



FIFTH MEETING OF THE OPEN-ENDED INFORMAL CONSULTATIVE PROCESS ON OCEANS AND THE LAW OF THE SEA: 7-11 JUNE 2004

The fifth meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea (Consultative Process or UNICPOLOS) opens today at the United Nations' headquarters in New York, and will continue until 11 June 2004. Delegates will convene in plenary sessions to, *inter alia*: discuss cooperation and coordination on oceans issues, including the Ocean and Coastal Areas Network (OCAN); exchange views on areas of concern and actions needed; and identify issues for further consideration. A discussion panel will be held to consider new sustainable uses of the oceans, including the conservation and management of the biological diversity of the seabed in areas beyond national jurisdiction. The recommendations stemming from the meeting will be forwarded to the 59th session of the General Assembly. An international workshop will be held in conjunction with UNICPOLOS-5 to consider a process for global reporting and assessment of the state of the marine environment, including socioeconomic aspects (GMA). The draft document prepared by the GMA International Workshop will be presented for adoption at an intergovernmental meeting, expected to be held in October 2004, in Reykjavik, Iceland.

A BRIEF HISTORY OF THE LAW OF THE SEA, THE CONSULTATIVE PROCESS AND THE GLOBAL MARINE ASSESSMENT PROCESS

UNCLOS: Opened for signature on 10 December 1982, in Montego Bay, Jamaica, at the third UN 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, 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: the International Seabed Authority (ISA), the International Tribunal for the Law of the Sea, and the Commission on the Limits of the Continental Shelf.

UNCED: The United Nations Conference on Environment and Development (UNCED) was held in June 1992, in Rio de Janeiro, Brazil. Chapter 17 of Agenda 21, the programme of action adopted in Rio, addresses "the protection of the oceans, all kinds of seas, including enclosed and semi-enclosed seas, and coastal areas and

the protection, rational use and development of their living resources." This remains the fundamental programme of action for achieving sustainable development of oceans and seas.

UNGA RESOLUTION 54/33: On 24 November 1999, the General Assembly adopted resolution 54/33 on the results of the review undertaken by the 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 in order to facilitate the annual review of developments in oceans affairs. The General Assembly decided that the Consultative Process would consider the Secretary-General's annual reports on oceans and the law of the sea, and suggest particular issues to be considered by the General Assembly, with an emphasis on identifying areas where intergovernmental and 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 review the effectiveness and utility of the Consultative Process at its 57th session.

UNICPOLOS-1 to 3: 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 (30 May-2 June 2000, New York) held discussion panels addressing fisheries, and the impacts of marine pollution and degradation.

The second meeting of the Consultative Process (7-11 May 2001, New York) focused on marine science and technology, and coordination and cooperation in combating piracy and armed robbery at sea.

The third meeting of the Consultative Process (8-15 April 2002, New York) held discussion panels on the protection and preservation of the marine environment, capacity building, regional cooperation and coordination, and integrated ocean management.

UNEP GOVERNING COUNCIL DECISION 21/13 AND FOLLOW-UP MEETINGS: At its 21st session (5-9 February 2001, Nairobi, Kenya), the Governing Council of the UN Environment Programme (UNEP) adopted decision GC 21/13 on the "Global assessment of the state of the marine environment," whereby the Governing Council requested UNEP to explore the feasibility of establishing a regular process for assessment of the state of the marine environment. Following this decision, two meetings were held (12-14 September 2001, Reykjavik, Iceland; 18-20 March 2002, Bremen, Germany) to consider possible modalities for the process.

This issue of the *Earth Negotiations Bulletin* © <enb@iisd.org> is written and edited by Asmita Bhardwaj, Alice Bisiaux, Charlotte Salpin and Cecilia Vaverka. The Digital Editor is Francis Dejon. The Team Leader for this issue is 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 Government of Canada (through CIDA), the Swiss Agency for Environment, Forests and Landscape (SAEFL), the United Kingdom (through the Department for International Development - DFID), the Danish Ministry of Foreign Affairs, the Government of Germany (through the German Federal Ministry of Environment - BMU, and the German Federal Ministry of Development Cooperation - BMZ), and the Netherlands Ministry of Foreign Affairs. General Support for the *Bulletin* during 2004 is provided by the United Nations Environment Programme (UNEP), the Government of Australia, Austrian Federal Ministry of Agriculture, Forestry, Environment and Water Management, the Ministry of Environment and the Ministry of Foreign Affairs of Sweden, the Ministry of Environment and the Ministry of Foreign Affairs of Norway, Swan International, the Japanese Ministry of Environment (through the Institute for Global Environmental Strategies - IGES) and the Japanese Ministry of Economy, Trade and Industry (through the Global Industrial and Social Progress Research Institute - GISPRI). Funding for translation of the *Earth Negotiations Bulletin* in French has been provided by the International Organization of the Francophonie (IOF) and the French Ministry of Foreign Affairs. 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.



WORLD SUMMIT ON SUSTAINABLE DEVELOPMENT

MENT: The World Summit on Sustainable Development (WSSD) (26 August-4 September 2002, Johannesburg, South Africa) negotiated and adopted two main documents: the Johannesburg Plan of Implementation (JPOI) and the Johannesburg Declaration on Sustainable Development. Among the 11 chapters of the JPOI, which provide a framework for action to implement sustainable development commitments, Chapter IV on "Protecting and Managing the Natural Resource Base of Economic and Social Development" contains several paragraphs on the sustainable development of oceans. Paragraphs 30 to 36 address: 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 the scientific understanding and assessment of marine and coastal ecosystems. Paragraph 36(b), particularly, requests establishing "by 2004 a regular process under the UN for global reporting and assessment of the state of the marine environment, including socioeconomic aspects, both current and foreseeable, building on existing regional assessments."

UNGA RESOLUTION 57/141: On 12 December 2002, the 57th session of the General Assembly adopted resolution 57/141 on "Oceans and the law of the sea." The General Assembly welcomed the previous work of the Consultative Process, extended it for an additional three years, and decided to review the Consultative Process' effectiveness and utility at its 60th session. In response to paragraph 36 (b) of the JPOI, the General Assembly also requested the Secretary-General to prepare proposals on modalities for the GMA, drawing upon the work of UNEP pursuant to decision GC 21/13.

UNEP GOVERNING COUNCIL DECISION 22/1 II: At its 22nd session (3-7 February 2003, Nairobi, Kenya), UNEP Governing Council reviewed progress in implementing decision GC 21/13, and adopted decision GC 22/1 II, which requests the active participation and contribution of UNEP to the preparatory process for the GMA, as called for in UNGA resolution 57/141.

UNICPOLOS-4: The fourth meeting of the Consultative Process (2-6 June 2003, New York), co-chaired by Philip Burgess (Australia) and Felipe Paolillo (Uruguay), adopted recommendations on safety of navigation, the protection of vulnerable marine ecosystems, and cooperation and coordination on oceans issues.

INTERSESSIONAL HIGHLIGHTS

NINTH AND TENTH SESSIONS OF THE INTERNATIONAL SEABED AUTHORITY: At the ninth session of the ISA (28 July-8 August 2003, Kingston, Jamaica), the Legal and Technical Commission of the ISA held preliminary discussions on issues related to the management of high seas biodiversity. The Commission decided to convene a seminar on seabed and deep ocean biodiversity relevant to prospecting and exploration for mineral resources for consideration at the ISA's tenth session (24 May-4 June 2004, Kingston, Jamaica), and requested preparation of a study on the legal issues associated with deep seabed biodiversity.

REPORT OF THE SECRETARY GENERAL ON MODALITIES FOR THE GMA: In response to UNGA resolution 57/141, the Secretary-General prepared a report containing proposals on modalities for a regular process for the GMA (A/58/423). The report reflects discussions held at an inter-agency consultative meeting at the headquarters of the Intergovernmental Oceanographic Commission of the United Nations Educational, Scientific and Cultural Organization (IOC/UNESCO) from 8-9 September 2003, in Paris, France.

DEEP SEA 2003 CONFERENCE: The Deep Sea 2003 Conference (1-5 December 2003, Queenstown, New Zealand) aimed at providing a basis for the coordination of and synergy between research and management efforts related to deep sea fisheries. Participants made proposals regarding the following themes:

environment, ecosystem, biology, habitat, diversity and oceanography; population biology and resource assessment; harvesting and conservation strategies for resource management; technology requirements; existing policies and instruments; and governance and management.

UNGA RESOLUTION 58/240: At its 58th session, the General Assembly adopted resolution 58/240 of 23 December 2003, on "Oceans and the law of the sea," which requested the Secretary-General to convene the fifth meeting of the Consultative Process from 7-11 June 2004, and recommended that the meeting organize its discussions around the theme "New sustainable uses of the oceans, including the conservation and management of the biological diversity of the seabed in areas beyond national jurisdiction," as well as issues discussed at previous meetings. On the basis of the proposals on modalities for the GMA contained in the Secretary-General's report, resolution 58/240 also requests the Secretary-General to take further steps to establish the regular process, including convening an international workshop in conjunction with UNICPOLOS-5 to consider a draft document prepared by a group of experts on, *inter alia*, the scope, general framework and outline of the process.

CBD COP-7: The seventh Conference of the Parties to the Convention on Biological Diversity (CBD COP-7) (9-20 February 2004, Kuala Lumpur, Malaysia) adopted decision VII/5 on the review of the programme of work on marine and coastal biodiversity, which includes sections on marine and coastal protected areas within and beyond national jurisdiction, mariculture, and the conservation and sustainable use of deep seabed genetic resources and marine biological diversity beyond national jurisdiction.

UNICPOLOS INFORMAL PREPARATORY MEETING: An informal preparatory meeting for UNICPOLOS-5 was held at UN headquarters in New York on 12 March 2004. Following this meeting and consultations with country delegations, co-Chairs Burgess and Paolillo prepared a draft format and provisional agenda for the meeting (A/AC.259/L.5).

GROUP OF EXPERTS ON THE GMA: In response to General Assembly resolution 58/240, the Secretary-General convened a Group of Experts, which met from 23-26 March 2004 in New York, to prepare for the GMA process. The Group, chaired by David Pugh, IOC/UNESCO, was composed of representatives from States, intergovernmental organizations and non-governmental organizations, including scientists and policy makers. The discussions resulted in a draft document (A/AC.271/WP.1) detailing the scope, general framework and outline of the regular process for the GMA, as well as issues pertaining to quality assurance, institutional arrangements, capacity building and funding.

THINGS TO LOOK FOR TODAY

OPENING PLENARY: UNICPOLOS-5 will open at 10:00 am in Conference Room 1. After addressing organizational matters, delegates will hear a presentation by David Pugh on the outcome of the meeting of the Group of Experts on the GMA, and start discussing cooperation and coordination on oceans issues. Patricio Bernal, IOC/UNESCO, will brief the meeting on developments regarding the OCAN. Presentations will also be delivered by Roger Jones, International Maritime Organization, on flag State implementation, and by Dan Ogolla, CBD, on relevant outcomes of CBD COP-7.

DISCUSSION PANEL: The discussion panel on "New sustainable uses of the oceans" will begin at 2:30 pm in Conference Room 1 with a documentary on "Volcanoes of the deep sea." Keynote presentations will be given by Peter Rona, Rutgers University, and Kim Juniper, Université du Québec à Montréal, on deep seabed ecosystems, and by Amb. Satya Nandan (Fiji), Secretary-General of the ISA, on benthic biodiversity and the work of the ISA.