

Canadian Submission on Informal Consultative Process

A unique forum with a unique role

- The Informal Consultative Process (ICP) was created to facilitate, in an effective and constructive manner, the review by the General Assembly of developments in ocean affairs and the law of the sea using, as a departing point, the relevant annual reports of the Secretary-General and to identify areas where coordination and cooperation at the intergovernmental and inter-agency levels should be enhanced.
- Beyond its annual focus on a number of pre-selected topics, the ICP provides a unique forum in outlining issues that could benefit from attention in the future work of the General Assembly on oceans and the law of the sea, and as such, advances broad global priorities within the oceans governance agenda.
- Canada has consistently stated over the years that the informal nature of the exchanges that take place among States and stakeholders is ICP's paramount strength. In addition to its informal (multi-stakeholder) nature, emphasis on expert input into debates, emphasis on cooperation and coordination, willingness to focus on new and emerging issues implicating many fora, and reporting to the General Assembly without intermediary all contribute to its uniqueness within the United Nations system.
- Thus Canada attaches great importance to ICP and is of the view that over the last decade, its influence and output have grown steadily and now reach far beyond the confines of the General Assembly to the global oceans community directly. Indeed, we find that the full measure of ICP's importance and achievements *transcends* the agreed outcomes and their implementation. The discussion itself and the Co-Chairs report on those discussions are just as vital in advancing and shaping the views of the international community and UNGA debate.
- The oceans community considers the annual ICP meetings as an essential component of the multifaceted and multistakeholder UNCLOS-based dialogue on oceans governance, which is not replicated elsewhere. Indeed, ICP meetings, which allow states and others access to experts, and which foster dialogue among senior level officials, including from international organizations, are a critical step in building understanding and agreement on important and emerging issues and identifying opportunities for coordination and cooperation with a view to further enhancing oceans governance. In this regard, the ICP meetings have also contributed to providing a focus for such opportunities at the national level among the authorities involved with ocean issues.
- The ICP has encouraged a cohesive consideration, and integrated, interdisciplinary and intersectoral discussions on knowledge, policy frameworks, standards and issues relevant to a range of fora, especially for emerging ocean issues, while respecting existing mandates and decisions made in other bodies.

- Views may be expressed to the effect that, over the years, ICP has examined topics that are covered in other fora. In Canada’s view, there is no duplication of effort even when topics play across a number of fora. As per its historical mandate, ICP plays a unique *integrative* role by allowing expert input to create a common basis of understanding, identifying opportunities for cooperation and coordination among institutions and organizations, and informing the General Assembly, issue-based fora, and the international community as a whole of possibilities for practical action that would achieve tangible results in respect of cooperation and coordination.
- ICP continues to be the *only* body in the United Nations system with a broad membership. Indeed, it brings together not only States Parties to UNCLOS, but also States Parties to all the Conventions and Programmes dealing with ocean affairs and law of sea, as well as inter-governmental organizations (IGOs), environmental non governmental organizations (ENGOs), and industry stakeholders. In addition to States, the ICP typically brings together, under its umbrella over 25 invited experts, and over 60 representatives of IGOs, ENGOs, and industry. Notwithstanding its size and varied composition, the meeting has proven to be dynamic and interactive.
- Invited experts have a substantive “bridging” role to play at ICP. They provide participants with access to the current state of knowledge on a given trend, concept or issue. This, in turn, leads to a common enriched knowledge base that bolsters the depth of plenary discussions.
- Similarly, the presence of stakeholders, especially ENGOs, allows States to test the strength and resilience of their positions and policies, while exposing them to different views and new issues. Stakeholders’ contribution to ICP has especially provided an “early warning system” for emergent issues of concern to civil society, which will ultimately be confronting governments in any case. One example of this is the role the ICP played in the “life-cycle” of the bottom trawling/vulnerable marine ecosystems (VMEs) debate.
 - Indeed, ENGOs introduced the issue of bottom trawling practices, including at side presentations, at ICP in 2004, which led to ICP recommendations and General Assembly’s initial involvement. Once seized with the issue, the General Assembly committed to a review in 2006 that culminated in tangible undertakings to protect VMEs against the effects of fishing.
- A significant contribution of the ICP to advancing the oceans governance agenda lies in its continued capacity to bring together and foster continued dialogue and trust between legal, policy and scientific experts and institutions involved in ocean affairs to address a given issue in an *integrated* manner, enhance their common understanding and knowledge base and debunk myths that may be unnecessarily driving divergent policy positions and risking policy incoherence.

A unique forum with a unique legacy

- The ICP has matured over the last 9 years. Topics have become more forward looking, and moved from multiple to single in-depth topics each year. In the last term (2006-2009, which coincided with Canada acting as co-chair), topics chosen were ambitious -- Ecosystem Approaches and Oceans; Marine Genetic Resources; and Maritime Safety and Security – and especially welcomed by the oceans community. Indeed, these were topics that benefited from a "demystification" of issues to assist debates in other fora, where issues had possibly stalled due to lack of understanding or agreement, or where increased cooperation and coordination was a special need.
 - An interesting example of ICP's substantive influence on issues is exemplified by the participants at the Review Conference of the United Nations Fish Stocks Agreement (UNFSA) in May 2006 that abstained from conducting a detailed discussion on ecosystem approaches to fisheries in view of the upcoming ICP meeting on that topic a month later that was expected to increase the understanding of the concepts.
- Views have been expressed that ICP has strayed from an original "sustainable development mandate". While in our view the mandate is strongly focussed on providing advice on areas requiring cooperation and collaboration, and to enrich the UN debate on oceans and the law of the sea, we are nevertheless of the view that the wide range of topics discussed to date, ranging from marine scientific research to maritime safety and security all have linkages to sustainable development, bearing in mind its commonly understood meaning and consistent with the process initiated by the Commission on Sustainable Development. Nonetheless, we recognize that the mandate of ICP stems from the General Assembly, consistent with the legal framework provided by UNCLOS and the goals of Chapter 17 of Agenda 21.
- While the agreed elements or recommendations to the UNGA constitute an important component of ICP's work, it would be restrictive to judge its success on that sole basis. Indeed, through the years, ICP has tackled both mature and emerging issues, conscious that advancing a policy discussion in an emerging topic normally entails, as a first step, acquiring commonality of information.
- The ICP was established with the purpose to be a *consultative* process, and it was never intended to prejudge issues and decisions made by other fora, including the General Assembly; nor was it vested with a decision-making mandate.
- Nevertheless, we note that a large majority of outcomes of the ICP are indeed well reflected in resolutions of the General Assembly, underscoring the significant contribution the ICP has made to focussing, enriching, and ultimately expediting debate and negotiations at the General Assembly. (We recognize that while ICP reports directly to the General Assembly, its recommendations do not have "unfettered" access; its agreed elements can be debated within the context of the negotiations of the Resolutions.)

Despite the plurality of topics, the ICP has identified not only areas where further commitments are needed, cooperation and coordination should be enhanced, but also where the existing commitments needed to be built upon. It provided a basis for detailed outcomes and further commitments. Examples of such commitments include the following:

- During the 2001 meeting of the ICP, practical and feasible venues for capacity building were explored and outlined for developing countries to be able to engage in marine scientific research. In particular, during discussions on marine science and transfer of marine technology, the need to implement Part XIV of UNCLOS was discussed together with the absence of an implementation mechanism that would allow developing States, including Small Island developing States, to benefit fully from the regime outlined in UNCLOS. These discussions provided a useful basis for subsequent discussion and eventual adoption by the Intergovernmental Oceanographic Commission of the *Criteria and Guidelines on the Transfer of Marine Technology*, and the *Procedure for the implementation of Article 247 by the IOC*, developed by ABE-LOS.
- During discussions on marine scientific research and TMT, a number of delegations mentioned an urgent challenge with respect to the development and transfer of marine technology for providing developing countries with adequate funding and technical assistance for the submission of technical and scientific data with respect to their extended continental shelf to the Commission on the Limits of the Continental Shelf, in accordance with article 76 of UNCLOS. In 2002, the General Assembly of the United Nations called upon the United Nations Environment Programme (UNEP) to expand the capacity of existing centres within the Global Resource Information Database (GRID) network to assist developing States and Small Island developing States to complete the activities required to delineate the outer limits of the continental shelf. Today, the UNEP Shelf programme has been actively engaged with over 60 countries providing assistance to build technical capacity related to the delineation process.
- The capacity building activities of organisations, agencies and programmes of the United Nations are now outlined in the annual report as a result of the ICP's request for a continued discussion of such activities in the annual report of the Secretary General.
- In 2002, the ICP provided its support and impetus for a global marine assessment mechanism based on existing programmes to provide on a regular, timely and scientific basis the necessary assessments of the state and trends of all aspects of marine ecosystems, taking into account all relevant socio-economic factors. That year, the General Assembly responded by deciding to establish by 2004 a regular process under the United Nations for the global reporting and assessment of the state of the marine environment, including socio-economic aspects, both current and foreseeable, building on existing regional assessments. In 2005, the General

Assembly launched a start-up phase to the regular process, the “assessment of assessments” and established the necessary organizational arrangements and we are now looking at completing the start-up phase this year. An *Ad Hoc Committee of the Whole* has been tasked with presenting options to the General Assembly this fall.

- In 2004, the discussions by States, scientists and non-governmental organizations at the ICP on issues relating to conservation and management of biological diversity in areas beyond national jurisdiction paved the way for the General Assembly to move towards developing a firm commitment in this regard by establishing the *Ad Hoc Open-ended Informal Working Group* to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction later that year.
- In 2006, on ecosystem approaches and oceans, the ICP proposed to the General Assembly a number of principles and actions which could be taken to achieve or advance the implementation of an ecosystem approach, an essential modern management principle for the sustainable development of oceans. The General Assembly endorsed these outcomes. In addition, the results of the ICP meeting were praised in the oceans community as presenting, for the first time, in an integrated fashion all the necessary elements to implement an ecosystem approach. ICP advanced the international oceans governance debate by demystifying the difference between sectoral approaches (ie. Fisheries) and integrated management (ie. Oceans) to the ecosystem approach, which has made a major contribution to enhance agreement in global discussions on oceans governance. The ICP outcome on Ecosystem Approaches and Oceans has since been presented to several fora with a view to proposing a concrete framework to practitioners tasked with the implementation of such an approach.
- Despite its complexity, discussions on marine genetic resources in 2007 provided the opportunity to enhance, in a systematic and orderly manner, our collective knowledge on this important issue – one in which there is a wide disparity of State views. Such knowledge provided a sound basis for further timely consideration of this issue at the second meeting of the *Ad Hoc Open-ended Informal Working Group* to study issues relating to the conservation and sustainable use of marine biological diversity beyond areas of national jurisdiction in 2008. The discussion also provided an insight into the variety of existing arrangements for responsible access to marine genetic resources and sharing of information, as well as ways to balance research needs and any commercial activity. The intent was to avoid making recommendations on specific issues being addressed by other specialized fora, and instead provide outcomes that could advance the knowledge base and further inform debates elsewhere.
- Last year exchanges on maritime safety and security identified useful advice and assistance for agencies to governmental authorities and vice versa, especially with

respect to common approaches to enforcement techniques and capacity building, and especially in showing linkages among components of this agenda that may not have been widely recognized. Indeed, an outline of initiatives available to states, particularly developing states, relating to training, equipment, legal and technical assistance, as well as fora for sharing of best practices, was provided. Suggestions were made on a number of paths that can be followed for the purpose of establishing common systems of information, monitoring, surveillance and enforcement at national, regional or global levels.

- From a functional perspective, we now have the benefit of 9 years of practical experience to draw from, including awareness of logistical challenges encountered in the organization of ICP meetings, as explained by Co-Chairs at various preparatory and meetings in their opening statements. Understandably, the need to ensure that ICP expert panels are composed of balanced representation is a paramount consideration for States but all should also bear in mind that many external factors such as funding and visa requirements cannot be disregarded. Given our commitment to this forum, and given our shared commitment to the need to ensure diversity of perspectives, Canada has tried to step in to help in offsetting some risks (especially those due to lack of resources) but terms and conditions of our funding as well as those in the UN made this impossible, and differences between Canada and the United Nations could not be reconciled. Similarly, while Canada has expressed concerns over the state of the ICP Trust Fund aimed at funding developing countries panellists and participants to ICP, we have found the contribution rules surrounding the Trust Fund onerous, and ultimately self-defeating. It is hoped when the Trust Fund is replenished, enhanced efforts will be made to simplify the funding process and publicize the Fund's mission widely.

Conclusion

- In Canada's opinion, through the years, ICP has proven its value as a sounding board for new ideas on oceans governance, and, in particular, as a robust forum capable of tackling difficult issues and one that dispenses a unique and irreplaceable function within the UN family and to the international community. We are committed to ICP, its mission and current mandate, and its improvement to meet the needs of all participants.