

Contribution from the OSPAR Commission and Bonn Agreement to the Secretary –General’s review of the Open-ended informal consultative process on oceans and the law of the sea

The OSPAR Commission, for the Protection of the Marine Environment of the North-East Atlantic (OSPAR), and the Agreement for Cooperation in dealing with Pollution of the North Sea by Oil and Other Harmful Substances (Bonn Agreement) have both followed the work of the Consultative Process over the past nine years. Through the chairmanship of the Consultative Process by Mr Alan Simcock, the immediate past Executive Secretary of OSPAR and Bonn Agreement, both organisations have a good insight into the work of the Consultative Process.

Achievements of the Consultative Process

Topics of focus of the meetings have been relevant and timely. The mechanism of co-chairs (developed and developing) has proved essential. The meetings have provided a valuable opportunity for Regional Conventions to contribute to global agendas. The Consultative Process has also provided a unique opportunity (within the UN system) to involve non governmental organisations and, in turn, the work of the UN on oceans has consequently been more open to public scrutiny (also through media such as the Earth Negotiations Bulletin).

Topics covered continue to be on the agendas of regional conventions and the following subsequent developments are notable:

- a. OSPAR has no competence for fisheries management. However, OSPAR has made efforts to advise those responsible for both fisheries and shipping if and when it has been considered that those activities are having negative impacts on the environment of the North-East Atlantic. In 2008 OSPAR signed a Memorandum of Understanding with the North-East Atlantic Fisheries Commission (NEAFC). Amongst other initiatives, this recognises the work of NEAFC to combat IUU fishing;
- b. OSPAR is currently liaising with the International Seabed Authority (and other competent authorities) in connection with the prospective designation of the Charlie Gibbs Fracture Zone of the Mid-Atlantic Ridge as an OSPAR Marine Protected Area. This initiative seeks to protect biodiversity in areas beyond national jurisdiction;
- c. OSPAR has assessed marine debris on beaches over the past decade and this has contributed to the UNEP Global Initiative on Marine Litter;
- d. The results of the application of an ecosystem approach to the North-East Atlantic by OSPAR, on the basis of a suite of assessments and periodic evaluations within a Joint Assessment and Monitoring Programme, will be set out in the Quality Status Report 2010. This represents a decade of collaborative work, applying measures based on best scientific advice and associated implementation reporting, by all Contracting Parties.
- e. The Bonn Agreement continues to integrate environmental issues with navigation and safety through consideration, for example, of environmental sensitivity mapping, potentially polluting wrecks and preparedness / response risk assessment exercises.

Furthermore, the Consultative Process has succeeded in:

- a. informing the GA more fully about UNCLOS matters, which it could be argued has improved the focus and discussion of GA Resolutions concerning oceans;
- b. moving forward the agenda that will now be the subject of the UN Working Group on Biodiversity Beyond National Jurisdiction; and
- c. identifying important cross-cutting issues such as security and the environment with specific outcomes such as recognition of the need for good quality hydrographic charts to enable enforcement agencies to combat piracy.

Shortcomings of the Consultative Process

Objectively the individual Consultative process sessions could be seen as one-off events with little obvious follow through. The problem is how any such follow through can be achieved without the Consultative Process becoming too formalised. Drafting clear conclusions is important in this respect to help facilitate practical enhancement of cooperation, coordination and technical capacity for ocean conservation.

In practice it is difficult to identify examples of where the Consultative Process has facilitated transfer of knowledge and technology from either OSPAR or BONN to developing countries. It was hoped that this might be achieved through a ‘twinning’ arrangement (OSPAR and Abidjan Convention) but such an arrangement has not been operationalised.

The topics dealt with by the Consultative Process have been intentionally general / generic. Whilst this invites a wide range of views it might be useful for the chairs to pose a more specific policy related question and to seek case study approach examples. The meetings should provide more than a simple update of scientific progress, but should explore measures that can enhance the ability of all States, particularly developing countries, to manage the oceans (e.g. strategic environmental assessment, marine spatial planning). Further work is needed on the actual implementation, compliance and enforcement of several of the topics covered.

It is hoped that the tenth meeting of the Consultative Process will be able to help develop a sufficiently clear idea of ocean priorities and strategic directions, given available resources, in the context of climate change. This is currently what many regional conventions are struggling to establish.