



## SUMMARY OF THE FOURTH MEETING OF THE OPEN-ENDED INFORMAL CONSULTATIVE PROCESS ON OCEANS AND THE LAW OF THE SEA: 2-6 JUNE 2003

The fourth meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea (Consultative Process) took place from 2-6 June 2003, at UN headquarters in New York. The meeting brought together over 200 delegates from governments, intergovernmental organizations and non-governmental organizations (NGOs). Delegates convened in plenary sessions to hear general statements and exchange views on areas of concern and actions needed, particularly in matters of cooperation and coordination on oceans issues, and identify issues for further consideration by the General Assembly. In addition, two discussion panels were held to consider safety of navigation, including capacity building for the production of nautical charts, and the protection of vulnerable marine ecosystems.

Delegates agreed on a draft text on elements to be suggested to the General Assembly for its consideration under its agenda item entitled "Oceans and the law of the sea," which include proposals on safety of navigation, the protection of vulnerable marine ecosystems, and cooperation and coordination on ocean issues.

Whether or not the 20th anniversary of the opening for signature of UNCLOS or the 2002 World Summit on Sustainable Development held in Johannesburg stimulated discussions at this meeting, debates on sensitive issues, such as illegal, unreported and unregulated fishing and flag State responsibilities, were particularly focused and constructive.

### A BRIEF HISTORY OF OCEANS AND THE LAW OF THE SEA AND THE OPEN-ENDED INFORMAL CONSULTATIVE PROCESS

**UNCLOS:** Opened for signature on 10 December 1982, in Montego Bay, Jamaica, at the Third United Nations Conference on the Law of the Sea, the UN Convention 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, which entered into force on 16 November 1994, comprises 320 articles and nine annexes. It provides for a mechanism for the settlement of

disputes, and is supplemented by the 1994 Deep Seabed Mining Agreement, and the 1995 Fish Stocks Agreement. Since the entry into force of UNCLOS, three relevant international bodies have been established, namely the International Seabed Authority (ISA), the International Tribunal for the Law of the Sea (ITLOS), and the Commission on the Limits of the Continental Shelf (CLCS).

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

**UNGA RESOLUTION 54/33:** On 24 November 1999, the General Assembly adopted resolution 54/33 (A/RES/54/33) on the results of the review undertaken by the Commission on Sustainable Development (CSD) at its seventh session on the theme of "Oceans and seas." In this resolution, the General Assembly decided to establish an open-ended informal consultative process in order to facilitate the annual review of developments in ocean

### IN THIS ISSUE

A Brief History of the Oceans and the Law of the Sea and the Open-Ended Informal Consultative Process . . . . .	1
ICP-4 Report . . . . .	2
Discussion Panel A: Safety of Navigation . . . . .	3
Discussion Panel B: The Protection of Vulnerable Marine Ecosystems. . . . .	4
Elements to be Suggested to the General Assembly . . . . .	5
Issues for Further Consideration by the General Assembly . . . . .	8
Exchange of Views on Cooperation and Coordination . . . . .	8
Closing Plenary. . . . .	8
A Brief Analysis of ICP-4 . . . . .	8
Things to Look For Before ICP-5 . . . . .	10

This issue of the *Earth Negotiations Bulletin* © <enb@iisd.org> is written and edited by Alice Bisiaux <alice@iisd.org>, Prisma Nuengsigkapien <prisna@iisd.org>, and Charlotte Salpin <charlotte@iisd.org>. The Editor is Pamela S. Chasek, Ph.D. <pam@iisd.org> and the Director of IISD Reporting Services is Langston James "Kimo" Goree VI <kimo@iisd.org>. The Sustaining Donors of the *Bulletin* are the Government of the United States of America (through the Department of State Bureau of Oceans and International Environmental and Scientific Affairs), the Netherlands Ministry of Foreign Affairs, the Government of Canada (through CIDA, DFAIT and Environment Canada), the Swiss Agency for Environment, Forests and Landscape (SAEFL), the United Kingdom (through the Department for International Development - DFID and Department for Environment Food and Rural Affairs - DEFRA), the European Commission (DG-ENV), the Danish Ministry of Foreign Affairs, and the Government of Germany (through the German Federal Ministry of Environment - BMU, and the German Federal Ministry of Development Cooperation - BMZ). General Support for the *Bulletin* during 2003 is provided by the United Nations Environment Programme (UNEP), the Government of Australia, the Ministry of Environment and the Ministry of Foreign Affairs of Sweden, the Ministry of Foreign Affairs and Trade of New Zealand, the Ministry of Foreign Affairs of Norway, Swan International, the Japanese Ministry of Environment (through the Institute for Global Environmental Strategies - IGES), the Japanese Ministry of Economy, Trade and Industry (through the Global Industrial and Social Progress Research Institute - GISPRI), and the Ministry for Environment of Iceland. The opinions expressed in the *Earth Negotiations Bulletin* are those of the authors and do not necessarily reflect the views of IISD or other donors. Excerpts from the *Earth Negotiations Bulletin* may be used in non-commercial publications with appropriate academic citation. For information on the *Bulletin*, including requests to provide reporting services, contact the Director of IISD Reporting Services at <kimo@iisd.org>, +1-212-644-0217 or 212 East 47th St. #21F, New York, NY 10017, USA.



affairs. The General Assembly decided that the Consultative Process would consider the Secretary-General's annual reports on oceans and the law of the sea, and suggest particular issues to be considered by the General Assembly, with an emphasis on identifying areas where intergovernmental and inter-agency 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, at its 57th session, review the effectiveness and utility of the Consultative Process.

**MEETINGS OF THE OPEN-ENDED INFORMAL CONSULTATIVE PROCESS:** The first three meetings of the Consultative Process were co-chaired by Tuiloma Neroni Slade (Samoa) and Alan Simcock (UK). Each meeting identified issues to be suggested and elements to be proposed to the General Assembly, and highlighted issues that could benefit from attention in the future work of the General Assembly.

The first meeting of the Consultative Process was held in New York from 30 May to 2 June 2000, with discussion panels addressing fisheries, and the impacts of marine pollution and degradation. The second meeting of the Consultative Process took place from 7-11 May 2001, with discussion panels considering marine science and technology, and coordination and cooperation in combating piracy and armed robbery at sea. The third meeting of the Consultative Process convened from 8-15 April 2002, with a focus on: the protection and preservation of the marine environment; and capacity building, regional cooperation and coordination, and integrated ocean management.

**WORLD SUMMIT ON SUSTAINABLE DEVELOPMENT:** The World Summit on Sustainable Development (WSSD) convened from 26 August to 4 September 2002, in Johannesburg, South Africa. The WSSD negotiated and adopted two main documents: the *Johannesburg Plan of Implementation (JPOI)* and the *Johannesburg Declaration on Sustainable Development*. The JPOI contains 11 chapters providing a framework for action to implement sustainable development commitments. Chapter IV on Protecting and Managing the Natural Resource Base of Economic and Social Development contains several paragraphs (30-36) on the sustainable development of oceans, addressing: sustainable fisheries; the advancement of implementation of programmes relating to the protection of the marine environment against pollution from land-based activities; the promotion of conservation and management of oceans; the enhancement of maritime safety and protection of the marine environment from pollution; and the improvement of scientific understanding and assessment of marine and coastal ecosystems.

**COMMEMORATION OF THE 20TH ANNIVERSARY OF THE OPENING FOR SIGNATURE OF UNCLOS:** On 9-10 December 2002, the General Assembly at its 57th session held commemorative meetings on the occasion of the 20th anniversary of the opening for signature of UNCLOS. Delegates held a debate on "Oceans and the law of the sea," convened four informal panels on "Dynamism of the Convention: Challenges for the present and solutions for the future," and heard presentations on new scientific discoveries related to oceans.

**UNGA RESOLUTION 57/141:** On 12 December 2002, the General Assembly at its 57th session adopted resolution 57/141 on "Oceans and the law of the sea." The resolution welcomes the

previous work of the Consultative Process, and extends it for an additional three years, with the aim of reviewing its effectiveness and utility at the 60th session of the General Assembly. The resolution requests the UN Secretary-General to convene the fourth meeting of the Consultative Process from 2-6 June 2003, and recommends that the meeting discuss the protection of vulnerable marine ecosystems, and safety of navigation, including capacity building for the production of nautical charts.

In response to resolution 57/141, the UN Secretary-General produced his annual report on "Oceans and the law of the sea" (A/58/65), to be presented at the 58th session of the General Assembly. The Report, which also guided discussions at the fourth meeting of the Consultative Process, elaborates on developments regarding the protection of the marine environment and safety of navigation, in particular in relation to the aftermath of the November 2002 *Prestige* oil spill. It identifies two main challenges: to ensure that States comply fully with their obligations under UNCLOS, and that inter-agency cooperation is facilitated and enhanced.

**INFORMAL PREPARATORY MEETING:** An informal preparatory meeting for the Consultative Process was held at UN headquarters in New York on 14 April 2003. Following this meeting and consultations with country delegations, the Co-Chairs of the fourth meeting of the Consultative Process, Felipe Paolillo (Uruguay) and Philip Burgess (Australia), prepared a draft format and provisional agenda (A/AC.259/L.4 Annex I and II). The Co-Chairs further set out descriptions of the areas of focus for the two discussion panels (A/AC.259/L.4 Annex III.A and B) on safety of navigation, including capacity building for the production of nautical charts, and on the protection of vulnerable marine ecosystems.

#### ICP-4 REPORT

The fourth meeting of the Consultative Process opened on Monday, 2 June 2003. Co-Chair Felipe Paolillo highlighted the contribution made by the Process to the general debate on oceans and the law of the sea. Co-Chair Philip Burgess noted that the Process is a consultative and not a decision-making body, urging delegates to consider practical actions and outcomes. Delegates then adopted the meeting's draft format and provisional agenda (A/AC.259/L.4).

Participants then heard general statements, and raised issues relating to: safety of navigation; the protection of the marine environment; intergovernmental and inter-agency cooperation and coordination; the obligations of flag and port States; and capacity building. Participants also heard reports by the Food and Agriculture Organization (FAO) on illegal, unreported and unregulated (IUU) fishing, and the United Nations Environment Programme's Global Programme of Action (UNEP-GPA) on the impacts of land-based activities on the marine environment.

The meeting convened two discussion panels from Tuesday to Thursday on safety of navigation and on the protection of the marine environment. The Plenary reconvened on Friday to discuss and adopt the meeting's recommendations to the General Assembly, as well as address issues for further consideration by the General Assembly, and exchange views on cooperation and coordination.



### DISCUSSION PANEL A: SAFETY OF NAVIGATION

A Discussion Panel on safety of navigation was held on Tuesday and Wednesday. Participants heard five presentations and engaged in discussions on electronic navigational charts (ENCs), the International Hydrographic Organization (IHO), the Baltic Marine Environment Protection Commission (Helsinki Commission - HELCOM), International Maritime Organization (IMO), and nautical charts.

**PRESENTATIONS: ENCs:** Richard West, Consortium for Oceanographic Research and Education, presented the advantages of electronic navigational charts (ENCs) over paper and raster charts, highlighting the reduction of environmental degradation and risks associated with the sea transport of dangerous cargo. He outlined various applications of ENCs and said worldwide application of ENCs requires equipment, internationally standardized data, and capacity building.

**IHO:** Kenneth Barbor, IHO, reported on the organization's technical programmes and capacity building initiatives relating to the production of nautical charts. He said accurate nautical charts contribute to reducing the occurrence of maritime accidents, protecting the marine environment, and improving life at sea.

**HELCOM:** Anne Christine Brussendorff, HELCOM, presented on measures undertaken by HELCOM to increase navigational safety and reduce environmental risks in the Baltic Sea. She highlighted: routing measures; use of pilots and ENCs; hydrographic surveys; port State controls; traffic monitoring; phasing-out of single hull tankers; involvement of the maritime industry; and the possible designation of the Baltic Sea as a Particularly Sensitive Sea Area (PSSA) within the International Maritime Organization's (IMO) framework.

**IMO:** Gaetano Librando, IMO, listed the measures taken by IMO on maritime security and safety following the 11 September terrorist attacks. He mentioned proposals recently submitted for IMO consideration, including: accelerating the phasing-out of single hull tankers and designating sensitive marine areas. Concerning places of refuge for vessels in distress, he noted the fragile balance between the duty of States to provide assistance and their right to regulate access to their ports.

**Nautical charts:** Yves Desnoës, Hydrographic and Oceanographic Office of the French Navy, presented the advantages of ENCs and, noting that hydrographic information in developing countries is fragmented or outdated, called on governments, donors and the IHO, to achieve better ENC coverage. He stressed the need for IMO and IHO to clearly define their tasks, and said the benefits drawn from greater ENC coverage outweigh the costs.

**DISCUSSIONS:** Delegates addressed: institutional and legal frameworks; applications of ENCs; capacity building for the production of nautical charts; transport of hazardous substances; and flag State implementation. Considerable attention was given to measures adopted by the European Union (EU) in the wake of the November 2002 *Prestige* oil spill, and many countries emphasized the relationship between ensuring maritime safety and protecting the marine environment.

**Institutional and legal frameworks:** Some delegates, such as Norway and the International Chamber of Shipping, said the IMO is the competent body for addressing shipping safety and setting uniform pollution standards. Many participants, including Norway,

Portugal and IHO, also emphasized the importance of establishing national maritime administrations as an essential step in ensuring navigational safety and compliance with international regulations.

**ENCs:** Many participants, including Jamaica, Portugal and Mexico, noted the application of ENCs in ecosystem monitoring and maritime delimitation negotiations, and recognized the need for continuous coverage of ENCs, but noted the high costs involved in transitioning from paper to electronic charts.

**Capacity building:** Norway and Portugal stressed the importance of capacity building and establishing navigational administrations within developing countries. They identified finding donors as the main obstacle. The G-77/China requested specialized assistance, partnerships with donor institutions, and the establishment of technical programmes to undertake hydrographic surveys and produce nautical charts. Portugal said capacity building should be carried out within the IHO framework.

**Transport of hazardous substances:** The Alliance of Small Island States, supported by Argentina and Mexico, expressed concern regarding the transport of radioactive cargo through the Exclusive Economic Zone (EEZ) of its member States, and the Arctic Council highlighted oil storage and transportation as threats to the Arctic region.

Several participants expressed concern about preemptive measures undertaken by the EU in the aftermath of the *Prestige* accident, and urged that these be brought in conformity with international law. The IMO said it was the only forum with the mandate to address the phasing-out of single hull tankers and opposed any regional regime. The EU noted that while flag States bear the primary responsibility for ensuring safety at sea under UNCLOS, coastal and port States also have some responsibilities and rights, and said freedom of navigation has to accommodate emerging environmental concerns. He outlined measures to establish a globally harmonized regime for single hull tankers, including the EU proposal to amend relevant provisions of the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78).

New Zealand welcomed the proposal to accelerate the phasing-out of single hull tankers but, with Norway, raised concern over their diversion from EU waters to other seas as a result of the EU measures. The International Oceanographic Commission (IOC) noted that pollution from oil spills only contributes to 12% of all oil input into the seas each year, and highlighted that most oil pollution at sea arises from regular oil operations and extraction.

**Flag State implementation and enforcement:** Delegates recognized the lack of adequate implementation by flag States of their UNCLOS obligations, and discussed ways to address this problem. In this context, many called for: enhancing port State controls; investigating crimes at sea; protecting seafarers and stowaways; preventing transport of illegal weapons; and establishing effective marine administrations in all States. They underlined the problem of open registries and flags of convenience, and the inability of some flag States to effectively control vessels flying their flag. Italy and Brazil said these States are responsible under the international law on State responsibility, and urged clarifying the legal consequences of non-compliance by flag States.

While a group of NGOs, supported by France and Spain, called for the creation of a new instrument on flag State obligations, most delegations preferred an inventory and clarification of flag State





responsibilities. Many States agreed that it is crucial to establish criteria to determine the genuine link between a flag State and a ship. Japan said IMO is the competent body to engage in this work. New Zealand and Australia suggested that the Consultative Process endorse the Food and Agriculture Organization's (FAO) ongoing work on criteria for establishing the "genuine link" between a flag State and a ship, rather than initiate a new process of negotiations. Canada, the EU, and Australia highlighted the convergence between navigational safety, fishing, environmental protection and human rights, and the balance between flag, coastal and port States' responsibilities.

#### **DISCUSSION PANEL B: THE PROTECTION OF VULNERABLE MARINE ECOSYSTEMS**

A Discussion Panel on the protection of vulnerable ecosystems took place on Wednesday and Thursday. Participants heard five presentations and engaged in discussions on: the Arctic environment; the state of the world's fisheries; coral reefs; near-shore habitats in the Pacific; and seamounts and biodiversity of the deep sea.

**PRESENTATIONS: Protection of the Arctic environment:** On Wednesday, Olav Orheim, Norwegian Polar Institute, outlined key environmental challenges faced by the Arctic environment, highlighting IUU fishing, accumulation of persistent organic pollutants, oil operations, increase in sea transport of oil and nuclear waste, the high potential for elevated levels of radioactivity, and climate change. He described Norwegian management approaches to these challenges in the Barents Sea, including the application of the ecosystem approach and precautionary principle, sustainable development, and shared responsibility. He called for enhanced international cooperation to address IUU fishing, and urged the adoption of a binding instrument to curb mercury levels.

**State of the world's fisheries:** On Wednesday, Daniel Pauly, University of British Columbia, presented on the status and trends of the world's fisheries. He said that contrary to the previously held view based on flawed FAO datasets that global marine catch has held relatively constant over the past decade, fish stocks and catches have been in fact declining as a result of overfishing. He noted how traditional fishing grounds in the Northern hemisphere had been overfished, and stressed the increase of fishing activity in deep waters and the Southern hemisphere. Pauly also illustrated the negative impacts of aquaculture and mariculture, underlining the significant amount of fishmeal consumed by the aquaculture industry. He urged an ecosystem approach, and the establishment of marine protected areas (MPAs) to halt the decline and promote the restoration of fish stocks.

**Coral reefs:** On Thursday, Diana Ponce Nava, Federal Environment Secretariat of Mexico, outlined Mexico's administrative and legal framework for the protection of the marine environment and its resources, focusing on coral reefs. She said protective measures include the establishment of MPAs, surveying and monitoring, and restrictions on fishing, navigation and tourism. She noted that sanctions for damage include fines, imprisonment, cancellation of licenses, and seizures. Ponce Nava underscored the problem of grounding of vessels on coral reefs, and called for, *inter alia*: ecological evaluation of coral reef systems and their non-use values; developing an international directory of experts for valuating ecosystems and damage; technical assistance for producing

and maintaining nautical charts; diplomatic and legal cooperation for resolving compensation cases; and strengthening enforcement procedures for damage restoration.

**Near-shore habitats in the Pacific:** On Thursday, Tim Adams, Secretariat of the Pacific Community, described the Pacific's fisheries governance system, noting that it recognizes community systems and traditional knowledge. He highlighted areas of concern, including the impact of climate change, vulnerability of seagrass and mangrove habitats to human activities, and cultivation of pearls. He explained that the vulnerability of Pacific marine ecosystems is due to: proximity to dense human population; lack of management in remote areas; and economic dependency on marine resources. To address these challenges, he advocated zoning, effluent control, and seasonal closures, stressed the importance of regional and international cooperation, and supported application of the precautionary principle.

**Seamounts and the biodiversity of the deep sea:** On Thursday, Matthew Gianni, IUCN-The World Conservation Union, presented on seamounts, highlighting their high biodiversity and vulnerability to fishing, mainly IUU fishing. He noted an increase in IUU fishing with vessels moving into deeper waters in areas beyond national jurisdiction. He outlined the existing international legal framework for action to address this problem, stressed the need for a precautionary approach, and recommended that the General Assembly consider imposing a moratorium on fishing around seamounts. He noted that, unlike other high biodiversity ecosystems such as rainforests or coral reefs, seamounts do not face a wide range of threats or support local communities, rendering their protection easier.

**DISCUSSIONS:** In deliberations on the protection of vulnerable marine ecosystems, delegates discussed: the ecosystem approach; protection of near-shore, coastal and deep sea ecosystems and areas beyond national jurisdiction; MPAs; and IUU fishing.

**Ecosystem approach:** Many participants supported an ecosystem approach to conservation and management of marine ecosystems, with Canada highlighting its objectives-based approach. New Zealand supported incorporating the approach into relevant international agreements. Norway stressed that the ecosystem approach should be applied to the marine environment as a whole.

**Protection of vulnerable ecosystems:** China called for the formulation of uniform criteria for identifying and protecting vulnerable areas, and information sharing to meet this end. Venezuela called for technology transfer and information exchange to further domestic efforts. Australia and Canada stressed the need to address the impacts of land-based activities on the marine environment, and apply measures recommended by UNEP-GPA.

**Protection of deep sea ecosystems and areas beyond national jurisdiction:** Supported by many, Norway called for greater attention to coldwater coral reefs. She also urged further research on seamounts and hydrothermal vents, and several States supported ISA's work on these areas. Norway said the Consultative Process should not take decisions that would preclude the outcomes of ongoing work under other processes, such as ISA and CLCS. She also opposed addressing deep sea resources under the Convention on Biological Diversity (CBD) or fisheries management regimes. ISA and Mexico noted difficulties in distinguishing



between scientific research and bioprospecting of deep seabed genetic resources, with Mexico calling for further studies on the issue and recommending the establishment of a negotiating mechanism to address the commercial utilization and equitable use of deep seabed genetic resources. Portugal highlighted that ISA is not competent to deal with matters other than mineral resources. Greenpeace called for a moratorium on commercial activities around known seamounts, hydrothermal vents and coldwater corals in the high seas, and urged developing a programme of high seas MPAs in relation to these ecosystems. The US opposed a moratorium, noting that this may prejudice the outcomes of discussions under other fora.

Greenpeace also urged consideration of the decision taken at the Eighth Meeting of the CBD's Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA-8) calling for the establishment of MPAs beyond national jurisdiction, and the World Wide Fund for Nature (WWF) requested the Consultative Process to facilitate the establishment of a pilot MPA in the high seas. Norway said creating MPAs in the high seas contradicts UNCLOS.

Japan stressed that establishment of MPAs in the high seas must be based on the best scientific evidence and be consistent with international law. The Netherlands said no treaty exists to identify and protect all vulnerable ecosystems beyond national jurisdiction in an integrated manner and, supported by several States, suggested the meeting consider how: the protection of vulnerable ecosystems can be addressed within the UN framework; existing relevant instruments can be used to protect vulnerable areas beyond national jurisdiction; and an ecosystem approach can be made operational for such areas.

**MPAs:** The US outlined criteria for MPAs and MPA networks, noting that they should be science-based, effective and enforceable, and consistent with the ecosystem approach and international law. Noting that 90% of fish catch comes from coastal areas, Japan supported the establishment of near-shore MPAs.

**Fisheries:** Many countries highlighted the threat posed by IUU fishing. New Zealand, Canada and others stressed the need to establish and develop criteria for the genuine link in order to address IUU fishing. Australia proposed creating incentives for flag States to comply with international regulations. Norway said overfishing is a greater problem within EEZs than in the high seas.

#### **ELEMENTS TO BE SUGGESTED TO THE GENERAL ASSEMBLY**

A draft text, based on discussions from Monday to Thursday, and including agreed elements to be suggested to the General Assembly for consideration under its agenda item entitled "Oceans and the law of the sea," was presented to delegates on Friday. Delegates considered the draft text on a paragraph-by-paragraph basis. The draft contained an introduction, and sections relating to: safety of navigation; capacity building for the production of nautical charts; measures to enhance safety of navigation; flag State implementation and enforcement; and protection of vulnerable marine ecosystems.

**INTRODUCTION:** Delegates agreed that language recommending that the Consultative Process review progress on issues addressed by previous meetings of the Process be moved to the agenda item on "Issues for further consideration by the General Assembly."

**Final Text:** The final text recognizes that this meeting marked the start of a new three-year period for the Consultative Process, presents the topics discussed, and notes the reports received from FAO and UNEP-GPA on the topics discussed at the first meeting of the Consultative Process. It recognizes the heightened awareness and focus on oceans issues, and states that the *Prestige* oil spill provided a "dramatic focus" for substantive discussion on the meeting's key topics.

**SAFETY OF NAVIGATION:** This section contains paragraphs concerning the strengthening of institutional and legal frameworks for enhancing safety of navigation. It was adopted after minor amendments.

**Final Text:** The final text recognizes the existence of a substantial body of international instruments and programmes of work addressing safety of navigation, and proposes that the General Assembly reiterate its call to emphasize the need to improve the implementation of international agreements and the coordination of organizations with related mandates. It further proposes that the General Assembly urge States to establish or strengthen national institutional and legal frameworks to establish an effective maritime infrastructure and administration.

**CAPACITY BUILDING FOR THE PRODUCTION OF NAUTICAL CHARTS:** This section proposes means to enhance the development of hydrographic surveys and the production of nautical charts. Mexico noted, and delegates approved, the role of hydrographic surveys and nautical charting in the protection of vulnerable marine ecosystems. The EU proposed, and the Plenary supported, a reference to call on States to support the IHO trust fund and examine the potential of partnerships on this matter. Norway suggested, and delegates agreed, to include coastal African States, among developing countries requiring intensified efforts on capacity building.

**Final Text:** The final text recognizes that hydrographic surveys and nautical charting are critical to navigational safety, life at sea, environmental protection, including vulnerable marine ecosystems, and the global seaborne trade. It highlights the advantages of ENCs in navigational safety, fisheries activities, maritime boundary delimitation, and environmental protection. The text proposes that the General Assembly:

- welcome the work of the IHO and its regional commissions, encourage States to become IHO members, support the IHO trust fund and examine the possibility of partnership with the private sector;
- invite IHO and IMO to continue their coordinated efforts and adopt joint measures with respect to enhancing transitioning to ENCs, and to increase coverage of hydrographic information; and
- encourage intensified efforts to build capacity for developing countries to improve hydrographic services and production of nautical charts.

**MEASURES TO ENHANCE SAFETY OF NAVIGATION:** This section contains proposals relating to the phasing-out of single hull tankers, guidelines on places of refuge for ships in distress, transport of radioactive material, and piracy and armed robbery. The text was adopted following approval of an EU suggestion to add an additional paragraph on maritime security legislation.

- Final Text:** The final text proposes that the General Assembly:
- urge States and regional integrated economic organizations to



work within the IMO framework and in accordance with international rules and regulations regarding measures relating to the phasing-out of single hull tankers;

- welcome IMO's work in developing guidelines on places of refuge for ships in distress, and encourage States to draw up plans and establish procedures to accommodate such ships in their jurisdictional waters;
- welcome the convening of an international conference on the safety of transport of radioactive material in July 2003;
- reiterate its call for cooperation in the prevention and combating of piracy and armed robbery at sea, urging States to consider promoting and implementing regional agreements; and
- urge States to implement maritime security legislation consistent with UNCLOS and other relevant agreements for the world seaborne trade.

#### **FLAG STATE IMPLEMENTATION AND ENFORCEMENT:**

This section contains proposals to improve the implementation and enforcement by flag States of their responsibilities and duties under international law. Prior to the discussions on Friday, the Secretariat reported on the work of the Consultative Group on Flag State Implementation, stating the Group had exchanged information on research carried out on this issue and will be distributing a summary on their initiatives and measures.

The US stressed the need to include reference to social and human rights in the list of flag State responsibilities. Norway opposed the wording proposed by the EU, stating that it opened the door to unilateral State action for the enforcement of environmental measures. She underlined that efforts to enhance flag State implementation had to take place on a multilateral basis only. Many delegations called for strong language regarding the need for a definition and clarification of the genuine link, with Canada and the US stressing that the issue is not one of defining nationality, but of establishing a strong link between a State and vessels flying its flag. Norway supported tasking the UN Division on Ocean Affairs and the Law of the Sea (DOALOS) to carry out such a task, while the EU preferred general language calling on "competent international organizations."

In relation to port State obligations, the US wished to stress the FAO's work on IUU fishing, and Australia called for enhancing cooperation between the IMO and FAO. The EU, supported by Canada, stressed that existing international norms for port State controls should set the minimum standard, and that States should be able to implement more stringent regulations.

**Final Text:** The final text contains four paragraphs aimed at enhancing flag State implementation and recognizes the key role of a multilateral approach in this context. It calls for the:

- mobilization of resources to assist those States that are genuinely attempting to discharge their obligations but are unable to do so due to capacity constraints;
- creation or enhancement of the necessary infrastructure and enforcement capabilities in flag States without an effective maritime administration;
- clarification and definition of the genuine link by DOALOS;
- acceleration of the work of IMO in developing a voluntary model audit scheme and the strengthening of its draft implementation code;
- cooperation between the IMO and FAO to enhance efforts

regarding flag State implementation;

- development of new standards for seafarers and fishermen;
- strengthening of the functions of the FAO and IMO in relation to port State control;
- establishment of closer links and increase exchange of information between the various regional memorandums for port State control; and
- prevention of the operation of substandard vessels and IUU fishing activities.

#### **PROTECTION OF VULNERABLE MARINE ECOSYSTEMS:**

This section contains paragraphs on: the integrated management of coastal and marine areas, including the link between freshwater and saltwater environments; fisheries; seamounts and areas beyond national jurisdiction; coral reefs; MPAs; and management of ships' ballast water and sediments.

On the integrated management of coastal areas, the EU requested, and delegates approved, a reference to relevant WSSD time-bound targets in a paragraph related to the need to accelerate activity to safeguard the marine environment against pollution and physical degradation. Noting that the Consultative Process has no mandate to make recommendations to the CSD on its work programme, Norway and Japan opposed a paragraph recommending that CSD consider the effects of freshwater management on coastal and marine ecosystems in its upcoming work cycle, which is scheduled to focus on water issues. Delegates agreed to propose that the General Assembly invite, rather than recommend, the CSD to consider the effects of freshwater management on saltwater environments in its next work cycle. Venezuela requested, and delegates agreed, to reference the relevant JPOI goals encouraging increased emphasis on the link between freshwater, the coastal zone and marine resources.

Regarding fisheries, the EU proposed, and delegates debated and approved, adding a paragraph on addressing the relationship between ocean activities and environmental issues.

On seamounts and areas beyond national jurisdiction, the US proposed, and delegates agreed, to add reference to coldwater coral reefs to a paragraph on the management of risks to the marine biodiversity of seamounts and underwater features. While Norway, Japan, the US and China opposed referencing relevant CBD SBSTTA-8 recommendations, noting that these still have to be adopted by Conference of the Parties of the CBD in March 2004, Mexico, the EU and Brazil stressed the need to retain the reference. Delegates finally agreed to propose that the General Assembly note the scientific and technical work related to marine and coastal biodiversity under the CBD.

New Zealand stressed that identifying and prioritizing vulnerable areas are critical preliminary steps to managing the threats faced by such areas. Norway noted that no regional body has competence to do so, and underscored the need for consistency with international law. Delegates agreed to include the management of threats to vulnerable marine ecosystems beyond national jurisdiction in the list of possible issues for further consideration by the General Assembly. However, Norway and the Russian Federation noted that the issue was not "mature" enough, and cautioned against singling it out. They opposed text requesting that a consolidated report from relevant international organizations be included in the Secretary-General's report on oceans and the law of the sea. Drawing attention to the importance and urgency of the matter, the





US, Australia, the EU, New Zealand, the Netherlands and Canada stressed the need for a regular update on the issue. Delegates could not agree, and Co-Chair Burgess said the paragraph would be deleted in its entirety and countries' positions reflected in the meeting's report.

Regarding coral reefs, Mexico supported, and delegates agreed to, a reference supporting the CBD's work under the Jakarta Mandate on the Conservation and Sustainable Use of Marine and Coastal Biodiversity. She further suggested a new sub-paragraph on enhancing cooperation for the protection of coral reefs, while Venezuela highlighted mangroves and seagrass habitats.

Concerning the ecosystem approach, delegates adopted with minor amendments a paragraph welcoming the work of the CBD, the FAO, and relevant international organizations in their advancement of the ecosystem approach.

On MPAs, delegates supported reflecting relevant language agreed at the WSSD, and approved Mexico's suggestion to reflect other management tools. Japan proposed, and delegates agreed, to emphasize the use of scientific information in the establishment of MPAs. Regarding ships' ballast water and sediments, delegates agreed that a diplomatic conference should be convened.

**Final Text:** In preambular paragraphs, the text notes that the 57th session of the General Assembly welcomed the commitments set out in the JPOI and international law for the sustainable development of oceans. It recalls that protection of vulnerable marine ecosystems requires an effective management of the threats to, and impacts on, those ecosystems, and proposes that the General Assembly reiterate the need to improve the implementation of international agreements, and the coordination of and cooperation between relevant organizations. The text further re-emphasizes the need for an integrated, interdisciplinary, intersectoral and ecosystem-based approach to management, consistent with UNCLOS, Chapter 17 of Agenda 21 and the JPOI.

**Integrated Marine and Coastal Management:** The text proposes that the General Assembly:

- welcome the continued work in implementing the GPA;
- stress the need to accelerate activity to safeguard the marine environment against pollution and physical degradation, bearing in mind relevant WSSD time-bound targets;
- emphasize that the protection of coastal and marine environments is an important component of the WSSD target on sanitation;
- invite the CSD to include, in its focus on water for the next two years, the effects of freshwater management on saltwater environments; and
- encourage increased emphasis on the link between freshwater, the coastal zone and marine resources when implementing the Millennium Development Goals, WSSD goals, and the Monterrey Consensus on Financing for Development.

**Fisheries:** The text proposes that the General Assembly call upon States that have not yet done so to: ratify or accede to, and effectively implement, relevant UN and associated regional fisheries agreements, expressing its deep satisfaction with the entry into force of the 1995 Fish Stocks Agreement and the 1993 FAO Compliance Agreement; and urgently develop and implement national and regional plans of action to put into effect the FAO

International Plans of Action (IPOAs), in particular the IPOA on the Management of Fishing Capacity by 2005, and the IPOA on IUU Fishing.

The text further proposes that the General Assembly:

- request relevant bodies and agencies to support increased enforcement and compliance capabilities for regional fisheries management organizations and their member States;
- encourage work to examine and clarify the role of the genuine link between fishing vessels and their flag States; and
- recommend that the inter-relationship between ocean activities, such as shipping and fishing, and environmental issues, be further addressed.

**Ecosystem Approach:** The text welcomes the work of the CBD, FAO and other relevant international organizations to develop strategies and programmes for the implementation of ecosystem-based management, and urges their cooperation to this end.

**Seamounts and Areas beyond National Jurisdiction:** The text proposes that the General Assembly:

- reiterate its call for urgently considering ways to integrate and improve, on a scientific basis, the management of risks to the biodiversity of seamounts, certain other underwater features, and coldwater coral reefs;
- note the scientific and technical work related to marine and coastal biodiversity under the CBD; and
- invite relevant bodies at all levels to consider urgently: how to better address, on a scientific and precautionary basis, the threats and risks to vulnerable and threatened marine ecosystems and biodiversity beyond national jurisdiction, including the identification of marine ecosystem types that warrant priority attention, and to explore a range of potential approaches and tools for their protection and management; and how existing treaties and other relevant instruments can be used in the process, consistent with international law, in particular UNCLOS, and the principles of an integrated, ecosystem approach to management.

**Coral Reefs:** The text proposes that the General Assembly: reiterate its support for International Coral Reef Initiative (ICRI) and the CBD Jakarta Mandate; emphasize the need to mainstream coral reef management approaches; invite ICRI and other relevant bodies to consider coldwater coral ecosystems; and call for enhancing cooperation to protect and preserve coral reefs, mangroves and seagrass beds, including through information exchange.

**MPAs:** The text proposes that the General Assembly reaffirm the efforts of States to develop and facilitate the use of diverse approaches and tools for conserving and managing vulnerable marine ecosystems, including the establishment of MPAs, consistent with international law and based on the best scientific information available. It also supports the development of representative networks of such areas by 2012.

**Ballast Water and Sediments:** The text proposes that the General Assembly urge the IMO, as a matter of urgency, to complete its work on the development of a draft convention on the control and management of ships' ballast water and sediments, and convene a diplomatic conference to address the issue.



### ISSUES FOR FURTHER CONSIDERATION BY THE GENERAL ASSEMBLY

On Friday, participants suggested further issues that could benefit from attention in the future work of the General Assembly. These suggestions will be added to the list contained in the report of the Third Meeting of the Consultative Process (A/57/80, part C), and reflected in the report of the Fourth Meeting.

Highlighting the increase of criminal activities at sea, the US suggested that the General Assembly call on the IMO to consider new means to address acts of violence, terrorism and crimes at sea. Sierra Leone said attention should be given to sea transportation of weapons, and the protection of seafarers' human rights.

Norway suggested reviewing: the effectiveness of the EEZ in ensuring the protection of natural resources; the uniform application of UNCLOS by the International Tribunal for the Law of the Sea, the International Court of Justice, and regional settlement bodies; and the harmonization of treaty obligations related to oceans issues. Mexico recommended the consideration of State responsibility to establish a system for prompt and adequate compensation for environmental damage. Australia proposed consideration of access to and protection of genetic resources of the oceans. The EU, supported by Canada, suggested that the next meeting of the Consultative Process review progress made to implement the JPOI, and suggested addressing: MPAs, flag State responsibility, the performance of the global assessment on the state of the marine environment (GMA) initiated by the UNEP Governing Council at its 21st session, and progress on items previously discussed by the Consultative Process.

### EXCHANGE OF VIEWS ON COOPERATION AND COORDINATION

Delegates considered inter-agency coordination and cooperation on Friday morning, and discussed a draft proposal in the afternoon. The Plenary discussed approaches to intergovernmental and inter-agency cooperation, addressed the need for a mechanism to replace the former Subcommittee on Oceans and Coastal Areas, and considered modalities for the GMA.

Several countries, including the Republic of Korea and Mauritius, called for a global and integrated approach to ocean issues, and the Permanent Commission of the South Pacific, Canada and Iceland highlighted the effectiveness of a regional or subregional approach. The IOC underlined the need for clear delineation of responsibilities and harmonization of roles to improve oceans governance.

The Secretariat reported on the status of deliberations within the UN Chief Executives Board (CEB) for Coordination and the High-Level Committee on Programmes (HCLP) regarding a mechanism for inter-agency cooperation on oceans and the law of the sea. The IOC called for a two-tier system involving all relevant bodies, an annual standing meeting held back-to-back with the Consultative Process, and task-oriented groups to address specific time-bound initiatives. Several countries, including Australia, Mexico, the EU, Canada and New Zealand, called for a new coordination mechanism, highlighting that such a mechanism would, *inter alia*, meet on a regular and continual basis, be accountable to member States, and involve all relevant organizations, including DOALOS, ISA, and relevant Secretariats of multilateral environmental conventions. Norway opposed creating a new mechanism, and stressed cooperation and coordination at the national level.

On the GMA, Finland recommended that the assessment, *inter alia*, account for countries' needs to strengthen monitoring capacities, increase stakeholder participation, and target assessments to a varied audience. Supported by the US, IOC and others, he also recommended that an intergovernmental meeting be convened in 2004 to discuss modalities for the GMA. New Zealand suggested that DOALOS provide advice delineating agencies' duties and responsibilities, and also proposed the creation of a web-based super portal of GMA-related initiatives. Reporting on the outcomes of a GMA feasibility study, UNEP recommended that the GMA be based on a composite partnership approach, where all agencies contribute to the GMA within their mandates. He said the GMA should be a tool for action with both policy and science dimensions, and stressed consultations with the scientific community.

Discussions on the draft text on cooperation and coordination on ocean issues focused on Norway's opposition, supported by Iceland, to the recommendation that the General Assembly take into account the views of this meeting. Norway argued that reference to informal discussions could not be made in the recommendations to the General Assembly, while Canada, supported by the EU, Australia and New Zealand, said that the Co-Chairs' summary of discussions did not express any divergences or single out delegations.

**Final Text:** The final text proposes that the General Assembly:

- reiterate its request to establish a coordination mechanism and welcome the establishment of the inter-agency Consultative Group on Flag State Implementation;
- welcome the creation of the GMA;
- invite DOALOS to convene an inter-agency meeting to define the participation and contribution of international, individual and regional organizations to the GMA process;
- request DOALOS to convene a group of experts to prepare a plan for the GMA for consideration by an intergovernmental meeting; and
- invite the Secretary-General to convene an inter-governmental meeting to discuss and endorse the detailed plan for the scope modalities and organizational structure of the GMA.

### CLOSING PLENARY

Following adoption of the agreed elements to be suggested to the General Assembly, Co-Chair Burgess closed the meeting at 8:42 pm. The final report of the meeting, which will include the agreed elements to be proposed to the General Assembly, a Co-Chair's summary of discussions, and a list of issues that could benefit from attention in future work of the General Assembly, will be available online on the DOALOS website, at: [http://www.un.org/Depts/los/consultative\\_process/consultative\\_process.htm](http://www.un.org/Depts/los/consultative_process/consultative_process.htm)

### A BRIEF ANALYSIS OF ICP-4

While the need for a holistic approach to oceans affairs has been on the agenda since the inception of UNCLOS, several events, including the WSSD and recent oil tanker spills, brought to the fore the urgency of adopting concrete steps to address all too familiar oceans-related problems, including the exhaustion of marine resources, pollution, and safety of navigation. The fourth meeting of the Consultative Process presented a unique opportunity to lay the groundwork for providing a coherent international framework





for ocean affairs and addressing these issues and, despite some frustrations encountered during the final plenary discussions, garnered the praise of many delegations.

Established in 1999 by the UNGA resolution 54/33 to facilitate the General Assembly's review of developments in ocean affairs and suggest additional issues for its consideration, the Consultative Process is at a crossroads where a range of processes and issues, including environmental protection, shipping interests and workers' rights, converge. The Process, which reflects the comprehensive nature of the UN Convention on the Law of the Sea (UNCLOS) in this respect, is faced with the challenge of addressing these issues in a balanced and integrated manner. To some extent, this meeting met this challenge and illustrated the balance between environmental and private sector interests, and States' rights and obligations.

Before considering the role of and prospects for the Process in the international oceans arena, this brief analysis focuses on the debates concerning safety of navigation and the protection of vulnerable ecosystems, to show how the Process, at its fourth meeting, was successful in balancing conflicting concerns.

### **SAFETY OF NAVIGATION**

As many delegates noted, the body of rules addressing the issue of safety of navigation is substantial. The lacuna lies in their implementation. UNCLOS provides for the primacy of flag State jurisdiction regarding the enforcement of international rules at sea. However, a number of countries, mainly developing countries, operate open registries and fail to fulfill their responsibilities regarding control and enforcement of the International Maritime Organization's (IMO) standards in the field of safety of navigation. For these countries, flags of convenience provide an important source of revenue devoid of any constraint other than international law, which lacks an enforcement mechanism.

Considering the costs of establishing adequate maritime administrations and legislation, and the attraction of operating open registries at low maintenance costs, it is not surprising that there is a lack of political will in certain countries to meet their flag State obligations. However, developed countries are not exempt from responsibilities. Capacity building, financial assistance, technology transfer and knowledge sharing, along with identifying donors, would certainly pave the way for better implementation of navigational safety standards.

In light of the problem and of the fact that enforcement by port States cannot fill the gap, the Consultative Process recommended that the General Assembly consider drawing up an inventory of flag State obligations. The legally binding nature of such a list will certainly bear consequences on the effectiveness of the exercise. In this respect, views diverged, with proposals ranging from a binding implementing agreement to a mere inventory. While delegates have opted for the lowest common denominator at this stage, they have made a first step towards providing better accountability and implementation of international standards. This will be further reinforced by the call to clearly identify criteria for and better define the genuine link between flag States and the ships that they register.

Discussions on safety of navigation also brought to the forefront the issue of unilateral preemptive measures to protect a State's marine and coastal environment against oil spills and other discharges. Departing from the proposed focus on capacity

building, delegates engaged in heated exchanges from the outset of the meeting on the legitimacy of recent EU legislation adopted in the aftermath of the *Prestige* disaster. Deliberations highlighted several issues, including the fragile balance between freedom of navigation and the right of coastal States to adopt environmental protection measures, and the conflict between unilateral and multi-lateral action.

One of the underlying questions is whether the adoption of international standards is evolving rapidly enough to ensure effective protection of the marine environment. Indeed, even though delegations at the Consultative Process and the recent Evian G-8 Summit have recognized the need to urgently phase-out single hull tankers over 25 years of age, relevant norms will not enter into force before 2005 at best, as recalled by the IMO representative. On this issue, the meeting confined itself to urging States to work within relevant international organizations and in accordance with international law. Although this may seem less than satisfactory, ultimately, the Process is not the competent body to decide on the legality of the EU measures, which would have to be dealt with through relevant dispute settlement mechanisms.

### **PROTECTION OF THE MARINE ENVIRONMENT**

Concerns regarding the freedom of navigation were equally present, if not center stage, in discussions on the protection of vulnerable ecosystems. Debates on marine protected areas (MPAs) beyond national jurisdiction underlined the fine balance between the fundamental freedom of the high seas and the need to protect fragile ecosystems and fisheries in areas beyond national jurisdiction. While Particularly Sensitive Sea Areas within the IMO framework attracted much support, MPAs were still a concern for some delegations, which feared that these may impede their fishing and other extractive activities. Although work on the issue has been undertaken in various fora, including the Convention on Biological Diversity (CBD), MPAs still lack internationally agreed definition and criteria. In this respect, the Consultative Process may have missed a valuable opportunity to provide guidance on how and where to address this issue, as it merely proposed that the General Assembly reaffirm the value of MPAs as a management tool, and recommend accelerated activity by the international community to develop a global system of MPAs.

The only advancement seen on this issue may have been the subtle but noticeable change of tone from a major fishing State that moved away from an entrenched opposition to MPAs at the beginning of the week to a more open attitude on Friday. This was certainly facilitated by abundant references to consistency with international law in the Co-Chairs' text.

Debates on deep seabed genetic resources beyond national jurisdiction had an air of *déjà vu*. Indeed, negotiations regarding mining of mineral resources found in the area were among the main obstacles to the prompt adoption of UNCLOS. As seen recently at the eighth meeting of the CBD Subsidiary Body on Scientific, Technical and Technological Advice, delegates to the Process could not agree on the most appropriate forum to deal with deep seabed genetic resources, that is whether it would be CBD or the International Seabed Authority. Polarized positions on whether or not the General Assembly should be encouraged to request that a consolidated report on the protection of vulnerable marine ecosystems beyond national jurisdiction be included in the Secretary-General's report on oceans and the law of the sea, proved that the



issue is still highly sensitive. While most delegations recognized the need for further information on the topic to design an adequate regime, others, who benefit from the current legal vacuum, opposed singling out the issue.

Illegal, unregulated and unreported (IUU) fishing generated equal concern: it is the main cause of stock depletion and, by making the gathering of accurate data impossible, prevents States and fishery organizations from making sound management decisions. In addition, the problems posed by IUU fishing to food security may jeopardize the globally agreed target to halve the number of chronically under-nourished by 2015. While the problem of IUU fishing is being addressed in other fora, including the Food and Agriculture Organization (FAO), the level of participation in activities such as the FAO International Plan of Action on IUU fishing remains relatively low.

In discussing this topic, delegates faced issues similar to those raised during the debates on safety of navigation, namely the lack of flag State implementation, and the need for assisting developing countries. In this context, the call for a definition of the genuine link between a flag State and a vessel was repeatedly made. In requesting the UN Division for Oceans Affairs and the Law of the Sea to clarify and better define the genuine link, the Process made a first step towards ensuring that the need for better implementation of relevant international instruments is not overridden by the economic benefits of IUU fishing. The upcoming global assessment of the state of the marine environment will further help curbing IUU fishing in enabling management decisions to be made on sounder and more complete information. It will also provide an opportunity for greater inter-agency and intergovernmental cooperation on ocean issues.

#### **FUTURE PROSPECTS FOR THE CONSULTATIVE PROCESS**

At the outset, delegates unanimously expressed satisfaction with the extension of the Consultative Process for another three years, since it has proved able to provide substantive input in the General Assembly's debates on ocean affairs. The unprecedented level of participation at this meeting, the focused and open discussions, and the high level of legal and technical expertise reflected in country statements were recognized as testimony to the Consultative Process' maturity. These, together with the informal setting, certainly allowed for progress on traditionally sensitive issues.

Over three years, the Process has established itself as an indispensable mechanism for addressing oceans affairs. While the Meeting of the Parties to UNCLOS only addresses administrative matters related to the functioning of Convention's mechanisms, the Consultative Process has a broader mandate to address all oceans-related issues. Moreover, its direct link and accountability to the General Assembly allows non Parties to UNCLOS and other stakeholders to participate in debates regarding oceans issues.

This raises questions regarding the role that the Consultative Process may have in the inter-agency coordinating mechanism called for under UNGA resolution 57/141 and designed to replace the Subcommittee on Oceans and Coastal Areas (SOCA), which ceased to exist as of December 2001. SOCA had been established following UNCED to ensure inter-agency cooperation on sustainable development for the oceans. According to some delegates, it provided an effective forum for cooperating and coordinating all oceans affairs-related instruments and processes.

While the UN Chief Executives Board for Coordination has decided to move away from permanent subsidiary bodies and regular reporting requirements to an *ad hoc*, time-bound and task-oriented coordination mechanism, discussions are still underway on the modalities and functions of such a mechanism. Many delegates noted that occasional inter-agency meetings are not sufficient to address the complex oceans agenda in an integrated way. At the same time, strong opposition was voiced against creating new burdensome and costly UN machinery. With so many UN agencies and international organizations addressing oceans issues, several delegates said the mechanism should provide an opportunity for constructive dialogue rather than a forum for protecting mandates.

In light of SOCA's discontinuation and calls for its urgent replacement, the Consultative Process, which is at the crossroads of various issues and is directly accountable to the General Assembly, may provide an effective leading role in defining priority areas.

Ultimately, while inter-agency coordination is important for ensuring coherence between relevant intergovernmental processes, national implementation and cooperation between States remain critical for effective implementation of UNCLOS and its objectives. The challenge is to ensure that various regional processes and instruments operate within the framework of UNCLOS and international law, and do not undermine global efforts. The Consultative Process may bear the responsibility for ensuring overall coherence and consistency of actions with international law, and its recent extension provides an opportunity to do just that.

### **THINGS TO LOOK FOR BEFORE ICP-5**

#### **13TH MEETING OF STATES PARTIES TO UNCLOS:**

The 13th Meeting of States Parties to UNCLOS will meet from 9-13 June 2003, at UN headquarters in New York. For more information, contact: the UN Division for Ocean Affairs and Law of the Sea (DOALOS); tel: +1-212-963-3962; fax: +1-212-963-5847; e-mail: [doalos@un.org](mailto:doalos@un.org); Internet: [http://www.un.org/Depts/los/meeting\\_states\\_parties/13th\\_meeting\\_states\\_parties.htm](http://www.un.org/Depts/los/meeting_states_parties/13th_meeting_states_parties.htm)

#### **WORKSHOP ON THE GOVERNANCE OF HIGH SEAS:**

This meeting will be held from 16-20 June 2003, in Cairns, Australia. The event specifically addresses the WSSD's call to maintain the productivity and biodiversity of important and vulnerable marine and coastal areas beyond national jurisdiction. There will also be an ecosystem-based management workshop addressing the use of this approach for the sustainable management and conservation of the oceans. For more information, contact: Nicola Rivers; tel: +61-2-6274-1128; fax: +61-2-6274-1006; e-mail: [nicola.rivers@ea.gov.au](mailto:nicola.rivers@ea.gov.au); Internet: <http://www.ea.gov.au/highseas>

**55TH ANNUAL MEETING OF THE INTERNATIONAL WHALING COMMISSION (IWC):** This meeting will take place from 16-20 June 2003, in Berlin, Germany. This event will be preceded by meetings of the IWC's Scientific Committee and various sub-groups. For more information, contact: IWC; tel: +44-12-2323-3971; fax: +44-12-2323-2876; e-mail: [iwc@iwcoffice.org](mailto:iwc@iwcoffice.org); Internet: [http://www.iwcoffice.org/2003\\_meeting.htm](http://www.iwcoffice.org/2003_meeting.htm)

**36TH SESSION OF THE IOC EXECUTIVE COUNCIL AND 22ND SESSION OF THE IOC ASSEMBLY:** These meetings of the Intergovernmental Oceanographic Commission will convene from 23 June to 4 July 2003, in Paris, France. For more information, contact: UNESCO-IOC; fax: +33-1-4568-5812; Internet: <http://ioc.unesco.org/iocms/>



## 27TH ANNUAL CONFERENCE ON THE LEGAL AND SCIENTIFIC ASPECTS OF CONTINENTAL SHELF LIMITS:

This conference will take place from 25-27 June 2003, in Reykjavik, Iceland, and will focus on key legal and scientific issues regarding the determination of the outer limits of the continental shelf beyond 200 nautical miles. For more information, contact: Esther Steinson; tel: +354-585-4300; fax: +354-585-4390; e-mail: esther@icelandtravel.is; Internet: <http://www.virginia.edu/colp/conference.htm>

**INTERNATIONAL CONFERENCE ON THE SAFETY OF TRANSPORT OF RADIOACTIVE MATERIAL:** This conference will take place from 7-11 July 2003, in Vienna, Austria. It will provide an opportunity for States to address issues relating to the maritime transport of radioactive materials by sea. For more information, contact: Hildegard Schmid, IAEA; tel: +43-1-2600-21316; fax: +43-1-2600-7; e-mail: Hildegard.Schmid@iaea.org; Internet: <http://www-pub.iaea.org/MTCD/Meetings/Announcements.asp?ConfID=101>

**CBD MEETING ON THE FURTHER ELABORATION AND GUIDELINES FOR IMPLEMENTATION OF THE ECOSYSTEM APPROACH:** This meeting under the Convention on Biological Diversity will convene from 7-11 July 2003, in Montreal, Canada. For more information, contact: CBD Secretariat; tel: +1-514-288-2220; fax: +1-514-288-6588; e-mail: secretariat@biodiv.org; Internet: <http://www.biodiv.org/doc/meeting.asp?wg=ECOSYS-01>

**COASTAL ZONE '03:** This event will take place from 13-17 July 2003, in Baltimore, Maryland, United States, to consider issues relating to coastal zone management. For more information, contact: Gale Peek; tel: +1-843-740-1231; e-mail: gale.peek@noaa.gov; Internet: <http://www.csc.noaa.gov/cz2003>

**MEETING OF THE IMO MARINE ENVIRONMENT PROTECTION COMMITTEE:** This International Maritime Organization meeting will take place from 14-18 July 2003, in London, UK. For more information, contact: IMO; fax: +44-20-7587-3210; e-mail: agarofal@imo.org; Internet: [http://www.imo.org/Newsroom/mainframe.asp?topic\\_id=109](http://www.imo.org/Newsroom/mainframe.asp?topic_id=109)

**PREPARATORY PROCESS FOR THE INTERNATIONAL MEETING TO REVIEW IMPLEMENTATION OF THE BARBADOS PROGRAMME OF ACTION (BPOA):** Three regional meetings and one inter-regional meeting will take place in preparation for the international meeting to review implementation of the BPOA on sustainable development of Small Island Developing States (SIDS). The Pacific SIDS meeting will take place in Apia, Samoa, from 4-8 August 2003. The Caribbean SIDS meeting will be held in Port of Spain, Trinidad and Tobago, from 18-22 August 2003. The Atlantic, Indian Ocean, Mediterranean and South China Seas SIDS meeting will convene in Praia, Cape Verde, from 1-5 September 2003. An inter-regional preparatory meeting for all SIDS will take place in Nassau, Bahamas, from 26-30 January 2004, while the international meeting will be held in Mauritius in August/September 2004. For more information, contact: UNDSO-SIDS Unit; tel: +1-212-963-2803; fax: +1-212-963-4260; e-mail: dsd@un.org; Internet: <http://www.un.org/esa/sustdev/sids/sids.htm>

**13TH SESSION OF CLCS:** This meeting of the UN Commission on Limits of the Continental Shelf will take place from 25-29 August 2003, in New York. For more information, contact:

DOALOS; tel: +1-212-963-3966; fax: +1-212-963-5847; e-mail: doalos@un.org; Internet: [http://www.un.org/Depts/los/clcs\\_new/clcs\\_home.htm](http://www.un.org/Depts/los/clcs_new/clcs_home.htm)

**OCEAN MARGIN RESEARCH CONFERENCE:** This conference will be held from 15-17 September 2003, in Paris, France. Organized by the Ocean Margin Deep-Water Research Consortium and co-sponsored by the EU, IOC and UNESCO's Division of Earth Sciences, this event aims to increase knowledge on the functioning of ocean margin systems, and promote the wise use of the seafloor and sub-seafloor of the Earth's ocean margin system as a source of natural marine resources. For more information, contact: Kai Rune Mortensen; tel: +47-776-44428; fax: +47-776-45600; e-mail: kai-rune.mortensen@ig.uit.no; Internet: <http://www.ig.uit.no/konferanser/omarc/index.htm>

**THIRD ABLOS BIENNIAL SCIENTIFIC CONFERENCE:** This conference will take place from 28-30 October 2003, in Monaco. Convened by the joint Advisory Board on the Law of the Sea (ABLOS), this event will address issues related to geodesy, hydrography, and marine geoscience that may affect the interpretation and application of UNCLOS. For more information, contact: Ron Macnab, Conference Convenor; fax: +377-9310-8140; e-mail: ron.macnab@ns.sympatico.ca; Internet: <http://www.gmat.unsw.edu.au/ablos/index.html#ABLOS'03>

**GLOBAL CONFERENCE ON OCEANS, COASTS AND ISLANDS:** This meeting will convene from 12-14 November 2003, in Paris, France. This conference aims to help countries implement integrated coastal management, and will review WSSD implementation of relevant issues. For more information, contact: Center for the Study of Marine Policy, University of Delaware; tel: +1-302-831-8086; fax: +1-302-831-3668; e-mail: johnston@udel.edu; Internet: <http://icm.noaa.gov>

**DEEP SEA 2003 CONFERENCE:** This conference will take place from 1-4 December 2003, in Queenstown, New Zealand. The event aims to provide a forum to discuss the present and future needs for science, conservation, and governance and management of the continental slope and deep seas. For more information, contact: Ross Shotton; e-mail: ross.shotton@fao.org; Internet: <http://www.deepsea.govt.nz/index.aspx>

**CBD COP-7:** The seventh meeting of the CBD Conference of the Parties will take place from 8-19 March 2004, in Kuala Lumpur, Malaysia. For more information, contact: CBD Secretariat; tel: +1-514-288-2220; fax: +1-514-288-6588; e-mail: secretariat@biodiv.org; Internet: <http://www.biodiv.org/doc/meeting.asp?mtg=COP-07>

**CSD-12:** The 12th session of the Commission on Sustainable Development is scheduled to take place in April/May 2004 at UN headquarters in New York. Issues on the agenda include fresh water and sanitation. For more information, contact: DESA/DSD; tel: +1-212-963-3170; fax: +1-212-963-4260; e-mail: dsd@un.org; Internet: <http://www.un.org/esa/sustdev/>

**FIFTH MEETING OF THE OPEN-ENDED INFORMAL CONSULTATIVE PROCESS ON OCEANS AND THE LAW OF THE SEA:** The schedule for the fifth meeting of the Consultative Process will be determined by the General Assembly at its 58th session. The meeting is likely to take place in May/June 2004, at UN headquarters in New York. For more information, contact: DOALOS; tel: +1-212-963-3962; fax: +1-212-963-5847; e-mail: doalos@un.org; Internet: <http://www.un.org/Depts/los/>