



**TWELFTH MEETING OF THE MONITORING COMMITTEE
OF THE CDCC**

12 May 2005, Port of Spain, Trinidad and Tobago

LIMITED
MONCOM 12/5
LC/CAR/L.37
27 April 2005
ORIGINAL: ENGLISH

**RECENT DEVELOPMENTS IN RELATION TO THE PROPOSAL FOR SECURING
THE INTERNATIONAL RECOGNITION OF THE CARIBBEAN SEA AS A SPECIAL
AREA IN THE CONTEXT OF SUSTAINABLE DEVELOPMENT**

Introduction

In document LC/CAR/L.3 (CDCC 20/Inf.4) which was presented by the secretariat to the twentieth session of the Caribbean Development and Cooperation Committee (CDCC), which convened in St Croix, United States Virgin Islands, on 22-23 April 2004, a survey was undertaken of developments in relation to the proposal for the international recognition of the Caribbean Sea in the context of sustainable development from its inception at the November 1997 Economic Commission for Latin America and the Caribbean (ECLAC)-sponsored Caribbean Ministerial Meeting on the Implementation of the Programme of Action for the Sustainable Development of Small Island Developing States, to March 2004.

The document also reviewed, in some detail, the technical work that had been undertaken within the subregion, as well as the results of the political demarche that had been launched within the United Nations General Assembly which had, by then, adopted three resolutions on the subject, under the modified nomenclature: Promoting an integrated management approach to the Caribbean Sea area in the context of sustainable development. The document also incorporated a review of the major geographical, political, legal and technical contexts in which the Caribbean Sea proposal had been conceptualized and adduced a number of issues to account for the less than optimal degree of progress that had been recorded with respect to the further development and, consequently, the endorsement and implementation of the proposal by the wider international community.

As regards the evaluation of progress in promoting the Caribbean Sea proposal in the United Nations General Assembly, this was undertaken mainly by reference to the content of the resolutions that had so far been adopted, in particular resolution 57/261, whose content was reviewed in relation to that of its immediate predecessor, resolution 55/203.

Summary review of General Assembly resolutions 54/225; 55/203; 57/261; and 59/230

All four resolutions share the nomenclature, Promoting an integrated management approach to the Caribbean Sea in the context of sustainable development and reflect some progress, albeit of modest proportions, in the development of the Caribbean Sea proposal towards its endorsement by the wider international community. Overall, the fact that four resolutions have been adopted on a proposal in respect of which only marginal substantive progress has been demonstrated within the subregion itself is a remarkable achievement. This might plausibly be interpreted as reflecting the basic political merit of the initiative, though it would be dangerous to take such a critical element for granted. Some form of progress might also be construed from the perspective of the length of the respective resolutions, reflecting continuous amplification of the treatment of the subject matter. The last resolution 59/230, which was adopted on 16 November 2004, at the fifty-ninth session of the General Assembly, occupied approximately 5 ½ pages, compared with 4 2/3; 3 2/3; and 3 pages in the case of its predecessors. The scope as well as the intensity of the coverage of issues also varies among the respective texts.

By way of summary review, overall, the resolutions:

a) From the political/strategic perspective

- Entrench the idea that the integrated management approach to the Caribbean Sea area should be pursued in a context of regional cooperation. On this basis, the corresponding reference in operative paragraph 4 of resolution 57/261, for example, might be construed as recognition of the significance of the Caribbean Sea as a semi-enclosed sea, even in the absence of a specific reference to articles 122 and 123 of the 1982 United Nations Convention on the Law of the Sea which set out the regime of “Enclosed or Semi-Enclosed Seas”.
- Recognise the fragility of the Caribbean Sea ecosystem; the large number and interlocking character of the maritime areas under national sovereignty and jurisdiction and the challenges thus presented to the management of resources; the economic vulnerability of the countries of the subregion, as well as their vulnerability in respect of, inter alia, climate change and natural disasters; the limited resource base of the economies of the subregion; their need for financial resources; the existence of social problems, including high levels of poverty; and the opportunities and challenges of globalisation, particularly as these relate to the SIDS of the subregion;
- Entrench the recognition of the Association of Caribbean States (ACS) as the mechanism that spearheads the initiative and as the subregion’s interlocutor with the Secretary-General of the United Nations on this matter;
- Invite the ACS to submit a report to the Secretary-General of the United Nations on progress in the implementation of resolutions 55/203 and 57/261 at the sixty first Session of the General Assembly, which provides the subregion with yet another opportunity, which should be very firmly grasped, to significantly advance this issue;
- Recognise, notwithstanding a pervasive environmental thrust, inter alia, the heavy reliance of most Caribbean economies on their coastal areas, as well as on the marine environment, in general, to achieve their sustainable development needs and goals. Explicit recognition is also given to the diversity and dynamic interaction and competition among socio-economic activities for the use of the coastal areas and the marine environment and their resources; and the importance of the Caribbean Sea to the heritage, economic well-being and sustenance of Caribbean peoples.
- Prompt the international community, the United Nations system, the multilateral financial agencies, as well as the Global Environment Facility (GEF), within its mandate, to provide support to the approach to the Caribbean Sea proposal, in a context which clearly entails that such support would be financial;

- More generally, call upon the international community to continue to support the efforts of the ACS to further implement General Assembly resolutions 55/203 and 57/261;
- Identify some of the more important international Conventions and other instruments that might be relevant to the further development of the Caribbean Sea proposal. Resolution 57/261 alone mentions over a dozen significant treaties, declarations and other instruments in that regard. Among the instruments mentioned in the resolutions under reference are the 1982 United Nations Convention on the Law of the Sea; the Rio Declaration on Environment and Development; Agenda 21, the SIDS Programme of Action; the outcomes of the twenty-second special session of the General Assembly; the Johannesburg Declaration on Sustainable Development; the Johannesburg Plan of Implementation; the Cartagena Convention and its Protocols; and Instruments developed within the International Maritime Organization (IMO).

b) From the technical perspective

- Identify a range of elements that may be incorporated into the proposed regime for the “special area in the context of sustainable development” and which would need to be addressed within a technical group, such as the Technical Advisory Group (TAG) established by the ACS. Among the elements identified are environmental protection, including from land-based sources of marine pollution and the threat of pollution from ship-generated waste, embracing the dumping or accidental release of hazardous and noxious substances, radioactive materials, nuclear waste and dangerous chemicals; the importance of containing environmental damage in the event of an accident or incident relating to maritime transport, taking into account the fragility of the ecosystems; maritime boundary limitation; fisheries; protection of biodiversity; the need to address poverty, issues related to globalisation, trade-liberalisation, climate change and disaster management, including risk reduction and the establishment of early warning systems; the heavy socio-economic reliance on the coastal environment and the marine environment; transport; and the need for countries of the subregion to effectively participate in all relevant multilateral environmental and other Agreements.

In addition to the foregoing, particular attention is drawn to the references in the preambles of each of the resolutions so far adopted, to “the concept of the Caribbean Sea as an area of special importance in the context of sustainable development”. Such references might be approached as embodying an as yet unexploited, strategic political acquis at the disposal of the Caribbean subregion. Preambular paragraph 25 of resolution 59/230, for example, reads as follows:

Noting the efforts of the Caribbean countries, within the framework of the Association of Caribbean States, to develop further support for their concept of the Caribbean Sea **as an area of special importance**, in the context of sustainable development and in conformity with the United Nations Convention on the Law of the Sea.(Emphasis added.)

In this regard, it will be recalled that the original proposal that was rejected by the General Assembly, at its fifty-fourth session, was for the international recognition of the Caribbean Sea as a **special area in the context of sustainable development**. The rationale advanced in the course of the debates in the General Assembly for the rejection of that formulation was to the effect that the term “Special Area” had already been entrenched within MARPOL 73/78 and that it had become a term of art, by virtue of the special meaning that had been attached to it, in that context. In the circumstances, the formulation so far adopted with respect to “an area of special importance in the context of sustainable development” might be exploited to secure the type of traction that was anticipated in the original formulation, even as operative paragraph 4 of resolution 59/230, for example, “Encourages the further promotion of an integrated management approach to the Caribbean Sea area in the context of sustainable development...” It can be expected that the negotiating skills of the subregion will be tested on this particular issue, among others, but with adequate preparation, this hurdle could be overcome. In any event, the repetition of the “area of special importance” concept in all the resolutions, as mentioned, must be regarded as a very useful and strategic achievement.

Notwithstanding this very important element the aspect of “international recognition” remains critical, since the alternative nomenclature which addresses “Promoting an integrated management approach” that has been endorsed by the General Assembly, has the effect of detracting from the acceptance of any specific commitment or responsibility on the part of the wider international community, to the implementation of the proposal, thus placing the burden of implementation on the countries of the Caribbean subregion, which are not in a position to bear it.

Also of great significance, is the recognition that the resolutions so far adopted, represent a significant contribution to the identification of some of the more important elements of the work programme that must be executed by the countries of the subregion towards the further development and eventual implementation of the Caribbean Sea proposal.

It is envisaged that this summary review of selected aspects of the four resolutions that have been adopted by the General Assembly in relation to the Caribbean Sea proposal, will provide important background elements for the appreciation of the step-level progression that needs to be recorded in the submission of the ACS, on behalf of the subregion, to the sixty-first session of the General Assembly in 2006.

Finally, in this context, notwithstanding the progress that has been made, interestingly enough, the major outstanding issue remains the clear and comprehensive definition of what is to be understood by “a special area in the context of sustainable development”. What would such an arrangement “look like”? What type of institutional arrangements would be necessary for its management? Who would be the managers? What issues would it address? How would the activities be financed? Would a regime of sanctions be incorporated? How would this be enforced? Fundamentally, how would the involvement of the non-CDCC States, countries and territories of the subregion be ensured and factored into the process? Only when issues such as these are properly addressed and resolved, would firm and steady progress be recorded, bearing in mind that the regime in question would most certainly need to be progressively developed in stages over an extended period. A copy of each resolution adopted by the General Assembly on the Caribbean Sea proposal is attached.

Towards the further development of the Caribbean Sea Proposal: Towards the sixty-first session of the General Assembly and beyond

In approaching the task of the further development of the Caribbean Sea proposal, delegations will recall the decision adopted at the nineteenth session of the CDCC which convened in Port of Spain, Trinidad and Tobago, 14-15 March 2002, according to which the ECLAC/CDCC secretariat was to assume the lead role in the execution and coordination of the technical work to be undertaken towards the further development and implementation of the Caribbean Sea Proposal as it related to the CDCC membership. The issue of that mandate reflected the deep concern on the part of the CDCC membership with respect to the very limited progress that had been made in advancing the proposal whose further development and early implementation were recognised to be critically important to the sustainable development of the subregion.

As subsequently reported to the Committee, this development within the ECLAC/CDCC was communicated by the then Director of the Subregional Headquarters of ECLAC for the Caribbean, to the Secretary-General of the ACS, in the course of consultations held at the ACS Headquarters, on 25 March 2003. On that occasion, a corresponding division of labour was adopted, in which context the ACS would retain political leadership of the process, while ECLAC would proceed with the leadership of the technical work.

Notwithstanding this agreement, the ACS proceeded to convene the First Meeting of the ACS TAG on the Caribbean Sea proposal on 26 May 2003. Not only did the ECLAC Secretariat accept the invitation to be represented, but it also made available to the TAG, the two studies that had been earlier commissioned by ECLAC/CDCC and which were the focus of the Panel Discussion in the context of which the agenda item on the Caribbean Sea proposal was treated at the Eleventh Meeting of the Monitoring Committee which convened in Puerto Rico, on 10 April 2003.

By way of follow-up to the deliberations of the TAG, the work programme generated by its deliberations informed the Terms of Reference of a consultancy jointly sponsored by the ACS and ECLAC secretariats. The final Report of this consultancy was received in July 2004. While

this date proved too late for the consideration of the Report at the twentieth session of the CDCC, it was nevertheless in time to inform the presentation of the Progress Report by the ACS to the fifty-ninth session of the General Assembly, as requested in General Assembly resolution 57/261.

Also, in response to the provisions of operative paragraphs 8, 12, 13 and 15 of General Assembly resolution 57/261 of 20 December 2002, this Subregional Headquarters transmitted to the SIDS Unit of the Department of Economic and Social Affairs (DESA) of the United Nations, on 10 May 2004, a submission entitled Contribution of the Subregional Headquarters of the Caribbean to the implementation of General Assembly Resolution 57/261. This timely submission of the contribution of ECLAC to the General Assembly report on resolution 57/261 was acknowledged by DESA “with sincere appreciation”, in correspondence of 11 May 2004. In this regard, it will be recalled that in paragraph 8 of resolution 57/261, the General Assembly, inter alia, “Calls upon the international community to support the efforts of the Working Group of Experts on the Caribbean Sea initiative of the Association of Caribbean States to further implement resolution 55/203....”

More recently, in April 2005, in an effort to revive subregional interest and activism in connection with the further development of the Caribbean Sea proposal, the initiative was taken by the ECLAC Secretariat to urge the ACS to reconvene the TAG at the earliest opportunity and also to propose that the report of the consultancy, jointly sponsored by the two organizations, be thoroughly reviewed in order to identify those critical aspects that could be brought to bear on the overall process. In this regard, it was proposed that the composition of the TAG be reconfigured to reflect the appropriate range of skills required at this stage of the exercise. The ECLAC Secretariat also indicated its readiness to formally receive any comments that the ACS might wish to formulate on the report of the jointly-sponsored consultancy. The report would be incorporated into a work programme and position paper to be prepared by the ECLAC Secretariat for joint review and presentation by the two organizations as the major input into the next meeting of the TAG. It is expected that the CARICOM Secretariat would continue to be involved in the exercise.

Delegations are invited to:

Note the more recent developments in relation to the proposal for securing the international recognition of the Caribbean Sea as a special area in the context of sustainable development;

Consider the steps being taken, as well as envisaged by the ECLAC Secretariat towards re-launching the process for the further development of the Caribbean Sea proposal;

Formulate such recommendations as they deem appropriate with respect to the further development, promotion and eventual implementation of the Caribbean Sea proposal, taking into account, inter alia, the need for simultaneous, coordinated action with the non-CDCC States, countries and territories of the subregion.