

ICP-9 HIGHLIGHTS: WEDNESDAY, 25 JUNE 2008

On Wednesday, 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 focusing on people at sea. In the afternoon, panelists and delegates addressed issues relating to enhancing cooperation, coordination and integration, and increasing capacity building, and delegates briefly returned to the topic of prevention and suppression of transnational organized crime.

DISCUSSION PANEL ON MARITIME SECURITY AND SAFETY

FOCUS ON PEOPLE AT SEA: Presentations: Cleopatra Doumbia-Henry, International Labor Organization (ILO), stressed that, within the context of social justice and fair globalization, decent working conditions onboard ships and fishing vessels are essential for ensuring maritime security and safe operations of ships and fishing vessels. She encouraged wide spread ratification and effective implementation of the 2007 Work in Fishing Convention, the 2006 Maritime Labor Convention and the 2003 Seafarers' Identity Documents Convention (Revised). Doumbia-Henry welcomed continued discussion on human rights and labor rights, and flag state responsibilities in connection with social and labor conditions on ships and fishing vessels.

Jon Whitlow, International Transport Workers' Federation (ITF), discussed safety and security issues confronting seafarers, highlighting the need for decent work for seafarers and fishers, effective flag states, a shortage of suitably trained seafarers and respect for the people that underpin world trade. Noting a 2007 Seafarers International Research Centre report for ITF Seafarers' Trust, Whitlow stressed the necessity of ensuring access to shore leave, port-based welfare and communication facilities in order to counteract the trends towards dehumanization of the profession. He recommended that the General Assembly reaffirm the mandate of the ICP to focus on flexible implementation and the social aspects of oceans and law of the sea in the future.

Anja Klug, UN High Commissioner for Refugees (UNHCR), spoke on the treatment of migrants and refugees rescued at sea, highlighting examples in the Mediterranean and Gulf of Aden. She said one key challenge is a lack of capacity of many coastal states to prevent inadequate vessels, or traffickers and smugglers from leaving ports, and outlined recommendations from recent meetings convened by UNHCR concerning the

treatment of persons rescued at sea, including the need for improved information management. Klug said that ultimately it is the responsibility of states to address these challenges, noting UNHCR's willingness to help.

Aïcha Belarbi, University Mohammed V, Morocco, discussed the safety of persons at sea in the Mediterranean, which she referred to as the "sea of death," noting that approximately 200 migrants die each year crossing the Mediterranean. She discussed the EU's policy, which focuses on border control, saving people at sea, and establishing a dialogue between countries to reduce illegal immigration at sea. She emphasized the duty of states to cooperate and assist, noting that peace and stability depend on it.

Discussion: Noting that seafarers were on the frontline of maritime security and should not be alienated, some participants urged facilitating shore leave for seafarers and providing visas on arrival, and emphasized that intensified security measures have negatively impacted the frequency and duration of shore leave.

On the decreasing attractiveness of seafaring as a profession, one delegate stressed the need for balance between maritime security and the welfare of seafarers. Responding to a query on ratification of the Maritime Labor Convention, Doumbia-Henry believed it would enter into force by 2011.

On improving the safety of fishing vessels and fisherman, one delegate emphasized human error as one of the main causes of accidents. He urged developing best practice guidelines for safety at sea, and said the General Assembly resolution on oceans and law of the sea should encourage FAO to develop an international plan of action on the issue. Noting increasing costs of training seafarers, one participant urged member states to consider providing support for training, particularly in developing countries. Doumbia-Henry urged more women to enter the profession.

One delegate called attention to the maltreatment of seafarers, including failure to pay wages on time, inadequate medical facilities for ill seafarers, and failure to return bodies of dead seafarers to families. He also noted difficulties in identifying flag states and ship owners, who bear the greatest responsibility for ensuring the welfare of seafarers, to which Whitlow responded that transparency in ownership is fundamental.

Commenting on solutions to problems associated with refugees and rescue at sea, Klug stressed the importance of taking a comprehensive approach, which includes both long- and short-term solutions. She emphasized that UNHCR had been working to enhance capacities in countries around the Mediterranean as a long-term solution. On short-term solutions,

she underscored that states should take emergency measures to rescue people in distress at sea and ensure that refugees have access to the right to seek asylum and protection. To this end, Klug stressed the importance of ratifying and implementing the 1951 Convention relating to the Status of Refugees.

Belarbi highlighted existing legislation to protect individuals in distress at sea, but said it needs to be implemented. In addition, she emphasized the importance of preventing illegal migration as a solution to this problem. Participants also addressed the need for: a humanitarian and holistic approach to security; cooperation among all stakeholders, including UNHCR and IMO; establishing or strengthening national systems of asylum, which are able to ensure a right to work and a dignified life; and cooperation to reduce poverty in the world.

ENHANCING COOPERATION, COORDINATION AND INTEGRATION, AND INCREASING CAPACITY BUILDING: Presentations:

Brad Kieserman, Operations Law Group, US Coast Guard, discussed current activities and opportunities for strengthening coordination and integration at all levels. He stressed how transnational crime thrives at sea and the interconnected nature of today's maritime security threats. Kieserman illustrated a continuum of "modalities of collective action," which demonstrate how cooperation, coordination and integration can be applied at multiple levels to achieve maritime security and safety. He discussed a multilateral cooperative ship riding initiative, where Cape Verde law enforcement officials patrol their Exclusive Economic Zone (EEZ) off of a US Coast Guard ship.

Magnus Addico, Secretary-General of the Maritime Organisation of West and Central Africa, discussed efforts being made in the region and in the Gulf of Guinea to improve maritime safety and security. He illustrated threats such as piracy and armed robbery, maritime accidents, marine source pollution, IUU fishing, illegal migration, drugs and small arms trafficking, oil theft, and damage to oil and gas pipelines. Addico noted multiple international, regional and subregional initiatives, and discussed response efforts. He stressed that the multiplicity of regulations and implementation procedures in the region is both inefficient and ineffective, and underscored the need for a subregional agreement on the right to pursue pirates and armed robbers across national boundaries.

Arif Havas Oegroseno, Department of Foreign Affairs, Indonesia, emphasized the importance of maritime security to the Association of South East Asian Nations (ASEAN) countries, noting an ASEAN Maritime Forum is being established. He highlighted elements that have arisen from ASEAN Regional Forum meetings on maritime security, including the transnational nature of threats, and that managing threats requires, *inter alia*, enhanced information exchange, implementation of international laws, and coordinated patrols among navies at the operational level.

Discussion: On the importance of cooperation, one participant noted that enhanced cooperation in Europe has led to stability in the region. On improving maritime safety and security in West and Central Africa, delegates encouraged placing emphasis on regional groups to promote security and enhance capacity building. Addico noted the upgrading of a maritime training center to a university, and said IUU fishing must be addressed as a security issue, since illegal migrants are following the routes taken by IUU fishers.

Oegroseno also stressed the importance of addressing IUU fishing since US\$2 billion is lost annually from illegal fishing. He also stressed the importance of harmonizing laws and an agreement on intelligence gathering in ASEAN countries. Other

participants more generally emphasized the need to adopt careful measures when exchanging military, business, private and personal information.

On capacity building, a participant underscored several training programmes offered by the IMO, noting difficulties associated with raising funds for security programmes. One participant noted that capacity can be enhanced through financial and technical assistance. Regarding a query on whether a capacity building gap exists between domestic capacity and meeting security challenges faced today, Kieserman underscored that government agencies were not designed to deal with current threats, highlighting a lack of sufficient domestic law to implement actions that need to be undertaken.

Kieserman emphasized authority, capacity, competency and partnerships as distinct elements essential domestically for achieving cooperation and coordination at the international level. He said the US has historically been less inclined to deal with arms trafficking than with smuggling and trafficking of persons and drugs, but is working on tackling this issue as the threat is increasing.

Participants reiterated: the interconnected web of cooperation between states, agencies and organizations, and complementary initiatives and programmes; the importance of capacity building and technical cooperation, particularly information sharing in real time; IMO's technical cooperation programme and establishment of regional training centers; and the necessity of recruitment, training and retention in the maritime industry, as well as legal training and capacity building.

Concerns were raised over the breadth of the topic being addressed, and suggested narrowing the topic for future IPCs.

PREVENTION AND SUPPRESSION OF TRANSNATIONAL ORGANIZED CRIME: Discussion:

Delegates then revisited the discussion on transnational organized crime. Responding to concerns over linking the lack of information on ships at sea to IUU fishing, Gunnar Stølsvik, Ministry of Fisheries and Coastal Affairs, Norway, pointed to existing information on ship tracking, including the internet-based Automatic Identification System (AIS) Live for cargo ships. He noted that tracking fishing vessels would be more challenging as they are not regulated by the International Convention for the Safety of Life at Sea (SOLAS). Clarifying his position on IUU fishing and sustainable development, Stølsvik said that overfishing inside the EEZs is more closely linked to sustainable development than large fishing operations occurring in the high seas.

IN THE CORRIDORS

"I thought the meeting would be boring, but it's exceeded my expectations," said one participant referring to the stimulating content and debate on maritime security and safety. This seemed particularly apparent today as participants viewed numerous videos showing overcrowded migrant vessels and a high-speed chase of drug traffickers on a semisubmersible. Others felt that they had been provided the opportunity to build their capacity on topics unfamiliar to them. Although opportunities for cooperation were discussed in the afternoon, anticipation and tension built, as a Co-Chairs' draft of elements to be recommended to the General Assembly was distributed Wednesday evening. Some delegates continued pushing for a short, succinct list of elements, in order to maximize the opportunity for consensus. Without consensus, renewal of the ICP's mandate by the General Assembly may be at risk. One delegate noted that ICP's fate may rest on how IUU fishing is represented in the draft text, while another appeared confident of ICP's renewal and suggested that climate and oceans would be a highly relevant topic for ICP-10.