

## ELEVENTH MEETING OF THE UNITED NATIONS OPEN-ENDED INFORMAL CONSULTATIVE PROCESS ON OCEANS AND THE LAW OF THE SEA: 21-25 JUNE 2010

The eleventh meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea (Consultative Process or ICP 11) opens today, 21 June 2010, at UN Headquarters in New York. During the week, delegates are expected to discuss capacity building in ocean affairs and the law of the sea, including marine science. Recommendations from the meeting will be forwarded to the General Assembly for consideration at its 65th session.

### 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 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).

**GENERAL ASSEMBLY 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 meet in New York and consider the Secretary-General's annual report 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) held discussion panels addressing fisheries, and the impacts of marine pollution and degradation. The second meeting (7-11 May 2001) 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) held discussion panels on the protection and preservation of the marine environment, capacity building, regional cooperation and coordination, and integrated oceans management.

**GENERAL ASSEMBLY 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) adopted recommendations on safety of navigation, the protection of vulnerable marine ecosystems, and cooperation and coordination on oceans issues. The fifth meeting (7-11 June 2004) 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) adopted recommendations on fisheries and their contribution to sustainable development, and considered the issue of marine debris.

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

**ICP-8:** The eighth meeting (25-29 June 2007) discussed 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:** The ninth meeting (23-27 June 2008) adopted recommendations on the necessity of maritime security and safety in promoting the economic, social and environmental pillars of sustainable development.

**ICP-10:** The tenth meeting (17-19 June 2009) produced a Co-Chairs' summary report collating outcomes its discussions on the implementation of the outcomes of the Consultative Process, including a review of achievements and shortcomings in its first nine years, which was forwarded to the General Assembly for consideration.

### **INTERSESSIONAL HIGHLIGHTS**

**EXPERT PANEL ON OCEAN ACIDIFICATION:** The meeting took place on 3 September 2009 at UN Headquarters in New York. The aim of the meeting was to increase awareness and highlight options to avoid adverse impacts of ocean acidification on marine life and ecosystems by bringing together key stakeholders working on oceans and seas, climate change and sustainable development. The event was scheduled just weeks before the UN Secretary-General's High Level Event on Climate Change in the lead up to the UN Climate Change Conference in Copenhagen, Denmark.

**SIXTH MEETING OF THE PARTIES TO THE AGREEMENT ON THE CONSERVATION OF SMALL CETACEANS OF THE BALTIC, NORTH EAST ATLANTIC, IRISH AND NORTH SEAS (ASCOBANS):** This meeting convened from 16-18 September 2009 in Bonn, Germany. Parties agreed on a number of measures to protect and enhance populations of small whales and dolphins, including a new version of the Recovery Plan for Baltic Harbor Porpoises (Jastarnia Plan) aiming at restoring the population to healthy levels by reducing bycatch, supporting research and public awareness and establishing a network of marine protected areas. They also adopted a new Conservation Plan for the Harbor Porpoise in the North Sea, including actions related to management, monitoring, mitigation of threats, and research. In addition, participants agreed on guidelines to address the adverse effects of underwater noise on marine mammals during offshore construction activities for renewable energy production.

**64TH SESSION OF THE UN GENERAL ASSEMBLY:** On 4 December 2009, the General Assembly adopted resolution 64/71 on Oceans and the Law of the Sea. Section XIV of the resolution addresses the Consultative Process and notes its usefulness as a unique forum for comprehensive discussions on issues related to oceans and the law of the sea, consistent with the framework provided by the UNCLOS and chapter

17 of Agenda 21, and that the perspective of the three pillars of sustainable development should be further enhanced in the examination of the selected topics. The General Assembly decided that, in its deliberations on the report of the Secretary-General on oceans and the law of the sea, the Consultative Process at its eleventh meeting will focus its discussions on capacity building in ocean affairs and the law of the sea, including marine science.

**3RD MEETING OF THE AD HOC OPEN-ENDED INFORMAL WORKING GROUP TO STUDY ISSUES RELATING TO THE CONSERVATION AND SUSTAINABLE USE OF MARINE BIOLOGICAL DIVERSITY BEYOND AREAS OF NATIONAL JURISDICTION:** The Working Group convened from 1-5 February 2010 at UN Headquarters in New York. After protracted discussions, delegates agreed to a package of recommendations to the General Assembly that, although largely considered not ambitious or reflective of the proposals made during the week, was accepted as the only possible outcome at this point in time. One of the recommendations calls for reconvening the Working Group in 2011.

**NINTH ROUND OF INFORMAL CONSULTATIONS OF STATES PARTIES TO THE AGREEMENT FOR THE IMPLEMENTATION OF THE PROVISIONS OF UNCLOS OF 10 DECEMBER 1982 RELATING TO THE CONSERVATION AND MANAGEMENT OF STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS (UNFSA):** The meeting took place from 16-17 March 2010 at UN Headquarters in New York. The event focused on preparations for a resumed Review Conference on the UNFSA.

**FIFTH GLOBAL CONFERENCE ON OCEANS, COASTS AND ISLANDS:** The meeting took place from 3-7 May 2010 at the UN Educational, Scientific and Cultural Organization headquarters in Paris, France. The conference was organized around three thematic sessions: ensuring survival; preserving life; and improving governance. The event also celebrated the 50th anniversary of the Intergovernmental Oceanographic Commission and the International Year of Biodiversity 2010.

**RESUMED REVIEW CONFERENCE OF UNFSA:** The resumed Review Conference took place from 24-28 May 2010 at UN Headquarters in New York and focused on three substantive issues: areas in which implementation of recommendations adopted at the Review Conference in 2006 are proceeding well overall; areas in which implementation of recommendations from the 2006 Review Conference are at an early stage or where there has been little progress; and means to further strengthen the substance and methods of implementation of the UNFSA. The outcome document recommends further actions in a range of areas. One key issue addressed was the conservation and management of straddling and highly migratory fish stocks, including outcomes on sharks, the ecosystem approach, excess fishing capacity and the ability of developing states to develop their fisheries. The outcome document also addresses mechanisms for international cooperation; monitoring, control and surveillance, compliance and enforcement; and developing countries and non-parties to the UNFSA. In addition, the document provides guidance on the future of the UNFSA process, establishing that the Informal Consultations of States Parties will continue and also that the formal Review Conference could resume, although not until at least 2015. The final report will be transmitted to the RFMOs' secretariats and the UN General Assembly.

## ICP-11 HIGHLIGHTS: MONDAY, 21 JUNE 2010

The eleventh meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea (Consultative Process or ICP-11) opened on Monday, 21 June 2010, at UN Headquarters in New York. Delegates convened in plenary in the morning, addressing organizational matters and a general exchange of views on capacity building in ocean affairs and the law of the sea, including marine science. In the afternoon, a discussion panel was held on the same topic.

### PLENARY

**OPENING:** Thomas Stelzer, Assistant Secretary-General for Policy Coordination and Inter-Agency Affairs, Department of Economic and Social Affairs, opened ICP-11 and described the importance of capacity building in ocean affairs and sustainable development, including its ability to: enable states to effectively implement the UN Convention on the Law of the Sea (UNCLOS); strengthen capacities of developing countries to achieve Johannesburg Plan of Implementation commitments; develop the marine scientific and technological capacity of developing countries; and enable cooperation among stakeholders.

Co-Chair Amb. Paul Badji (Senegal) noted the “new footing” of ICP-11 as it follows ICP-10, where participants took stock of the Consultative Process’s work thus far. He hoped for a successful meeting and called on parties to sufficiently replenish the Trust Fund.

Co-Chair Amb. Don MacKay (New Zealand) underscored that capacity building is at the heart of all states’ abilities to benefit fully from UNCLOS and is fundamental for the full implementation of the Convention for both developing and developed states. He encouraged an interactive discussion.

Patricia O’Brien, Under-Secretary-General for Legal Affairs and the UN Legal Counsel, noted: capacity building’s significance for helping states comply with UNCLOS; that outcomes of capacity-building activities lack a comprehensive needs assessment; and her hope that ICP-11 would create a common understanding of capacity-building needs, and identify opportunities and possible ways forward.

Co-Chair MacKay introduced the meeting agenda, which was adopted without amendment (A/AC.259/L.11).

### GENERAL EXCHANGE OF VIEWS ON CAPACITY BUILDING IN OCEAN AFFAIRS AND THE LAW OF THE SEA, INCLUDING MARINE SCIENCE

Yemen, for G-77/CHINA, urged in-depth discussions at ICP-11 that reflect the perspectives of developing countries, particularly on the need for capacity building in respect to Article 76 of UNCLOS on the delineation of the outer limits

of the continental shelf. Australia, for the PACIFIC ISLANDS FORUM, supported by PALAU, said targeted national capacity building is vital for small island developing states (SIDS). He called for strengthened capacity to implement monitoring, control, and surveillance to combat illegal, unregulated, and unreported (IUU) fishing, and highlighted Pacific Island Forum activities on capacity building, including training for high seas boarding and inspection procedures.

Underlining the finances committed by developed countries at Copenhagen, Spain, for the EU, pointed to many existing sources for guidance on capacity building, such as the seven programme areas for capacity building identified in Chapter 17 of Agenda 21, and reviewed various EU activities, cautioning that given the financial crisis, better identification of capacity-building targets is needed.

AUSTRALIA explained that it assists its neighbors with capacity building by helping with, *inter alia*, science for delineating the outer limits of the continental shelf. PALAU stressed that science-based decision making requires open access to information, such as from the Regional Fisheries Management Organizations (RFMOs), and called for a performance review of RFMOs. CHILE stressed that capacity building needs to include human, financial, institutional and other dimensions if it is to advance sustainable development.

TRINIDAD AND TOBAGO, supporting G-77/CHINA, said that even though its ocean legislation involves surveillance, the region remains vulnerable to IUU from developed-country fleets. He also stressed the challenges presented by climate change, including sea-level rise and coral bleaching. MEXICO said Part XIV of UNCLOS, on development and transfer of marine technology, and the UN General Assembly resolutions 64/71 and 64/72, provide guidance on capacity building, and introduced topics for consideration, including: training for energy development in marine areas; production of ocean charts; and prioritization of marine conservation in areas of national jurisdiction over areas beyond national jurisdiction.

NORWAY emphasized that her country’s marine policy focuses on an integrated ecosystem based approach, and that a cross-sectoral approach is key to achieving this. She also highlighted the importance of regional cooperation, noting work with the Commission of the Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR) and the North East Atlantic Fisheries Commission. JAPAN said the prosperity of the international community relies on the peaceful and successful management of the ocean and highlighted her country’s capacity building programmes in the area of marine science, including those of the Japan Agency for Marine-Earth Science and Technology.

INDIA said since capacity building varies widely across regions, opportunities in this area need to be identified based on existing capacity building arrangements, and capacity building

priorities need to be identified in developing states. CHINA said financial, scientific and human resources are the foundation of capacity building. He underscored that developing countries are central to this discussion and that priorities should be established by the developing countries, not the international community.

NEW ZEALAND highlighted its capacity building assistance in the South Pacific region, noting that capacity building needs to be aligned and integrated with existing policies to avoid duplication of efforts. ARGENTINA noted that the sustainable use of oceans depends on marine science and transfer of technology, and underscored the importance of South-South cooperation as an innovative tool for enhancing capacity building. He said developing states' needs can only be defined by the developing states themselves, and that ICP-11 is the appropriate venue for beginning this work. MALAYSIA expressed support for UN programmes on capacity building, including the Intergovernmental Oceanographic Commission (IOC) programmes on enhanced cooperation and transfer of technologies. She urged the implementation of new approaches and best practices to improve coordination and implementation of innovative solutions. The US said capacity building is essential for the implementation of UNCLOS, but noted limited information on capacity building and on the specific needs of developing countries. She hoped to learn from ICP-11 about capacity building needs, and new approaches to accomplish the capacity building goals within UNCLOS.

#### **DISCUSSION PANEL ON CAPACITY BUILDING IN OCEAN AFFAIRS AND THE LAW OF THE SEA, INCLUDING MARINE SCIENCE**

##### **ASSESSING THE NEED FOR CAPACITY BUILDING IN OCEAN AFFAIRS AND THE LAW OF THE SEA, INCLUDING MARINE SCIENCE: Presentations:**

**Phillip Saunders, Dalhousie University,** provided the legal history of capacity building in the law of the sea, noting that it was inherent and justified in the "grand bargain" of UNCLOS as it was vital for, *inter alia*, implementing the Convention effectively and creating an equitable basis for sharing the benefits of sustainable development. Saunders said that since the time of UNCLOS's adoption, the problems of capacity building are better understood. However, he said it remains difficult to find enforceable obligations in this area. He noted progress in capacity building as demonstrated by the Secretary-General's report, which defines capacity building as multifaceted, multi-sectoral and multi-institutional, and closed by emphasizing the continuing importance of dedicated financing arrangements and "soft" capacity assistance, such as integrated management.

**Åsmund Bjordal, Norwegian Institute of Marine Science,** presented on the need for capacity building in marine science and sustainable fisheries management. He said the four pillars of sustainable fisheries management are: science, fisheries legislation, control of fishing activities, and violation sanctions. He underscored the need for capacity building relating to the conversion of scientific knowledge to management advice, and discussed Norway's Nansen Program, on strengthening the knowledge base for and implementing an ecosystem approach to marine fisheries in developing countries, including through capacity building.

**Su'a N. F. Tanielu, Director-General, Pacific Islands Forum Fisheries Agency (FFA),** presented on the Pacific SIDS' perspective on capacity building. He noted that substantial tuna catches by distant water fleets occur within Pacific SIDS' exclusive economic zones (EEZs), and highlighted the need for further capacity and resources in the region. He also discussed the role of the Assistance Fund under Part VII of the Fish Stocks Agreement (UNFSA) in strengthening the capacity to conserve, manage and develop fisheries and to participate in high seas fisheries.

**Discussion:** Responding to a question on shortfalls with data reporting, Bjordal said that even straightforward fisheries statistics are very poor and clarified that capacity is competency plus the means to act. On ranking states on their compliance with the UN Food and Agriculture Organization Code of

Conduct for Responsible Fisheries and the value of discussing these rankings as part of capacity building, he underscored that this discussion raises valuable debate about the Code. On the Nansen Program, he said requests are run through the FAO and requests increasingly come from regional bodies, such as Large Marine Ecosystem projects. Responding to a question on social demand, he said too many small-scale fishermen will still over-exploit resources, and called for government to create alternative employment.

Concerning the Assistance Fund under Part VII of UNFSA, Tanielu said voluntary contributions are problematic and suggested raising assessed contributions to the Fund. On fishing by distant water fleets in the EEZs of the FFA member states, he said they wanted these activities phased out, either through partnerships or the development of domestic capacity. On capacity building tailored to community needs, he said community needs are time sensitive, and cautioned that new technologies can increase costs for developing countries' fisheries. On the development aspirations of SIDS, he suggested a strategy of maximizing economic benefits resulting from sustainable harvesting of resources.

On the science-policy interface, Saunders said the work of the FFA is an important complement to the RFMO in the region and stressed that science-based decision-making can create barriers for smaller countries. Responding to a question on technology transfer across sectors, Saunders recognized conflicts between international legal regimes and national intellectual property law, but said new legal texts would consider the same regimes. Responding to a question on the role of flag states, he noted some RFMOs are adding flag state obligations, but domestic enforcement within EEZs is still often necessary.

ICELAND suggested increasing value through better handling and processing of catches. The US said although catches of many species should be decreasing, room must be made for the aspirations of developing countries.

##### **NEW APPROACHES, BEST PRACTICES AND OPPORTUNITIES FOR IMPROVED CAPACITY BUILDING IN OCEANS AND THE LAW OF THE SEA:**

**Presentation:** Nicole Glineur, Programme Manager, Global Environment Facility (GEF), presented on GEF's International Waters Learning Exchange and Resource Network, an initiative that aims to strengthen international waters management and to promote capacity building and technology transfer.

**Discussion:** In response to Co-Chair MacKay's question on countries' access to the programme, Glineur said the easiest means of access is through its website (<http://www.iwlearn.net/>). Responding to a comment on climate change, she noted that all GEF projects have a climate change dimension, either in the form of adaptation or mitigation. On the process for the generation of such projects, she said all countries have allocations and can decide on how they use this allocation.

#### **IN THE CORRIDORS**

Delegates filed into the North Lawn Building Monday morning ready to begin work on the widely agreed need for enhanced capacity building to better implement UNCLOS and ocean protection. While the Gulf of Mexico oil spill is a stark reminder of the topic's salience, the ongoing global economic crisis provides a potential brake on the enthusiasm. Indeed, delegates learned that the Trust Fund created to help developing countries participate in the ICP is low, and calls were made for careful targeting of available funds. Against this gloomy economic backdrop, the meeting's main challenge may become the identification of targeted, long-term and sustained capacity building strategies that effectively promote developing states' abilities to implement UNCLOS and further their development needs. Monday's smooth proceedings may portend a measure of success to come.

## ICP-11 HIGHLIGHTS: TUESDAY, 22 JUNE 2010

On Tuesday, delegates to the eleventh meeting of the UN Open-ended Informal Consultative Process on Oceans and the Law of the Sea (Consultative Process or ICP-11) reconvened in a discussion panel on capacity building in ocean affairs and the law of the sea, including marine science. In the morning, presentations were made and a discussion was held on: assessing the need for capacity building in ocean affairs and the law of the sea, including marine science; and an overview of capacity-building activities and initiatives in ocean affairs and the law of the sea, including marine science and transfer of technology. The second discussion topic continued into the afternoon.

### **DISCUSSION PANEL ON CAPACITY BUILDING IN OCEAN AFFAIRS AND THE LAW OF THE SEA, INCLUDING MARINE SCIENCE**

**ASSESSING THE NEED FOR CAPACITY BUILDING IN OCEAN AFFAIRS AND THE LAW OF THE SEA, INCLUDING MARINE SCIENCE: Presentations:** Germain Michel Ranjoanina, Ministry of Foreign Affairs, Madagascar, discussed the process of reworking Madagascar's maritime code, which was adopted in 1966, and highlighted insights of the technical committee's work. He noted that after an examination of the code's chapters, including those on vessel mortgaging and maritime transport, the committee found a gap between legislation and implementation possibly due to a lack of: technical and financial resources; coordination of activities on the high seas; political will; and sufficient knowledge of existing legal instruments. He then discussed legislation linked to UNCLOS, noting a lack of capacity on preventing IUU fishing and piracy. He underscored the need for scientific evaluation of fisheries resources and said the African, Caribbean and Pacific Group is considering a framework agreement on fisheries.

Fabiola Jiménez Morán Sotomayor, Mexican Foreign Relations Secretariat, presented for Galo Carrera, Commission on the Limits of the Continental Shelf (CLCS), and Rebeca Navarro, PEMEX, on capacity building for the implementation of Article 76 of UNCLOS. She said determination of the outer limits of the continental shelf in accordance with Article 76 is an expensive and complex scientific and technical challenge, particularly for developing and least developed countries. Sotomayor underscored that training courses, advice by the CLCS and assistance to states through the CLCS Trust Fund have been undertaken, but still need to be expanded.

Peter Gilruth, UNEP, said UNEP uses science to address critical ocean challenges, and reviewed capacity-building lessons from UNEP activities, including: the Regional Seas Programmes' work building capacity for ecosystem based management, climate change adaptation and marine spatial planning; and the Online Access to Research in the Environment Programme, which gives developing countries access to environmental science research. He stressed that cross-sectoral functions are key areas requiring capacity building.

**Discussion:** ARGENTINA expressed reservations about the maps used in Sotomayor's presentation, and she said the cartography was provided by the authors of the presentation. ARGENTINA also stressed that capacity building needs to help establish jurisdictional limits and ensure that developing countries can fully benefit from the use and management of resources within their national jurisdictions. GERMANY highlighted bilateral assistance programmes as a capacity-building tool and reviewed its work with developing countries to prepare submissions to the CLCS. He responded to a question about how these assistance programmes are organized, saying initial contacts are made through embassies of the Ministry of Foreign Affairs. NORWAY reviewed its work with African countries to prepare submissions to the CLCS.

Co-Chair MacKay said the DOALOS Secretariat should compile and post a database of capacity building assistance programmes detailed by delegates. NEW ZEALAND said there is a need to: address gaps in the implementation of international obligations; improve sustainable fisheries management; and enhance the science-policy interface to advance decision making for ocean governance. She noted funds given to the ICP and CLCS Trust Fund and encouraged others to contribute. NIGERIA supported the presentation by Ranjoanina and stressed the challenges of IUU fishing, sustainable fisheries management and lack of capacity to monitor EEZs.

**OVERVIEW OF CAPACITY-BUILDING ACTIVITIES AND INITIATIVES IN OCEAN AFFAIRS AND THE LAW OF THE SEA, INCLUDING MARINE SCIENCE AND TRANSFER OF TECHNOLOGY: Presentations:** Juan Carlos Martine Fragueiro, Secretary-General, Ministry of Environment, Rural and Marine Affairs, Spain, discussed Spain's strategy for cooperation and coordination in ocean affairs. He highlighted Africa, Latin America and Asia as priority areas, and provided an overview of current strategies, including the use of the training vessel "Intermares," to strengthen international relations between fishing countries and train managers, scientists and other marine experts. Fragueiro said future strategies will focus on, *inter alia*:

the co-responsibilities of developing countries; and stakeholder collaboration at the national and multilateral levels to minimize the amount of economic resources needed. He underscored that the use of training and technology transfer achieves better results in marine management.

Mitsuyuki Unno, The Nippon Foundation, presented on the Foundation's programmes on marine affairs capacity building. He noted that through collaborative partnerships the Foundation has supported 640 fellows from almost 100 countries and promoted connections across disciplines and organizations, and highlighted the importance of the UN-Nippon Foundation Fellowship Programme, which has awarded 60 fellowships to individuals from 43 states.

Serguei Tarassenko, Director, DOALOS, reviewed DOALOS's capacity-building activities including: the administration of trust funds, such as the CLCS Trust Fund; fellowship programmes, such as the Hamilton Shirley Amerasinghe Memorial Fellowship on the Law of the Sea that helps fellows gain deeper knowledge of UNCLOS; and training activities, particularly the Train-Sea-Coast Programme, which builds national capacity to integrate international ocean issues into national and regional planning.

Haiwen Zhang, China Institute for Marine Affairs, discussed China's capacity-building activities with an emphasis on South-South Cooperation, and provided an overview of the marine management structure. On international cooperation, she said China has collaborated with a number of developed countries, and participated in South-South cooperation by, *inter alia*, involving Pakistani scientists in a marine survey. To improve capacity building, she highlighted the need for: more knowledge of oceans and marine management; relevant technologies, equipment and instrumentation; and improved human and financial resources. She closed emphasizing her country's commitment to increasing South-South cooperation to improve information exchange.

Ehrlich Desa, UNESCO/IOC, presented on the development of capacity of member states in ocean sciences and observation. He highlighted that capacity development of IOC member states is a cross-cutting issue with the long-term objective of improving ocean governance through good science and its interface with decision makers. Desa recommended that science-based oceans governance should: address national priorities, empower national institutes, involve civil society, promote sponsorship, rather than donations, and establish time-bound capacity development activities.

Nii Odunton, Secretary-General, International Seabed Authority (ISA), presented on ISA's Endowment Fund, which supports the participation of scientists from developing countries in marine scientific research programmes, activities, and relevant initiatives and seminars. He encouraged delegates to visit the Authority's website for further information.

Marcel Kroese, International Monitoring Control and Surveillance Network, stressed the economic, social, and ecological impacts of IUU fishing. He said the network is a voluntary initiative that provides an efficient, non-bureaucratic mechanism for cooperation on IUU fishing, such as providing analytic support to identify vessels involved with IUU fishing, and organizing training that increases capacity to implement monitoring control and surveillance strategies.

**Discussion:** On how to match training given by developed states to the specific realities of developing states, Fragueiro said the programmes require previous agreement from the beneficiary countries, and also use tutors from these countries' own training schools. In response to a question on access to the Nippon Foundation programmes, Unno clarified that all information, including how to apply to these programmes, can be found on the Foundation's website. On the proportion of fellowships given

to government officials, Tarassenko said roughly 80% of Nippon fellows have been government officials. On access to the Part VII Fund of UNFSA by non party developing countries, he said the Fund's terms of reference state only parties have access. On a call for a clearinghouse of capacity-building information, he said DOALOS is willing to provide information through its website, and will consider countries' specific suggestions.

On UNESCO/IOC's relation to states, Desa clarified that it works collaboratively with member countries to determine needs and ultimately aims to build national capacity such that outside support is unnecessary. On UNEP, he said there is a close relationship, but that UNESCO/IOC faces challenges implementing the "one UN" concept in its capacity-building work. On the role of science, he said it should only be seen as helping decisions, not dictating them. On building institutional capacity versus training individual experts, Odunton noted efforts to ensure trained individuals remain in developing countries and stressed the need for capacity building through institutions in developing countries.

On what assistance the IMCS network can provide, Kroese noted it can facilitate information sharing and establishment of joint patrols to best utilize limited resources. On the definition of IUU, he conceded that the definition was shortened for the presentation and noted that unregulated fishing is not illegal, but that it is included in IUU and hence should be considered. He welcomed work on a tool for capacity needs assessment for the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate IUU Fishing, noting that fish need to be landed somewhere.

The BAHAMAS, with BRAZIL, congratulated the Nippon Foundation for its contributions on capacity building programmes. ARGENTINA objected to the contents of two documents on the implementation of UN General Assembly Resolution 61/105, which were circulated by Spain and will be posted on the DOALOS website as supporting documents to Fragueiro's presentation. Recognizing the need for scientific capacity building, ARGENTINA also cautioned against concluding that developing countries' decisions are based on poor science, and questioned who was qualified to judge how states apply science to make decisions. COMOROS said training has allowed developing countries to close policy and institutional gaps. PORTUGAL expressed support for capacity building activities, including ISA's Endowment Fund, and said it has been organizing workshops on outer continental shelf delineation. CHINA called for enhanced efforts in technology transfer, financial support and training. MALTA discussed the capacity building organizations it hosts, and asked if the time has come for the UN Chief Executives Board to adopt a cohesive and coordinated approach to ocean capacity building.

### IN THE CORRIDORS

Delegates calmly participated in Tuesday's full agenda of substantive expert presentations, punctuated as they were by occasional distant roars from those watching World Cup matches upstairs. The calm voices inside the meeting room reflected the still early days of the meeting, and also its relatively uncontroversial nature. There were, however, some soft rumblings of more controversial issues to come – namely, issues that could benefit from attention in future work of the General Assembly on ocean affairs and the law of the sea. Until then, funding remains a concern as Director Tarassenko reported low balances in funds managed by DOALOS, leading one delegate to ponder why no one has asked the GEF, which supports UNFCCC and CBD, to fund an oceans process. Meanwhile, NGOs worried that even in the absence of cheering football fans, mentions of underwater ocean noise by a presenter might have been literally "lost in translation."

## ICP-11 HIGHLIGHTS: WEDNESDAY, 23 JUNE 2010

On Wednesday, delegates to the eleventh meeting of the UN Open-ended Informal Consultative Process on Oceans and the Law of the Sea (Consultative Process or ICP-11) reconvened in a discussion panel on capacity building in ocean affairs and the law of the sea, including marine science. In the morning, a presentation was made and discussion was held on an overview of capacity-building activities and initiatives in ocean affairs and the law of the sea, including marine science and transfer of technology. This was followed by presentations and a discussion on challenges for achieving effective capacity building in ocean affairs and the law of the sea, including marine science and transfer of technology. The second discussion topic continued in the afternoon, as well as one on new approaches, best practices and opportunities for improved capacity building in ocean affairs and the law of the sea.

### **DISCUSSION PANEL ON CAPACITY BUILDING IN OCEAN AFFAIRS AND THE LAW OF THE SEA, INCLUDING MARINE SCIENCE**

**OVERVIEW OF CAPACITY-BUILDING ACTIVITIES AND INITIATIVES IN OCEAN AFFAIRS AND THE LAW OF THE SEA, INCLUDING MARINE SCIENCE AND TRANSFER OF TECHNOLOGY: Presentation:** Cherdak Virapat, Executive Director, International Ocean Institute (IOI), spoke on the Institute's role in promoting multi-level coordinated capacity building on ocean governance and sustainable development, noting it has operation centers and focal points in 25 countries. He highlighted two flagship programmes: an international ocean governance course at Dalhousie University, primarily for developing country professionals working in ocean and coastal-related fields; and a training course on regional ocean governance for Mediterranean and Eastern European countries. He urged support for IOI training programmes through participation.

**Discussion:** Responding to a question by Trinidad and Tobago on whether IOI would consider an ocean governance workshop in his country, ICELAND highlighted the UN University Fisheries Training Programme's (UNU-FTP) short courses in cooperation with partner countries, and Virapat described the possibility of the University of Trinidad and Tobago establishing a focal point. Lucia Fanning, IOI, said the overwhelming request emerging from the Caribbean region is for capacity building in the science-policy interface to develop a governance framework based on appropriate science.

On specific resources required to strengthen the International Monitoring, Control and Surveillance (IMCS) Network, Marcel Kroese, IMCS Network, estimated that US \$400,000 to 500,000

would be required to, *inter alia*: further develop a global fisheries information system; train developing coastal states and SIDS to support enforcement activities; and promote regional cooperation to combat illegal fishing. Alfa Lebgaza, Ministry of Public Work and Transport, Togo, described a recent incident where three vessels flying Togo flags were reported by the EU for fishing illegally in the region. He said Togo apprehended these vessels.

CANADA highlighted the helpful presence of IOI in Canada, and underscored the importance of institutional capacity building to ensure successful economic and sustainable use of marine resources. The NORTH EAST ATLANTIC FISHERIES COMMISSION described blacklisting of unauthorized vessels and a port state control system as primary tools for combating illegal, unreported and unregulated (IUU) fishing, and noted a reason for blacklisting's effectiveness is sharing a common IUU list with the Northwest Atlantic Fisheries Organization and South East Atlantic Fisheries Organization.

MEXICO said evaluating the need for capacity building in ocean affairs should take into account Part XIV of UNCLOS on development and transfer of marine technology. She emphasized the importance of training, especially related to, *inter alia*: marine biotechnology and intellectual property; improving research in marine energy and oil; and regional and bilateral training programmes on safety, pollution, managing cargo, and port security. SPAIN commented on the EU perspective on illegal fishing, underscoring that this issue has been a challenge for developed and developing countries. She noted that the EU has trained experts to ensure illegal fishing is punished and adopted stricter fisheries regulations addressing non-compliance by EU member states' vessels.

The US underscored the importance of capacity building for the conservation of living marine resources and highlighted its contributions to a number of capacity building programmes, including on minimizing bycatch and observer programmes. The WORLD METEOROLOGICAL ORGANIZATION (WMO) expressed its willingness to contribute to capacity building on ocean issues.

**CHALLENGES FOR ACHIEVING EFFECTIVE CAPACITY BUILDING IN OCEAN AFFAIRS AND THE LAW OF THE SEA, INCLUDING MARINE SCIENCE AND TRANSFER OF TECHNOLOGY: Presentations:** Cristelle Pratt, South Pacific Applied Geoscience Commission, presented on capacity building challenges and opportunities for research, development and management of non-living resources in the Pacific Islands Region. She noted the extensive exploration activities for deep seabed mineral resources and opined that countries are unprepared to benefit from these resources due to, *inter alia*, weak institutions, few marine experts and scientists, and no research vessels. To improve the situation, she suggested

applying lessons from cooperation on fisheries management to coordination for governance of non-living resources.

Alfa Lebgaza, Ministry of Public Work and Transport, Togo, said Togo ratified UNCLOS in 1985 and began its implementation by establishing maritime limits, such as the EEZ, and granting fishing licenses to fishers who recognized such limits. Underscoring the challenges to further implementation, he said Togo plans to adopt marine anti-pollution policies and seeks to secure material means to, *inter alia*, protect and monitor its coastline to stop IUU fishing, piracy, and criminal activities, such as drug trafficking. He also highlighted a need for marine research centers.

Kazuhiro Kitazawa, Japan Agency for Marine-Earth Science and Technology Center (JAMSTEC), said capacity building is essential for marine science activities and implementation of UNCLOS. He noted gaps in developed and developing countries' scientific knowledge and technology, said these gaps must be filled through mutual assistance and international cooperation, and provided an overview of JAMSTEC's work, including a training programme on ocean data handling. He said the problem of marine technology transfer could be solved utilizing UNESCO/IOC criteria and guidelines on the transfer of marine technology, and urged DOALOS and UNESCO/IOC to initiate the establishment of a regional center for capacity building and technology transfer.

Andrew Hudson, UN Development Programme (UNDP), discussed the challenges drawn from the International Waters portfolio of projects, which UNDP implements for the Global Environment Facility, with a focus on Large Marine Ecosystems and Partnerships in Environmental Management for the Seas of East Asia's (PEMSEA) experience. He highlighted challenges related to: policy, institutional and legal frameworks; financing; communication and advocacy; training and capacity tools; and the future, including developing skills for emerging governance issues, such as ocean acidification.

Tumi Tómasson, UNU-FTP, presented on the experiences of UNU-FTP, noting extensive changes in the fisheries sector, such as the growing importance of developing countries and concerns including aquaculture and the Millennium Development Goals. He said UNU-FTP's training programmes emphasize applied skills and have so far trained 205 fellows from 40 countries. On challenges, he stressed the need to, *inter alia*, build individual and collective capacity in development cooperation and effectively translate science into management actions.

**Discussion:** On the relationship between SIDS and the private sector in deep seabed mining, Pratt noted that potential mineral exploration is a new phenomenon in the Pacific, and highlighted the importance of looking into the legal and policy framework, including the environmental impacts of exploration. On challenges to capacity building, Lebgaza said the best strategy is for nationals to be trained in their own countries, and this is a component of technology transfer.

On application of the UNESCO/IOC guidelines by JAMSTEC, Kitazawa said the guidelines are not well known, but encouraged delegates to contact him. On a question about patent issues, he said JAMSTEC has a specialist on the topic. On the ecosystem approach, Hudson said UNDP supports its application to both marine and fresh water systems. On cooperation, Tómasson expressed support for regional cooperation, and said UNU is involved in regional projects in the Caribbean and Asia.

Spain, for the EU, expressed support for capacity-building programmes, and congratulated UN-Nippon Foundation Fellowship Programme advisor François Baillet for work in this field. The OCEAN POLICY RESEARCH FOUNDATION noted its close association with the Nippon Foundation and its work on policy education and research at international, regional and national levels. AUSTRALIA highlighted its assistance to Pacific island countries in delineating the outer limits of the continental shelf. MEXICO said institution building is necessary for all states to benefit from UNCLOS. NORWAY highlighted elements for

effective capacity building, such as good inter-agency cooperation on development assistance, and announced its intention to contribute US \$100,000 to the IMCS Network. The US noted that the Regular Process for Global Reporting and Assessment of the State of the Marine Environment can promote and facilitate capacity building and strengthen marine science.

**NEW APPROACHES, BEST PRACTICES AND OPPORTUNITIES FOR IMPROVED CAPACITY BUILDING IN OCEAN AFFAIRS AND THE LAW OF THE SEA: Presentations:** Raphael Lotilla, Executive Director, PEMSEA, presented on PEMSEA's regional capacity building programmes in coastal and ocean governance, which include integrated coastal management (ICM) model courses and study tours. He emphasized the importance of partnerships among country and non-country parties, and discussed the development of tools by PEMSEA, such as ICM codes and state of the coasts guidelines.

Imèn Meliane, The Nature Conservancy, said capacity building is a key aspect of NGO activities, such as training and improving the science base of decision making, but underscored that this is insufficient for improving environmental conditions as compliance remains limited. Drawing on training experiences for coral reef management, she said web-based peer-to-peer exchanges are effective for expanding expertise and drawing lessons from failures, and noted the importance of helping organizations gain abilities in, *inter alia*, financial management and proposal writing.

Narmoko Prasmadji, Coral Triangle Initiative on Coral Reefs, Fisheries, and Food Security (CTI), said the coral triangle region, sometimes termed the "Amazon of the Seas," is one of the richest areas of marine biodiversity and faces threats from overfishing and IUU fishing, climate change, and land-based pollution. Noting the broad support for the CTI, he reviewed its capacity building work to improve and strengthen the knowledge base for protecting marine and coastal resources in the region.

**Discussion:** Participants asked a number of questions that went unanswered due to time constraints, with: ARGENTINA requesting elaboration on funding of protected areas, and clarification of "rights-based management approaches"; and the WMO inquiring whether landlocked countries with rivers that pollute the ocean were involved in oceans issues, and whether such countries had access to marine resources beyond national jurisdiction.

BRAZIL, ARGENTINA, INDIA and CHINA discussed experiences in South-South capacity building. BRAZIL called for a global inventory of states' capacity-building needs. INDIA called for a DOALOS database to match capacity-building partners based on availability of resources, needs, and areas of interest. MEXICO suggested input from the World Intellectual Property Organization on seabeds and resources beyond areas of national jurisdiction. NORWAY highlighted the Arctic Council's "Observed Best Practices" report. The NATURAL RESOURCES DEFENSE COUNCIL suggested ICP-12 review progress on commitments made in Rio and Johannesburg.

### IN THE CORRIDORS

On Wednesday, participants continued to hear panel discussions, with one delegate commenting that for the third day of a meeting, "not much has happened yet." In the afternoon though, Conference Room 1 warmed to the topic at hand figuratively and literally, when two air conditioners broke and participants migrated to Conference Room 3 to seek refuge from the soaring temperature. An overheated room may be fitting, though, since Thursday's discussion on the selection of topics for future sessions of the Consultative Process are expected to be the week's most heated. One delegate called the topic of climate change "the elephant in the room," but it may not be addressed any time soon, as the topics of food security, marine pollution, IUU fishing, Rio+20, ocean warming and acidification, underwater noise and even compliance with UNCLOS provisions on conservation of living marine resources also have their supporters.

## ICP-11 HIGHLIGHTS: THURSDAY, 24 JUNE 2010

On Thursday, delegates to the eleventh meeting of the UN Open-ended Informal Consultative Process (Consultative Process or ICP-11) reconvened in a discussion panel on capacity building in ocean affairs and the law of the sea, including marine science. In the morning, panelists from Wednesday's session on new approaches, best practices and opportunities for improved capacity building in ocean affairs and the law of the sea were able to respond to previously asked questions, with delegates making additional comments. This was followed by a plenary session involving a general exchange of views, a presentation on inter-agency cooperation and coordination, and a discussion on issues that could benefit from attention in future work of the UN General Assembly. This discussion continued in the afternoon, followed by discussion on the process for the selection of topics and panelists to facilitate the work of the General Assembly.

### **CAPACITY BUILDING IN OCEAN AFFAIRS AND THE LAW OF THE SEA, INCLUDING MARINE SCIENCE**

**NEW APPROACHES, BEST PRACTICES AND OPPORTUNITIES FOR IMPROVED CAPACITY BUILDING IN OCEAN AFFAIRS AND THE LAW OF THE SEA: Discussion:** Responding to questions from Wednesday's session, Raphael Lotilla, Executive Director, PEMSEA, said PEMSEA's efforts to involve landlocked countries are due to a focus on transboundary and integrated river basin management. On the use of existing trust funds for the establishment of marine protected areas (MPAs), Imèn Meliane, The Nature Conservancy, said it can be easier to channel and secure funds by using regional initiatives and approaches, highlighting the "Caribbean Challenge." On a right-based management approach to fisheries, she explained ways it provides fishery participants economic incentives to ensure long-term sustainability. Narmoko Prasmadji, Coral Triangle Initiative (CTI), emphasized that sharing ideas, information and skills must be the first priority for those in the CTI region.

NEW ZEALAND supported the need to bridge gaps between capacity-building needs and opportunities, saying the focus should be on existing opportunities. BOLIVIA said national capacity building will have a multiplier effect when it comes to ocean management and a direct impact on landlocked developing countries. NIGERIA highlighted barriers to successful capacity building, including lack of beneficiary participation in donor priorities and lack of programmes with response to new long-term problems. MALAYSIA emphasized capacity building benefits under the CTI. THAILAND

highlighted successful projects utilizing coastal zone and ecosystem based management.

### **PLENARY**

**GENERAL EXCHANGE OF VIEWS:** Co-Chair Amb. Paul Badji (Senegal) opened the plenary for a resumption of a general exchange of views.

ICELAND highlighted the importance of fisheries and aquaculture for developing countries and noted concerns related to the sustainability of aquaculture. He suggested further discussions on analysis of reliable fisheries information and better means to monitor the status of stocks. On assessing the need for capacity building, MAURITANIA said its coastline is home to a wide variety of fisheries and offshore exploration activities, urged cooperation among Northwest African countries to promote coastline protection, and called for training opportunities.

PARLIAMENTARY ASSEMBLY OF THE MEDITERRANEAN addressed challenges faced in the Mediterranean Sea regarding free access to the high seas, busy shipping routes, overfishing and land-based sources of pollution, and recommended the development of mechanisms to prevent eco-catastrophes. SOUTH AFRICA noted the adoption of integrated coastal management legislation, but urged regional cooperation and assistance to implement this legal instrument. He called for capacity building on, *inter alia*: effects of climate change on the oceans, MPAs, and IUU fishing.

THAILAND said capacity building should be improved through coordination between the international, regional and national levels, especially in areas such as: implementation of the ecosystem-based approach; IUU fishing; assessment of highly migratory species; and application of Article 76 of UNCLOS.

IUCN reviewed complementary international processes for improving the knowledge base of ocean management, including: the Busan agreement of June 2010, which supported a platform to strengthen the science-policy interface for biodiversity conservation and sustainable use; and the Global Ocean Biodiversity Initiative, which builds capacity for the identification and management of ecologically significant areas.

INTERNATIONAL HYDROGRAPHIC ORGANIZATION (IHO) stressed its work as essential for maritime trade and reviewed its phased approach for helping countries meet the requirements set by the International Convention for the Safety of Life at Sea. He said IHO works with other international organizations, such as the International Maritime Organization, to maximize coordination of capacity-building activities. NRDC stressed the deleterious effects of marine pollution, particularly ocean noise. Noting an example from Trinidad and Tobago, she

highlighted the link between seismic surveys and declining fish catches, and stressed the consequences for local communities.

THE INTERNATIONAL CONTAINER BUREAU stressed that roughly 80% of global trade is ocean based and reviewed its work overseeing container registration, as specified in Annex 1 of the 1972 Customs Convention on Containers. He said its work increases the scope, efficiency and safety of trade, but that awareness raising and better compliance are still needed on container registration requirements. INDONESIA supported calls for a database to match capacity-building programmes with countries' needs and said long-standing barriers must be overcome, such as technology transfer. He stressed the importance of South-South cooperation, and noted that regional cooperation with Australia on stock assessments has improved human resources and institutional capacity.

#### **INTER-AGENCY COOPERATION AND**

**COORDINATION: Presentation:** Andrew Hudson, UN-Oceans, provided an update of UN-Oceans members' activities, including: progress on the use of biogeographic systems and criteria for identifying marine areas needing protection in accordance with the Convention on Biological Diversity (CBD) Decision IX/20; GESAMP work on coastal pollution, microplastic, biomagnifications and top-predators; the need for further financial assistance to the UN-Atlas; and relocation of the UN-Oceans website to the FAO domain. He further noted capacity-building activities by UN-Oceans members, such as: CBD programmes on MPAs, including, workshops and e-learning tools; and FAO training on fisheries management.

**ISSUES THAT COULD BENEFIT FROM ATTENTION IN FUTURE WORK OF THE GENERAL ASSEMBLY ON OCEAN AFFAIRS AND THE LAW OF THE SEA:** Co-Chair Amb. Don MacKay (New Zealand) invited delegates to review the streamlined list of issues that could benefit from attention in future work of the UN General Assembly, prepared by the co-chairs, or to propose other topics.

Yemen, for G-77/CHINA, supported by BRAZIL, ARGENTINA and the US, suggested the examination of progress in the implementation of the oceans chapter of the World Summit on Sustainable Development, as this would provide a valuable contribution to the Rio+20 process. MEXICO proposed liability for damage to marine biological diversity and part XII of UNCLOS on the protection of the marine environment, especially Article 208 on pollution from seabed activities subject to national jurisdiction. She underscored that the oil spill in the Gulf of Mexico reinforces the need to discuss this topic.

Spain, for the EU, proposed issues that have not yet been addressed by this forum, such as: integrated management approaches, including the ecosystem-based approach; pollution minimization; and environmental impact assessment tools. AUSTRALIA suggested integrated management approaches to address pollution, including land-based sources of pollution, which can impact fisheries and aquaculture.

IUCN expressed interest in reviewing the role of prior environmental assessment in the conservation and management of oceans and human activities that affect the marine environment, and said the importance of ecosystem-based approaches to adaptation and mitigation of the effects of climate change on oceans and coasts would benefit from attention in future work of the General Assembly.

NEW ZEALAND pointed to the issue of marine pollution as a topic needing special attention. ARGENTINA opposed the Consultative Process discussing issues addressed under different fora, notably climate change. The US noted the importance of all topics in the streamlined list and looked forward to future discussions.

#### **PROCESS FOR THE SELECTION OF TOPICS AND PANELISTS SO AS TO FACILITATE THE WORK OF THE GENERAL ASSEMBLY:**

Co-Chair MacKay introduced the agenda item, and summarized last year's discussion on the topic (A/64/131), including, *inter alia*, the need for the process to: contribute to sustainable development in a transparent, informal and inclusive manner; focus on topics as long as they are important; prioritize the issues to be tackled and identify them early; disseminate background and concept papers in regard to the topic; and not preclude itself from discussing topics that are in other fora.

Yemen, for G-77/CHINA, suggested that the proposed themes for the following ICP meetings should be based on a concept paper, which would, *inter alia*: be consistent with UNCLOS and Agenda 21; avoid the creation of new institutions, as well as duplication and overlapping of negotiations occurring in other fora; and be based on the economic, social and environmental pillars of sustainable development.

MEXICO, supported by MAURITANIA and TOGO, suggested the participation of panelists from all regions of the world. She also requested a more effective and expeditious mechanism for the participation of developing countries' experts, and called for earlier notifications and stricter deadlines. In response, Co-Chair MacKay said an earlier deadline was imposed this year, but exceptions had to be made due to the lack of suggestions by the end of the deadline, noting that a slightly more rigid approach can be pursued.

CHILE concurred with the G-77/CHINA, but also proposed the analysis of: the implementation of international instruments in force; IUU fishing and conservation measures that can be adopted by states; studies on marine environment preservation, especially on marine security; and the responsibilities of flag states in all marine areas. Spain, for the EU, stressed that proposals for new topics should be submitted well in advance to improve the transparency of the process and be accompanied by background papers to support their proposals.

North East Atlantic Fisheries Commission said the UN General Assembly has focused too much attention on fisheries, noting that states do not need resolutions to implement the obligations provided for by international conventions. He said regional and local discussions have a better chance to promote sustainable fisheries.

Co-Chair MacKay closed the agenda item, stating that delegates will reconvene in plenary at 11am on Friday to review the Co-Chairs' summary report on areas where natural consensus was reached. He emphasized that the report is intended for reference purposes only and does not represent a record of the discussions.

#### **IN THE CORRIDORS**

On Thursday, delegates returned to a cooler Conference Room 1 to complete panel discussions. Attention then turned to the expected hot items of the week: selecting topics for ICP-12 and proposing a process for selecting topics and panelists. The organizers had left time for ideas to be volleyed back and forth until Friday morning, in the style of the recent multi-day singles match at Wimbledon between John Isner and Nicolas Mahut, but to the surprise of some, little disagreement surfaced over proposed topics or procedures, and the meeting was adjourned two hours early. Many delegations did request additional time to assess proposals, and a few expected more debate at the General Assembly this fall.

**ENB SUMMARY AND ANALYSIS:** The *Earth Negotiations Bulletin* summary and analysis of ICP-11 will be available on Monday, 28 June 2010 online at: <http://www.iisd.ca/oceans/icp11>

## SUMMARY OF THE ELEVENTH MEETING OF THE OPEN-ENDED INFORMAL CONSULTATIVE PROCESS ON OCEANS AND THE LAW OF THE SEA: 21-25 JUNE 2010

The eleventh meeting of the UN Open-ended Informal Consultative Process on Oceans and the Law of the Sea (Consultative Process or ICP-11) took place from 21-25 June 2010, at UN Headquarters in New York. The meeting brought together over 300 representatives from governments, intergovernmental organizations, non-governmental organizations and academic institutions.

Delegates convened in plenary sessions throughout the week to discuss: a general exchange of views on capacity building in ocean affairs and the law of the sea, including marine science; inter-agency cooperation and coordination; issues that could benefit from attention in future work of the General Assembly on ocean affairs and the law of the sea; process for the selection of topics and panelists so as to facilitate the work of the UN General Assembly; and consideration of the outcome of the meeting. In addition, a discussion panel was held to consider capacity building in ocean affairs and the law of the sea, including marine science.

A Co-Chairs' summary of ICP-11's discussions was prepared Thursday evening by Co-Chairs Amb. Paul Badji (Senegal) and Amb. Don MacKay (New Zealand) and distributed Friday morning for consideration in plenary. Co-Chair Badji emphasized that the summary is intended for reference purposes only, reflecting a "natural consensus" of the plenary and panel discussions. After discussing the report paragraph by paragraph it was accepted and will be submitted to the UN General Assembly for consideration at its 65th 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 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 Third UN Conference on the Law of the Sea, during which the UN Convention on the Law of the Sea (UNCLOS) was adopted.

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**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).

**GENERAL ASSEMBLY 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 meet in New York and consider the Secretary-General's annual report 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) held discussion panels addressing fisheries, and the impacts of marine pollution and degradation. The second meeting (7-11 May 2001) 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) held discussion panels on the protection and preservation of the marine environment, capacity building, regional cooperation and coordination, and integrated oceans management.

**GENERAL ASSEMBLY 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) adopted recommendations on safety of navigation, the protection of vulnerable marine ecosystems, and cooperation and coordination on oceans issues. The fifth meeting (7-11 June 2004) 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 (6-10 June 2005) adopted recommendations on fisheries and their contribution to sustainable development, and considered the issue of marine debris.

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

**ICP-8:** The eighth meeting (25-29 June 2007) discussed 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:** the ninth meeting (23-27 June 2008) adopted recommendations on the necessity of maritime security and safety in promoting the economic, social and environmental pillars of sustainable development.

**ICP-10:** The tenth meeting (17-19 June 2009) produced a Co-Chairs' summary report collating outcomes of its discussions on the implementation of the outcomes of the Consultative Process, including a review of achievements and shortcomings in its first nine years, which was forwarded to the General Assembly for consideration.

## ICP-11 REPORT

On Monday, 21 June 2010, Thomas Stelzer, Assistant Secretary-General for Policy Coordination and Inter-Agency Affairs, Department of Economic and Social Affairs, opened the UN Open-ended Informal Consultative Process on Oceans and the Law of the Sea and described the importance of capacity building in ocean affairs and sustainable development, including its ability to: enable states to effectively implement UNCLOS; strengthen capacities of developing countries to achieve Johannesburg Plan of Implementation commitments; develop the marine scientific and technological capacity of developing countries; and enable cooperation among stakeholders.

Co-Chair Amb. Paul Badji (Senegal) noted the "new footing" of ICP-11 as it follows ICP-10, where participants took stock of the Consultative Process's work thus far. He hoped for a successful meeting and called on parties to sufficiently replenish the Trust Fund.

Co-Chair Amb. Don MacKay (New Zealand) underscored that capacity building is at the heart of all states' abilities to benefit fully from UNCLOS and is fundamental for the full implementation of the Convention for both developing and developed states. He encouraged an interactive discussion.

Patricia O'Brien, Under-Secretary-General for Legal Affairs and the UN Legal Counsel, noted: capacity building's significance for helping states comply with UNCLOS; that outcomes of capacity-building activities lack a comprehensive needs assessment; and her hope that ICP-11 would create a common understanding of capacity-building needs, and identify opportunities and possible ways forward.

Co-Chair MacKay introduced the meeting's agenda (A/AC.259/L.11), which was adopted without amendment.

**DISCUSSION PANEL ON CAPACITY BUILDING  
ON OCEAN AFFAIRS AND THE LAW OF THE SEA,  
INCLUDING MARINE SCIENCE**

The discussion panel on capacity building on ocean affairs and the law of the sea, including marine science, took place on Monday, Tuesday, Wednesday and Thursday. The panel was organized in four segments that covered: assessing capacity-building needs; an overview of capacity-building initiatives and activities; challenges for achieving effective capacity building; and new approaches, best practices, and opportunities for improved capacity building. Discussion also addressed the transfer of marine technology.

**ASSESSING THE NEED FOR CAPACITY BUILDING  
IN OCEAN AFFAIRS AND THE LAW OF THE SEA,  
INCLUDING MARINE SCIENCE:** On Monday afternoon, Phillip Saunders, Dalhousie University, reviewed the legal history of capacity building in the law of the sea, noting that it was inherent and justified in the “grand bargain” of UNCLOS as it was vital for, *inter alia*, effectively implementing the Convention and equitably sharing ocean benefits. He noted progress in capacity building as demonstrated by the Secretary-General’s report (A/65/69), and closed by emphasizing the continuing importance of dedicated financing arrangements and “soft” capacity assistance.

Åsmund Bjordal, Norwegian Institute of Marine Research, said the four pillars of sustainable fisheries management are: science, fisheries legislation, control of fishing activities, and violation sanctions. He then discussed Norway’s Nansen Programme on strengthening the knowledge base for, and implementing an ecosystem approach to, marine fisheries in developing countries.

Su’a N. F. Tanielu, Director-General, Pacific Islands Forum Fisheries Agency, presented the Pacific small island developing states’ (SIDS) perspective on capacity building, stressing the substantial tuna catches by distant water fleets within Pacific SIDS’ exclusive economic zones (EEZs), and underscored the need for further capacity and resources in the region. He said the Part VII Fund of the UN Fish Stocks Agreement (UNFSA) helps build capacity to conserve, manage and develop fisheries and facilitates participation in high seas fisheries.

On Tuesday morning, Germain Michel Ranjoanina, Ministry of Foreign Affairs, Madagascar, discussed the process of reworking Madagascar’s maritime code, noting that an assessment of its chapters revealed a gap between legislation and implementation possibly due to a lack of: technical and financial resources; coordination of activities on the high seas; political will; and sufficient knowledge of existing legal instruments.

Fabiola Jiménez Morán Sotomayor, Mexican Foreign Relations Secretariat, presented for Galo Carrera, Commission on the Limits of the Continental Shelf (CLCS), and Rebeca Navarro, PEMEX, on capacity building for the implementation of UNCLOS Article 76. She said delineating the outer limits of the continental shelf is technically complex and expensive for developing and least developed countries, and underscored that training courses, advice by the CLCS and assistance to states through the CLCS Trust Fund have been undertaken, but still need to be expanded.

Peter Gilruth, UN Environment Programme (UNEP), said UNEP uses science to address critical ocean challenges, and reviewed capacity-building lessons from UNEP activities, including: the Regional Seas Programme’s work building capacity for ecosystem based management, climate change adaptation and marine spatial planning; and the Online Access to Research in the Environment programme, which gives developing countries access to environmental science research.

In the ensuing discussions, delegates addressed, *inter alia*:

- the poor quality of certain fisheries statistics;
- comparing countries’ implementation of the UN Food and Agriculture Organization (FAO) Code of Conduct for Responsible Fisheries as a capacity-building exercise;
- the mechanisms donors use to identify needs for capacity building programmes and partnerships, and the importance of tailoring programmes to country needs;
- raising contributions to the Part VII Fund of the UNFSA;
- improving access of developing-country fisheries to catches in their EEZs and the high seas by building domestic fishing capacity;
- capacity building needed to help developing countries establish jurisdictional limits;
- barriers science-based decision-making can create for smaller countries;
- the implications of international and national intellectual property law for technology transfer;
- the enforcement of flag state provisions adopted by some regional fisheries management organizations (RFMOs);
- calls for a database to compile capacity-building assistance programmes and needs; and
- challenges of illegal, unreported and unregulated (IUU) fishing, sustainable fisheries management and lack of capacity to monitor EEZs.

A more detailed summary of these presentations and discussions is available at: <http://www.iisd.ca/vol25/enb2561e.html> and <http://www.iisd.ca/vol25/enb2562e.html>.

**OVERVIEW OF CAPACITY-BUILDING ACTIVITIES  
AND INITIATIVES IN OCEAN AFFAIRS AND THE LAW  
OF THE SEA, INCLUDING MARINE SCIENCE AND  
TRANSFER OF TECHNOLOGY:** On Tuesday, Juan Carlos Martín Fragueiro, Ministry of Environment, Rural and Marine Affairs, Spain, discussed Spain’s strategy for cooperation and coordination in ocean affairs. Fragueiro said future strategies will focus on, *inter alia*, the co-responsibilities of developing countries and collaborations to better use scarce economic resources.

Mitsuyuki Unno, The Nippon Foundation, presented on the Foundation’s programmes on marine affairs capacity building. He noted that through collaborative partnerships the Foundation has promoted connections across disciplines and organizations, and highlighted the importance of the UN-Nippon Foundation Fellowship Programme, which has awarded 60 fellowships to individuals from 43 states.

Serguei Tarassenko, Director, UN Division for Ocean Affairs and the Law of the Sea (DOALOS), reviewed DOALOS’s capacity-building activities including: the administration of trust funds, such as the CLCS Trust Fund; fellowship programmes,

such as the Hamilton Shirley Amerasinghe Memorial Fellowship on the Law of the Sea that helps fellows gain deeper knowledge of UNCLOS; and training activities.

Haiwen Zhang, China Institute for Marine Affairs, discussed China's capacity-building activities with an emphasis on South-South Cooperation and improved information exchange, and provided an overview of the marine management structure. To improve capacity building, she highlighted the need for: more knowledge of oceans and marine management; relevant technologies, equipment and instrumentation; and improved human and financial resources.

Ehrlich Desa, UN Educational, Scientific and Cultural Organization/Intergovernmental Oceanographic Commission (UNESCO/IOC), presented on the development of capacity of member states in ocean sciences and observation. He highlighted that capacity development of IOC member states is a cross-cutting issue with the long-term objective of improving ocean governance through good science and its interface with decision makers. Desa recommended that science-based oceans governance should, *inter alia*: address national priorities, empower national institutes, and involve civil society.

Nii Odunton, Secretary-General, International Seabed Authority (ISA), presented on ISA's Endowment Fund, which supports the participation of scientists from developing countries in marine scientific research programmes, activities, and relevant initiatives and seminars.

Marcel Kroese, International Monitoring, Control and Surveillance Network for Fisheries-related Activities (IMCS Network), stressed the economic, social, and ecological impacts of IUU fishing. He said the Network is a voluntary initiative that provides an efficient, non-bureaucratic mechanism for cooperation on IUU fishing, such as providing analytic support to identify vessels involved in IUU fishing.

In the ensuing discussion, delegates addressed, *inter alia*:

- how to match training given by developed states to the specific realities of developing states;
- application procedures for fellowships and the proportion of past fellows that have been government officials;
- access requirements for the Part VII Fund of UNFSA;
- means of collaboration with developing countries to determine capacity-building needs;
- the appropriate role of science in decision-making;
- building institutional capacity versus training individual experts;
- the definition of IUU and how the IMCS Network facilitates information sharing and optimizes monitoring efforts; and
- technology transfer.

A more detailed summary of these presentations and discussions is available at: <http://www.iisd.ca/vol25/enb2562e.html>.

**CHALLENGES FOR ACHIEVING EFFECTIVE CAPACITY BUILDING IN OCEAN AFFAIRS AND THE LAW OF THE SEA, INCLUDING MARINE SCIENCE AND TRANSFER OF TECHNOLOGY:** On Wednesday morning, Cristelle Pratt, South Pacific Applied Geoscience Commission, presented on research, development and management of non-living resources in the Pacific islands, noted the region's need for,

*inter alia*, institutions, marine experts and scientists, and research vessels, and proposed applying lessons from cooperation on fisheries to governance of non-living resources.

Alfa Lebgaza, Ministry of Public Works and Transport, Togo, described Togo's implementation of UNCLOS and challenges to plans for further implementation, and highlighted a need for marine research centers.

Kazuhiro Kitazawa, Japan Agency for Marine-Earth Science and Technology Center (JAMSTEC), presented on: the importance of capacity building for marine science and implementation of UNCLOS; addressing gaps in scientific knowledge and technology; and solving the problem of technology transfer through UNESCO/IOC criteria.

On Wednesday afternoon, Andrew Hudson, UN Development Programme, discussed challenges from the International Waters portfolio of projects, highlighting challenges related to: policy, institutional and legal frameworks; financing; communication and advocacy; training and capacity tools; and the future.

Tumi Tómasson, UN University-Fisheries Training Programme (UNU-FTP), noted extensive changes in the fisheries sector, and described the experiences of UNU-FTP, which has trained 205 fellows from 40 countries. He stressed the need to, *inter alia*, build individual and collective capacity in development cooperation and effectively translate science into management actions.

In the discussion that followed, delegates addressed, *inter alia*:

- the relationship between SIDS and the private sector in deep seabed mining;
- the UNESCO/IOC guidelines;
- patent issues;
- the ecosystem approach;
- existing capacity building;
- policy research and education projects; and
- the work of UN-Nippon Foundation Fellowship Programme advisor François Baillet.

A more detailed summary of the presentations and discussion is available at: <http://www.iisd.ca/vol25/enb2563e.html>

**NEW APPROACHES, BEST PRACTICES AND OPPORTUNITIES FOR IMPROVED CAPACITY BUILDING IN OCEAN AFFAIRS AND THE LAW OF THE SEA:** On Wednesday afternoon, Raphael Lotilla, Executive Director, Partnerships in Environmental Management for the Seas of East Asia (PEMSEA), presented on PEMSEA's regional capacity-building programmes and development of tools, emphasizing the importance of partnerships among country and non-country parties.

Imèn Meliane, The Nature Conservancy, highlighted the importance of capacity building to NGO activities, such as training and improving the science base of decision-making, said web-based peer-to-peer exchanges are effective tools, and noted the importance of helping organizations gain abilities in, *inter alia*, financial management and proposal writing.

Narmoko Prasmadji, Coral Triangle Initiative on Coral Reefs, Fisheries, and Food Security (CTI), discussed the marine biodiversity of the coral triangle region, sometimes termed the "Amazon of the Seas," the threats it faces, and CTI's work to improve and strengthen the knowledge base for protecting resources in the region.

In the ensuing discussion, which continued on Thursday morning, delegates addressed, *inter alia*:

- funding of marine protected areas (MPAs);
- a rights-based approach to fisheries;
- involvement of landlocked countries in ocean issues;
- the lack of a global inventory of capacity-building needs;
- suggestions for a DOALOS clearinghouse to match capacity-building partners; and
- the need for capacity building on intellectual property.

A more detailed summary of the presentations and discussion is available at: <http://www.iisd.ca/vol25/enb2563e.html> and <http://www.iisd.ca/vol25/enb2564e.html>

### **GENERAL EXCHANGE OF VIEWS ON CAPACITY BUILDING IN OCEAN AFFAIRS AND THE LAW OF THE SEA, INCLUDING MARINE SCIENCE**

On Monday morning, Co-Chair Badji introduced the agenda item and opened the floor for a general exchange of views, which was also addressed in plenary on Thursday and Friday.

Yemen, for the Group of 77 and China (G-77/China), urged in-depth discussions at ICP-11 that reflect the perspectives of developing countries, particularly on the need for capacity building in respect to Article 76 of UNCLOS on the delineation of the outer limits of the continental shelf. Australia, for the Pacific Islands Forum, supported by Palau, said targeted national capacity building is vital for SIDS. He called for strengthened capacity to implement monitoring, control, and surveillance to combat IUU fishing.

Underlining the finances committed by developed countries at the fifteenth Conference of the Parties to the UN Framework Convention on Climate Change (UNFCCC) in Copenhagen, Spain, for the European Union (EU), pointed to many existing sources for guidance on capacity building, such as the seven programme areas for capacity building identified in Chapter 17 of Agenda 21. Australia explained that it assists its neighbors with capacity building by helping, *inter alia*, with science for delineating the outer limits of the continental shelf. Palau stressed that science-based decision making requires open access to information, such as from the RFMOs. Chile stressed that capacity building needs to include human, financial, institutional and other dimensions if it is to advance sustainable development.

Trinidad and Tobago, supporting the G-77/China, said that even though its ocean legislation involves surveillance, the region remains vulnerable to IUU from developed-country fleets. Mexico said Part XIV of UNCLOS, on development and transfer of marine technology, and the UN General Assembly resolutions 64/71 and 64/72, provide guidance on capacity building, and introduced topics for consideration, including training for energy development in marine areas.

Norway emphasized that her country's marine policy focuses on an integrated ecosystem-based approach, and that a cross-sectoral approach is key to achieving this. Japan highlighted her country's capacity-building programmes in the area of marine science, including those of the JAMSTEC. India said since capacity building varies widely across regions, opportunities in this area need to be identified based on existing capacity-building arrangements. China said financial, scientific and human resources are the foundation of capacity building.

New Zealand highlighted its capacity-building assistance in the South Pacific region. Argentina underscored the importance of South-South cooperation as an innovative tool

for enhancing capacity building. Malaysia expressed support for UN programmes on capacity building, including the UNESCO/IOC programmes on enhanced cooperation and transfer of technologies. The US said capacity building is essential for the implementation of UNCLOS, but noted limited information on capacity building and on the specific needs of developing countries.

On Thursday afternoon, Iceland suggested further discussions on analysis of reliable fisheries information and better means to monitor the status of stocks. On assessing the need for capacity building, Mauritania urged cooperation among Northwest African countries to promote coastline protection. The Parliamentary Assembly of the Mediterranean addressed challenges faced in the Mediterranean Sea regarding free access to the high seas, busy shipping routes, overfishing and land-based sources of pollution. South Africa called for capacity building on, *inter alia*, effects of climate change on the oceans, MPAs, and IUU fishing.

Thailand said capacity building should be improved through coordination between the international, regional and national levels, especially in areas such as implementation of the ecosystem-based approach. IUCN reviewed complementary international processes for improving the knowledge base of ocean management, including the Global Ocean Biodiversity Initiative. The International Hydrographic Organization stressed its work as essential for maritime trade and reviewed its phased approach for helping countries meet the requirements set by the International Convention for the Safety of Life at Sea. The Natural Resources Defense Council stressed the deleterious effects of marine pollution, particularly ocean noise.

The International Container Bureau said its work increases the scope, efficiency and safety of trade, but that awareness raising and better compliance are still needed on container registration requirements. Indonesia supported calls for a database to match capacity-building programmes with countries' needs and said long-standing barriers must be overcome, such as technology transfer.

On Friday morning, the Solomon Islands, for the Pacific Island States, underscored that capacity building is a cross cutting issue, as identified in the Mauritius Strategy for the Implementation (MSI) of the Barbados Plan of Action for the Sustainable Development of SIDS. She said outcomes from ICP-11 should inform the MSI+5 High Level Review in September 2010, and called for tangible outcomes, such as technology transfer, not just training, to ensure local experts have access to marine research equipment and to reduce "brain drain." Nigeria expressed the urgent need for capacity building and technology transfer, with priority given to least developed countries, SIDS and coastal states in Africa to help implement UNCLOS and ensure access to benefits from the sustainable use of oceans.

Venezuela reaffirmed the importance it attaches to the Consultative Process, highlighted the need to bear in mind the financial constraints of developing countries, and called on the international community and UN to extend its cooperation in this regard, especially related to capacity building and technology transfer.

**INTER-AGENCY COOPERATION AND COORDINATION**

On Thursday morning, Andrew Hudson, UN-Oceans, provided an update of UN-Oceans members' activities, including: progress on the use of biogeographic classification systems and criteria for identifying marine areas beyond national jurisdiction in need of protection in accordance with the Convention on Biological Diversity Decision IX/20; Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection (GESAMP) work on coastal pollution, microplastic, biomagnifications and top-predators; the need for further financial assistance to the UN-Atlas; and relocation of the UN-Oceans website to the FAO domain.

**ISSUES THAT COULD BENEFIT FROM ATTENTION IN FUTURE WORK OF THE GENERAL ASSEMBLY ON OCEAN AFFAIRS AND THE LAW OF THE SEA**

On Thursday morning, delegates were invited to suggest topics for the next ICP session based on the streamlined list of issues that could benefit from attention in future work of the UN General Assembly, prepared by the Co-Chairs, or to propose other topics.

Yemen, for G-77/China, supported by Brazil, Argentina and the US, suggested examining progress on the implementation of the commitments on oceans made at the World Summit on Sustainable Development, as this would provide a valuable contribution to the upcoming United Nations Conference on Sustainable Development (Rio+20) process.

Mexico proposed liability for damage to marine biological diversity and Part XII of UNCLOS on the protection of the marine environment, especially on pollution from seabed activities subject to national jurisdiction.

Spain, for the EU, proposed issues that have not yet been addressed by this forum, such as: different uses of oceans and associated threats; integrated management approaches of human activities, through an ecosystem-based approach; pollution minimization; and environmental impact assessment tools. Australia suggested integrated management approaches to address pollution, including land-based sources of pollution.

IUCN expressed interest in reviewing the role of prior environmental assessment in the conservation and management of oceans and human activities that affect the marine environment, as well as in the importance of ecosystem-based approaches to adaptation and mitigation of the effects of climate change on oceans and coasts.

New Zealand pointed to the issue of marine pollution as a topic needing special attention. Argentina opposed the Consultative Process discussing issues addressed under different fora, notably climate change, and suggested means for the operationalization of Part XIV of UNCLOS for enhancing capacity in marine science. The US noted the importance of all topics in the streamlined list and looked forward to future discussions.

A more detailed summary of this discussion is available at: <http://www.iisd.ca/vol25/enb2564e.html>

**PROCESS FOR THE SELECTION OF TOPICS AND PANELISTS SO AS TO FACILITATE THE WORK OF THE GENERAL ASSEMBLY**

On Thursday afternoon, Co-Chair MacKay introduced this agenda item, and summarized last year's discussion on the topic (A/64/131), including, *inter alia*, the need for the process to: contribute to sustainable development in a transparent, informal and inclusive manner; prioritize the issues to be tackled and identify them early; disseminate background and concept papers with regard to the topic; and not preclude itself from discussing topics that are in other fora.

Yemen, for the G-77/China, suggested that the proposed themes for the following ICP meetings should be based on a concept paper, which would, *inter alia*: be consistent with UNCLOS and Agenda 21; avoid the creation of new institutions, as well as duplication and overlapping of negotiations occurring in other fora; and be based on the economic, social and environmental pillars of sustainable development.

Mexico, supported by Mauritania and Togo, suggested the participation of panelists from all regions of the world. She also requested a more effective and expeditious mechanism for the participation of developing countries' experts.

Chile concurred with the G-77/China, but also proposed the analysis of, *inter alia*: the implementation of international instruments in force; IUU fishing; conservation measures that can be adopted by states; and the responsibilities of flag states in all marine areas. Spain, for the EU, stressed that proposals for new topics should be submitted well in advance to improve the transparency of the process and be accompanied by background papers to support their proposals.

North East Atlantic Fisheries Commission said ICP-11 has devoted much of its attention to fisheries, and noted that regional and local discussions have a better chance to promote sustainable fisheries.

A more detailed summary of this discussion is available at: <http://www.iisd.ca/vol25/enb2564e.html>

**CONSIDERATION OF THE OUTCOME OF THE MEETING**

A Co-Chairs' summary of ICP-11's discussions was prepared Thursday evening and distributed Friday morning. The report collated the week's discussions on: an overview of, assessing needs for, challenges to, and new approaches, best practices and opportunities for improved capacity building in ocean affairs and the law of the sea, including marine science, as well as technology transfer; inter-agency cooperation and coordination; issues meriting attention in future work of the General Assembly; and the process for the selection of topics and panelists by the General Assembly for future meetings of the Consultative Process.

Co-Chair Badji said where possible, the Co-Chairs identified potential areas of "natural consensus" among delegates, but stressed that the report is intended as a reference document only and should not be construed as a verbatim record of the discussions. Still, he urged delegates to look for shortcomings, gaps and omissions to make it as comprehensive as possible. After a 30-minute suspension of the meeting to enable delegates to review the report, delegates discussed the report in blocks of paragraphs.

On capacity building in ocean affairs and the law of the sea, including marine science, and the process for the selection of topics and panelists by the General Assembly, delegates suggested changes to various paragraphs to correct factual problems and clarify support for and reservations about particular observations made during the week, when divergent opinions emerged.

On issues meriting future attention in work of the General Assembly, discussion focused on: topics omitted from the report, namely, preparations for the Rio+20 process, threats to oceans, and improved fisheries statistics; amendments to the existing list of topics; and the appropriateness of having the Consultative Process discuss topics covered by other fora, particularly climate change.

Following the discussion of suggested amendments and changes, the entire document was accepted as a whole, and Co-Chair Badji noted that it will be forwarded to the President of the General Assembly.

Serguei Tarassenko, Director, DOALOS, reminded delegates of the depleted status of the ICP Trust Fund, which supports developing-country experts to participate in the work of the Consultative Process, and the Hamilton Shirley Amerasinghe Fellowship, which helps candidates acquire specialized knowledge of UNCLOS and broaden its application. He urged replenishment.

#### **CLOSING PLENARY**

In closing, Co-Chair MacKay thanked colleagues for ICP-11's discussions, noting that they were rich and worthwhile, said the week spotlighted the great amount of work taking place in relation to capacity building and the law of the sea, and hoped to see the meeting's practical impact through improved capacity building, with a starting point being a collation of capacity-building efforts on the DOALOS website. He also hoped the summary of the discussion would be reflected in the UN General Assembly resolution on ICP-12's topic and thanked UN-DOALOS Secretary Gabriele Goettsche-Wanli for her 23 years of service, saying she is moving on to a new position within the UN.

Co-Chair Badji noted that the Co-Chairs' summary of discussions can serve as a reference document when it comes to everything pertaining to capacity building dealing with oceans and the law of the sea, urged replenishment of the trust funds, and thanked all participants, wishing them safe travels. He closed the meeting at 4:29 pm.

#### **A BRIEF ANALYSIS OF ICP-11**

The eleventh meeting of the Open-ended Informal Consultative Process on Oceans and the Law of the Sea (Consultative Process or ICP-11) occurred amidst the charged atmosphere of the 2010 World Cup and the somber realizations of the environmental, economic and social costs of the oil spill in the Gulf of Mexico. While the former merely provided delegates from developed and developing countries a common topic of conversation between and sometimes during meetings, the latter raised the salience of ICP-11's focus on "capacity building as it relates to ocean affairs and the law of the sea."

That ICP-11 had capacity building as the topic of discussion reflects developments over the last few years. Developing countries increasingly voiced the need to be heard in the Consultative Process and therefore requested a review of ICP's mandate in 2009, saying it had veered from advancing sustainable development, as evidenced by ICP topics such as Maritime Safety and Security. As a result, ICP-11's topic of capacity building was seen as a developing-country focused topic. Despite interest among some developed countries in the topic of climate change, it was agreed during the 64th session of UN General Assembly that ICP-11 would tackle capacity building, a subject broad enough to include discussions on climate change. Yet surprisingly, climate change was dropped from the agenda during the preparatory meeting in March.

Given this ongoing disagreement, there was anticipation that the World Cup's intensity would permeate the week's discussions, particularly when topics for future consideration were considered. Yet a calm atmosphere pervaded the meeting, with delegates keenly agreeing on the importance of strengthening capacity building. While some tug of war occurred between developing and developed countries over the need for more assistance balanced against the constraints of the global economic crisis, most delegates left the meeting as calm as they entered. While this could represent success, it could also mean a lack of interest in the ICP.

This brief analysis of ICP-11 highlights successes, challenges and possible ways forward for the Informal Consultative Process.

#### **PLAYING AS A TEAM**

It was clear from the beginning of the meeting that there was consensus on the importance of capacity building and transfer of marine technology, especially in developing countries that are struggling to control, manage and benefit from their maritime zones. Capacity building is especially needed in relation to fisheries, delineation of the outer limits of the continental shelf and deep seabed mining. The agreement on the serious need to address capacity-building shortfalls and willingness to act was tempered by concerns over the strained global economy, and in turn, ICP's depleted funds. To overcome these financial constraints, delegates realized that the gaps in capacity building would need to be identified, prioritized and then solved by optimizing the use of existing programmes. Consensus emerged on having DOALOS host on its website a unified clearing-house mechanism on capacity-building activities and needs as a first step towards connecting donors with beneficiaries.

Delegates also discussed challenges associated with the transfer of marine technology. Some noted that Part XIV of the UN Convention on the Law of the Sea (UNCLOS), on the development and transfer of marine technology, constitutes "one of the major implementation gaps of the Convention," pointing to the lack of concrete transfers to assist developing countries in benefiting from their marine resources. The UNESCO/IOC Criteria and Guidelines on the Transfer of Marine Technology, which state that IOC should collaboratively develop a clearing-house mechanism for the transfer of marine technology to facilitate effective scientific, technical and financial cooperation, were identified as a potential solution. Even though this clearing-house does not yet exist, an application process is in place to

facilitate marine technology transfer. One participant noted the “perfect complement” this would be to DOALOS’ pending database.

Another success occurred on a procedural note. Past ICPs have featured debate about the selection of topics and panelists with concern over limited lead time and balanced representation of experts. Responding to this, delegates expressed support for more transparent criteria for the selection of topics, and agreed that the proposed topics should be accompanied by a concept paper made available at least one week prior to the meeting. This has the potential to bolster the process by making the topic clearer, focusing discussion, and fostering trust among participants.

### **MISSED SHOTS**

Despite the Co-Chairs’ attention to detail and expert facilitation backed by an effective Secretariat and attentive delegates, the proceedings were still described by some as “very boring.” This was due partly to the ease with which agreement was reached on the need for capacity building, and partly to the absence of climate change as a topic under the umbrella of capacity building, and was clearly exacerbated by the exciting distraction of the World Cup. The presentations were useful, but some noted that they could have been scheduled for fewer days and focused more on ways forward, with particular attention to mechanisms that assess and act on the capacity-building needs of developing countries.

More focus was also expected on topics such as: capacity building with regard to the delineation of the outer limit of the continental shelf, due to the highly complex and technical nature of Article 76 of UNCLOS; and means to overcome obstacles related to property rights and patents in the context of transfer of technology.

Finally, the format and meaning of the Co-Chairs’ summary of discussions limited the closing day’s deliberations. Prior to ICP-10, specific elements negotiated and agreed by consensus were forwarded to the UN General Assembly. This process changed last year when delegates feared that the Consultative Process was becoming a negotiating forum and wanted to avoid duplication of the UN General Assembly’s negotiations. But reactions to the new approach were mixed. For some delegates, a report that reflects five days of discussions does not advance the process, and one delegate expressed reservations about the future value of the ICP if this approach continues.

### **FORWARD PASS**

Even in the surprisingly pacific exchanges over ICP’s future work, there remained a schism over how the Consultative Process should proceed vis-à-vis other multilateral fora. The G-77/China took the position that ICP should avoid duplication and overlap with current negotiations and particular debates taking place in specialized fora. Yet, as one delegate noted, all issues are discussed in other venues.

This debate raises questions about ICP’s purpose since the UN General Assembly resolutions on oceans and the law of the sea play a role in the evolution of the law of the sea. For example, marine biodiversity is addressed within the Convention on Biological Diversity, which makes specific reference to UNCLOS linking the two in a complementary way on marine conservation. Restricting ICP from covering issues raised in

other fora weakens each convention individually by neglecting integration opportunities and exacerbating fragmentation of international law.

Within the ICP the issue remains controversial, especially concerning climate change. Some delegates opine that the topic of climate change should be dealt with exclusively by the UN Framework Convention on Climate Change (UNFCCC). A bridge to this impasse, suggested by some delegates, would be to discuss the effects of climate change on oceans and their resources, for example ocean warming and acidification, and leaving governance to UNFCCC.

This aside, there seemed to be support for ICP-12 to examine progress on the implementation of the commitments on oceans made at the 2002 World Summit on Sustainable Development. As some delegates said, this would strengthen the Consultative Process and contribute to the UN Conference on Sustainable Development (Rio+20). They also noted that ICP is the lone ocean process that feeds into the UN General Assembly, and that not seizing this opportunity risks sinking the ocean agenda at Rio+20. In other words, as noted by one delegate, the Rio+20 topic could provide an umbrella under which all ocean-related topics could be discussed, including the impacts of climate change on oceans.

### **GOAL?**

Delegates left the UN on Friday, processing what they’d learned about capacity-building programmes, challenges and opportunities, and having agreed on the first steps for improving the matching of capacity-building needs with existing programmes. While the calm and speedy ending to the meeting represented an accomplishment, it remains to be seen how disagreements over the topics and the process for their selection, as well as the renewal of the ICP mandate, will be addressed by the 65th session of the UN General Assembly. The selection of the right topic may rescue this process and remind both developed and developing countries that the future of the oceans is at stake and that, as one delegate noted, “all of us have the same goal: the protection of the world’s oceans.”

## **UPCOMING MEETINGS**

**Third East Asian Seas Partnership Council Meeting:** The Partnerships in Environmental Management for the Seas of East Asia (PEMSEA) aims to build interagency, intersectoral, and intergovernmental partnerships for achieving the sustainable development of the Seas of East Asia. **dates:** 26-30 July 2010 **location:** Hulunbair, Inner Mongolia, People’s Republic of China **contact:** Won-Tae Shin, Ph.D. **phone:** +63-2-9292992 **fax:** +63-2-9269712 **email:** wtshin@pemsea.org **internet:** <http://www.pemsea.org/events/events/third-eas-partnership-council-meeting/view>.

**Ad Hoc Working Group of the Whole to Recommend a Course of Action to the General Assembly on the Regular Process for Global Reporting and Assessment of the State of the Marine Environment, Including Socio-Economic Aspects:** **dates:** 30 August to 3 September 2010 **location:** UN Headquarters in New York **contact:** the Division for Ocean Affairs and the Law of the Sea **phone:** +1-212-963-3962 **fax:** +1-212-963-5847 **email:** doalos@un.org **internet:** <http://www.un.org/regular-process.org/>

**International Conference on Oceans, Climate Change and Sustainable Development: Challenges to Oceans and Coastal Cities:** This conference will include Pacem in Maribus XXXIII and Celebration of the 50th Anniversary of the UNESCO/IOC. **dates:** 2-4 September 2010 **location:** Beijing, China **contact:** Yu Hongrong, International Oceans Institute Focal Point-Shanghai **phone:** +86-21-388-20765 **fax:** +86-21-588-53909 **email:** yuhr@shmtu.edu.cn **internet:** <http://www.ioinst.org>

**1st World Seabird Conference: Seabirds: Linking the Global Oceans:** This conference aims to put seabird management and conservation into a worldwide perspective. **dates:** 7-11 September 2010 **location:** Victoria, Canada **internet:** <http://www.confmanager.com/main.cfm?cid=1813&nid=12669>

**2nd Marine Board Forum: Towards a European Network of Marine Observatories for Monitoring and Research:** This forum will discuss critical gaps and opportunities for the long-term monitoring of Europe's marine environment. **dates:** 16 September 2010 **location:** Brussels **contact:** Marine Board Secretariat **phone:** +33-0-3887-671000 **fax:** +33-0-3883-70532 **email:** [marineboard@esf.org](mailto:marineboard@esf.org) **internet:** <http://www.esf.org/index.php?id=6834>

**North-East Atlantic Environment Summit:** This is a ministerial meeting of the Commission of the Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR). **dates:** 20-24 September 2010 **location:** Bergen, Norway **contact:** OSPAR Commission **phone:** +44-0-20-7430-5200 **fax:** +44-0-20-7430-5225 **email:** [secretariat@ospar.org](mailto:secretariat@ospar.org) **internet:** <http://www.ospar.org>

**Millennium Development Goals Summit:** The UN General Assembly decided to convene this summit as a high-level plenary meeting on accelerating progress to achieve all the Millennium Development Goals by 2015, taking into account progress made through a review of successes and best practices. **dates:** 20-22 September 2010 **location:** UN Headquarters in New York **internet:** <http://www.un.org/millenniumgoals/calendar.shtml>

**ICES Annual Science Conference:** This meeting of the International Council for the Exploration of the Sea (ICES) will bring together scientists, practitioners and policy makers. **dates:** 20-24 September 2010 **location:** Nantes (Pays De La Loire), France **contact:** ICES Secretariat; Attn: Gorel Kjeldsen **phone:** +45-3-38-67-00 **fax:** +45-33-93-42-15 **email:** [ASCinfo@ices.dk](mailto:ASCinfo@ices.dk) **internet:** <http://www.ices.dk/iceswork/asc/2010/>

**Global Conference on Aquaculture 2010:** This conference is co-sponsored by the FAO Fisheries and Aquaculture Department, the Network of Aquaculture Centres in Asia and the Pacific, and the Department of Fisheries of the Government of Thailand. **dates:** 22-25 September 2010 **location:** Phuket, Thailand **contact:** Conference Secretariat **phone:** +66-2-561-1728 **fax:** +66-2-561-1727 **email:** [aqua-conference2010@enaca.org](mailto:aqua-conference2010@enaca.org) **internet:** <http://www.aqua-conference2010.org>

**MSI+5 High-Level Review:** This is the five-year review of the Mauritius Strategy for the Implementation (MSI+5) of the Barbados Plan of Action for the Sustainable Development of Small Island Developing States. **dates:** 24-25 September 2010 **location:** UN Headquarters in New York **contact:** Hiroko Morita-Lou, SIDS Unit **phone:** +1-212-963-8813 **fax:** +1-212-963-4260 **email:** [morita-lou@un.org](mailto:morita-lou@un.org) **internet:** [http://www.sidsnet.org/msi\\_5/](http://www.sidsnet.org/msi_5/)

**Fifth Session of the Sub-Committee on Aquaculture of the FAO Committee on Fisheries:** **dates:** 27 September to 1 October 2010 **location:** Phuket, Thailand **contact:** Rohana Subasinghe, FAO **phone:** +39-06-570-56473 **fax:** +39-06-570-53020 **email:** [rohana.subasinghe@fao.org](mailto:rohana.subasinghe@fao.org) **internet:** <http://www.fao.org/fishery/nems/38933/en>

**Oceans Day at Nagoya:** This event will be held during the tenth Conference of the Parties to the Convention on Biological Diversity. **dates:** 23 October 2010 **contact:** Global Oceans Forum Secretariat **phone:** +1-302-831-8086 **fax:** +1-302-831-3668 **email:** [mbalgos@udel.edu](mailto:mbalgos@udel.edu) **internet:** <http://www.globaloceans.org/>

**3rd Intergovernmental Review of the Global Programme of Action for the Protection of the Marine Environment from Land-Based Pollution:** This event will take place sometime in 2011 at a location to be determined. **contact:** UNEP/GPA Coordinator **phone:** +31-70-311-4460 **fax:** +31-70-345-6648 **email:** [gpa@unep.nl](mailto:gpa@unep.nl) **internet:** <http://www.gpa.unep.org>

**Fifth International Marine Debris Conference:** This event, co-organized by the UNEP and the National Oceanic and Atmospheric Administration, will share strategies and best practices to assess, reduce and prevent the impacts of marine debris. **dates:** 20-25 March 2011 **location:** Honolulu, Hawaii **contact:** David Osborn, UNEP **phone:** +254-20-762-5721 **fax:** +254-20-762-4249 **email:** [david.osborn@unep.org](mailto:david.osborn@unep.org) or [5IMDCConf@gmail.com](mailto:5IMDCConf@gmail.com) **internet:** <http://www.5imdc.org/>

**12th Meeting of the Informal Consultative Process on Oceans and the Law of the Sea:** The dates for ICP-12 will be determined by the 65th session of the United Nations General Assembly. **dates:** June 2011 **location:** UN Headquarters in New York **contact:** DOALOS **phone:** +1-212-963-3969 **fax:** +1-212-963-5847 **email:** [doalos@un.org](mailto:doalos@un.org) **internet:** [http://www.un.org/Depts/los/consultative\\_process/consultative\\_process.htm](http://www.un.org/Depts/los/consultative_process/consultative_process.htm)

## GLOSSARY

CLCS	Commission on the Limits of the Continental Shelf
CTI	Coral Triangle Initiative on Coral Reefs, Fisheries and Food Security
DOALOS	UN Division for Ocean Affairs and the Law of the Sea
EEZ	Exclusive economic zone
FAO	Food and Agriculture Organization of the UN
ICP	UN Open-Ended Informal Consultative Process on Oceans and the Law of the Sea
IMCS	International Monitoring, Control, and Surveillance
IOC	Intergovernmental Oceanographic Commission
IUU	Illegal, unreported and unregulated fishing
MPA	Marine protected area
PEMSEA	Partnerships in Environmental Management for the Seas of East Asia
RFMO	Regional fisheries management organization
SIDS	Small island developing states
UNCLOS	UN Convention on the Law of the Sea
UNFCCC	UN Framework Convention on Climate Change
UNFSA	UN Fish Stocks Agreement