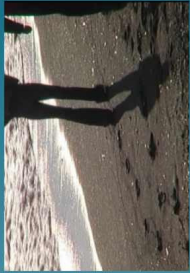




The International Ocean Institute is represented at the
**9th Session of the Open-ended Informal Consultative Process
on Oceans and the Law of the Sea (ICP)**
UN Headquarters, New York



Dr Awni Behnam, President, International Ocean Institute, attended the Ninth Session of the **Open-ended Informal Consultative Process on Oceans and the Law of the Sea** held in New York, 23-27 June 2008. During the meeting, he presented a statement to the floor on the position of IOI especially with regards to **capacity development, IUU fishing and food security, and the responsibility of flag States.**

We invite you to read through this statement, included in its entirety below.

*Left: Dr Awni Behnam speaking during ICP9
Photo courtesy of <http://www.iisd.ca/oceans/icp9>*

Statement by Dr. Awni Behnam, President, International Ocean Institute (IOI)

Co-chairs, Distinguished Delegates,

On behalf of IOI I wish to extend our deep appreciation and congratulations to the UNDOALOS Secretariat for the excellent and comprehensive report (A/63/63). The report has addressed maritime security and safety in its fullest implications and has not shied from addressing even the most controversial and difficult issue. The message we take from the report is that there is no dearth of governance tools and legal instruments. The problem lies in effective exercise of jurisdiction and control, implementation, compliance and political will to do so. We also recognise that the wider implication of new and emerging challenges in maritime security necessitates a reinforcement and coherence of existing legal regimes.

We are pleased to note that the nexus of food security, migration and climate change has been recognised as an important part of the debate. Humans have yet to learn how to live with the ocean and from the ocean, maximising its abundance and generosity and respecting its majesty by protecting its resources. That is why in our flyer circulated at this forum we call not only for short term measures to meet urgent critical needs but also for a significant increase in long term productivity and search for new ocean products in order to respond to the United Nations Secretary General call to address the global food crisis. We also recognise the link between achieving the MDGs and the debate we are having in this session of the ICP.

The report of the Secretariat has rightly stressed two very important factors, namely the need for human and institutional capacity building particularly in the developing countries and the role and responsibility of flag States in meeting all the challenges of maritime security. On the issue of flag State, we continue to believe that the problem lies in the root cause: the failure of UNCLOS to define and mandate the genuine link. In half of the world's fleet, a genuine link between the vessels and flag States does not exist and so long as that situation persists the more unsavoury flag vessels will be outside international law or any form of jurisdiction and control. Tragically, this is all the more frustrating and destructive in fishing where the link between flags



of convenience and IUU fishing is so flagrantly apparent. We welcome the proposals in the report, particularly those in pars 105, 250 and 251 which contain elements of sanctions and performance standards which may help in tightening the noose. We also need to realise that flag State control on flags of convenience vessels engaged in fishing is a disingenuous proposition. Also, we concur with the proposals made by WWF and the ITF on Tuesday on meeting the challenges of flag State control.

Our founder, the late Elisabeth Mann Borgese, was instrumental in creating this forum and as long as we have this forum where we can have an open, free and inclusive debate we are confident that we will make the right choices to secure our oceans.

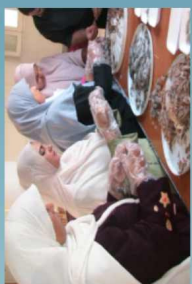
IOI stands ready to provide its capacity building and training experience in the service of developing countries.

Capacity Development

1. The report A/63/63 states that *"a crucial factor in global efforts to improve maritime safety is the availability of the necessary legal and administrative framework to ensure effective implementation and enforcement of relevant international instruments"*. *"Workshops and training missions conducted by Intergovernmental Organizations (IGOs) and Non-governmental Organizations (NGOs) can strengthen human and institutional capacities to allow an effective implementation of international instruments and thus contribute to overall maritime security"*.
2. There is a well recognised need to assist developing countries in implementing an integrated approach to maritime safety through training programmes. The delivery of technical capacities appears to be one of the most effective ways to ensure national and sustainable use of resources which will allow future generations to benefit in the short and long-term. Institutional and community capacity building are critical in addressing many of the maritime security challenges in developing countries.
3. In order to foster sustainable integrated approaches to coastal zone management, (including maritime safety and security), capacity building needs to be targeted as an integral part of implementation measures in all projects/programmes and not as separate training/education activities. It is for this reason that capacity building is a strategic element in the sustainable development of interdependent sectors, if development is to be sustainable and people centred.
4. Some valuable examples are given by *inter alia* Japan which has supported projects that aim to improve human resources and systems through training and the provision of essential equipment, such as the program that strengthens the capacity building for tuna resource management in the Pacific Island States. Another example is given by Mexico with its National Programme for the Management and Sustainable Use of Mangroves which aims at raising awareness of the importance of mangroves and the need to protect, conserve and care for them.
5. Chapter V of the resolution A/63/63 underlines the importance in improving cooperation and coordination relating to maritime safety. We believe the international community recognizes the importance of strengthening all the relevant national institutions involved in this field with regards to their organizational, managerial, technical and financial abilities to foster adequate steering capacities. In fact, cooperation plays an important role in order to allow a genuine link among all the entities particularly those involved in resource management.
6. Strengthening institutional capacities is also being recognized as a key step in order to develop conservation monitoring and evaluation programmes to meet the targets for the sustainable use of biodiversity and improve the cooperation and coordination called by the same Chapter V of A/63/63 in the field of maritime security and safety. An example in this direction is given by Norway's institutional cooperation between sister institutions and the cooperating country where cooperation may also include support to participation in international meetings.

IUU Fishing and Food security

7. Lack of information and cooperation is another serious challenge to many developing countries as deficiency of systems and equipment limits their capacity to take action against Illegal, Unreported and Unregulated (IUU) fishing in their EEZ. Therefore, to ensure viability of conservation and management measures it is essential for developing countries to strengthen their information capacity by establishing statistical infrastructures.



8. As the report A/63/63 underlined, “*food insecurity has been identified as one of the major threats to international peace and security*”. This is the reason why the international community emphasized the imperative to implement and ratify provisions, at the national level, of all relevant international fisheries instruments with particular attention to the UNFSA Agreement and the FAO Code of Conduct for Responsible Fisheries, to combat deter and eliminate IUU fisheries practices. National legislations should address IUU fishing and strengthen monitoring control and surveillance through a more effective regulatory and sanctions framework.
9. Notwithstanding increases in demand for fish and fish products, there are clear indications that IUU fishing has been closely associated with organized crime and other illicit activities such as actions to avoid detection, bribery and corruption, and the use of armed resistance to surveillance and enforcement operations. We believe, as a stakeholder in this field, that a major factor which gives rise to IUU fishing is the continued absence of certain flag states and lack of effective control by States over fishing vessels flying their flag.
10. This is the reason why we see the need for an enabling policy space to evolve on flag State control. There should be no compromise in the area of fishing and particularly the already mentioned IUU fishing. We therefore are looking forward for identification of actions that the international community will undertake to strengthen international efforts to eliminate IUU fisheries. It is a statement of fact to say that all States must strengthen their flag State duties by taking effective control of their flag vessels and that Port States, as a means of supporting flag State duties, must adopt fair, transparent and non-discriminatory measures that will serve to deter IUU fishing at the national, regional and international level, following the framework of the FAO Module Scheme on Port State Measures.

Responsibility of Flag States

11. From report A/63/63: “*The General Assembly has urged flag States without an effective maritime administration and appropriate legal frameworks to establish or enhance the necessary infrastructure, legislative and enforcement capabilities to ensure effective compliance with, and implementation and enforcement of, their responsibilities under international law and, until such action is taken, to consider declining the granting of the right to fly their flag to new vessels, suspending their registry or not opening a registry. It has called upon flag and port States to take all measures consistent with international law necessary to prevent the operation of substandard vessels*”.
We believe that the General Assembly has to move beyond friendly persuasion to binding commitments by the flag States.
12. In addition, regional approaches should be considered. As an example, in the field of fisheries, RFMOs have promoted better flag State control through encouraging non-contracting parties to adopt laws consistent with the instruments and conservation and management measures.
13. We strongly believe that targeted training courses such as the IOI training course for mid-career practitioners in the various maritime disciplines will contribute to greater understanding, harmonization and cooperation not only with regard to policies, but also with regard to implementation actions and adoption of best practices as those we have been fortunate to be exposed to date.

SUMMARY OF THE NINTH MEETING OF THE UN OPEN-ENDED INFORMAL CONSULTATIVE PROCESS ON OCEANS AND THE LAW OF THE SEA

The ninth meeting of the UN Open-Ended Informal Consultative Process on Oceans and the Law of the Sea (ICP-9 or Consultative Process) took place from 23-27 June 2008, at UN headquarters in New York. The meeting brought together over 400 representatives from governments, intergovernmental organizations, non-governmental organizations and academic institutions. Further information is summarized on <http://www.iisd.ca/vol25/enb2555e.html>