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## SUMMARY

This document contains the report of the Informal Meeting of the States Parties to the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (the UN Fish Stocks Agreement) which was held in New York, from 30 to 31 July 2002. A set of recommendations was agreed upon by the Informal Meeting of the States Parties at the end of the meeting. The major items of discussion were: review of the implementation of the UN Fish Stocks Agreement by States Parties and implementation through regional fisheries management organizations; specific consideration of Part VII of the Agreement, including a review of Part VII provisions, establishment of a programme of assistance within the Agreement, facilitating a background study of Part VII and the involvement of international financial institutions in the implementation of Part VII; the scope and content of the annual report of the Secretary-General on the Agreement; preparation for the Review Conference; future of the General Assembly resolutions on fisheries-related issues; timing and venue of next Informal Meeting; and recommendations to the 57th session of the United Nations General Assembly.

## I. INTRODUCTION

1. In its resolution 56/13, para.6 of 28 November 2001, the General Assembly requested the Secretary-General, once the Agreement enters into force, to consult with the States Parties to the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (the UN Fish Stocks Agreement), for the purposes and objectives of, inter alia, considering the regional, subregional and global implementation of the Agreement; making any appropriate recommendations to the General Assembly on the scope and content of the annual report of the Secretary-General relating to the Agreement ; and preparing for the review conference to be convened by the Secretary-General pursuant to article 36 of the Agreement.
2. The General Assembly also called upon States to provide assistance to developing States and, noting the importance of participation of developing States in forums in which fisheries were discussed, invited them, once the Agreement entered into force, to review the implementation of the provisions of the Agreement (Part VII) calling for assistance for developing States and to facilitate the establishment of a programme of assistance within the Agreement. To this effect, the Assembly requested the Secretary-General to include in his next report on the status and implementation of the Agreement a background study on the provisions of Part VII of the Agreement concerning the requirements of developing State, taking into account existing arrangements and assistance to developing States that may be relevant under the Agreement, as well as suggesting possible forms of assistance.
3. The Assembly further invited States and international financial institutions and organizations of the United Nations system to provide assistance to developing States pursuant to Part VII, including, if appropriate, the development of special financial mechanisms or instruments to enable these States to develop national capacity to exploit fishery resources, including domestically flagged fishing fleet, value-added processing and expansion of their economic base in the fishing industry, consistent with the duty to ensure proper conservation and management of these fisheries resources.
4. Following the entry into force of the UN Fish Stocks Agreement on 11 December 2001, the Secretary-General convened an Informal Meeting of the States Parties to the UN Fish Stocks Agreement, which was held in New York, from 30 to 31 July 2002.

## II. ORGANIZATION OF WORK

### A. Opening of the meeting

5. The Director of the Division for Ocean Affairs and the Law of the Sea, Mrs. Annick de Marffy, opened the Informal Meeting of the States Parties.

### B. Election of the Chairperson

6. The Informal Meeting elected Mr. David Balton, Director, Office of Marine Conservation, Department of State (United States of America) as the Chairperson of the Informal Meeting of the States Parties by acclamation.

### C. Attendance

6. Representatives of the following States Parties participated in the meeting: Australia, Brazil, Canada, Fiji, Iceland, Iran (Islamic Republic of), Malta, Micronesia (Federated States of), Monaco, Namibia, Nauru, New Zealand, Norway, Papua New Guinea, Russian Federation, Samoa, Solomon Islands, Sri Lanka, Tonga, United Kingdom of Great Britain and Northern Ireland, United States of America and Uruguay.

7. Observers of the following States and intergovernmental organization attended the meeting: Argentina, Chile, China, Colombia, Czech Republic, Ecuador, European Commission, Finland, France, Germany, Holy See, India, Indonesia, Jordan, Kenya, Lebanon, Madagascar, Malaysia, Mexico, Myanmar, Panama, Peru, Philippines, Portugal, Republic of Korea, Singapore, South Africa, Spain, Sudan, Sweden, Thailand, Turkey, Ukraine, Venezuela, Yugoslavia and Zambia.

8. The following United Nations specialized agencies were represented: the Food and Agriculture Organization of the United Nations (FAO) and the World Bank.

### D. Adoption of the agenda

9. The Informal Meeting considered the provisional agenda of the meeting. Following a proposal by Australia to delete item X of the provisional agenda relating to the “Adoption of report and recommendation(s) to the United Nations General Assembly” and substitute it with a “Summary of discussions by the Chairperson to be submitted to the General Assembly”, the meeting adopted its agenda as modified (see **Annex I**).

### III. CONSIDERATION OF THE ISSUES

Item IV: Review of the Implementation of the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (UN Fish Stocks Agreement).

10. A number of States Parties provided information on measures they had taken at the national level to implement the relevant provisions of the Agreement. They referred to laws and regulations they had adopted, which incorporated in their provisions key elements of the Agreement. One delegation pointed out the role of its Fisheries Conservation and Management Act in the implementation of the Agreement, in view of the importance of highly migratory fish species such as Blue fin Tuna and Swordfish as main species targeted by its national fishing fleets. This delegation indicated that its law provided a clear structure for the enforcement of national fisheries all management regulation, through, the monitoring of the types and location of fishing activities being carried out, and the powers of enforcement at sea by Fisheries Protection Officers. Several delegations indicated that they had implemented the principles contained in the Agreement, through the adoption of new fisheries laws and regulations and through changes to fisheries management policies and programmes, where the application of the precautionary approach and the ecosystem approach, as well as the use of stock-specific precautionary reference points had been given vital importance. These laws and regulations also provided for an enhancement of flag States duties over fishing vessels flying their flag, including the requirement that all operators of national registered vessels that want to exercise fishing activities or transport fish on the high seas to hold high seas fishing permits and to abide with the conditions set up in such permits.

11. Other delegations underlined the importance of capacity building in developing States to allow them to give effect to their rights and obligations under the Agreement. They also provided information on the implementation of the Agreement in the respective region, including the adoption of recent regional agreements for the conservation and management of highly migratory fish stocks or straddling fish stocks, such as the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean and the Convention on the Conservation and Management of Fishery Resources in the South East Atlantic Ocean.

12. All States Parties emphasized the vital role of RFMOs in the implementation of the Agreement and importance for all States to ensure compliance with and enforcement of conservation and management measures of RFMOs. In this respect, one delegation drew attention on the need for RFMOs to adopt and apply surveillance and enforcement schemes. Another delegation stated that, prior to ratifying the UN Fish Stocks Agreement, it had adopted the necessary legislation to enable its fisheries officer to exercise boarding and inspection powers under the strict conditions provided in the Agreement to ensure compliance with conservation and management measures of RFMOs to which it is a party.

13. In addition to States Parties, some non-States Parties to the UN Fish Stocks Agreement contributed to the discussion on item IV of the agenda. One delegation pointed out that its country was hesitant to become a Party to the Agreement due to serious concern it had over the boarding and inspection provisions in articles 20 and 21 of the Agreement. The delegation was of the view that these provisions, on the one hand, had the potential to hamper traditional flag State principle provided in article 92 of the United Nations Convention on the Law of Sea (UNCLOS) and, on the other hand, could be abused by non-flag States. The same concerns had prevented it to participate in the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean. The delegation suggested that RFMOs should establish appropriate boarding and inspection procedures that would reflect balanced interests of high seas fishing States and coastal States. It added that these concerns should be properly addressed before its country could participate in the Agreement. It therefore hoped that the Review Conference would address these issues of concern for its country and other high seas fishing States, which undermined the effectiveness and universality of the Agreement. Another delegation however informed the informal consultations that it expected that the internal process in its country would be completed soon to allow it to accede to the Agreement. The delegation also underlined the importance of the provisions of Part VII of the Agreement.

14. The representative of the Food and Agriculture Organization of the United Nations (FAO) stated that the Organization, within its global mandate to facilitate international cooperation in the management of fish stocks has an ongoing interest to see the Agreement implemented successfully. He indicated the poor state of the world's marine capture fisheries warranted a concerted effort to ensure their sustainable utilization. For this purpose, FAO promoted the effective implementation of all regional and global instruments adopted after the United Nations Conference on Environment and Development (UNCED) intended to enhance fisheries management in general, and that of the two types of stocks in particular.

15. The representative of FAO indicated also that UNCLOS and the UN Fish Stocks Agreement provided the framework for strengthening the management of straddling fish stocks and highly migratory fish stocks and, as appropriate, for the establishment of new RFMOs where none currently existed, as well as for improving the management practice of existing ones. The representative emphasized the special role assigned to RFMOs or arrangements as key agents for the implementation of the Agreement. He added that the recent establishment of two RFMOs to manage straddling fish stocks and highly migratory fish stocks in regions where no competent organization existed previously was indications that steps were being taken to implement the Agreement at the regional level. The representative concluded by pledging the availability of FAO, within its mandate and available resources and subject to necessary approvals, to assist States Parties and cooperate with other UN agencies in implementing the Agreement.

16. The representative of the World Bank stated that the Bank had published in 2001 a guide for national legislators and legal drafters on how to incorporate the complex provisions of international legal instruments such as the UN Fish Stocks Agreement into their domestic laws. The guide based on approaches taken by States that had already adopted legislation to implement these instruments could lay options for legal approaches for States, which would consider to becoming Parties to the Agreement.

Item V: Specific consideration of Part VII of the Agreement, including the establishment of a programme of assistance within the Agreement in favor of developing States; facilitating a background study of Part VII of the Agreement and involvement of international financial institutions in the implementation of Part VII.

17. All delegations stressed the fundamental importance of the implementation of the provisions of Part VII to the successful implementation of the Agreement as a whole and, in particular, the assistance to developing countries for the realization of their rights and fulfillment of their obligations under the Agreement. Several delegations expressed the view that implementation of Part VII should also contribute to the promotion of sustainable fisheries worldwide and poverty alleviation, and endorsed the establishment of a programme of assistance in favor of developing States, as a complement to existing assistance at the bilateral, regional and global levels.

18. One delegation proposed the establishment of a voluntary trust fund for the benefit of developing States, in accordance with Part VII of the Agreement. All delegations agreed that one component of the assistance programme was the establishment of a voluntary trust fund for the implementation of the provisions of Part VII, in particular the objectives outlined in articles 25 and 26 of the Agreement, although some among them would reserve their final judgment until the details were worked out on such a proposal. A number of States Parties also shared the view that assistance from the trust fund should benefit primarily developing States Parties to the UN Fish Stocks Agreement, although suggestion was made that such a fund might be used to assist other States who were in transition to becoming States Parties to the Agreement.

19. Several States Parties further indicated that the trust fund should be explicitly linked to the implementation of Part VII of the Agreement. They suggested that a broader approach to capacity building should be maintained in implementing article 25 (Forms of cooperation with developing States) of the Agreement, so that other assistance tools, such as assistance through regional organizations and/or bilateral assistance could be enhanced.

20. The representative of the World Bank provided information on existing financial mechanisms administered by the Bank with involvement on fisheries issues relevant to the Agreement. These were the Global Environment Facility (GEF) and the Global Fisheries Trust Fund. GEF included among its focal areas of activities, issues of biological diversity conservation and high seas, both with fisheries components. The Global Fisheries Trust Fund provided financing studies in countries committed to moving towards sustainable fisheries management.

21. The representative of FAO referred to the Organization's experience on trust funds that had been established to enhance capacity building, monitoring, control and surveillance and strengthen RFMOs. He also highlighted the problems faced by FAO in managing such funds, in particular the difficulty in replenishing them.

22. With particular reference to the request to the Secretary-General under the terms of General Assembly resolution 56/13, para.8, for a background study on the provisions of Part VII of the

Agreement concerning the requirements of developing States, all delegations emphasized the importance of such a study. They stressed that the study should be completed before informed decisions could be taken on the establishment of a programme of assistance under Part VII of the Agreement, especially on issues related to the terms of reference of any trust fund. Delegations stated also that the study on the provisions of Part VII ought to be analytical in its approach, rather than a compilation of information. One delegation offered its assistance to the Secretariat for the preparation of the study.

23. As the next report of the Secretary-General on the UN Fish Stocks Agreement was due only at the fifty-eighth session of the General Assembly, and in order to accommodate States Parties who wished to be informed as soon as possible of any available programme of assistance, the Secretariat had offered to include in the website of the Division for Ocean Affairs and the Law of the Sea (DOALOS) any information on such programmes received by the Division before the completion of the report in 2003 pursuant to General Assembly resolution 56/13.

Item VI: Scope and content of the annual report of the Secretary-General; role of the report in monitoring implementation of the Agreement; changes in requested information and status of the report for parties and non-parties.

24. All delegations agreed that the report of the Secretary-General was a vital source of information relating to the implementation of the UN Fish Stocks Agreement. A number of delegations expressed however the view that the current format and method of gathering information for such report might need to be improved.

25. To this end, several delegations suggested that the request for information made by the Secretary-General to States, intergovernmental organizations and non-governmental organizations could be improved, through the use of questionnaires on specific issues that required to be taken for the implementation of the Agreement. Compiled answers to the questionnaires would be then analyzed by the Secretariat, using, as appropriate, comparative tables to this effect.

26. All delegations were of the view that the report of the Secretary-General should be henceforward structured on issues/themes basis, not on a State-by-State, or organization-by-organization basis, as that was the case in previous reports. They also indicated that such a report should continue to include information for the implementation of the Agreement provided by non-States Parties, in view of the duty of those States to cooperate under the relevant provisions of UNCLOS. Information that could be incorporated in the report would be posted in the website of DOALOS. In addition, a number of delegations expressed concern over the new restriction on the length of the reports of the Secretary-General on ocean affairs and the law of the sea.

27. The representative of the FAO made a statement on FAO's experience in requesting information from member States and relevant organizations, and offered to share such experience with DOALOS.

Item VII: Preparation of the Review Conference

28. All delegations indicated that it was premature to address at this time the question of the Review Conference. However, several delegations raised questions in relation to the resources needed by DOALOS to prepare for the Review Conference in 2006 and the timing for the General Assembly resolution requesting the convening of such a Conference.

29. The Director of DOALOS informed the Informal Meeting that a resolution adopted by the General Assembly in 2004 would be sufficient to request the convening of the Review Conference in 2006.

Item VIII: Future of the United Nations General Assembly resolutions on fisheries-related issues

30. All delegations, which expressed their views on this item wanted the two biennial General Assembly resolutions on fisheries to be consolidated in one resolution. However, they shared the view that a separate resolution on the UN Fish Stocks Agreement the forthcoming General Assembly would be a way to mark the entry into force of the Agreement.

31. As to the title for any consolidated General Assembly resolution on fisheries, no consensus could be reached in the Informal Meeting of States Parties on this issue. Some delegations indicated a clear preference for a broad approach to the title of the resolution. Other delegations were of the view that the focus of such a resolution should be limited by restricting its title to the implementation of specific international instruments.

Item IX: Timing and venue of the next Informal Meeting of the States Parties to the UN Fish Stocks Agreement

32. All delegations agreed that the Informal Meeting of the States Parties had been useful and that another meeting should be scheduled by the General Assembly in 2003, if possible back-to-back with another ocean-related meeting. They also indicated that international financial institutions, RFMOs and non-governmental organizations (NGOs) should be invited to attend the next Informal Meeting.

33. Moreover, all delegations stated that the report of the Secretary-General, which would include a study on the provisions of Part VII of the Agreement should be ready before the convening of the next meeting of the States Parties. As to the themes for the meeting, some delegations suggested that implementation of articles 5 (General principles) and 6 (Application of the precautionary approach) and Part VI (Compliance and Enforcement), as well as a follow-up on implementation of Part VII of the Agreement, could be the topics of next year informal consultations of States Parties. Other delegations expressed a preference for a rather open agenda.



Item X: Summary of discussions by the Chairperson to be submitted to the General Assembly

34. The Chairman of the Informal Meeting of the States Parties gave orally a summary of the discussions that had taken during the two-days meeting of the States Parties to the UN Fish Stocks Agreement. He also stated that the Chair would circulate a written version of his summary to delegations before it would be submitted to the General Assembly.

35. The Chairman also indicated that the set of recommendations agreed by the Informal Meeting would be included in his summary and would be recommended for adoption by the General Assembly (see **Annex II**).

Item XI: Other matters

36. The delegate of Canada informed the Informal Meeting that her Government intended to host an international conference in 2004 or 2005 to assist in the preparation for the Review Conference. Other objectives of the conference would be: (i) the development of means to encourage increased ratification and accession of the Agreement; (ii) the review of progress on implementation of the Agreement by States either directly or through RFMOs; and (iii) the development and sharing of best practices and cooperative approaches for promoting implementation of the Agreement.

37. All delegations expressed strong support for the proposal by the delegation of Canada to hold a conference in 2004 or 2005 to promote ratification/accession and further implementation of the UN Fish Stocks Agreement.

## **Annex I**

### **Agenda of the Informal meeting of the States Parties to**

### **The Agreement for the Implementation of the Provisions of the United Nations Convention on Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks**

**30-31 July 2002**

**United Nations, New York**

- I. Opening of Meeting.
- II. Election of Chairperson.
- III. Adoption of the Agenda.
- IV. Review of the Implementation of the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Convention and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (United Nations General Assembly resolution 56/13, para. 6):
  - A. Implementation by States Parties;
  - B. Implementation through Regional Fisheries Management Organizations.
- V. Specific Consideration of Part VII of the Agreement:
  - A. Review of Part VII Provisions;
  - B. Establishing a program of Assistance within the Agreement (General Assembly resolution 56/13, para.7);
  - C. Facilitating a background study on Part VII (General Assembly resolution 56/13, para.8);
  - D. Facilitating the involvement of international Financial Institutions in the implementation of Part VII (General Assembly resolution 56/13, para.9).
- VI. The scope and content of the Annual Report of the Secretary-General (General Assembly resolution 56/13, para.6):
  - A. Role of report in monitoring implementation of the Agreement;
  - B. Changes in requested information;
  - C. Status of the report for parties and non-parties.
- VII. Preparing for the review conference (General Assembly resolution 56/13, para.6):
  - A. Timing and Venue;
  - B. Logistical planning/discussion of resource requirements;
  - C. Possibility of preparatory conference(s).

- VIII. Future of the United Nations General Assembly resolution on fisheries-related issues.
- IX. Timing and venue of next meeting.
- X. Summary of discussion by the Chairman and recommendations of the Informal Meeting to the United Nations General Assembly.
- XI. Other matters.

## ANNEX II

### Summary of Recommendations on Implementing Part VII

- The Informal Meeting of States Parties recommended that implementation of Part VII provisions is fundamental to successful implementation of the Agreement and, in particular, to assisting developing countries in meeting their obligations and realizing their rights under the Agreement.
- Actions to implement Part VII should highlight the importance of sustainable fisheries to poverty alleviation and should be crafted in recognition of broader efforts being undertaken to promote sustainable development worldwide.
- The Informal Meeting recognized that a background study as called for in OP. 8 of UNGA Resolution 56/13 relating to existing assistance programs must be completed before final decisions could be made on the establishment of a program of assistance under Part VII. The Informal Meeting specifically recommended that the Secretariat should include in its study a survey of current assistance programmes underway in support of Part VII principles and an analysis of those programmes.
- The Informal Meeting recommended that the UNGA should endorse in principle the establishment **under Part VII, of a program of assistance with multiple components, including bilateral, regional and global elements, as well as outreach to potential donor organizations** in the context of adopting the UNGA fisheries resolutions in 2002, which should complement existing activities at the bilateral, regional and global levels.
- [*This program of assistance should have multiple components, including bilateral, regional and global elements, as well as outreach to potential donor organizations.*]

One component of this program of assistance should be the establishment of a voluntary trust fund, dedicated to Part VII implementation, that could be managed by FAO in consultation with the UN Secretariat and relevant regional and sub-regional fisheries management organizations and arrangements.

- The program of assistance, including the voluntary trust fund, should be used to fulfill the provisions of Part VII, particularly the objectives set forth in Articles 25 and 26. At the appropriate time, detailed terms of reference for the voluntary trust fund should be established.
- Among the aspects that might be considered for early implementation through the trust fund are:
  - Facilitation of participation by developing States in regional and sub-regional fisheries management organizations and arrangements; e.g., by defraying their membership dues and travel costs to meetings of these organizations and arrangements.
  - Travel costs could also be provided for participation of developing States in meetings of relevant global organizations.
  - Capacity-building activities in key areas such as monitoring, control and surveillance, data collection and scientific research.
  - Support for ongoing and future negotiations to establish new regional or sub-regional fisheries management organizations and arrangements in areas without such bodies currently in place, and to strengthen existing sub-regional and regional fisheries management organizations and arrangements.
  - Exchange of information and experience in implementation of the Agreement.
- Some States Parties considered that only developing States that were States Parties to the Agreement should be eligible for support from the trust fund, since only States Parties are bound by other provisions of the Agreement. It was also suggested that the fund could be used to assist other States who were in transition to becoming States Parties.
- The Informal Meeting emphasized the importance of OP 9 of UNGA Resolution 56/13, welcoming the participation of the World Bank at this meeting and calling for future informal consultations, if organized, to include invitations to International Financial Institutions, non-governmental organizations, and other interested actors to broaden the discussion on developing country assistance.
- Specific calls were made to encourage participation of the Global Environment Facility in future discussions.