

## SUMMARY OF THE NINTH MEETING OF THE UN OPEN-ENDED INFORMAL CONSULTATIVE PROCESS ON OCEANS AND THE LAW OF THE SEA: 23-27 JUNE 2008

The ninth meeting of the UN Open-Ended Informal Consultative Process on Oceans and the Law of the Sea (ICP-9 or Consultative Process) took place from 23-27 June 2008, at UN headquarters in New York. The meeting brought together over 400 representatives from governments, intergovernmental organizations, non-governmental organizations and academic institutions.

During the week, plenary sessions were held on Monday, Thursday and Friday to address: areas of concern and actions needed, including on issues discussed at previous meetings; interagency cooperation and coordination on oceans issues; issues that could benefit from attention in future work of the General Assembly on oceans and the law of the sea; and elements to be suggested to the General Assembly for consideration. The Secretary-General's report on "Oceans and the law of the sea" (A/63/63) provided the basis for discussion at ICP-9. States were invited to provide written submissions regarding issues for further consideration.

The discussion panel on maritime security and safety met from Monday through Thursday to consider: threats to maritime security, and their impacts and responses, with a focus on piracy and armed robbery against ships; prevention and suppression of transnational organized crime; experiences and challenges in maritime safety; people at sea; and enhancing cooperation, coordination and integration, and increasing capacity building.

Following the panel discussions on Wednesday, Co-Chairs Amb. Paul Badji (Senegal) and Lori Ridgeway (Canada) developed and distributed a draft text of elements for consideration by the plenary and to be forwarded to the General Assembly. After a preliminary discussion Thursday afternoon, the Co-Chairs' draft elements were revised and redistributed in the evening for consideration in plenary on Friday.

During the negotiations on the elements, delegates were particularly keen to reach consensus in light of the fact that ICP-8 was unable to reach agreement, and that the ICP's

mandate is set to be renewed by the General Assembly this year. Sticking points in the final hours of negotiations related to the inclusion of references to illegal, unreported and unregulated (IUU) fishing and transport of nuclear waste. But with delegates working in a particularly congenial atmosphere and cognizant of the importance of reaching consensus, compromise language was agreed on both of these elements and delegates were able to forward their recommendations to the General Assembly for consideration at its 63rd session under the agenda item "Oceans and the law of the sea."

## A BRIEF HISTORY OF THE LAW OF THE SEA AND THE CONSULTATIVE PROCESS

On 1 November 1967, Malta's Ambassador to the UN, Arvid Pardo, asked the nations of the world to recognize a looming conflict that could devastate the oceans. In a speech to the General Assembly, he called for "an effective international regime over the seabed and the ocean floor beyond a clearly defined national jurisdiction." The speech set in motion a process that spanned 15 years and saw the creation of the UN Seabed Committee, the signing of a treaty banning nuclear

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weapons on the seabed, the adoption of a declaration by the General Assembly that all resources of the seabed beyond the limits of national jurisdiction are the common heritage of mankind, and the convening of the Stockholm Conference on the Human Environment. These were some of the factors that led to the convening of the Third UN Conference on the Law of the Sea during which the UN Convention on the Law of the Sea (UNCLOS) was adopted.

**UNCLOS:** Opened for signature on 10 December 1982, in Montego Bay, Jamaica, at the Third UN Conference on the Law of the Sea, UNCLOS sets forth the rights and obligations of states regarding the use of the oceans, their resources, and the protection of the marine and coastal environment. UNCLOS entered into force on 16 November 1994, and is supplemented by the 1994 Deep Seabed Mining Agreement and the 1995 Agreement for the Implementation of the Provisions of UNCLOS relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (UNFSA).

**UNCED:** The United Nations Conference on Environment and Development (UNCED) was held in June 1992, in Rio de Janeiro, Brazil. Chapter 17 of Agenda 21, the programme of action adopted in Rio, addresses “the protection of the oceans, all kinds of seas, including enclosed and semi-enclosed seas, and coastal areas, and the protection, rational use and development of their living resources.” This remains the fundamental programme of action for achieving sustainable development of oceans and seas.

**UNGA RESOLUTION 54/33:** On 24 November 1999, the General Assembly adopted resolution 54/33 on the results of the review undertaken by the UN Commission on Sustainable Development at its seventh session on the theme of “Oceans and seas.” In this resolution, the General Assembly established an open-ended informal consultative process to facilitate the annual review of developments in oceans affairs. The General Assembly decided that the Consultative Process would consider the Secretary-General’s annual reports on oceans and the law of the sea, and suggest particular issues to be considered by the General Assembly, with an emphasis on identifying areas where intergovernmental and interagency coordination and cooperation should be enhanced. The resolution further established the framework within which meetings of the Consultative Process would be organized, and decided that the General Assembly would review the effectiveness and utility of the Consultative Process at its 57th session.

**ICP-1 to 3:** The first three meetings of the Consultative Process identified issues to be suggested and elements to be proposed to the General Assembly, and highlighted issues that could benefit from attention in its future work. The first meeting of the Consultative Process (30 May-2 June 2000, New York) held discussion panels addressing fisheries, and the impacts of marine pollution and degradation. The second meeting (7-11 May 2001, New York) focused on marine science and technology, and coordination and cooperation in combating piracy and armed robbery at sea. The third meeting (8-15 April 2002, New York) held discussion panels on the protection and

preservation of the marine environment, capacity building, regional cooperation and coordination, and integrated oceans management.

#### **WORLD SUMMIT ON SUSTAINABLE**

**DEVELOPMENT:** The World Summit on Sustainable Development (WSSD) (26 August - 4 September 2002, Johannesburg, South Africa) negotiated and adopted the Johannesburg Plan of Implementation (JPOI). Among the JPOI’s 11 chapters, which provide a framework for action to implement sustainable development commitments, Chapter IV on “Protecting and Managing the Natural Resource Base of Economic and Social Development” contains several paragraphs on the sustainable development of oceans that address, *inter alia*: water pollution prevention for the protection of ecosystems; improved cooperation and coordination on oceans and coastal issues within the UN system; and the application by 2010 of the ecosystem approach to marine areas.

**UNGA RESOLUTION 57/141:** On 12 December 2002, the 57th session of the General Assembly adopted resolution 57/141 on “Oceans and the law of the sea.” The General Assembly welcomed the previous work of the Consultative Process, extended it for an additional three years, and decided to review the Consultative Process’ effectiveness and utility at its 60th session.

**ICP-4 and 5:** The fourth meeting of the Consultative Process (2-6 June 2003, New York) adopted recommendations on safety of navigation, the protection of vulnerable marine ecosystems, and cooperation and coordination on oceans issues. The fifth meeting of the Consultative Process (7-11 June 2004, New York) adopted recommendations on new sustainable uses of oceans, including the conservation and management of the biological diversity of the seabed in areas beyond national jurisdiction.

**ICP-6:** The sixth meeting of the Consultative Process (6-10 June 2005, New York) adopted recommendations on fisheries and their contribution to sustainable development, and considered the issue of marine debris.

**ICP-7:** The seventh meeting of the Consultative Process (12-16 June 2006, New York) enhanced understanding of ecosystem-based management, and adopted recommendations on ecosystem approaches and oceans.

**ICP-8:** The eighth meeting of the Consultative Process (25-29 June 2007, New York) discussed oceans issues, particularly related to marine genetic resources. Delegates were unable to agree on key language referring to the relevant legal regime for marine genetic resources in areas beyond national jurisdiction and, as a result, no recommendations were adopted. However, a Co-Chairs’ summary report was forwarded to the General Assembly for consideration.

#### **ICP-9 REPORT**

The ninth meeting of the Consultative Process (ICP-9) opened on Monday, 23 June 2008, at UN headquarters in New York. Co-Chair Amb. Paul Badji (Senegal) highlighted the importance of ICP-9 as a framework for exploratory thought and reflection on the theme of maritime security and safety. He challenged delegates to abandon preconceptions and encouraged ideas to flow freely. Co-Chair Lori Ridgeway (Canada) stressed the

significance of the Consultative Process for ocean practitioners, and how delegates can demonstrate leadership to solve complex problems. She highlighted the linkages between maritime security and safety, and sustainable development. Nicolas Michel, Under-Secretary-General for Legal Affairs and UN Legal Counsel, noted the importance of maritime security and safety for the international community, the shipping industry, global trade and all those who work at sea.

Co-Chair Ridgeway introduced the meeting agenda, which was adopted without amendment (A/AC.259/L.9).

This report summarizes discussions held by the plenary and the discussion panel's various segments, as well as debate on the elements to be submitted to the General Assembly, and is structured according to the meeting's agenda.

## PLENARY

**AREAS OF CONCERN AND ACTIONS NEEDED:** This agenda item was addressed in plenary on Monday and Thursday. Delegates considered issues pertaining to: the Consultative Process; maritime security and safety; experiences, challenges and threats; illegal, unreported and unregulated (IUU) fishing; cooperation, coordination and capacity building; and other issues.

**The Consultative Process:** On renewing the ICP's mandate, Brazil emphasized that, as a condition, the Consultative Process should reinstate its original objective and concentrate on issues relevant to the sustainability of oceans, and Argentina called for its mandate to be revisited annually. Iran said the Consultative Process should focus on sustainable development issues, as defined by Agenda 21 and by the General Assembly. Australia, the International Union for Conservation of Nature (IUCN), and the Russian Federation supported continuing the ICP.

Argentina, supported by the Natural Resources Defense Council (NRDC) and the International Transport Workers' Federation (ITF), recommended addressing flag state performance and compliance as a future ICP topic, and Tonga, on behalf of Pacific Islands Forum Group, suggested addressing the impacts of climate change on oceans at ICP-10. Norway proposed that ICP-10 focus on IUU fishing, and Brazil suggested oceans and the first Millennium Development Goal on eradicating extreme poverty and hunger. The Sierra Club recommended the issue of ocean noise be addressed at ICP-10.

**Maritime security and safety:** Antigua and Barbuda, for the Group of 77 and China (G-77/China), acknowledged the importance of ICP-9, stressing that consensus must be reached by its conclusion. He recalled the importance of integrating social, economic and environmental considerations into maritime security and safety. Venezuela, China, Iran and Argentina highlighted the link between maritime security and safety and sustainable development. Malaysia regretted that the concept of "human security" had not been internationally agreed on, and said ICP-9 should not be used to legitimize concepts that have not gained universal acceptance. Iran expressed concern over illegitimate unilateral initiatives on maritime security, and negative economic impacts of new security measures on

developing countries. Slovenia, for the European Union (EU), and New Zealand stressed that action is needed to enhance the effectiveness of the international legal framework.

**Experiences, challenges and threats:** Malaysia and Singapore noted that the Straits of Malacca, once prone to piracy attacks, were now safer as a result of a tripartite agreement between Malaysia, Singapore and Indonesia. The EU, with Norway and the Republic of Korea, expressed support for UN Security Council resolution 1816 (2008) concerning piracy off the coast of Somalia.

Norway highlighted the important role of the International Maritime Organization (IMO) in fighting piracy and armed robbery. Australia, Japan and India highlighted the importance of the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP) for addressing piracy and armed robbery, with India noting that it is an important model that could be replicated in other areas.

South Africa emphasized that the lack of maritime security and safety around the coast of Africa negatively impacts stability, human security and economic development. Tanzania highlighted that increasing security of ships in the Western Indian Ocean will enhance trade in the region, as well as ensure humanitarian aid. The Asian-African Legal Consultative Organization highlighted that an African version of ReCAAP is being considered.

Senegal identified its efforts to combat clandestine migration, and recommended a cooperative approach from origin countries to confront this issue. The International Organization for Migration discussed its humanitarian efforts related to migrants rescued at sea, such as return assistance, legal counseling and training law enforcement officials. Malta noted its commitment to implement international regulations concerning search and rescue at sea.

The Marshall Islands, Trinidad and Tobago and the Solomon Islands underscored the challenges of combating IUU fishing for small island developing states (SIDS). Barbados said the shipment of nuclear waste is one of the greatest threats to the marine environment in the Caribbean, calling for a ban on its transport, and voiced concerns that the Secretary-General's Report (A/63/63) does not adequately reflect this threat. The Pacific Islands Forum Group said safety at sea, particularly for small fishing boats, remains a significant concern since the majority of local communities fish on a subsistence basis.

**IUU fishing:** On links between IUU fishing and transnational organized crime, China disagreed that IUU fishing is closely linked to transnational organized crime, explaining that not all IUU fishing contravenes international law. Cuba expressed concern over the adverse effects of IUU fishing on the marine environment and human security, but did not believe any link existed between this practice and maritime security. Kenya said IUU fishing must be halted through an international framework in order to ensure lasting maritime security. India stressed IUU fishing's contribution to food insecurity and the Russian Federation recommended considering the Food and Agriculture Organization's (FAO) Technical Consultation on IUU fishing before addressing the issue during the ICP.



Greenpeace underscored the threat of IUU fishing, noting that combating “pirate fishing” would not only benefit the environment, but also human rights, poverty alleviation and food security. IUCN supported developing a minimum agreed standard of port state measures to tackle IUU fishing. Argentina, with the Marshall Islands, emphasized the seriousness of IUU fishing. The International Ocean Institute lamented the failure of the UN Convention on the Law of the Sea to define and mandate a genuine link between vessels and flag states, especially where the link between flags of convenience and IUU fishing is apparent. ITF said potential security and safety risks should not be underestimated regarding flag state obligations and performance.

**Cooperation, coordination and capacity building:** Kenya reiterated the call by the World Food Programme and IMO for greater cooperation between coastal, flag and other states to reduce incidences of piracy off the coast of Somalia. Suriname underscored maritime security and safety as a global issue, which necessitates cooperation from flag, port and coastal states at all levels. Canada highlighted the interconnectedness of security and safety issues, and the need for increased information sharing and capacity building, namely for developing countries. The Bahamas emphasized effective cooperation and coordination to ensure unimpeded transport of commodities as well as protection of fragile marine ecosystems.

The US emphasized the need to cooperate in a consistent manner with UNCLOS, noting the importance of information sharing and capacity building, and Australia encouraged members to utilize the IMO Member State Audit Scheme. Nigeria recommended establishing interagency information centers and cooperation between navies of the Gulf of Guinea states. Trinidad and Tobago and the Bahamas stressed the need for capacity building and technical assistance in developing countries, with Trinidad and Tobago underscoring that these efforts must not undermine sovereignty of recipient states. Canada reiterated the need to focus efforts on training, partnerships, building regulatory capacity and technical assistance.

**Other issues:** IUCN supported establishing marine protected areas in the Arctic and, with NRDC, advocated regulating shipping in the Arctic. The Sierra Club, with IUCN, called attention to the damaging impacts of noise pollution on the marine environment. The United Nations Environment Programme (UNEP), with the Group of Experts on the Scientific Aspects of Marine Environmental Protection, stressed that environmental issues, including the issue of climate change, need to be fully integrated into the areas of maritime security and safety. The Solomon Islands and the Marshall Islands stressed the impacts of climate change on their fragile ecosystems.

**INTERAGENCY COOPERATION AND COORDINATION:** Anne Rogers, UN Department of Economic and Social Affairs, presented information on activities conducted by UN-Oceans. She explained that the activities are mostly carried out by a number of *ad hoc* task forces, including the Task Force on Biodiversity in Marine Areas Beyond National Jurisdiction, and the recently established Task Force on Marine Protected Areas and Other Area-based Management Tools. She

reported on new initiatives such as the “One UN” pilot scheme, where surveys are conducted in a number of countries with marine and coastal operational activities in order to discover the potential for synergies among UN agencies.

Salif Diop, UNEP, introduced the “Assessment of Assessments,” a preparatory phase for a regular process for global reporting and assessment of the state of the marine environment, including socioeconomic aspects, and urged states to provide financial contributions. Alan Simcock, Policy and Economics Consultant, presented the “Assessment of Assessments” Progress Report (20 June 2008), providing details about the three phases under the programme of work on: assemblage and evaluation of existing assessments; analysis of the evaluations; and framework development. He said the completed “Assessment of Assessments” will be published in 2009.

In the ensuing discussion, Diop said the document will be submitted for peer review, with Rogers stating that all the reports will be posted on the Assessment’s website. Argentina rejected, and the UK supported, the Progress Report’s claim that the UK is a coastal state in the South-West Atlantic Region.

**ISSUES THAT COULD BENEFIT FROM ATTENTION IN FUTURE WORK OF THE GENERAL ASSEMBLY ON OCEANS AND THE LAW OF THE SEA:** Canada suggested the topic of oceans and climate change for ICP-10, noting its timeliness, and emphasized the need to renew the ICP’s mandate, especially since oceans will not be discussed by the Commission on Sustainable Development until 2014. Australia supported the suggestion that ICP-10 focus on oceans and climate change, noting it could be combined with another topic. Benin stressed the need to mitigate climate change’s negative impacts on the lives of coastal peoples, notably fishers.

South Africa, with Australia, agreed that lack of consensus does not diminish the Consultative Process’s utility and importance. He suggested that future ICP sessions should focus on oceans and sustainable development and ways to achieve the Millennium Development Goals. Underscoring the importance of the ICP, Barbados hoped its mandate would be renewed and requested that future topics concentrate on oceans and sustainable development, with a specific suggestion of oceans and transportation.

Brazil supported reviewing the ICP’s mandate annually and concentrating on issues relevant to sustainable development. Co-Chair Ridgeway noted that, while states decide on whether ICPs mandate should be reviewed annually, she believes that having extra lead time helps to ensure a meeting’s success.

#### **DISCUSSION PANEL ON MARITIME SECURITY AND SAFETY**

**OVERVIEW OF THREATS TO MARITIME SECURITY, THEIR IMPACTS AND RESPONSES THERETO, WITH A FOCUS ON PIRACY AND ARMED ROBBERY AGAINST SHIPS:** On Monday afternoon, Stuart Kaye, University of Melbourne, Australia, presented an overview of threats to maritime security, such as piracy, terrorism, trafficking, smuggling, IUU fishing and impacts on the marine environment. He commented on the importance of, *inter alia*: enhancing

participation in international legal instruments; increasing flag state control; cooperation between coastal and port states; information sharing; and capacity building.

Pottengal Mukundan, International Maritime Bureau (IMB), spoke on the role of the IMB Piracy Reporting Centre in facilitating piracy control. He commented on high risk areas, especially off the coast of Somalia and Nigeria, and emphasized the positive results in combating piracy in the Malacca Strait. Yoshiaki Ito, ReCAAP Information Sharing Centre (ISC), presented on the Asian initiative to combat piracy and armed robbery, emphasizing the role of ReCAAP ISC, particularly in: exchanging information among its parties; enhancing cooperation and capacity building; and analyzing trends. On information exchange, he stressed the importance of designated focal points as inter-ministry points of contact.

Arig Havas Oegroseno, Department of Foreign Affairs, Indonesia, addressed the experiences of armed robbery in the Straits of Malacca and Singapore, emphasizing the evolution of the legal regime in the region, which is exclusively under the jurisdiction of Malaysia and Indonesia.

Oegroseno and Nancy Karigithu, Kenya Maritime Authority, stressed the need for political stability on land in order to reduce threats at sea. Karigithu discussed Kenya's role in fighting piracy and armed robbery off the coast of Somalia, noting the increasingly violent nature of the incidents, and the need for stronger anti-piracy legislation in Kenya.

In the ensuing discussion, delegates addressed, *inter alia*, the linkages between IUU fishing and maritime security; freedom of navigation; Security Council resolution 1816 (2008); the need for cooperation; and the social and environmental aspects of maritime security. A more detailed summary of these presentations and discussion is available at: <http://www.iisd.ca/vol25/enb2551e.html>

#### PREVENTION AND SUPPRESSION OF

**TRANSNATIONAL ORGANIZED CRIME:** On Tuesday morning, J. Ashley Roach, US Department of State, addressed the threats of transnational organized crime, and discussed issues related to, *inter alia*, drugs and migrant smuggling at sea, armed robbery and IUU fishing. He stressed the need for cooperation, capacity building, respect for sovereignty, territorial integrity, as well as political independence.

Anthony Franklin, Institute of Marine Affairs, Trinidad and Tobago, addressed threats to maritime security in the Caribbean region, including narcotics and arms trafficking, criminal deportees, and money laundering. He discussed vulnerabilities such as legislative challenges, inappropriate information and intelligence, insufficient human resources, border problems, and corruption.

Ana Isabel Sánchez Ruiz, Directorate-General for Justice, Freedom and Security, European Commission, discussed EU activities and legal framework in combating smuggling of migrants and trafficking of persons by sea, including the fight against organized crime and tighter border control. Ruiz addressed challenges in controlling human trafficking and smuggling, emphasizing the need for international cooperation.

Gunnar Stølsvik, Ministry of Fisheries and Coastal Affairs, Norway, outlined how transnational organized fisheries crime can constitute a maritime security issue, as large-scale IUU fishing is frequently conducted by global criminal networks. Stølsvik underscored the importance of, *inter alia*, identifying the types of vessels involved in such activities, and cooperation between the IMO and the FAO.

In the ensuing discussion, delegates did not agree on whether IUU fishing was a matter of maritime security, as opinions were divided. Other issues addressed included: IUU fishing as a threat to human and food security; flag and port state control; strengthening border controls; human rights of migrants; human trafficking; ship riders; the need for regional cooperation; and suppression of drug trafficking. A more detailed summary of these presentations and discussion is available at: <http://www.iisd.ca/vol25/enb2552e.html>

#### EXPERIENCES AND CHALLENGES IN MARITIME

**SAFETY:** On Tuesday afternoon, Koji Sekimizu, IMO, presented on IMO's security measures, addressing, *inter alia*: the 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and its amendments; operational measures; capacity building; and regional mechanisms. Simon Bennett, International Chamber of Shipping, emphasized how IMO measures, particularly the International Safety Management Code and the International Convention on Standards of Training Certification and Watchkeeping for Seafarers, have reduced ship losses and major oil spills. He highlighted IMO's new areas of focus, including enhancing operational measures, capacity building and implementing regional mechanisms.

Walter Alfredo Guido, Viña del Mar Agreement Secretariat, presented on the challenges of implementation and enforcement, from a port state perspective. He noted the importance of IMO and International Labour Organization (ILO) conventions, flag and port state control, classification societies and insurance companies to ensure maritime safety, and stressed the need to harmonize international and national standards.

Majed Mastoor, Training Institute of the Yemen Coast Guard, discussed the situation in the region, aggravated by the instability in Somalia, which has led to illegal immigration, piracy and smuggling, among other things. He focused on the role of the Yemen Coast Guard in providing security, and emphasized capacity-building initiatives. Brendan McRandle, Department of Infrastructure, Transport, Regional Development and Local Government, Australia, presented on the Australian offshore oil and gas production and on the elements to improve security. He noted the successful implementation of the International Ship and Port Facility Security (ISPS) Code and other national legal instruments.

In the ensuing discussion, delegates acknowledged the important work developed by IMO in maritime security and safety and addressed, *inter alia*: capacity building in Africa; marine pollution; maritime careers and the situation of seafarers; flag state and port state control; harmonization of ship building standards; transparency on the identity of ship owners; transit of nuclear waste through the Caribbean Sea; applying safety measures to fishing vessels; and economic effects on developing

countries of implementing new safety measures. A more detailed summary of these presentations and discussion is available at: <http://www.iisd.ca/vol25/enb2552e.html>

**FOCUS ON PEOPLE AT SEA:** On Wednesday morning, Cleopatra Doumbia-Henry, 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 widespread ratification and effective implementation of the 2007 Work in Fishing Convention, the 2006 Maritime Labor Convention and the 2003 Seafarers' Identity Documents Convention (Revised).

Jon Whitlow, ITF, discussed safety and security issues confronting seafarers, effective flag state implementation and a shortage of suitably trained seafarers. 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 ICP's mandate 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), addressed treatment of migrants and refugees rescued at sea, highlighting examples in the Mediterranean and Gulf of Aden, and noting the states' responsibility to address these challenges and UNHCR's willingness to help. She said one key challenge is a lack of capacity of many coastal states to prevent 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.

Aïcha Belarbi, University Mohammed V, Morocco, discussed 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 it. She discussed the EU's policy, which focuses on border control, rescuing 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.

During the ensuing debate, delegates: stressed the need for balance between maritime security and the welfare of seafarers; emphasized human error as one of the main causes of accidents; advocated developing best practice guidelines for safety at sea; called for support for training, particularly in developing countries; stressed the importance of transparency in ownership of ships; and advocated ratifying and implementing the 1951 Convention relating to the Status of Refugees. Participants also addressed the need for: a humanitarian and holistic approach to security; cooperation among all stakeholders, including UNHCR and IMO; and establishing or strengthening national asylum systems. A more detailed summary of these presentations and discussion is available at: <http://www.iisd.ca/vol25/enb2553e.html>

**ENHANCING COOPERATION, COORDINATION AND INTEGRATION, AND INCREASING CAPACITY BUILDING:** On Wednesday afternoon, Brad Kieserman, US Coast Guard, discussed current activities and opportunities for

strengthening coordination and integration at all levels, stressing that transnational crime thrives at sea and the interconnectedness of current maritime security threats. He illustrated how cooperation, coordination and integration can be applied at multiple levels to achieve maritime security and safety. Kieserman also discussed a multilateral cooperative ship riding initiative, where Cape Verde law enforcement officials patrolled their Exclusive Economic Zone off of a US Coast Guard ship.

Magnus Addico, Secretary-General of the Maritime Organisation of West and Central Africa, discussed efforts in the region to improve maritime safety and security, and threats, including 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. He stressed that the multiplicity of regulations and implementation procedures in the region leads to inefficiency and ineffectiveness, 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 said the ASEAN Regional Forum meetings on maritime security raised issues related to the transnational nature of threats, and the management of threats, which requires, *inter alia*, enhanced information exchange, implementation of international laws, and coordinated joint patrols among navies.

Marc Mes, Transport Canada, outlined Canada's international maritime security efforts, which have focused on establishing international maritime transportation security standards, implementing capacity-building initiatives in developing countries, and sharing maritime security best practices. He outlined Canada's involvement, including its contribution to the IMO International Maritime Security Trust Fund, and its assistance to Asia-Pacific Economic Cooperation economies to develop the necessary capacity to effectively implement the ISPS Code.

During the subsequent debate, delegates discussed: promoting security and enhancing capacity building through regional groups; adopting precautionary measures when exchanging military, business, private and personal information; authority, capacity, competency and partnerships as distinct elements that are essential domestically for achieving cooperation and coordination at the international level; 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; the necessity of recruitment, training and retention in the maritime industry, as well as legal training and capacity building; and the interconnected web of cooperation between states, agencies and organizations, and complementary initiatives and programmes. A more detailed summary of these presentations and discussion is available at: <http://www.iisd.ca/vol25/enb2553e.html>



**ELEMENTS TO BE CONSIDERED BY THE GENERAL ASSEMBLY**

On Wednesday evening, a preliminary draft Co-Chairs' text on possible elements to be suggested to the General Assembly for consideration was distributed, and delegates had the opportunity to make initial comments on Thursday afternoon. A revised Co-Chairs' draft text was distributed Thursday evening, and the text was negotiated in plenary throughout the day on Friday before agreement was reached at 9:05 pm.

In addition to preambular language, the text contains sections on:

- the international legal framework on capacity building;
- the human element of maritime security and safety;
- assistance to persons in distress at sea;
- maritime security;
- piracy and armed robbery against ships;
- transnational organized crime; and
- maritime safety.

**GENERAL STATEMENTS:** On Thursday afternoon, delegates made general comments on the Co-Chairs' initial draft text of elements. The G-77/China expressed concern over the length of the draft elements, and called for a more succinct text, with Norway suggesting a shorter document would be more useful for the General Assembly. The EU and Canada expressed general support for the draft elements. The G-77/China said: the paragraph on persons in distress should be given higher priority; any recommendations on marine security and safety should not deviate from the concept of sustainable development; no agreed definition exists for the term "integrated approach"; the concept of harmonizing national legislation lacks clarity and must respect sovereignty; and exclusion of text on impacts of shipment of dangerous goods and harmful chemicals was regrettable.

The US suggested giving more attention to the achievements and role of the IMO. Iceland called for an international plan of action on the safety of fishers and fishing vessels, and said it would submit a new paragraph on this issue. Barbados called for including text on issues related to the transport of nuclear waste, and on pollution of the marine environment, with Australia suggesting the latter be referred to in the context of the IMO's work on this issue. Norway advocated renewing the ICP and, with Iceland, supported addressing IUU fishing at ICP-10.

On Friday morning, delegates had a revised Co-Chairs' draft text before them. Many delegations commended the Co-Chairs' efforts, noting the revised text was well-balanced and reflected the week's discussions. Barbados called for reference to Chapter 17 of Agenda 21 (Protection of oceans and seas). The Marshall Islands, opposed by Argentina, called for including language on the potential linkage (or lack thereof) between IUU fishing and security, noting the importance of reflecting that, while no consensus was reached, discussions with various perspectives took place. Kenya, Indonesia and Tanzania saw merits of including text on IUU fishing.

On piracy and armed robbery, the EU called for reference to Security Council resolution 1816 regarding Somalia. South Africa, supported by China, Algeria, Nigeria and Singapore, said that, if reference to the resolution was made, that it must be placed in the context of Somalia and not constitute a precedent

for the future. Singapore called for reference to ReCAAP. On transnational organized crime and vulnerabilities of states, Kenya, supported by the Marshall Islands, Nigeria and Tanzania, called for specific reference to coastal developing states in addition to SIDS. Delegates then proceeded to discuss the draft elements paragraph by paragraph.

**DRAFT ELEMENTS:** The following is a summary of the negotiations on the draft elements. This final report will be available online, in the coming weeks, on the UN-DOALOS website at: <http://www.un.org/Depts/los>

**Preamble:** Regarding preambular language on the necessity of maritime security and safety to the role of oceans and seas in sustainable development, the G-77/China called for including language on the economic, social and environmental pillars of sustainable development, and deleting reference to "integration at all levels," in text on effectively tackling threats and challenges to security through international cooperation and coordination. With these amendments, the paragraph was agreed.

On the legal regime for maritime security and safety, some delegates sought language ensuring the primacy of the UN Charter, whose framework relevant international instruments operate within. After a minor amendment, this paragraph was agreed.

**Final Text:** The adopted text states that maritime security and safety is essential to: the role of oceans and seas in promoting the economic, social and environmental pillars of sustainable development, as defined by Chapter 17 of Agenda 21, through, *inter alia*, international trade, economic development, poverty alleviation and environmental protection; and the well-being of people dependent on oceans and seas.

It also states that:

- the global nature of threats and challenges can only be tackled through international cooperation and coordination;
- the legal regime for maritime security and safety consists of international instruments, operating within the framework of the UN Charter and UNCLOS; and
- a variety of international organizations play an important active role in developing and implementing this regime, in particular the IMO.

**International legal framework and capacity building:** On enhancing the effectiveness of international legal instruments, the G-77/China, opposed by Canada, said language on enforcement was too strong, and proposed its deletion. They also suggested "encouraging," rather than "calling upon" states to take steps on enhancing implementation. After some debate, Co-Chair Ridgeway proposed compromise text and delegates agreed on language recognizing the need to increase participation in and enhance effective implementation and enforcement of international legal instruments, and calling on states to take the necessary measures in this regard.

On responsibility of flag, port and coastal states in complying with international instruments, the G-77/China and Canada agreed to include text clarifying that such responsibility is consistent with international law, in particular UNCLOS. On capacity building, the G-77/China proposed adding text on technology transfer to developing countries, which was agreed.

Japan said language on capacity building was too strong, and proposed “encouraging” states to provide additional funding, rather than “calling upon” states, which was agreed.

**Final Text:** The adopted text:

- recognizes the need to increase participation in and enhance the effective implementation and enforcement of relevant international legal instruments, and calls upon states to take the necessary measures in that regard, emphasizing the need for capacity building and assistance to states;
- reaffirms that flag, port and coastal states all bear responsibility for ensuring the effective implementation and enforcement of international instruments relating to maritime security and safety, in accordance with international law, in particular UNCLOS, and that flag states have the primary responsibility that requires further strengthening, including through increased transparency of ownership of vessels;
- recognizes that the legal regimes governing maritime security and safety may have common and mutually reinforcing objectives that may be interrelated and interconnected, and encourages states to take this into account in their implementation; and
- welcomes ongoing activities for capacity building and encourages states and international financial institutions to provide additional funding, including for transfer of technology for capacity-building programmes, including through the IMO and other international organizations, in order to address the maritime security and safety needs of developing states.

**The human element of maritime security and safety:**

On the need to ratify or accede to international treaties on maritime safety, Canada, Norway and the US supported stronger language, opposing the G-77/China’s proposal to “invite,” rather than “urge” states to ratify. After some debate, the text was agreed with the G-77/China’s proposal. Iceland proposed a new subparagraph encouraging the FAO to consider developing an international plan of action on the safety of fishing vessels and fishers. Delegates agreed to this concept and to incorporate it into the subparagraph on cooperation with international organizations on the safety of fishers and fishing vessels.

**Final Text:** The adopted text:

- emphasizes the need for further efforts to promote a culture of safety in the shipping industry and to address the shortage of adequately trained personnel, and urges the establishment of more education and training centers to provide the required training;
- emphasizes that security and safety measures should be implemented with minimal negative effects on seafarers and fishers, especially in relation to their working conditions;
- invites states to ratify or accede to the ILO’s Maritime Labour Convention, 2006, the Work in Fishing Convention, 2007, and the Seafarers’ Identity Documents Convention (Revised), 2003, and to effectively implement these conventions, and emphasizes the need to provide technical cooperation and assistance in that regard; and
- welcomes ongoing cooperation between FAO, IMO and ILO on the safety of fishers and fishing vessels, underlines the urgent need for continued work in that area, and takes note of

discussions within the FAO on the merits of an international plan of action in this area.

**Assistance to persons in distress at sea:** On chapeau language, the G-77/China supported text reflecting that provision of assistance to persons in distress at sea is a fundamental obligation under international law. The EU, supported by Norway, proposed inserting text on the humanitarian imperative of preventing loss of life regardless of nationality or status of persons, or circumstances in which they are found. After some discussion on precise language, the chapeau was agreed. Delegates also agreed, with a minor amendment, to subparagraphs on welcoming ongoing: cooperation and coordination between members of the interagency group on the treatment of persons rescued at sea; and IMO work relating to disembarkation of persons rescued at sea.

Regarding a subparagraph on increasing search and rescue capabilities and taking measures against unseaworthy ships and small craft, the EU added language on states fulfilling search and rescue responsibilities, assistance to developing countries and taking measures against ships and craft “sailing off states’ coasts.” The G-77/China opposed the latter addition. Delegates debated whether to include language on taking effective measures against unseaworthy ships and small craft, with Cuba questioning the ability of states to do so and requesting deletion of the language, leading Co-Chair Ridgeway to propose the need to take “actions,” rather than “measures.” In an effort to reach consensus, while maintaining the essence of the subparagraph, the US proposed that states take effective action to the extent feasible to address the issue of unseaworthy ships and small craft, with Australia clarifying that this be done within national jurisdiction. With these amendments, the subparagraph was adopted.

On cooperation in developing comprehensive approaches to international migration and development, debate revolved around language relating to the underlying causes of clandestine movement of persons by sea, with the G-77/China proposing deletion and the EU insisting on its retention. Cuba indicated lack of agreed definition in the UN on the concept of clandestine movement. After various alternative formulations were put forward, Co-Chair Ridgeway proposed language on continuing dialogue on the multidimensional causes of irregular movement at sea, and Mexico proposed dialogue on the multidimensional aspects of migration. After further debate, delegates agreed that cooperation should include dialogue on migration in all its aspects.

**Final Text:** The final text states that the provision of assistance to persons at sea is a fundamental obligation under international law, which must continue to be observed in order to fulfill the humanitarian imperative to prevent loss of life at sea, regardless of nationality or status of such persons, or the circumstances in which they are found.

The text welcomes ongoing cooperation and coordination between members of the interagency group on the treatment of persons rescued at sea; and IMO work related to disembarkation of persons rescued at sea.



The text also recognizes that all states must fulfill their search and rescue responsibilities and the ongoing need for IMO and other relevant organizations to assist, in particular, developing states, to both increase their search and rescue capabilities, including through the establishment of additional rescue coordination centers and regional sub-centers, and to take effective action to the extent feasible to address the issue of unseaworthy ships and small craft within national jurisdiction.

The text further calls on states to continue cooperating to develop comprehensive approaches to international migration and development, including through dialogue in all its aspects.

**Maritime security:** On actions taken to combat threats to maritime security, the G-77/China suggested making reference to international law, maritime jurisdiction, and the principle of nonuse of threat or use of force. The US, the Russian Federation and Canada suggested alternative wording and the subparagraph was adopted with these amendments.

On recognizing the crucial role of international cooperation at multiple levels, delegates agreed to G-77/China amendments that emphasized due regard for national legislation.

A subparagraph on positive impacts of regional, subregional and multilateral initiatives that address threats to maritime security and their applicability to other regions was deleted after the G-77/China, Pakistan, Iran, Egypt, Syria, Cuba and China opposed its inclusion.

**Final Text:** The adopted text:

- recalls that all actions taken to combat threats to maritime security must be in accordance with international law, while respecting maritime jurisdiction, and reaffirms that the sovereign and territorial integrity and political independence of states, as well as the principles of nonuse of threat or use of force, sovereign equality of states and freedom of navigation, should be respected; and
- recognizes the crucial role of international cooperation in combating threats to maritime security in accordance with international law, including through enhanced sharing of information among states relevant to the detection, prevention and suppression of such threats and the prosecution of offenders, with due regard to national legislation, and the need for sustained capacity building to support such objectives.

**Piracy and armed robbery against ships:** Regarding a subparagraph emphasizing the importance of reporting incidents of piracy and armed robbery and information-sharing, Brazil explained that armed robbery occurs in coastal waters, while piracy occurs in the high seas, and suggested including reference to reporting armed robbery by affected vessels to coastal states, to which delegates agreed. Delegations were divided on how strong the language should be in reference to ensuring that national legislation would be reviewed to facilitate prosecution of those responsible for acts of piracy. The G-77/China pushed for less forceful language, noting their difficulties with guaranteeing adjustment of national legal instruments, while Norway, Canada and the EU favored stronger language. Following numerous attempts to reach a compromise on this issue, delegates agreed to language calling on states to take appropriate steps under their national legislation. Consensus was also reached on language

ensuring that UN Security Council resolution 1816 is specific to Somalia's situation and does not constitute a precedent under customary law.

**Final Text:** With respect to piracy and armed robbery against ships, the final text:

- emphasizes the importance of prompt reporting of incidents to enable accurate information on the scope of the problem of piracy and armed robbery against ships, and, in the case of armed robbery, by affected vessels to the coastal states;
- underlines the importance of effective information-sharing with states potentially affected by incidents of piracy and armed robbery against ships, taking note of the important role of the ReCAAP ISC and IMO in this regard;
- calls upon states to take appropriate steps under their national law to facilitate the apprehension and prosecution of those who are allegedly committing acts of piracy; and
- expresses concern regarding the problem of piracy and armed robbery at sea, in particular off the coast of Somalia, and notes recent efforts to address this problem at global and regional levels, including through UN Security Council resolution 1816, adopted specifically to address the situation in Somalia, and which does not create a general precedent for international action with regard to piracy and armed robbery at sea.

**Transnational organized crime:** This section addresses transnational organized crime, emphasizing the need for capacity building in developing countries and international cooperation to combat these illegal activities. Initial discussions focused on language to properly address transnational crimes, followed by lengthy debate on linkages between illegal fishing and transnational organized crime.

The G-77/China proposed an additional subparagraph on the need to provide capacity building assistance, by relevant international organizations and donors, to developing countries to further strengthen their capacity to take measures against international organized criminal activities at sea. With minor amendments, delegates agreed to include a subparagraph addressing this issue.

Indonesia proposed two additional subparagraphs on: enhancing international cooperation to fight transnational organized criminal activities; and recognizing that illegal fishing activities run by transnational organized criminal groups threaten stability and require in-depth study. Norway supported the proposed paragraphs and, with the Marshall Islands and Australia, hoped the link between IUU fishing and transnational organized crime and threats to security, and the need to study this issue, could be reflected in the text. Brazil and Argentina regretted submission of the proposals at such a late hour.

Regarding its proposed subparagraph on enhancing international cooperation, Indonesia amended its proposal to replace reference to illegal fishing activities, with "other illegal activities," but Argentina felt this was too broad. He also opposed singling out specific organizations looking at the issue, and proposed qualifying criminal activities as those that fall under the scope of the UN Convention against Transnational Organized Crime. With these and other minor amendments, delegates agreed to the subparagraph.

On illegal fishing activities, Brazil said emphasizing illegal fishing run by transnational organized crime diminishes the importance of other illegal fishing activities, and suggested the issue be discussed by the General Assembly instead. Co-Chair Ridgeway asked that interested delegations consult informally, after which Brazil and Indonesia jointly submitted a compromise text, which recognizes that illegal fishing poses a threat to sustainable development, and that in some countries, illegal fishing activities are linked to transnational organized crime, and suggested an in-depth dialogue with the aim of producing a multidisciplinary study on the issue.

**Final Text:** The adopted text:

- recognizes that transnational organized criminal activities threaten legitimate uses of the oceans, the economies, societies and natural environments of states, and endanger the lives of people at sea;
- notes that transnational organized criminal activities are diverse and may be interrelated, and that in some cases, criminal organizations are adaptive and take advantage of the vulnerabilities of states, in particular coastal states and SIDS in transit areas, and calls upon states and relevant intergovernmental organizations to increase cooperation and coordination to detect and suppress trafficking and smuggling, in accordance with international law;
- recognizes the need for providing sustainable capacity-building assistance, including financial and technical assistance to developing countries, to further strengthen their capacity to take effective measures against international organized criminal activities at sea in line with relevant international instruments; and
- recognizes the importance of enhancing international cooperation at all levels to fight transnational organized criminal activities, including illicit trafficking in narcotic drugs and psychotropic substances, smuggling of migrants and trafficking in persons and other criminal activities under the scope of the United Nations Convention against Transnational Organized Crime.

The final text also recognizes that illegal fishing poses a threat to the economic, social and environmental pillars of sustainable development, and that some countries stated that, in their respective experiences, these illegal activities were found to be run by transnational organized crime. It further suggests that an in-depth dialogue with relevant stakeholders at all levels be carried out about this perceived trend with a view to producing a multidisciplinary study on the issue.

**Maritime safety:** This section discusses actions taken to improve and acknowledge potential threats to maritime safety. On international shipping rules and standards adopted by the IMO with respect to maritime safety, the US proposed language stressing the significance of the IMO's work. The subparagraph was adopted with this and other minor amendments.

On improving maritime safety through effective port state controls, Japan recommended including language on regional arrangements. Delegates agreed and the subparagraph was adopted.

On acknowledging the potential environmental and economic impacts of maritime accidents on coastal states, the G-77/China proposed that the text focus on impacts of transporting radioactive and nuclear materials, which Japan, the EU and Australia opposed. Canada introduced alternative language drawing a link between accidents and transport of radioactive materials. After consulting with his capital, Japan still had concerns with the text, but instead of breaking consensus, agreed to disassociate Japan from the paragraph. The subparagraph was adopted, with Canada's alternative language.

**Final Text:** The adopted text:

- recognizes international shipping rules and standards adopted by the IMO, regarding, *inter alia*, maritime safety, efficiency of navigation, and prevention and control of marine pollution, have led to a significant reduction of maritime accidents, and encourages all states to participate in the Voluntary IMO Member Audit Scheme;
- recognizes that maritime safety can also be improved through effective port state control, strengthening of regional arrangements and increased coordination and cooperation, and increased information sharing; and
- acknowledges the potential environmental and economic impacts of maritime accidents on coastal states, in particular those relating to the transport of radioactive materials, and emphasizes the importance of effective liability regimes in this regard.

### CLOSING PLENARY

The final plenary convened at 3:00 pm on Friday, at which time negotiations resumed on the draft text of elements for recommendation to the General Assembly. After negotiations were completed at 9:05 pm, Co-Chair Ridgeway noted how hard everyone had worked to find middle ground, highlighting cooperation between Brazil and Indonesia in finding compromise text on illegal fishing. She stressed that the Consultative Process is a valuable forum for the oceans community, thanked the UN Division for Ocean Affairs and the Law of the Sea for their support, and underscored, presuming the process continues, that the Voluntary Trust Fund to facilitate participation of developing countries and panelists in future ICPs is depleted and will need to be replenished. Co-Chair Badji noted the positive result of the meeting, and emphasized that it is important to not only confront ideas, but to produce results at the end of the process. Co-Chair Badji closed the meeting at 9:12 pm.

### A BRIEF ANALYSIS OF ICP-9

Over the last year, the media has spotlighted violent pirate attacks off the Somali coast, illegal migrants and refugees braving the Mediterranean in "death boats," and high seas drug trafficking in small submarine-like vessels, bringing some of the dark truths about maritime security and safety to light. This had led to international responses, such as the recently adopted United Nations Security Council resolution 1816 (2008), which emphasizes the growing problem of piracy off the Somali Coast and the country's need for assistance. It was within this backdrop that the ninth meeting of the United Nations Open-ended

Informal Consultative Process on Oceans and the Law of the Sea (Consultative Process or ICP-9) convened at UN headquarters in New York.

As the Consultative Process's origins suggest, its role is one of promoting intergovernmental and interagency cooperation and integration and information exchange on the issues of sustainable development and oceans affairs, with an intent to veer away from political posturing and high-stakes negotiations. Yet, over the last few years, these discussions have grown increasingly intense and polarized, with politics playing a bigger role and more contentious issues under discussion in what was always intended to be a forum through which governments and civil society could freely exchange their views. These heightened tensions culminated at ICP-8 in 2007 when delegates were unable to achieve consensus and no recommendations could be forwarded to the General Assembly. Delegates entered the ICP-9 with the deadlock of ICP-8 hanging over them and the knowledge that the process is up for renewal this year by the General Assembly. Reaching consensus was in the forefront of people's minds and was seen as critical to the future of the ICP.

Three days of informative panel discussions on maritime security and safety addressed such somber issues as piracy and armed robbery at sea, human smuggling and drug trafficking, while Friday's negotiations brought some of the week's more contentious issues to the forefront. This analysis will review the ideas that arose from the panel discussions, and will also assess the divergence of views regarding the links between transnational crime to maritime security and safety, and whether these concerns are directly linked to sustainable development. In conclusion, it will reflect on the Consultative Process's role in the oceans community within the UN system.

### **ARC OF VISIBILITY**

Throughout the week, experts discussed a number of issues relating to maritime security and safety, during the panel discussion and plenary, including: piracy and armed robbery against ships; prevention and suppression of transnational organized crime; experiences and challenges in maritime security; people at sea; and enhancing cooperation, coordination and integration, and increasing capacity building.

Many delegates headed into ICP-9 uncertain about what realizations would bubble to the surface over the week. As participants listened to the panel presentations, a few overarching concepts emerged. A number of delegates concluded that in its broadest scope, maritime security and safety is vital to the role of oceans and seas in sustainable development, and that these issues are transnational, global, timely and pressing. And for these problems to be addressed effectively, international cooperation, coordination and integration at all levels is imperative.

What also became clear is that issues of maritime security and safety have a striking and poignant human element. The quality and guarantee of people's lives directly depend on it, from the seafarers crossing the oceans with cargo, to fishers providing the world with food, to migrants and refugees rescued at sea. In other words, it is vital to ensure that seafarers receive quality training, have healthy living conditions and wages, and that fishers and fishing vessels are safe. It is also necessary for

persons who are rescued at sea to receive humane treatment, which includes not being treated as criminals, in accordance with international law.

Finally, it was discussed that one of the best ways to ensure security and safety at sea is through flag, port and coastal state control – since they carry the responsibility to enforce the international instruments that uphold and concern maritime security and safety. One way to do this is by making the identity of ship owners more transparent, and ensuring the genuine link between the flag state and the vessel. Still, not all countries have the capacity to fulfill and uphold these responsibilities, and it was generally agreed that there is a great need for capacity building, technology transfer and financial assistance, namely in developing countries.

### **MURKY WATERS**

Delegates easily reached agreement on most of the recommendations put forward to the General Assembly because many of the substantive issues discussed at ICP-9 related to maritime security and safety are indisputably important. Some particular areas of concern related to the transport of nuclear waste at sea and the applicability of multilateral initiatives to address marine security in different regional contexts. However, one contentious issue – IUU fishing – seemed to dominate discussions, both in formal settings and in the corridors. Many participants discussed IUU fishing as linked to transnational organized crime, citing it as an issue of maritime security.

In defense of IUU fishing's links with transnational organized crime, some countries, including Norway, Canada, Indonesia, Australia and the Marshall Islands, explained that IUU vessels are occasionally used by criminals for all sorts of illegal behavior, such as drug trafficking and human smuggling. Although no one debated the widespread and deleterious problem of IUU fishing, some countries, including Argentina and Brazil, strongly argued that it would be incorrect to group these three discrete concepts – illegal, unregulated and unreported fishing – into one category and then link it to transnational crime. Instead, they hoped that IUU fishing would be discussed in terms of depleting fish stocks and food security, and therefore as an issue of sustainable development, in the ICP, yet not under the umbrella of maritime security. Some delegates indicated that opponents to linking IUU fishing with maritime security were, in fact, avoiding threats to their sovereign rights over coastal waters as provided for by UNCLOS. In this way, international intervention in areas of national jurisdiction is avoided and no precedent created.

During Friday's negotiations, this rift over whether to mention illegal fishing and its link to organized crime led to an apparent split within the G-77/China. The initial Co-Chair's draft text had included this reference, but left it out of the second version due to the belief that consensus would not be reached on this issue. An eleventh hour proposal by Indonesia to reinsert language on illegal fishing caused the G-77/China Chair to quickly call for group consultations. In the end, Brazil and Indonesia, two countries with seemingly contradictory views on the subject, put their heads together in the back of the conference room in the final minutes of the meeting and reached a compromise.



The text now recognizes illegal fishing as a threat to sustainable development, and, in the case of some countries, transnational organized crime. A collective sigh of relief could be heard when the gavel came down on an agreeable text on IUU fishing, with a number of delegates conveying, at the conclusion of the meeting, that consensus on this point was critical, especially given last year's debacle.

Sovereignty issues also raised their sail in discussions related to piracy, specifically UN Security Council resolution 1816, which authorizes foreign countries to combat piracy and armed robbery at sea in the territorial waters of Somalia. Some participants emphasized that the resolution is a stand-alone agreement, fearing it could set a precedent for intervention within national jurisdiction.

### NAVIGATING THE FUTURE

In 2005, the UN General Assembly renewed the mandate of the Consultative Process for three more years, confirming its value and relevance. As those three years come to a close, once again thoughts on ICP's current and future role in the oceans community circulated throughout the week. While many participants noted the discussions on maritime security and safety were timely, important and poignant, the topic seemed distant from the shores of sustainable development of previous years.

As a result, a number of delegates believed that the process should be reviewed annually to ensure that its mandate is maintained, although this could create logistical problems for the Secretariat. Some cited the lengthy negotiations and previous difficulties in reaching consensus as frustrating and questioned the ICP's utility. Yet they were in the minority. An overwhelming number of participants emphasized that without the ICP there would be no fora where such a broad range of participants, ranging from civil society to UN agencies to governments, can discuss oceans-related issues and have their views integrated into General Assembly resolutions.

In the end, the fear of the ICP's demise and willingness throughout the week to compromise enabled Friday's negotiations to close with a fully agreed text, reflecting an atmosphere of cooperation. Perhaps last year's lack of consensus was vital in spurring this year's collaborative effort and the renewal of ICP. And with climate change and oceans topping the list of suggested ICP-10 topics, there is potential for the Consultative Process to garner renewed relevance in engaging with crosscutting sustainable development issues. Either way, this year's meeting has proven that the ICP's core purpose of promoting cooperation amongst all its participants is vital to the continuation of the process, and that the ICP continues to be a bright light on the radar of oceans governance.

### UPCOMING MEETINGS

**ELEVENTH INTERNATIONAL CORAL REEF SYMPOSIUM:** This symposium will take place from 7-11 July 2008, in Ft. Lauderdale, US. The meeting will focus on key concepts of coral reefs, including reef structure and function, pattern and process, ecosystem-based management and human

interactions. For more information, contact: Nancy Copen; tel: +1-301-634-7010; e-mail: [ncopen@faseb.org](mailto:ncopen@faseb.org); internet: <http://www.nova.edu/ncri/11icrs/>

**INTERNATIONAL SYMPOSIUM ON COPING WITH GLOBAL CHANGE IN MARINE SOCIAL-ECOLOGICAL SYSTEMS:** This symposium will take place from 8-11 July 2008, in Rome, Italy. For more information, contact: Kevern Cochrane, FAO Senior Fisheries Officer; tel: +39-6-570-56109; fax: +39-6-570-53020; e-mail: [kevern.cochrane@fao.org](mailto:kevern.cochrane@fao.org); internet: [http://www.fao.org/fi/NEMS/events/detail\\_event.asp?event\\_id=36388](http://www.fao.org/fi/NEMS/events/detail_event.asp?event_id=36388)

**ASIA-PACIFIC FISHERY COMMISSION (APFIC) CONSULTATIVE FORUM MEETING:** This meeting on "Adapting to emerging challenges – promoting effective arrangements for managing fisheries and aquaculture in the Asia-Pacific Region" will take place from 6-9 August 2008, in Manado, Indonesia. For more information, contact: APFIC Secretary; tel: +66-2-697-4149; fax: +66-2-697-445; e-mail: [simon.fungesmith@fao.org](mailto:simon.fungesmith@fao.org); internet: [http://www.apfic.org/RCFM2008/RCFM\\_home.html](http://www.apfic.org/RCFM2008/RCFM_home.html)

**SECOND GLOBAL FISHERIES ENFORCEMENT TRAINING WORKSHOP:** This workshop will be held from 7-11 August 2008, in Trondheim, Norway. The workshop will present traditional and innovative approaches on Monitoring, Control and Surveillance. For more information, contact: Organizing Committee or Directorate of Fisheries; tel: +47-800-30-179; e-mail: [contact@gfetw.org](mailto:contact@gfetw.org); internet: <http://www.gfetw.org/>

**THIRTIETH SESSION OF THE ASIA-PACIFIC FISHERY COMMISSION:** The session will take place from 11-13 August 2008, in Manado, Indonesia. This by invitation only formal session will deliberate on a range of current and emerging fisheries issues relevant to the Asia-Pacific Region. For more information, contact: APFIC Secretary; tel: +66-2-697-4149; fax: +66-2-697-445; e-mail: [simon.fungesmith@fao.org](mailto:simon.fungesmith@fao.org); internet: <http://www.apfic.org> and <http://www.fao.org/fishery/nems/36390/en>

**SECOND SESSION OF THE TECHNICAL CONSULTATION ON INTERNATIONAL GUIDELINES FOR THE MANAGEMENT OF DEEP-SEA FISHERIES IN THE HIGH SEAS:** This session will take place from 25-29 August 2008, at FAO headquarters in Rome, Italy. This is the second session of the Technical Consultation, which was initiated in February 2008, and is aimed at completing the development of the International Guidelines for the Management of Deep-sea Fisheries in the High Seas through FAO. For more information, contact: Dominique Gréboval; tel: +39-06-570-52122; fax: +39-06-570-56500; e-mail: [dominique.greboval@fao.org](mailto:dominique.greboval@fao.org); internet: <http://www.fao.org/fishery/nems/38028/en>

**JOINT IMO-ILO AD HOC WORKING GROUP ON LIABILITY AND COMPENSATION REGARDING CLAIMS FOR DEATH, PERSONAL INJURY AND ABANDONMENT OF SEAFARERS:** This meeting will be held from 21-24 July 2008, in Geneva, Switzerland. For further details, contact: ILO Official Relations; tel: +41-22-799-7804;

fax: +41.22.799.8944; e-mail: [reloff@ilo.org](mailto:reloff@ilo.org); internet: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_092053.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_092053.pdf)

**MEETING OF EXPERTS TO ADOPT GUIDELINES ON FLAG STATE RESPONSIBILITIES UNDER THE MARITIME LABOR CONVENTION:**

This meeting will be held from 15-19 September 2008, in Geneva, Switzerland. For more information, contact: Dani Appave, ILO; tel: +41-22-799-7528; fax +41-22-799-7050; e-mail: [sector@ilo.org](mailto:sector@ilo.org); internet: <http://www.ilo.org/public/english/dialogue/sector/techmeet/mefs08/index.htm>

**MEETING OF EXPERTS TO ADOPT GUIDELINES ON PORT STATE RESPONSIBILITIES FOR THE INSPECTION OF LABOR CONDITIONS ONBOARD SHIPS:**

This meeting will be held from 22-26 September 2008, in Geneva, Switzerland. For more information, contact: Dani Appave, ILO; tel: +41-22-799-7528; fax +41-22-799-7050; e-mail: [sector@ilo.org](mailto:sector@ilo.org); internet: <http://www.ilo.org/public/english/dialogue/sector/techmeet/mefs08/index.htm>

**NORTHWEST ATLANTIC FISHERIES ORGANIZATION (NAFO):**

The annual meeting of the Northwest Atlantic Fisheries Organization will take place from 22-26 September 2008, in Vigo, Spain. For more information, contact: Barbara Marshall; tel: +1-902-468-5590; fax: +1-902-468-5538; e-mail: [info@nafo.int](mailto:info@nafo.int); internet: <http://www.nafo.int/about/frames/activities.html>

**2008 MEETING OF THE STANDING COMMITTEE ON RESEARCH AND STATISTICS (SCRS):** This meeting of the International Commission for the Conservation of Atlantic Tunas (ICCAT) will be held from 29 September - 3 October 2008 in Madrid, Spain. For more information, contact: ICCAT; tel: +34-91-416-5600; fax: +34-91-415-2612; e-mail: [info@iccat.int](mailto:info@iccat.int); internet: <http://www.iccat.int/meetingscurrent.htm>

**SIXTY-THIRD SESSION OF THE UN GENERAL ASSEMBLY:** The 63rd session of the UN General Assembly is tentatively scheduled to hold informal consultations: on the draft resolutions on "Oceans and the Law of the Sea" from 29 September - 3 October 2008, and 17-21 November; and on sustainable fisheries, including the UNFSA and UN Convention on the Law of the Sea, from 17-19 September and 10-14 November 2008. For more information, contact: UN-DOALOS; tel: +1-212-963-3962; fax: +1-212-963-5847; e-mail: [doalos@un.org](mailto:doalos@un.org); internet: [http://www.un.org/Depts/los/reference\\_files/calendar\\_of\\_meetings.htm](http://www.un.org/Depts/los/reference_files/calendar_of_meetings.htm)

**ANNUAL MEETINGS OF THE SOUTH EAST ATLANTIC FISHERIES ORGANIZATION (SEAFO):** The 4th annual meeting of the Scientific Committee of SEAFO will take place from 2-3 October 2008, followed by the 5th annual meeting of the Commission on 6-9 October 2008, in Windhoek, Namibia. For more information, contact: Executive Secretary; tel: +264-64-220-387; fax: +264-64-220-389; e-mail: [info@seafo.org](mailto:info@seafo.org); internet: <http://www.seafo.org>

**IUCN WORLD CONSERVATION CONGRESS:** The IUCN World Conservation Congress will take a place from 5-14 October 2008, in Barcelona, Spain. For more information,

contact Congress Secretariat; tel: +41-22-999-0000; fax: +41-22-999-0002; e-mail: [congress@iucn.org](mailto:congress@iucn.org); internet: [http://cms.iucn.org/news\\_events/events/congress/index.cfm](http://cms.iucn.org/news_events/events/congress/index.cfm)

**FIFTEENTH ANNUAL MEETING OF THE COMMISSION FOR THE CONSERVATION OF SOUTHERN BLUEFIN TUNA (CCSBT):** The session will take place from 14-17 October 2008, in Auckland, New Zealand. For more information, contact: Executive Secretary; tel: +61-2-6282-8396; fax: +61-2-6282-8407; e-mail: [sec@ccsbt.org](mailto:sec@ccsbt.org); internet: <http://www.ccsbt.org/docs/meeting.html>

**JOINT ILO-IMO BASEL CONVENTION WORKING GROUP ON SHIP SCRAPPING:** The third session of the working group meeting will be held from 29-31 October 2008, in Geneva, Switzerland. For further details, contact: ILO Official Relations; tel: +41-22-799-7804; fax: +41.22.799.8944; e-mail: [reloff@ilo.org](mailto:reloff@ilo.org); internet: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_092053.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_092053.pdf)

**TWENTY-SEVENTH MEETING OF THE COMMISSION FOR THE CONSERVATION OF ANTARCTIC MARINE LIVING RESOURCES (CCAMLR):** The regular meeting of the Commission will take place from 27 October to 7 November 2008, at CCAMLR headquarters in Hobart, Australia. For more information, contact: CCAMLR Secretariat; tel: +61-3-6210-1111; fax: +61-3-6224-8744; e-mail: [ccamlr@ccamlr.org](mailto:ccamlr@ccamlr.org); internet: <http://www.ccamlr.org/pu/e/sched-of-mtgs.htm>

**THIRTIETH CONSULTATIVE MEETING OF CONTRACTING PARTIES TO THE CONVENTION ON THE PREVENTION OF MARINE POLLUTION BY DUMPING OF WASTES AND OTHER MATTER (LONDON CONVENTION 1972) AND THE THIRD MEETING OF CONTRACTING PARTIES TO THE 1996 PROTOCOL TO THE LONDON CONVENTION 1972:** This meeting will be held from 27-31 October 2008, in London, UK. For further details, contact: IMO Secretariat; tel: +44-(0)20-7735-7611 fax: +44(0)20 7587 3210; e-mail: [rcoenen@imo.org](mailto:rcoenen@imo.org); internet: [http://www.imo.org/home.asp?topic\\_id=1488](http://www.imo.org/home.asp?topic_id=1488)

**TENTH MEETING OF THE CONFERENCE OF THE CONTRACTING PARTIES TO THE RAMSAR CONVENTION ON WETLANDS:** The tenth meeting of the Conference of the Parties to the Ramsar Convention will take place from 28 October - 4 November 2008, in Changwon, Republic of Korea. For more information, contact: Ramsar Convention Secretariat; tel: +41-22-999-0170; fax: +41-22-999-0169; e-mail: [ramsar@ramsar.org](mailto:ramsar@ramsar.org); internet: [http://www.ramsar.org/index\\_cop10\\_e.htm](http://www.ramsar.org/index_cop10_e.htm)

**ANNUAL MEETING OF THE NORTH EAST ATLANTIC FISHERIES COMMISSION (NEAFC):** The contracting parties of the NEAFC will meet for their annual meeting from 10-14 November 2008, in London, UK. For more information, contact: NEAFC Secretariat; tel: +44-20-7631-0016; fax: +44-20-7636-9225; email: [info@neafc.org](mailto:info@neafc.org); internet: <http://www.neafc.org/>

**WORLD CONFERENCE ON MARINE BIODIVERSITY:**

This conference will be held from 11-15 November 2008, in Valencia, Spain. The conference will review the current understanding of marine biodiversity and its role in the marine ecosystem, including its socioeconomic context. For further information, contact Moira Llabrés; e-mail: moira.llabres@uib.es or worldconference@marbef.org; internet: <http://www.marbef.org/worldconference/index.php>

**POLICY ANALYSES AND MULTISTAKEHOLDER POLICY DIALOGUES ON GOVERNANCE OF AREAS BEYOND NATIONAL JURISDICTION: MANAGEMENT ISSUES AND POLICY OPTIONS:** This meeting is tentatively scheduled for 12-14 November 2008, in Singapore. The meeting will consider applicable principles, management approaches, capacity-building requirements, options for benefit-sharing, and interface with intellectual property rights obligations under international law. For more information, contact: Miriam C. Balgos; tel: +1-302-831-8086; fax: +1-302-831-3668; e-mail: mbalgos@udel.edu; internet: [http://www.globaloceans.org/highseas/pdf/HighSeas\\_ProjectLeaflet.pdf](http://www.globaloceans.org/highseas/pdf/HighSeas_ProjectLeaflet.pdf)

**ANNUAL MEETING OF THE NORTH PACIFIC ANADROMOUS FISH COMMISSION (NPAFC):** This meeting will take place from 17-21 November 2008, in Seattle, Washington, USA. The objective of the meeting is to promote the conservation of anadromous fish stocks in its region, including various kinds of salmon. For more information, contact: NPAFC Secretariat; tel: +1-604-775-5550; fax: +1-604-775-5577; e-mail: secretariat@npafc.org; internet: [http://www.npafc.org/new/events\\_annual.html](http://www.npafc.org/new/events_annual.html)

**SIXTEENTH SPECIAL SESSION OF THE ICCAT:** This session is scheduled to take place from 17-24 November 2008, at a venue yet to be determined. For more information, contact: ICCAT; tel: +34-91-416-5600; fax: +34-91-415-2612; e-mail: info@iccat.int; internet: <http://www.iccat.int/meetingscurrent.htm>

**NPAFC INTERNATIONAL SYMPOSIUM ON THE BERING-ALEUTIAN SALMON INTERNATIONAL SURVEYS (BASIS):** This Symposium is scheduled for 23-25 November 2008, in Seattle, Washington, USA, and is conceptualized under the theme of "Climate Change, Production Trends, and Carrying Capacity of Pacific Salmon in the Bering Sea and Adjacent Waters." For more information, contact: NFAPC Secretariat; tel: +1-604-775-5550; fax: +1-604-775-5577; e-mail: secretariat@npafc.org; internet: [http://www.npafc.org/new/basis\\_home.html](http://www.npafc.org/new/basis_home.html)

**NINTH CONFERENCE OF THE PARTIES TO THE CONVENTION ON MIGRATORY SPECIES:** This meeting will take place from 1-5 December 2008, in Rome, Italy. For more information, contact the CMS Secretariat; tel: +49-228-815-2401/02; fax: +49-228-815-2449; e-mail: secretariat@cms.int; internet: [http://www.cms.int/bodies/COP/cop9/COP9\\_documents\\_overview.htm](http://www.cms.int/bodies/COP/cop9/COP9_documents_overview.htm)

**FIFTH REGULAR SESSION OF THE WESTERN AND CENTRAL PACIFIC FISHERIES COMMISSION:** The session is provisionally set to take place from 8-12 December 2008, in Busan, Republic of Korea. The meetings of its Northern, Scientific, and Technical and Compliance Committees will

take place prior to the session. For more information, contact: Secretariat; tel: +691-320-1992/93; fax: +691-320-1108; e-mail: wcpfc@mail.fm; internet: <http://www.wcpfc.int/>

**THIRD MEETING OF THE RECAAP INFORMATION SHARING CENTRE GOVERNING COUNCIL:** This meeting will be held from 23-27 February 2009, in Singapore. For further information, contact: Takanori Matsumoto; tel: +65-6376-3070; fax: +65-6376-3066; e-mail: info@recaap.org; internet: <http://www.recaap.org/>

**WORLD OCEAN CONFERENCE:** This conference will take place from 11-15 May 2009, in Manado, Indonesia. This Conference is organized by the Government of Indonesia, Global Forum on Oceans, Coasts and Islands, and other partners and will focus high-level attention on issues of ecosystem-based integrated oceans management in the context of climate change, focusing especially on the policy recommendations emanating from the 2008 Global Conference. For more information, contact: WOC'09 Secretariat; tel: +62-431-861-152; fax: +62-431-861-394; e-mail: info@woc2009.org; internet: <http://www.woc2009.org/>

**TENTH MEETING OF THE UN OPEN-ENDED INFORMAL CONSULTATIVE PROCESS ON OCEANS AND THE LAW OF THE SEA:** The meeting is expected to take place in May or June 2009, at UN headquarters in New York. For more information, contact: UN-DOALOS; tel: +1-212-963-3969; fax: +1-212-963-5847; e-mail: doalos@un.org; internet: <http://www.un.org/Depts/los/>

**GLOSSARY**

ASEAN	Association of South East Asian Nations
FAO	UN Food and Agriculture Organization
ICP	UN Open-Ended Informal Consultative Process on Oceans and the Law of the Sea
ILO	International Labour Organization
IMB	International Maritime Bureau
IMO	International Maritime Organization
ISC	ReCAAP Information Sharing Centre
ISPS	International Ship and Port Facility Security
ITF	International Transport Workers' Federation
IUCN	International Union for Conservation of Nature
IUU	Illegal, Unreported and Unregulated
NRDC	Natural Resources Defense Council
ReCAAP	Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia
SIDS	Small Island Developing States
UNCLOS	UN Convention on the Law of the Sea
UNHCR	UN High Commissioner for Refugees