and Safety System convened to build capacity in this area.

On implementation of the ISPS Code, Bennett said the shipping industry had played its role "quite impressively," but implementation in port states has been "patchy."

Responding to a question about the regulation of marine pollution and the Australian oil and gas sector, McRandle noted that Australia has strong environmental protection measures and stressed that risk identification and management strategies are necessary to minimize threats. On the lack of skilled seamen and mariners, Bennett pointed to an expanding industry and marketing of maritime careers, but lamented that many training institutes are not producing seafarers.

One participant noted that problems arise when the flag state is incapable of enforcement, and reiterated that flag state implementation and compliance need to be revisited and reviewed to ensure that UNCLOS maintains its integrity. Sekimizu reiterated the main responsibility for implementation rests with flag states not port states. Bennett noted there was no simple solution regarding flag state performance, and in the long term, hoped to see the Voluntary IMO Member State Audit Scheme become mandatory.

Many delegates highlighted the need to focus on seafarers and the human component in promoting maritime security and safety. McRandle underscored that significant investment of time and effort is needed to bring about a "safety culture shift." Mastoor welcomed support from states in fighting piracy off the coast of Yemen.

Other issues raised included: harmonization of ship building standards; transparency on the identity of ship owners; transit of nuclear waste through the Caribbean seas; applying safety measures to fishing vessels; education and capacity building to promote marine safety; and economic effects on developing countries of implementing new safety measures.

IN THE CORRIDORS

Delegates sat down with anticipation and curiosity Tuesday morning to listen to panelists speak on the prevention and suppression of transnational organized crime, hoping for an epiphany about linkages, or a lack thereof, between IUU fishing and maritime security. Instead, debate and divergence of views continued, emphasizing the contentious and important nature of this topic. Murmurs of three possible positions were heard. Several delegations wished to resolve the matter of IUU fishing this year, while others considered devoting the next session of the ICP to the topic, and one participant even questioned the usefulness of renewing the ICP's mandate for another three years, expressing concern that the process had strayed from its intended focus on sustainable development.