

## TENTH MEETING OF THE UNITED NATIONS OPEN-ENDED INFORMAL CONSULTATIVE PROCESS ON OCEANS AND THE LAW OF THE SEA: 17-19 JUNE 2009

The tenth meeting of the United Nations Open-ended Informal Consultative Process on Oceans and the Law of the Sea (Consultative Process or ICP) opens on Wednesday, 17 June 2009, at UN Headquarters in New York. During the week, delegates are expected to: exchange views on the implementation of the outcomes of the Consultative Process, including a review of its achievements and shortcoming in its first nine meetings; discuss inter-agency cooperation and coordination; and identify issues that could benefit from future work of the United Nations General Assembly (General Assembly) on oceans and the law of the sea. A discussion panel will be held to consider various issues related to the ICP's: mandate, role and objectives; outcomes and their implementation; and the format and methods of work. Recommendations from the meeting will be forwarded to the General Assembly for consideration at its 64th 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.

### **INTERSESSIONAL HIGHLIGHTS**

**TECHNICAL CONSULTATION ON INTERNATIONAL GUIDELINES FOR THE MANAGEMENT OF DEEP-SEA FISHERIES IN THE HIGH SEAS:** This meeting convened in Rome, Italy, from 25-29 August 2008, under the auspices of the UN Food and Agriculture Organization (FAO). The Guidelines on deep sea fisheries adopted at the meeting state that all fishing activity in deep sea areas in the high seas should be "rigorously managed" and lay out measures to be taken to identify and protect vulnerable ecosystems, and provide guidance on the sustainable use of marine living resources in deep sea areas in the high seas.

**WORLD OCEAN COUNCIL:** Representatives from the shipping, oil and gas, fisheries, cruise ship tourism, aquaculture, ports and other ocean industries from around the world gathered at UN Headquarters in New York on 30 September 2008, for the inaugural World Ocean Council (WOC) meeting to develop a global alliance on sustainability. The WOC aims to improve dialogue and understanding between those industrial sectors whose livelihood depends on the responsible and sustainable use of the world's oceans.

**GENERAL ASSEMBLY RESOLUTION 63/111:** On 5 December 2008, the 63rd session of the General Assembly adopted resolution 63/111 on "Oceans and the law of the sea," which provided a multi-year extension to the mandate of the Consultative Process. The effectiveness and utility of the Consultative Process will be reviewed by the General Assembly during its 65th session in 2010.

**TECHNICAL CONSULTATION TO DRAFT A LEGALLY-BINDING INSTRUMENT ON PORT STATE MEASURES TO PREVENT, DETER AND ELIMINATE ILLEGAL, UNREPORTED AND UNREGULATED (IUU) FISHING:** The Technical Consultation to draft a legally-binding instrument on port State measures to prevent, deter and eliminate IUU fishing took place at FAO Headquarters in Rome, Italy, from 26-30 January 2009. According to the draft elements of the treaty, fishing vessels that wish to land will be required to request permission from specially designated ports ahead of time, transmitting information on their activities and the fish they have on board, thereby providing authorities an opportunity to assess and detect possible illegalities prior to docking. Final details of the agreement will be laid out in a future round of talks, whose date has yet to be determined.

**EIGHTH ROUND OF INFORMAL CONSULTATIONS OF THE STATES PARTIES TO THE UN FISH STOCKS AGREEMENT (UNFSA):** From 16-19 March 2009 at UN Headquarters in New York, this meeting focused on promoting wider participation in the Agreement. The outcome of the Continuing Dialogue was a summary report prepared by the Dialogue's Moderator, which captures the debates on promotion of wider participation in the Agreement, capacity building, compatibility of conservation and management measures, enforcement and port state measures and the relationship between the UNFSA and UNCLOS and other international instruments. Participants also reached consensus on all further actions regarding the proposed timeline and programme of work for the resumed Review Conference, which will take place in May 2010.

**IMO LEGAL COMMITTEE:** The Legal Committee of the IMO held its 95th session in London, UK, from 30 March - 3 April 2009, and approved a draft Protocol to the 1996 International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea. The draft Protocol is designed to address practical problems that have prevented many States from ratifying the original Convention, one of which is the requirement for States to report the quantities of hazardous and noxious substances received to IMO, considering the range and diversity of hazardous and noxious substances that will be governed by the Convention. The IMO Legal Committee requested the IMO Council, which meets in late June 2009, to approve the holding of a diplomatic conference in early 2010 to consider the draft Protocol, with a view to formally adopting it.

**FOURTH MEETING OF THE AD HOC STEERING GROUP FOR THE "ASSESSMENT OF ASSESSMENTS" OF THE REGULAR PROCESS FOR GLOBAL REPORTING AND ASSESSMENT OF THE STATE OF THE MARINE ENVIRONMENT, INCLUDING SOCIO-ECONOMIC ASPECTS:** The *Ad Hoc* Steering Group met from 15-17 April 2009 at UNESCO Headquarters in Paris, France, where it was agreed that the final "Assessment of Assessments" report will be transmitted to the UN Secretary-General to serve as a basis for discussions by the General Assembly *Ad Hoc Working Group of the Whole*, which will be convened, in New York, from 31 August - 4 September 2009.

**WORLD OCEAN CONFERENCE:** Hosted by the Government of Indonesia, this conference convened from 11-15 May 2009, in Manado, Indonesia. Because the oceans play a major role in the regulation of the earth's climate, and because global climate change has begun to threaten marine ecosystems and the livelihoods of coastal communities, the meeting called for international solidarity in ensuring that negotiations at the 15th Meeting of the Conference of the Parties to the United Nations Framework Convention on Climate Change (UNFCCC COP15) in December 2009 consider coastal and oceanic dimensions of climate change, and demonstrate a commitment to building ocean resilience in response to this threat. Delegates also adopted the Manado Ocean Declaration.

**INTERNATIONAL MARINE CONSERVATION CONGRESS:** The International Marine Conservation Congress took place in Washington, DC, US, from 20-24 May 2009. This meeting highlighted the role that healthy marine ecosystems can play in fighting climate change. Carl Gustaf Lundin, Head of IUCN's Global Marine Programme, called on governments to include marine issues on the agenda of the UNFCCC COP15 in Copenhagen. Other themes addressed during the Congress included: the land-sea interface; ecosystem-based management; and poverty and globalization.