

NINTH BUSINESS MEETING OF ABLOS

Hydrographic and Oceanographic Department (JHOD)
Japan Coast Guard
Tokyo
October 23-25, 2002

Participants and sponsoring bodies

Members

Samuel BETAH, IOC (Cameroon)
Chris CARLETON, IHO (UK)
Bjorn Geirr HARSSON, IAG (Norway)
Tadahiko KATSURA, IHO (Japan)
Ron MACNAB, IOC (Canada), Chairman
Chris RIZOS, IAG (Australia), Vice-Chairman
Lars SJÖBERG, IAG (Sweden)

Observers

Dienaba BEYE, IOC (UNESCO)
Minoru SASAKI, JHOD, (Japan)
Shin TANI, JHOD, (Japan)

Absent

Alexander MARATOS, IHO (IHB)
SHI Xuefa, IOC (China)
Alexei ZINCHENKO, DOALOS (UN, ex-officio)

1. Opening statements and meeting arrangements

Hideo Nishida, Director-General of the Hydrographic and Oceanographic Department (HOD) of the Japan Coast Guard (JCG) welcomed visitors and wished them success in their deliberations. Tadahiko Katsura described the meeting arrangements and outlined the schedule of activities for the following days.

2. Designation of the Rapporteur

Chris Carleton agreed to serve as Rapporteur.

3. Review of the Agenda

The Agenda (Annex I) was approved with one addition proposed for Section 10 by Bjorn Geirr Harsson: a discussion of baselines in ice-covered areas.

4. Minutes of the Eighth Business Meeting

The Minutes (Annex II) were approved with no revisions proposed.

5. ABLOS membership

New members

Referring to the list of members (Annex III), the Chairman noted the appointment of new members Lars Sjöberg, Alexander Maratos, and Shi Xuefa, who replaced outgoing members Petr Vanicek (IAG), Neil Guy (IHO), and Jin Xianlong (IOC), respectively. In the absence of Alexander Maratos (on account of ill health) and Shi Xuefa (on account of his late appointment), the Chairman welcomed Lars Sjöberg to his first meeting. He also stated that he would communicate with Petr Vanicek and Neil Guy, thanking them for their contributions to ABLOS.

Financing members' participation

The Chairman invited a discussion of the funding mechanisms that are available to help members defray the expenses of their participation in ABLOS activities. Noting that the regrettable absence of Alexei Zinchenko was due to a shortage of travel funds at DOALOS, he expressed concern that such restrictions could impede the future work of ABLOS by depriving some members of the opportunity to engage in substantial discussion at the annual business meetings, or to participate in collective activities such as the organization and operation of the biennial Conferences. An understanding of these constraints, he suggested, ought to facilitate the planning of future activities in order to maximize the participation of all members. It was pointed out that one way of dealing with this situation was to arrange future gatherings at times and places that would capitalize on other events that were scheduled to take place within similar time frames and in nearby locations.

During the course of the discussion, it was clear that the levels and mechanisms for funding members' participation varied according to their parent organizations and to their ABLOS sponsoring bodies. IOC representatives, for instance, are funded by their sponsoring body in accordance with UNESCO standards. Two of the current IHO representatives are funded by their employers, i.e. national hydrographic offices; the third (absent) IHO member is believed to be funded by IHB. Of the three current IAG members, one is supported by his employer, i.e. a national geodetic survey; the remaining two are associated with academic institutions that provide little if any direct support - one has been able to draw upon a personal grant for research and operations, while the other is benefiting this year from an IAG grant. It is understood that the latter grant is renewed annually on case-by-case basis.

It was agreed that the Chairman would draft a letter to the ABLOS sponsoring bodies: (a) to acquaint them with the overall situation regarding mechanisms for funding member participation;

(b) to express concern about the potential impact of present arrangements upon the future effectiveness of ABLOS; and (c) to recommend, in the case of IAG and DOALOS, commitment to stable and predictable funding mechanisms that would facilitate advance planning by their sponsored representatives.

6. The 2001 ABLOS Conference

This event was reviewed for the purpose of identifying lessons learned that could suggest improvements for future conferences. It was felt that the inclusion of tutorials could have usefully complemented the plenary sessions by offering participants an opportunity to improve their knowledge of specific subjects. Holding the conference in Monaco offered a definite advantage, given the inherent attraction of the venue, not to mention the IHB facilities and services that were placed at our disposal. However, it was felt that the timing of the conference could have taken into account the dates of other meetings that might attract audiences with related and overlapping interests, which could have facilitated attendance for participants who had to travel long distances.

Other points and suggestions were raised at a later point in the meeting while planning the 2003 Conference, and they are covered in Section 11 below.

7. Report: international meetings

The Chairman presented a brief recapitulation of the contents of a report that had been circulated by e-mail earlier in the year to members, concerning his attendance at two international meetings:

IHO XVIth Conference

A report prepared by past Chairman Chris Carleton and outlining ABLOS activities (Annex IV) was submitted in written and oral form. From an IHO perspective, the dual mandate of ABLOS was formally recognized in an official Conference document, to wit: (a) respond to requests for advice from relevant international organizations and Member States on the hydrographic aspects of the UN Convention on the Law of the Sea; and (b) development of the interpretation of the Law of the Sea (Annex V).

IOC-ABE-LOS II

The IOC Advisory Body of Experts on the Law of the Sea is currently debating the implementation of internal procedures for dealing with marine scientific research projects that are being executed under IOC auspices in the exclusive economic zone or in the continental shelf of a coastal state (UNCLOS Article 247). IOC-ABE-LOS is also considering the definition of its role in facilitating the development and transfer of marine technology (UNCLOS Part XIV). Annex VI contains the relevant portions of UNCLOS. On completion of these two lines of discussion, it has been suggested that IOC/ABE-LOS turn its attention to issues related to the

definition of the outer limit of the juridical continental shelf, according to the provisions of UNCLOS Article 76.

ABLOS participated in this meeting in an observing capacity, and was invited to present a brief summary of its activities and interests. Lack of time precluded the delivery of this information, however a written report (Annex VII) was submitted for later circulation with the main meeting report.

8. International Law Association

The Chairman circulated a document (Annex VIII) that listed the membership and outlined the objectives of the ILA's Committee on the Legal Issues of the Continental Shelf. Headed by Judge Dolliver Nelson of the International Tribunal for the Law of the Sea, the Committee was established in the year 2000 to consider two aspects of the topic: "[1] the regime applicable to the continental shelf beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured and [2] the establishment of the limits of this area of continental shelf".

Membership in the Committee is open to ILA members who are formally nominated by their national branches. The Committee's current composition represents a cross-section of legal continental shelf specialists from around the world, complemented by two technical participants who also belong to ABLOS - Chris Carleton and Ron Macnab. Meetings occur annually, and provide a forum for debating issues that are potentially relevant to ABLOS - for instance, the Committee appears poised to consider the Rules of Procedure of the CLCS, including the confidentiality provisions (more on this below).

It is expected that cross-membership between ABLOS and the ILA will promote a greater dialogue between these two communities of specialists, thereby improving their overall effectiveness in dealing with the implementation and with the effects of Article 76.

9. CLCS confidentiality

The Chairman circulated a copy of a communication that he submitted earlier in the year (acting in a personal capacity) to the Chairman of the ILA Committee and to the International Boundaries electronic discussion group (Annex IX). This message followed a flurry of electronically-posted queries and comments that appeared to be prompted in large part by the mixed outcome of the recent submission of the Russian Federation. These postings reflected an emerging concern about the nature and appropriateness of the prescribed CLCS policy for depriving third parties of access to its proceedings and to the contents of its recommendations.

The Chairman's communication touched upon three effects of these confidentiality provisions that he considered undesirable: (1) denying other States (in effect co-owners of the Common Heritage of Mankind) an opportunity to examine the basis of any given continental shelf submission and to assess the rationale behind the Commission's response; (2) concealing the

details of previous CLCS decisions so that developers of submissions cannot benefit from the prior experience of other States; (3) conferring to members of the Commission (and to the countries that they represent) the unfair advantage of possessing inside knowledge that could be used to their benefit.

As an illustration of the sort of legal attention that this issue is beginning to attract, the Chairman circulated a copy of an article that was published recently by Judge Dolliver Nelson of the International Tribunal for the Law of the Sea, discussing at some length the operation of the CLCS (Nelson, L.D.M., *The Continental Shelf: Interplay of Law and Science*, in N. Ando et al. [eds], *Liber Amicorum Judge Shigeru Oda*, 1234-1253, 2002, Kluwer Law International).

In the ensuing discussion, it was acknowledged that CLCS confidentiality may pose problems in the future, and that the present reaction to the obscure outcome of the Russian submission may be a harbinger for the future.

10. Scope of future ABLOS activities

In the initial years of its existence, ABLOS has made significant contributions in raising, within its constituent marine communities, an awareness of the issues and problems that are associated with the interpretation and implementation of UNCLOS Article 76. Through two scientific conferences, ABLOS has also promoted a substantial exchange of views and information concerning many of those questions, and has played a key role in elevating the debate to a self-sustaining level.

Noting that it was time to consider other priority issues that impinge upon UNCLOS, the Chairman invited discussion aimed at identifying new opportunities and/or problem areas where ABLOS could usefully focus its attention and efforts in the near to mid-future. In the ensuing discussion, two topics (the relationship between vertical reference systems, shorelines, and baselines; delivery of advice and assistance in Article 76 training for developing states) emerged where it was considered that ABLOS could make a significant contribution; a third topic (prospects for exploiting biological resources of the deep seabed for pharmaceutical, engineering, and other applications) was identified, and while it was agreed that it lies beyond members' fields of competence, it was agreed that it deserved to be flagged as an emerging issue.

Vertical reference systems, shorelines, and baselines

Bjorn Geirr Harsson began the discussion with a review of the problems in defining baselines in areas where the position of the low water line cannot be determined on account of permanent ice cover, explaining how the Norwegian Government had recently established base points on the seaward edges of stable glaciers in parts of the Svalbard Archipelago (Annex X). This led to a consideration of the numerous and at times conflicting definitions and procedures that are applied in different parts of the world when specifying vertical levels, shorelines, and baselines; in that context, mention was made of emerging ISO standards that attempt to clarify the relationships between these parameters. These issues are dealt in a paper written by Nuno

Antunes of the Portuguese Hydrographic Service, which had been circulated to members prior to the meeting, courtesy of IBRU (Antunes, N., The Importance of the Tidal Datum in the Definition of Maritime Limits and Boundaries, Maritime Briefing, vol.2, no.7, International Boundaries Research Unit, 2000).

Undeniably, the subject is clouded by considerable misinformation and confusion among the user communities that require, or that seek to develop, clear and unambiguous descriptions of the coastal and near-shore zones. Imprecise knowledge of this physical framework was seen to court the real risk of undermining the formulation and the exercise of law in these zones. In this context, it was agreed that ABLOS could play a very useful role by promoting greater clarity, understanding, and consistency in the terminologies and practices involved in mapping and describing the characteristics of coastal and near-shore zones. It was further agreed that ABLOS could initiate this task by focussing on some key issues at the next Scientific Conference in 2003.

Article 76 training for developing states

The Chairman referred to a letter received from IOC Executive Secretary Patricio Bernal, inviting ABLOS cooperation in developing a curriculum based on the approved CLCS course outline (Annex XI). Initially, this curriculum would be used in a series of regional Article 76 training sessions designed specifically for African nations. This initiative is being pursued at the request of, and under the direction of, a Steering Committee consisting of representatives from interested coastal States. It was explained that IOC and the Steering Committee would appreciate advice and assistance from ABLOS in three specific areas:

- 1) Developing and organizing the contents of a ten-day introductory program, consisting of the basic CLCS curriculum with significant technical enhancements that would promote a practical understanding of the principles involved.
- 2) Formulating a strategy for delivering three levels of training, i.e. Introductory, Intermediate, and Advanced, over a six- to seven-year interval.
- 3) Nominating prospective instructors with appropriate qualifications, and identifying States that are most in need of training.

It was generally agreed that ABLOS will consider requests for advice and assistance within members' fields of competence; at least two individuals expressed a readiness, circumstances permitting, to provide direct assistance in the design and delivery of course material. Also, in response to a request for an ABLOS representative on the African Steering Committee, Samuel Betah was nominated to that post.

Biological resources of the deep seabed

Information was provided on ISA's interest in the biological resources of the deep seabed that

have potential application in the development and production of pharmaceutical, engineering, and other non-traditional products. With the growing realization that the deep ocean floor is replete with unknown and unusual life forms that may hold significant commercial potential, it seems appropriate to promote the development of a greater understanding of their characteristics, their populations, their life cycles, and their interactions with the deep sea environment.

Members agreed that many problems are likely to attend the identification and exploitation of these organisms, which were barely known to exist as UNCLOS was taking form. It was recognized that this topic lies beyond the ABLOS members' fields of competence, however with the prospect of commercial pressures that could force the premature and destructive development of these resources, it was decided that the topic should be flagged as an emerging issue that will require early and competent attention.

One final query concerning the future direction of ABLOS dealt with the prospect of a more active engagement in topics that were essentially of a legal, as opposed to technical, nature. This would necessitate the addition of some legal expertise to the ABLOS membership, a possibility that had been discussed in previous years. It was recalled that this question had been dealt with by inviting DOALOS to appoint a representative who would serve in an ex-officio capacity, and who would provide advice and guidance concerning the finer points of UNCLOS.

11. The 2003 ABLOS Conference

A lengthy discussion took place concerning major aspects of the Conference. Final decisions were not reached in all areas, pending consultation with Alexander Maratos concerning the scope and nature of IHB's involvement in making arrangements and in providing conference support services. Chris Carleton agreed to seek an early meeting with Admiral Maratos in order to review possibilities in this respect.

Format

It was agreed that the next Conference would open with a series of introductory or review tutorials lasting about one day, followed by plenary sessions lasting about one and a half days. It was considered that this format would appeal to a wide range of participants with different interests, and at varying levels of knowledge. The tutorial series would also give ABLOS a better measure of control over content, as tutors would be selected on the basis of their demonstrated expertise and would be requested to deliver lectures on specific topics relating to that expertise. The plenary sessions, on the other hand, would be organized in the expectation of attracting papers with few or no constraints on the nature of their subject matter.

Theme

It was agreed that the theme should be fairly broad in order to attract a reasonable number of

presentations, with an audience to suit. The following was proposed as a working title: "Addressing difficult issues in UNCLOS". This or a variation thereof would be complemented with three or four sub-headings that emphasized the multidisciplinary nature of the Conference, and which invited experts operating in the legal-technical interface to present their views on current issues or situations.

Date and venue

For the benefit of participants who need to travel long distances, it was strongly recommended that the Conference be scheduled at a date immediately prior to or following another meeting that addresses related topics. In 2003, for instance, the International Association of Institutes of Navigation is holding its conference in Berlin from October 21 to 24. It would be convenient therefore to consider scheduling the ABLOS Conference for the following week, say from October 28 to 30 (Tuesday to Thursday, inclusive). A suggested timetable would be to hold the ABLOS business meeting on the Sunday and Monday preceding the Conference, with tutorials to follow on Tuesday, and plenary sessions on Wednesday and Thursday.

For the time being, it is assumed that the facilities and services of the IHB will be available as in previous years, but this has to be confirmed with the appropriate authorities. Related issues that need to be addressed in this context are: the role of the IHB in handling registrations; advising on accommodations in Monaco; preparation of Conference Proceedings; etc. The Chairman will communicate with Admiral Maratos concerning the need for detailed consultation on these questions, and Chris Carleton agreed to serve as the main point of contact for these exchanges.

As a fallback option in case IHB is not in a position to maintain its previous levels of support, Dienaba Beye suggested that IOC/UNESCO might be prepared to host the Conference at its Paris location, but this would require consultation with the authorities in her office. She agreed to make some preliminary inquiries in that respect. In this light and taking into account IOC's language policies, the question was posed whether Conference Proceedings could be translated into French, however it was pointed out that ABLOS lacks the resources to commit to such a procedure.

Appointment of Organizing Committee

The following were appointed:

Chairman of the Conference:	Ron Macnab
Co-Chairman and Liaison with IHB:	Chris Carleton
Coordinator of Plenary Sessions:	Bjorn Geirr Harsson
Coordinator of Tutorial Sessions:	Chris Rizos
Registration:	Chris Rizos
Announcements and Publicity:	Ron Macnab
Proceedings:	IHB?

Local Arrangements: IHB?

12. Revisions to the TALOS Manual

The Chairman reported that except for a set of revisions to the Manual's geodetic content, there was little overall progress to report since the last Business Meeting. He considered that the main reason for this state of affairs was the lack of a committee chairman who could assume the responsibility for managing the project. Given that ABLOS is mandated in its Terms of Reference to maintain the TALOS Manual, there was general agreement that the task had to be continued, and that a new Editorial Committee should be appointed to continue the work under the leadership of a formal chairman.

After some discussion, Samuel Betah and Lars Sjöberg agreed to serve on the editorial committee as specialists in geoscience and geodesy, respectively. It was considered that IHB might consent to having one of its staff serve as a specialist in hydrography, and Chris Carleton agreed to take up this question in his proposed discussion with Admiral Maratos.

13. Other business

Re-nomination of ABLOS members

Chris Carleton noted that all ABLOS members except for this year's three new appointees had to be replaced or re-nominated by next year's business meeting. The Chairman will contact the executives of IAG, IHO, and IOC to remind them of this requirement and to request that they take appropriate action.

Visit to HOD Survey Vessel SHOYO

During the afternoon of October 24, meeting participants were escorted by Tadahiko Katsura and Shin Tani to Tokyo Harbour, where they boarded the SHOYO for a comprehensive tour. All were impressed with the condition of the vessel, with its technical capabilities, and with the expertise of the shipboard personnel.

Mini Workshop on UNCLOS

During the forenoon of October 25, a series of four lectures was arranged for HOD staff. Titles of the talks were "The Ridge Issue" (by Chris Carleton), "UNCLOS Article 76: Implications for Wide-Margin Coastal States", "UNCLOS Article 76 and the Arctic Ocean" (both by Ron Macnab), "The Article 76 Program of the Hydrographic and Oceanographic Department, Japan Coast Guard" (by Shin Tani). Abstracts of these talks are contained in Annex XII.

14. Recommendations to IAG, IHO, IOC

It was agreed that the Chairman would prepare a covering letter to accompany the meeting

report, highlighting topics that require attention and/or early action.

15. Close of meeting

The date and venue of the Tenth Business Meeting were left unspecified, pending consultation with IHB.

The Chairman thanked Director-General Hideo Shishida, Tadahiko Katsura, Shin Tani, and all other HOD staff for their efficient meeting arrangements, for the evening dinner and reception, and for serving as knowledgeable guides during mealtime excursions in the surrounding neighbourhoods.

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- V Extract from IHO document: Hydrographic Surveying and Law of the Sea
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- VII ABLOS Briefing Paper for IOC-ABE-LOS
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