

Dispute resolution mechanisms and final clauses

9 September 2016

Greenpeace intervention

Thank you Mr. Chair, and good morning delegates. This intervention is being given on behalf of the Greenpeace and the High Seas Alliance and is about dispute resolution.

We believe that the new Agreement should include a streamlined dispute settlement mechanism to resolve disputes rising from the implementation of the Agreement expeditiously, enhancing and building on contemporary global dispute mechanisms. It should support good governance, transparency and accountability. Areas that can be relevant include opt-out mechanisms, compliance as well as overall dispute resolution.

The mechanism or mechanisms should be accessible, rapid, transparent and cost-effective. We agree with Mexico, Iran, and Barbados on behalf of CARICOM that existing mechanisms under UNCLOS, including ITLOS, are a good starting point but at the same time they are not sufficient. Other mechanisms integrated into the agreement are necessary for resolving ongoing issues to ensure good governance.

Mr Chair, transparency and accountability means that we need to take a progressive approach towards dispute settlement. In particular, the Espoo Convention, with its implementation Committee, and the Aarhus Convention, with its Compliance Committee, show contemporary approaches, whereby matters can be initiated by Parties, the Committee itself or NGOs. The complaints are considered by the committee, which then makes recommendations. This gives the Meeting of the Parties the opportunity to consider and resolve difficulties and is a very important method of contemporary enhanced dispute resolution.

One small example of how to integrate good governance and dispute resolution is the South Pacific RFMO Convention, where a Party can implement an opt-out mechanism, which allows the measure to go forward and at the same time offers an opportunity for the State concerned to go to arbitration in the Hague over the matter. That has been used successfully and is widely seen as being best practice, as was evidenced in the recent outcome of the Fish Stocks Review Conference.

So in conclusion, Mr Chair, we suggest that delegates look to the Aarhus Convention, the Espoo Convention and SPRFMO opt-out provisions for inspiration in designing effective and appropriate transparent dispute resolution mechanisms which enhance good governance.