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Tenth round of Informal Consultations of 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

(New York, 7-8 April 2014)

Report

SUMMARY

The present document contains the report of the tenth round of Informal Consultations of 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 Agreement), which was held in New York, from 7 to 8 April 2014.

As provided in paragraph 38 of General Assembly resolution 68/71 of 9 December 2013, the tenth round of Informal Consultations served as a meeting to consider, inter alia, regional, subregional and global implementation of the Agreement and initial preparatory work for the resumption of the Review Conference on the Agreement.

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I. Introduction

1. Pursuant to paragraph 38 of General Assembly resolution 68/71 of 9 December 2013, the tenth round of Informal Consultations of 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 “Agreement”), originally scheduled from 7 to 8 April 2014, was held at United Nations Headquarters, in New York, on 7 April 2014.
2. The Secretary-General convened the tenth round of Informal Consultations to consider, inter alia, regional, subregional and global implementation of the Agreement and initial preparatory work for the resumption of the Review Conference on the Agreement.

II. Organization of work

A. Opening of the tenth round of Informal Consultations

3. The Assistant Secretary-General for Legal Affairs and Deputy to the Under-Secretary-General, Mr. Stephen Mathias, opened the tenth round of Informal Consultations of States Parties to the Agreement.
4. In his opening remarks, Mr. Mathias described the role of the Agreement in setting out a comprehensive legal regime for the long-term conservation and sustainable use of straddling fish stocks and highly migratory fish stocks through the implementation of the relevant provisions of the 1982 United Nations Convention on the Law of the Sea (UNCLOS). He highlighted central aspects of the regime and noted that the Agreement incorporated principles which not only strengthen the conservation and management of straddling fish stocks and highly migratory fish stocks, but could also be applied as standards for the management of all marine living resources. Mr. Mathias further underscored the role of regional fisheries management organizations and arrangements (RFMO/As) in the implementation of the Agreement.
5. Mr. Mathias highlighted some of the developments in the implementation of the provisions of the Agreement since the resumed Review Conference in 2010, including the ratification of the Agreement by four additional States, the establishment of new RFMO/As and the performance reviews of existing RFMO/As.
6. He emphasized that more work was needed in light of the current state of straddling fish stocks and highly migratory fish stocks and elaborated on the role of the Informal Consultations in preparing for the Review Conference and as a forum for dialogue amongst States Parties and States non-Parties to the Agreement. He also recalled that 2015 would be the twentieth anniversary of the opening for signature of the Agreement.

B. Election of the Chairperson

7. The meeting elected Mr. Fábio Hazin, Professor, Federal Rural University of Pernambuco, Brazil, as Chairperson.

C. Attendance

8. Representatives of the following Parties attended the tenth round of Informal Consultations: Australia, Bahamas, Bangladesh, Barbados, Brazil, Canada, Costa Rica, Cyprus, European Union, Greece, Iceland, India, Indonesia, Iran (Islamic Republic of), Japan, Morocco, New Zealand, Nigeria, Norway, Panama, Portugal, Republic of Korea, Russian Federation, Samoa, South Africa, Spain, Sweden, Tonga, Trinidad and Tobago and United States of America.

9. Observers from the following States, United Nations specialized agencies, programmes and bodies, as well as intergovernmental and non-governmental organizations attended the tenth round of Informal Consultations:

(a) States non-parties: Algeria, Angola, Armenia, Benin, Burkina Faso, Chile, China, Colombia, Côte D'Ivoire, Democratic Republic of the Congo, Dominican Republic, Ecuador, Ghana, Holy See, Iraq, Jamaica, Lao People's Democratic Republic, Madagascar, Montenegro, Niger, Qatar, Saudi Arabia, Somalia, State of Palestine, Togo, Uganda and United Arab Emirates;

(b) Specialized agencies, related organizations and offices of the United Nations: Food and Agriculture Organization of the United Nations (FAO) and International Finance Corporation;

(c) Subregional and regional fisheries management organizations and arrangements (RFMO/As): International Commission for the Conservation of Atlantic Tunas (ICCAT) and Sub-Regional Fisheries Commission (SRFC);

(d) Non-governmental organizations: Pew Environment Group and Turtle Island Restoration Network (TIRN).

D. Opening statement of the Chairperson

10. In his opening statement, the Chairperson expressed appreciation for the leadership and work that the previous Chairperson, Ambassador David Balton of the United States of America, had done in facilitating the first nine meetings of the Informal Consultations. He noted that four years had passed since the ninth round of Informal Consultation in 2010 and that, pursuant to the request of the General Assembly, the purpose of the tenth round was to consider, inter alia, regional, subregional and global implementation of the Agreement and initial preparatory work for the resumption of the Review Conference on the Agreement.

11. The Chairperson recalled that in the past, the General Assembly had requested the Secretary-General to prepare a report on sustainable fisheries on an annual basis and that this report had also served to inform the work of the Informal Consultations. Although the Secretariat had not been requested by the General Assembly to prepare such a report for the current session, two reports of the Secretary-General on sustainable fisheries had been prepared since the Review Conference in 2010 (A/66/307 and A/67/315), and could therefore be of relevance to the tenth round of Informal Consultations.

12. The Chairperson recalled the history and specific outcomes of the Informal Consultations which started in 2002, pursuant to a decision of the General Assembly, after the entry into force of the Agreement in November 2001. These, inter alia, included the recommendations on the establishment of the Assistance Fund under Part VII of the Agreement (the "Assistance Fund"); the development and adoption of the terms of reference for the Assistance Fund; consideration and adoption of preparatory documents for the Review Conference in 2006 and the resumed Review Conference in 2010; and enabling a continuing dialogue, in particular with developing States, to promote a wider participation in the Agreement. In this regard, he noted that the informal nature of the Consultations had fostered an environment for States and non-States parties to engage in an open and constructive dialogue. He also welcomed the four new States Parties to the Agreement since the resumed Review Conference in 2010 (Bangladesh, Croatia, Morocco and Saint Vincent and the Grenadines), which brought the total number of Parties to 81.

E. Adoption of the meeting documents

13. The Informal Consultations considered the provisional agenda of the meeting (ISCP10/UNFSA/INF.1) and adopted it without any changes (see annex I). The draft organization of work for the meeting was also considered and adopted as proposed.

III. Regional, subregional and global implementation of the Agreement

14. Delegations reaffirmed the importance of the Agreement as a fundamental tool for the conservation and management of straddling fish stocks and highly migratory fish stocks and welcomed the four new States which had become Parties to the Agreement since the resumed Review Conference. Delegations also welcomed an announcement by the delegation of Chile that the Government of Chile had commenced internal evaluations to enable it to accede to the Agreement. In this regard, the important role that Chile had played in the negotiations leading to the adoption of the Agreement was recalled. Some delegations stressed the need to encourage further ratifications of the Agreement. In that regard, it was also noted by several delegations that many States that were not yet Parties to the Agreement nevertheless implemented it, or portions of it, through their participation in RFMO/As, and that those States should thus consider becoming Parties. Attention was, in particular, drawn to the need to fully implement Part VII of the Agreement, as well as to address the factors that may impede ratification and/or

implementation of the Agreement by developing States, and the capacity needs of developing States in that regard.

15. Several delegations emphasized the important role played by the Informal Consultations in facilitating the effective implementation of the Agreement, including as a preparatory meeting for the Review Conference. In this regard, delegations echoed the appreciation expressed by the Chairperson for the excellent work that had been done by his predecessor, Ambassador David Balton, during the first nine rounds of Informal Consultations.

16. Some delegations reported on steps that they had taken at the national level to implement the Agreement. In this regard, some delegations stated that they had ratified, or taken steps to ratify, the FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated (IUU) Fishing, as well as regional fisheries management instruments, such as the Convention establishing the North Pacific Fisheries Commission, the Convention establishing the South Pacific Regional Fisheries Management Organization and Amendments to the Northwest Atlantic Fisheries Organization Convention . A number of delegations emphasized the importance of States becoming parties to the Port State Measures Agreement.

17. Several delegations also gave examples of progress that had been made in the implementation of the Agreement at the subregional and regional levels since the ninth round of Informal Consultations in 2010, including the establishment of catch documentation schemes, adoption of measures to eliminate by-catch and discards, measures that led to the recovery of blue fin tuna stocks, progress concerning bottom fisheries and the impacts of destructive fishing practices on vulnerable marine ecosystems, adoption of rules to ensure compliance with the Agreement, and measures on the special requirements of small island developing States.

18. Several delegations emphasized the important role that RFMO/As play in the implementation of the Agreement. Some delegations highlighted their role in establishing marine protected areas and in protecting marine biodiversity from the impacts of destructive fishing practices. Several delegations reiterated their support for RFMO/As as the principal vehicle for the conservation and management of high seas fish stocks, and called on States to participate in them. In this regard, it was also recognized that while RFMOs provided the basic framework for addressing challenges inherent in the conservation and management of fish stocks, individual RFMOs were at different stages of development. Some RFMO/As faced specific internal challenges, such as delays and gaps in data collection, as well as external challenges, such as IUU fishing. Several delegations emphasized the need to utilize an ecosystem approach and a precautionary approach in fisheries management. The importance of modernizing the mandate of RFMOs and making them more effective through management of specific and targeted projects and programmes was also underscored. In this regard, it was recognized that several RFMO/As had already undergone performance reviews using the Agreement as a benchmark, and that such reviews would need to be continued to modernise the mandates of RFMO/As, enhance the implementation of modern fisheries principles and allow these

organizations to address problems in an increasingly effectively manner. Moreover, a view was expressed that the flexibility and willingness of RFMO/As to update their working methods was one of their strengths.

19. Some delegations identified specific challenges in the implementation of the Agreement at the regional and subregional levels. A key issue for the implementation of the Agreement was considered to be the transparent establishment of total allowable catches by RFMO/As. Greater collaboration amongst States was called for to ensure the implementation of proper monitoring control and surveillance measures including to address transshipment at sea. In that context, many delegations stressed that combatting IUU fishing remained a priority. Attention was also called by several delegations to issues related to shark conservation and the phasing out of shark finning. A delegation stated that RFMO/As should develop harvest strategies to ensure agreed reference points are not breached and establish rebuilding targets for overfished stocks. Another delegation highlighted the need to strengthen efforts to study and address environmental factors affecting marine ecosystems, specifically the adverse impact of climate change.

20. The representative of the International Commission for the Conservation of Atlantic Tunas (ICCAT) reported on its actions relevant to the implementation of the Agreement. For example, ICCAT had incorporated science into its stock assessments and management measures, implemented a precautionary approach, required the collection and reporting of catches, and implemented monitoring, control and surveillance measures, such as observer programmes, minimum standards for port inspection, statistical and catch documentation schemes and vessel lists. ICCAT was further considering the possibilities for amending its Convention following a performance review in 2008. ICCAT also undertook capacity-building activities were also undertaken by ICCAT. ICCAT considered that the important role that RFMO/As played in the implementation of the Agreement should be further recognized.

21. FAO provided an update on the use, management, and status of the Assistance Fund established pursuant to Part VII of the Agreement, noting that 27 States had benefitted from the Assistance Fund thus far, and that 26 applications were processed and funded in 2013 with an expenditure of about USD 170,000. In this regard, it was reported that the balance of the Assistance Fund, as of 1 April 2014, was USD 154,469 and that, without additional funding, FAO would shortly be unable to provide financial assistance to developing States Parties. As a consequence, the need for financial contributions to ensure the activities of the Assistance Fund was stressed, so as not to risk limiting the capacity of developing States Parties to adequately implement the Agreement.

22. Despite the progress that had been achieved in the implementation of the Agreement, several delegations expressed continuing concern about the state of high seas fish stocks, many of which are fully exploited or overexploited, and underlined the need to address this issue in the context of the resumed Review Conference. It was noted that many of the challenges in fisheries management still needed to be fully addressed, and in that context cooperation, both at regional and global levels, was essential.

23. In relation to discrete high seas fish stocks, it was recalled that many RFMO/As already have competence over such stocks, and that as recommended by the Review Conference, the General Assembly had called upon States individually and, as appropriate, through RFMO/As with competence over such stocks, to adopt the necessary measures to ensure their long-term conservation, management and sustainable use, in accordance with the Convention and consistent with the general principles set forth in the Agreement. It was noted that a resumed Review Conference would provide an opportunity to further consider the applicability of the principles of the Agreement to the conservation and management of discrete high seas fish stocks.

24. Several delegations highlighted the importance of sustainable fisheries in the context of the Rio+20 outcome, “The Future We Want”, and the commitments agreed in that context. The synergy between the work of the United Nations General Assembly, the FAO and RFMOs, was also highlighted by many delegations. In this regard, particular reference was made to efforts to address the impacts of bottom fishing on vulnerable marine ecosystems.

IV. Initial preparatory work for the resumption of the Review Conference

25. Delegations expressed the view that the Review Conference should be resumed in order to review, in a detailed manner, the status of implementation of the Agreement, and to promote ratification and accession of the Agreement. Several delegations expressed the view that the previously agreed elements for assessing the adequacy and effectiveness of the Agreement could be used, although they would need to be reviewed. Whilst some delegations indicated a preference to resume the Review Conference as soon as possible, several other delegations highlighted the need for time for constructive reflection and preparation and cited practical concerns with respect to the resumption of the Review Conference during 2015. In this regard, broad support was expressed for resuming the Review Conference in 2016, with a preference expressed for early 2016.

26. Delegations indicated that the following issues could be considered during the resumed Review Conference: (i) the state of relevant fish stocks; (ii) measures to combat IUU fishing (iii) linkages between IUU fishing and trans-shipment at sea; (iv) the effect of trade-related measures under consideration in different fora on fisheries, particularly in developing countries; (v) measures to address over-capacity and overfishing; (vi) the need to protect and secure small scale fisheries, whilst addressing issues of capacity management; (vii) ecosystems approaches to fisheries management with an emphasis on by-catch, discards, and destructive fishing practices; (viii) protection of vulnerable marine ecosystems from destructive fishing practices ; (ix) the effects of conservation and management measures on development needs of States; (x) the application of the provisions of the Agreement to discrete high seas fish stocks; (xi) cooperation between and among RFMO/As; (xii) the undertaking by RFMO/As of performance reviews, including a review of the criteria used for such reviews; (xiii) a review of decision-making processes in RFMO/As; and (xiv) a review of how RFMO/As are implementing their obligations to assist developing States, including small island developing States.

27. Different views were expressed regarding the extent to which the protection of vulnerable marine ecosystems from destructive fishing practices should be addressed since the General Assembly was scheduled to review the implementation of measures relating to the impacts of bottom fishing in 2015. In order to avoid duplication of that review process, some delegations suggested that the resumed Review Conference could, for example, consider the topic with an RFMO/A-specific focus. It was highlighted that the special requirements of developing States, as set out in article 24 of the Agreement, should be a focus of discussions by the resumed Review Conference. In this regard, some delegations mentioned the need for strengthening the implementation of article 25. The view was expressed that the resumed Review Conference also needed to review some of the positive developments in terms of implementation of the Agreement.

28. A view was expressed in favour of reviewing and assessing the adequacy of the provisions of the Agreement as laid down in article 36.3, as this would expand the scope of further review. On the other hand, other delegations considered that the resumed Review Conference should focus only on implementation of the Agreement. A concern was expressed regarding the possibility of some States participating actively in the resumed Review Conference and subsequently disassociating themselves from the outcomes or criticizing the process, as had occurred in the past.

29. The meeting agreed to consider the documents from previous preparatory meetings for the resumed Review Conference, as a basis for further work. In particular, reference was made to annex III to the report of the eighth round of Informal Consultations which contained the timeline and programme of work for the 2010 resumed Review Conference, as well as the Questionnaire sent by the Secretariat to States and relevant intergovernmental and non-governmental organizations in 2010.

30. Several delegations called for a report of the Secretary-General on sustainable fisheries to be prepared by the Division for Ocean Affairs and the Law of the Sea (DOALOS), Office of Legal Affairs, to facilitate the work of the resumed Review Conference. As per past practice, it was suggested that an advance and unedited version of the report could be placed on the website of DOALOS in advance of the next round of Informal Consultations. A view was expressed that the Informal Consultations and the resumed Review Conference should be sufficiently close in time so as to ensure that the information contained in the report remained current. It was further suggested by several delegations that, as in the past, a questionnaire could also be prepared and circulated by DOALOS. It was considered that the questionnaire could, inter alia, seek information about gaps in the implementation of the Agreement, including about its implementation with respect to discrete high seas fish stocks. It was further suggested by several delegations that the questionnaire could specifically seek information on measures to combat IUU fishing and improve compliance and enforcement, small-scale fisheries, ecosystem and precautionary approaches, trade issues, at-sea transshipment, and the needs of developing States. Some delegations noted that the previous questionnaire used in 2010 contained broad language and that maintaining the same format as the previous

questionnaire would make it easier to compare responses, and that any new issues could simply be appended.

31. With regard to further preparatory steps for the resumption of the Review Conference in 2016, the Chairperson recalled that during the eighth round of Informal Consultations, a timeline and programme of work for the preparation of the resumed Review Conference had been prepared (see ICSP8/UNFSA/REP/INF.6, annex III). Delegations agreed that a similar approach could be taken for preparations for the 2016 resumed Review Conference. It was understood that some decisions regarding timing and modalities would need to be taken by the General Assembly, and included in the annual resolution on sustainable fisheries. In this regard, delegations agreed to the draft timeline and programme of work for the resumption of the Review Conference in 2016, as set out in annex II of the present report.

V. Consideration of the next round of Informal Consultations of the States Parties to the Agreement

32. In order to prepare effectively for a resumption of the Review Conference in 2016, delegations called for at least one additional round of Informal Consultations in 2015. The Chairperson recalled that the ninth round of Informal Consultations, which also served as a preparatory meeting for the resumed Review Conference in 2010, delegations considered, *inter alia*, the following: the organization of work; the draft provisional agenda; the composition of the Bureau and any need to fill vacancies for the resumed Review Conference; as well as consideration of the outputs of the resumed Review Conference and possible future actions. Delegations considered that a similar approach could be taken in 2015.

33. Delegations agreed that the eleventh round of Informal Consultations of States Parties to the Agreement would be held in 2015 and would focus primarily on preparations for the resumed Review Conference in 2016. It was understood that details concerning the exact dates for the Informal Consultations and the resumed Review Conference would need to be agreed upon by the General Assembly under the appropriate agenda item at its sixty-ninth session.

VI. Other matters

34. Support was expressed for holding an event together with the Informal Consultations in 2015 to celebrate the twentieth anniversary of the opening for signature of the Agreement and promote broader participation in the Agreement.

VI. Closing of the tenth round of Informal Consultations of States Parties to the Agreement

35. The Chairperson highlighted the importance of the discussions, including with regard to the initial preparatory work for the resumed Review Conference, which had

provided clarity regarding the wishes of delegations in this regard. The Chairperson closed the meeting and thanked delegations for their participation and expeditious work, as well as DOALOS.

ANNEX I



Tenth round of Informal Consultations of 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 Agreement)

Agenda

**7-8 April 2014
United Nations, New York**

1. Opening of the tenth round of informal consultations by the representative of the Secretary-General.
2. Election of the Chairperson.
3. Adoption of the agenda.
4. Organization of work.
5. Regional, subregional and global implementation of the Agreement.
6. Initial preparatory work for the resumption of the Review Conference.
7. Consideration of the next round of informal consultations of the States Parties to the Agreement.
8. Other matters.

ANNEX II

Timeline and Programme of work

April 2014 (ICSP-10)

- Develop a Timeline and Programme of Work for the resumed Review Conference.
- Provide specific guidance to DOALOS regarding the content and scope of the updated [comprehensive] report of the Secretary-General, requested in paragraph [...] of General Assembly resolution 69/[...], to be prepared in cooperation with FAO. In particular, request that the report include the following components, recognizing that coordination between DOALOS and FAO may be required to complete these tasks:
 - Overview of the status and trends of straddling fish stocks and highly migratory fish stocks as well as of discrete high seas stocks and non-target and associated and dependent species, provided in a common format using the best available information from, inter alia, FAO, States and RFMO/As;
 - Review and analysis of the extent to which the recommendations of the Review Conference in 2006 and 2010 have been implemented;
 - Compilation of specific information on the capacity-building needs of developing States in relation to implementation of the Agreement; and
 - Overview of the performance reviews of RFMOs that have taken place so far, including a description of the primary recommendations of those performance reviews.
- Request DOALOS to develop and circulate a voluntary questionnaire addressed to States and to RFMO/As regarding the recommendations of the Review Conference in 2006 and 2010 as soon as possible in order for responses to be submitted in a timely manner to enable the updated [comprehensive] report to be prepared sufficiently in advance of the next round of Informal Consultations. The questionnaire should draw attention to the specific issues raised for possible consideration by the Review Conference at the tenth round of Informal Consultations of States Parties.

April 2014 – [...] 2015

- The General Assembly, through the sustainable fisheries resolution, requests the Secretary-General to convene an eleventh round of Informal Consultations of States Parties to the Agreement to serve primarily as preparation for the resumed Review Conference.
- The General Assembly, through the sustainable fisheries resolution, takes note of the report of the tenth round of Informal Consultations of States Parties to the Agreement, and requests the Secretary-General, in preparing, in cooperation with FAO, the updated [comprehensive] report referred to in paragraph [...] of resolution 69/[...], to

take into account the specific guidance proposed by the tenth round of Informal Consultations, and also requests that an advance unedited version of the report be made available, in accordance with past practice, via the website of DOALOS.

- An advance unedited version of the updated [comprehensive] report will be made available in English only via the website of DOALOS in [...] 2015. Technical and factual corrections may be provided to DOALOS after the report is posted, in accordance with the practice of the United Nations regarding reports of the Secretary-General.
- DOALOS prepares and circulates the first draft of the provisional agenda and draft organization of work for the resumed Review Conference, taking into account the guidance provided by the tenth round of Informal Consultations, and the draft provisional agenda for the eleventh round of Informal Consultations, 60 days in advance of the eleventh round of Informal Consultations.

[...] 2015 – [...] 2016

- Eleventh round of Informal Consultations is held for [...] days tentatively between [...] to [...] 2015, which:
 - Includes a commemoration of the twentieth anniversary of the opening for signature of the Agreement;
 - Agrees on a provisional agenda and an organization of work to be recommended to the resumed Review Conference;
 - Considers the overview of the status and trends of the fish stocks addressed in the updated [comprehensive] report prepared by the Secretary-General in cooperation with FAO, without prejudice to the scope of application of the Agreement;
 - Consults on the composition of the bureau and any need to fill vacancies for the resumed Review Conference;
 - Considers any other matters, as appropriate.

[...] 2016

- Resumed Review Conference is held tentatively from [...] to [...] 2016.