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**AFFAIRS**  
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**on the**  
**United Nations Open-ended Informal Consultative Process on Ocean**  
**Affairs**

### **Establishment**

The Consultative Process is a creature of the General Assembly, established by its resolution 54/33 of 24 November 1999. It was set up to facilitate the annual review by the Assembly of developments in ocean affairs and the law of the sea. The declared objective was to do this in an effective and constructive manner.

The Assembly was very clear on the need for the Process to be consistent with the legal framework provided by the United Nations Convention on the Law of the Sea and the goals of Chapter 17 of Agenda 21, and the resolution says so expressly. Measured by the consensus outcomes, it seems clear that the Process has functioned consistent with and in accordance with the Convention. But I will come back to this point later.

The Consultative Process met for the first time during May/June 2000, and has had three meetings in all, the most recent in April 2002.

### **Background**

There was, of course, a background to the creation of the Consultative Process. There were a number of reasons for, and other reasons against. Basic among the reasons for was the recognition of the complex and inter-related nature of the oceans, and the need for international coordination and cooperation in dealing with the oceans issues. There was also acknowledgement that much more time was needed, than the period available during the annual session of the General Assembly, for proper consideration and debate based on the Secretary General's report – a report that was becoming longer and more complex with each passing year.

There was thus a feeling among States, and non-States as well, that a forum such as the Consultative Process as we know it today was necessary in order to broaden and deepen the debate in the General Assembly, and to further enhance the coordination and cooperation in ocean affairs at the intergovernmental and inter-agency levels.

In 1999, at its 7<sup>th</sup> session, the Commission on Sustainable Development re-emphasised this need. Following the recommendation of the CSD, the Assembly, by its resolution 54/33 established the Consultative Process.

### **What it is, what it is not**

Resolution 54/33 is clear and specific on the characteristics of the Consultative Process, and it is worth stressing from the outset what it is, and what it is not.

It is open-ended and informal. It is a consultative process, not a decision-making or negotiating forum. Its outcome is not to prejudice the decisions to be made in other fora, including the General Assembly. Rather, it is an opportunity to exchange information and ideas towards enhancing the ability of the General Assembly to carry out its annual review of the ocean affairs and law of the sea.

### **Title of Process**

As events have turned out, it has been a little easier to describe the Process than it is to give it a clear title. At first, it was referred to in terms used in the letter from the President of the General Assembly appointing the Co-Chairpersons. However, as noted by at least one concerned party, that usage suffered from the absence of a reference to the “law of the sea” in the title. The next variation was the title “UN Open-ended Informal Consultative Process on Oceans and the Law of the Sea” or “UNICPOLOS”.

Then it was back to “ocean affairs” and the acronym became UNICPOA. And finally by its second meeting in May 2001, it was agreed to call it the “United Nations Open-ended Informal Consultative Process established by the General Assembly in its resolution 54/33 in order to facilitate the annual review by the Assembly of developments in ocean affairs”. No doubt technically correct. But oh, what a mouthful.

As we know from other instances, it is the manner of the system, and often the only way close the gap between competing viewpoints. In the present case, and given the early days of the Process, the preoccupation with its title was hint of the caution of States, and their perhaps natural sensitivity about the implications. It was an issue that needed to be addressed and settled from the start. Our hope was this might help create confidence about the Consultative Process and its work.

### **Secretary General's reports**

On each occasion, the Consultative Process considered the annual reports of the UN Secretary General on oceans and the law of the sea. These reports are at the centre of the format of the Process meetings. Over the years the reports have become extremely comprehensive and increasingly more detailed and complex.

The reports are especially noteworthy for the broad overview that they give of the issues of concern on the oceans, and the international work that is in hand to address them. They show how broad the canvas is. The role envisioned for the Consultative Process is to identify the areas on this canvas where co-ordination and co-operation at the intergovernmental and inter-agency levels need to be enhanced, and to suggest means of doing so.

### **Format**

The Consultative Process has followed a deliberately structured format and agenda proposed by the Co-Chairpersons, and assisted by DOALOS, fully discussed and approved by member States by consensus.

Securing consensus was upper most in the approach of the Co-Chairpersons. From the very beginning they were determined to ensure consensus through consultations and discussions. There were three informal consultations involving all interested parties before the first formal session of the Process, with ongoing consultations at multiple levels throughout each Consultative Process meeting. This became the practice throughout.

We believe this is essential not only to generate confidence in the Process, but also to help instil a sense of ownership and involvement in its development.

By this methodology, the Process has carried out its work through plenary sessions and two discussion panels each having a specific subject area for discussion. Each of the three meetings held thus far has involved many Government experts and representatives, and those from the UN agencies and other inter-governmental bodies.

### **Major groups**

Of particular significance is the fact that the Process has provided the opportunity for the participation of major groups as identified in Agenda 21. The Process has received in return informed and quite invaluable input from the major groups, especially from non-governmental and inter-governmental organisations.

In addition to major groups, GA resolution 54/33 also made clear the importance of the participation of developing countries, including least developed countries and small island developing States.

### **Area of focus**

The Co-Chairpersons paid careful and particular attention to the choice of areas of focus for the discussion panels. Generally, in suggesting the topics they kept in mind relevant General Assembly proceedings, the reports of the Secretary General, and recommendations of the CSD.

For the first meeting, they initially proposed three topics: IUU fisheries, marine pollution and marine science. The consultations showed, however, that some delegations would find it difficult to contribute in depth to that many discussion topics. Indeed, some delegations argued for a single topic to ensure in-depth discussions. In the end we had to conclude that it would be more feasible to manage only two in-depth discussions.

The Co-Chairpersons then faced the problem of choosing two topics. Their final proposal took account of the large number of delegations that supported a discussion of fisheries and the political importance of that issue, as evidenced both in the Secretary-General's report for the Millennium Assembly and the 1999 CSD-7 decision. At the same time it was necessary to make sure that there was no suggestion that other issues, such as marine science, did not merit attention in the Consultative Process. For the first

meeting, provision was in fact made for aspects of marine science to be considered in both discussion panels.

With hindsight, I believe the right balance was made in the final choice of fisheries and marine pollution as the areas of focus for the discussions panels at the first meeting. There would have been little point in focusing on topics or aspects likely to be controversial and confrontational.

Throughout, it was necessary to make clear, and to repeat the point that the meetings of the Consultative Process are intended to prepare for the General Assembly debate on the oceans and the law of the sea. Not to pre-judge issues or to preview considerations of the Assembly. In that connection, every effort was made to encourage delegations to focus on specific actions that might be developed to address specific issues, rather than simply rehearse problems, achievements and generalities. And thus, in structuring the discussions, specific questions were formulated for delegations to focus on.

## **Issues**

The areas of focus for the discussion panels in the meetings of the Consultative Process have covered a range of key contemporary issues, namely:

### Fisheries

- Responsible fisheries and illegal, unreported and unregulated fisheries was an area of focus at the first meeting, and raised again at the second;
- The discussions highlighted the vital importance of international cooperation at the global and regional levels as well as the need for inter-agency cooperation to ensure responsible fisheries and combat IUU fishing;
- Much was said of the need for effective inter-regional cooperation on a working level and as a standing arrangement. Clearly, people needed to talk to each other;
- Particular mention was made of regional fisheries organizations and the regional seas programmes of UNEP. Time and again, in all parts of the world, activities at the regional level had proved effective;

- States continued to express concern about IUU fishing and in particular about the use of flags of convenience. There was widespread appreciation of the adoption of the International Plan of Action to Prevent, Deter and Eliminate this activity. Particular note was taken of the progress made by FAO and IMO in identifying the possibilities of more effective actions against IUU fishing by flag States and port States.

#### Land-based sources

- The need to give priority in addressing pollution from land-based sources to the adequate implementation of the GPA was another issue of dominance in the Consultative Process;
- Particular emphasis was laid on the need for an approach that is both integrated and inclusive. There is, indeed, need to bring together the many different economic sectors involved, management approaches addressing all aspects of ecosystems, including whole hydrological cycle and river basin management for whole catchments involving international, regional, national and local levels, all economic sectors and stakeholders and major groups.

#### Marine science

- This was one of the areas of focus at the first meeting. Discussions were at a high level and, typically, with expositions from expert sources;
- Again, there was emphasis on the need for more effective cooperation.
- To ensure an inter-sectoral research approach, there was consensus on the need to establish, or strengthen, cooperation – especially cooperation at the regional level –
  - between regional fisheries organisations and arrangements;
  - regional seas programmes; and
  - other regional marine environment bodies;
- And clearly, there is need also to work and cooperate with global organizations such as FAO, IMO and WMO;
- So people, and relevant authorities, need to get together and talk – science, fisheries and environment communities;
- The discussions focused also on the fundamental importance of
  - establishing better links between marine scientists and policy makers and managers, and the training of personnel, particularly among public officials; and
  - the need to ensure the exchange and flow of data;

- As to data, many underscored the perhaps obvious need for information to be made available to those who need it, especially among developing countries. Many singled out regional centers especially, and the need to implement the provisions of the Convention (Parts XIII and XIV) in order to support capacity building by developing countries;

### Piracy

- Recent rapid growth in incidents of piracy and armed robbery at sea had been highlighted in the Secretary General's reports. This became an area of focus in the discussions in 2001;
- Precautionary and preventive measures were seen as an important strategy, with emphasis on the training and preparation of crew and seafarers, especially in regions where incidents of piracy and robbery at sea are likely to occur;
- It was acknowledged that the ability of States to respond effectively is substantially enhanced when regional cooperation arrangements are in place – arrangements such as a network of contacts;
- The discussions also identified useful prospects of advice and assistance from agencies like IMO and particular Governments (e.g., Japan) to authorities in vulnerable regions, especially with respect to common approaches to enforcement techniques and capacity building.

### Protection of the marine environment

- The focus on the protection and preservation of the marine environment is both urgent and clear. We need to enhance true understanding of the world's oceans and seas and to seek maximum value from what has been called the oceans' "contribution of eco-system services". At the same time there is need to minimize problems to its potential, especially through the protection of the marine environment and resources.

### Capacity building

- Urgently and repeatedly, in the Consultative Process as in so many other fora, concern has been expressed about the lack of capacity. Many countries, in particular developing countries, especially the least developed countries and small island developing States simply do not have the capacity to implement UNCLOS and chapter 17 of Agenda 21. In the discussions, emphasis was placed on regional co-operation and integrated ocean management.

On all occasions, the contributions by a wide range of presenters, and the ensuing discussions, were comprehensive and highly informed.

### **Reports of the Consultative Process**

The reports of each of the three meetings of the Consultative Process have followed an agreed format composed of three parts:

- Issues to be suggested and elements to be proposed to the General Assembly;
- Co-chairpersons summary of discussions; and
- Issues for consideration for possible inclusion in the agenda of future meetings.

In doing so, particular emphasis has been put on identifying areas where co-ordination and co-operation at the inter-governmental and inter-agency levels could and should be enhanced.

The material for submission to the General Assembly, as well as the statement of issues for possible future consideration, reflect the consensus of the meeting.

The Co-Chairpersons' summary of the discussions, though prepared on the responsibility of the Co-Chairpersons, bring together the ideas put forward which command support and amended in the light of the comments made in the course of the plenary sessions or subsequently within an agreed time-frame.

### **WSSD linkages**

I should mention that for the third meeting of the Consultative Process in April this year, it was decided to take up again the subject of the protection and preservation of the marine environment, a subject already discussed at its first meeting, in part in order to better co-ordinate the work of the Consultative Process with the preparations for the World Summit on Sustainable Development.

I should also draw attention to the several paragraphs in the Johannesburg Plan of Implementation that deal with the oceans. We can all find satisfaction in knowing that whereas in the first drafts of the Plan there was

hardly a word about oceans, the final provisions are really quite comprehensive. These provisions underscore the fact that oceans, seas, islands and coastal areas form an integrated and essential component of the Earth's ecosystem and are critical for global food security and for sustainable economic prosperity and the well-being of many national economies, particularly in developing countries. Ensuring the sustainable development of the oceans requires effective coordination and cooperation, including at the global and regional levels, between relevant bodies, and actions at all levels to implement a whole range of specific tasks that are detailed in the Plan of Implementation.

I think the significant point is that the language on integration and the emphasis on coordination in the Plan of Implementation could be drawn directly from the reports of the Consultative Process.

The work of the Process is noted in the Plan of Johannesburg, and the fact that its role is to be reviewed by the General Assembly this year.

### **Assessment**

So, where have we come with the Consultative Process? Some of you have asked for my assessment.

A past Co-Chairman does not make such assessments, in part because later this year, the General Assembly will need to review the effectiveness and utility of the Consultative Process and decide on how to go forward.

Let me, however, very much in my personal capacity, offer a few observations.

First, I believe those that those who will write and assess the history of the Consultative Process will probably agree on the importance of resolution 54/33 of the General Assembly that established the Consultative Process. There were, in fact, many obstacles in the way, not the least of which the concerns over setting up yet another body or institution. Those of you who took part in the 7<sup>th</sup> session of the Commission on Sustainable Development will remember the arguments and resistance raised.

Given these circumstances, expert commentators have expressed the view that the resolution of the General Assembly and the establishment of the

Consultative Process represent a very significant breakthrough in the process of building a global system of ocean governance. I would agree. If she were here today, I know that the late Professor Elisabeth Mann Borgese and the authority of her singular contribution would also agree.

At this point, of course, we have the benefit of viewing the Consultative Process three years after its establishment. Taking all aspects into account, noting in particular the active engagement of all parties in all three meetings and the outcomes of those meetings, I believe I can say that the Consultative Process had carried out its mandated work successfully and to every expectation.

Thirdly, I believe member States have sought to make positive use of the outcomes of the Process as is evident from the discussions in the General Assembly under the agenda item “oceans and the law of the sea” and the resulting Assembly resolutions during its 55<sup>th</sup> and 56<sup>th</sup> sessions. It seems clear from the reports of the consultations in the past three years, and from the terms of the resolutions on oceans and the law of the sea adopted by the General Assembly that the work of the Consultative Process is substantively useful if not, in fact, most commendably so. This, of course, is cause for satisfaction.

Above all, there is pressing need and demand for coherence in international coordination and cooperation. This has become a constant refrain in almost every aspect of the law of the sea. Understandably and expectedly, the international community needs to look to fora such as the Consultative Process for clear indications of concrete measures. I believe the Process has good potential to respond. It is, indeed, the very rationale for its existence.

Finally, let me say that I believe that the structure and discipline of the format and arrangements for the discussions and meetings of the Consultative Process have contributed substantially to its outcomes. As noted, they were the subject of consultations and consensus. I have no doubt that these are the necessary ingredients for positive results and success - if the Consultative Process were to continue.

Thank you.