

Sixth 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, 23 – 24 April 2007)

Report

SUMMARY

This document contains the report of the sixth 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 23 to 24 April 2007.

As provided for in paragraph 25 of General Assembly resolution 61/105 of 8 December 2006, the sixth round of Informal Consultations considered the national, regional, subregional and global implementation of the Agreement, as well as initial preparatory steps for the resumption of the Review Conference convened by the Secretary-General pursuant to article 36 of the Agreement.

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I. Introduction

1. Pursuant to paragraph 25 of General Assembly resolution 61/105 of 8 December 2006, a sixth 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), was held at the United Nations Headquarters, in New York, from 23 to 24 April 2007.
2. The Secretary General convened the Informal Consultations for the purposes and objectives of considering the national, regional, subregional and global implementation of the Agreement, as well as considering initial preparatory steps for the resumption of the Review Conference convened by the Secretary-General pursuant to article 36 of the Agreement, and making any appropriate recommendation to the General Assembly.

II. Organization of work

A. Opening of the sixth round of Informal Consultations

3. The Director of the Division for Ocean Affairs and the Law of the Sea, Mr. Václav Mikulka, opened the sixth round of Informal Consultations of States Parties to the Agreement.

B. Election of the Chairperson

4. The meeting elected by acclamation Ambassador David Balton, Deputy Assistant Secretary for Oceans and Fisheries, Environment and Science Bureau, Department of State (United States), as Chairperson of the sixth round of Informal Consultations. Ms. Holly Koehler, Office of Marine Conservation, Department of State (United States) subsequently chaired the Informal Consultations following the departure of Mr. Balton from New York on 24 April 2007, due to unforeseen circumstances.

C. Attendance

5. Representatives of the following parties attended the sixth round of Informal Consultations: Australia, Austria, Belgium, Brazil, Canada, Cyprus, Czech Republic, Estonia, European Community (EC), Fiji, Finland, France, Germany, Iceland, India, Iran (Islamic Republic of), Italy, Japan, Latvia, Lithuania, Maldives, Malta, Marshall Islands, Namibia, Nauru, Netherlands, New Zealand, Norway, Russian Federation, Senegal, Slovenia, Spain, Tonga, and the United States of America.
6. Observers from the following States, United Nations specialized agencies, programmes and bodies, as well as intergovernmental and non-governmental organizations attended the sixth round of Informal Consultations:

(a) States non-parties: Albania, Angola, Argentina, Chile, China, Colombia, Dominican Republic, Ecuador, Egypt, Guatemala, Holy See, Hungary, Indonesia, Madagascar, Malawi, Malaysia, Mexico, Pakistan, Peru, Philippines, Republic of Korea, Thailand, Tunisia, Turkey, United Arab Emirates, Venezuela (Bolivarian Republic of), Viet Nam and Yemen;

(b) United Nations offices and specialized agencies: United Nations Department of Economic and Social Affairs (DESA), Food and Agriculture Organization of the United Nations (FAO) and the World Bank;

(c) Subregional and regional fisheries management organizations and arrangements (RFMOs): Comisión Permanente del Pacífico Sur (CPPS), International Commission for the Conservation of Atlantic Tunas (ICCAT), Northwest Atlantic Fisheries Organization (NAFO), Organización Latinoamericana de desarrollo pequeño (OLDEPESCA);

(d) Other intergovernmental organizations: IUCN – The World Conservation Union and the Pacific Island Forum Fisheries Agency; and

(e) Non-governmental organizations: International Coalition of Fisheries Associations, Natural Resources Defense Council, World Wide Fund for Nature (WWF).

D. Adoption of the agenda

7. The Informal Consultations considered the provisional agenda of the meeting, and adopted it as proposed (see Annex I).

E. Programme of work

8. The Informal Consultations agreed that a side event would be held to consider a draft non-paper circulated by the Chairman entitled, “Recommended Minimum Criteria for Reviewing the Performance of Regional Fisheries Management Organizations (RFMOs)”, dated 13 April 2007 (see Annex II).

III. Consideration of national, subregional, regional and global implementation of the Agreement

A. Opening Statement

9. In his opening statement, the Chairman highlighted previous significant accomplishments of the Informal Consultations, including establishment of the Part VII Assistance Fund, and the work of the fifth round of Informal Consultations to prepare for the Review Conference.

10. The Chairman stated that the Review Conference undertook a robust assessment of the Agreement and produced an ambitious set of recommendations for strengthening its implementation. He also highlighted the significance of the previous year, during which nine States had become parties to the Agreement (Slovenia, Estonia, Japan, Trinidad and Tobago, Niue, Bulgaria, Latvia, Lithuania and the Czech Republic), and a series of international initiatives had developed or taken place: (i) six States and the European Community signed the new Southwest Indian Ocean Fisheries Agreement in July 2006, (ii) the General Assembly adopted resolution 61/105, which, inter alia, called for additional actions to achieve responsible fisheries in the marine ecosystem, (iii) Japan hosted the first ever meeting of the five RFMOs in charge of overseeing tuna fisheries in Kobe, January 2007, and (iv) the 27th session of the Committee on Fisheries (COFI) of the FAO, which was held in Rome, 5 to 9 March 2007, considered the new FAO report on the state of world fisheries and aquaculture.

11. In addition, the Chairman referred to efforts to strengthen existing RFMOs and to bring new areas and fisheries under multilateral management, including in the south Pacific and the northwest Pacific. He highlighted calls for performance reviews of RFMOs, and noted the completion of the first performance review of the Northeast Atlantic Fisheries Commission (NEAFC), the likelihood of other RFMOs conducting future performance reviews, and the agreement of the five tuna RFMOs at the meeting in Kobe to undertake performance reviews based on a common methodology and common set of criteria. In this regard, the Chairman drew attention to the draft non-paper, “Recommended Minimum Criteria for Reviewing the Performance of Regional Fisheries Management Organizations”, which had been developed by the Chairman through informal consultations prior to the meeting. It represented an effort to develop a proposed set of minimum criteria that could be used by RFMOs for their performance reviews. He hoped the non-paper could be discussed informally during the meeting with a view to making progress on this issue.

B. Implementation at the national level

12. During the debate under this item, several States parties described steps they had taken to incorporate the Agreement into national laws and regulations, which was an ongoing process for some. Other States reported on domestic or national efforts to apply relevant provisions of the Agreement and measures to improve fisheries conservation and management, and protect vulnerable marine ecosystems and habitats.

13. As one of the new parties to the Agreement, **Japan** reported that it had implemented most of the provisions of the Agreement before it became a party, and it would continue to implement the Agreement at the national, regional and global levels. Japan had also revised and renewed its Basic Fisheries Program for the next five years to achieve sustainable utilization of fisheries resources and sound development of its fisheries.

14. **Canada** stated that there was a need for strengthened and modernized governance of fisheries and it supported calls for universal ratification of the Agreement. Canada reported on domestic initiatives to implement the principles in the Agreement, including the renewal of its Fisheries Act, and the development of sustainability checklists for

commercial fisheries. It also provided information on developing plans and processes with stakeholders to modernize its integrated fisheries management plans, and on recently released national plans of action on sharks and seabirds. Canada further referred to its contribution of 500,000 Canadian dollars (CAD) to the Part VII Assistance Fund to provide capacity-building to developing States parties to implement and benefit from the Agreement, and urged other countries to contribute to the Fund.

15. The **European Community** indicated that ratification of the Agreement by its remaining three Member States should be completed by the end of the year, which is mandatory under the Community's legal system. It further noted that since 2002 the Community had adopted legislation to implement the Agreement.

16. The **United States** reported that in June 2006 it had established the Papahānaumokuākea Marine National Monument in the Northwestern Hawaiian Islands, the largest conservation area in the United States, which includes more than 4,500 square miles of coral reefs and important habitats for rare marine species. The newly reauthorized Magnuson-Stevens Act, the primary fisheries legislation in the US, was also signed into law in January 2007. The revised Act calls for rigorous measures to address overcapacity and overfishing, application of ecosystem approaches, annual catch limits for federally-managed fisheries starting in 2010, and multilateral action to address illegal, unreported and unregulated fishing (IUU) and by-catch of protected living marine resources, including through vessel lists, stronger port State controls and market-related measures. Furthermore, the Act requires the US Government to identify nations whose vessels have engaged in IUU fishing or activities that have resulted in by-catch of protected living marine resources. The Act also implements international agreements and conventions, including the Western and Central Pacific Fisheries Convention (WCPFC) and the US-Canada Agreement on Pacific Hake.

17. **Australia** indicated that it had undertaken comprehensive independent assessments to determine whether Australian fisheries were being managed in an ecologically sustainable manner and to promote improved environmental performance. It stressed that Australia was the first nation to implement formal assessment of commercial fisheries on a national scale. It also indicated that some fisheries have resource assessment groups that oversee stock assessment and research, which is shared with RFMOs. A structural adjustment program was also currently underway to remove excess capacity from Australian Government-managed fisheries. In addition, Australia was participating in the development of a management procedure for the Commission for the Conservation of Southern Bluefin Tuna (CCSBT).

18. The **Russian Federation** recalled its focus on conservation and management of fishery resources in its EEZ and on developing international cooperation in the Bering Strait, the Bering Sea, and southern parts of the Pacific Ocean. It was holding specialized talks on fisheries issues within the regular framework of international organizations, such as the FAO, and emphasized that work was needed at all levels to achieve the rational utilization of fish stocks. It also stated that the Russian Federation was considering a change in its national law on maritime ports.

19. **Senegal** reported that it was in the process of incorporating the provisions of the Agreement into its national legislation, and that measures were being taken in the interim at the regulatory level to apply the provisions of the Agreement, insofar as this is allowed by its law.

20. **Mexico** indicated that its regulations were fully in line with the principles of the Agreement and that it recognized the importance of adopting management measures based on the best scientific evidence and the ecosystem approach, while avoiding overcapacity.

21. The **Republic of Korea** stated that it was taking the necessary domestic measures to become a party to the Agreement. It indicated also that the Republic of Korea was a member of nine RFMOs, including all RFMOs competent in the areas in which its fishing vessels operate.

22. **WWF** urged those States that had indicated their intention to become parties to the Agreement, to declare their commitment to abide by its provisions in the interim period. It also urged States to join relevant RFMOs and to participate in developing new and improved RFMOs, in particular, those States with ports, markets and nationals involved in catching and trading fish caught on the high seas

C. Implementation at the subregional and regional levels

23. Many delegations noted the crucial role played by RFMOs in the implementation of the Agreement and the governance of oceans, as well as the importance of universal coverage of the oceans by RFMOs. The momentum to modernize RFMOs was also highlighted. In this regard, it was noted that recommendations from the Review Conference were used as a basis for amending RFMO instruments.

24. Several delegations reported on implementation of the Agreement within existing RFMOs. They indicated that the WCPFC had taken steps to give effect to some provisions in the Agreement, including adoption of measures for boarding and inspection, establishing a vessel monitoring system and an observer monitoring programme, and adoption of binding conservation measures for seabirds and sharks. Satisfaction was also expressed with the progress made on proposed amendments to the Convention on Future Multilateral Cooperation in the Northwest Atlantic Fisheries (NAFO).

25. In addition, it was reported that ICCAT was developing an evaluation method on fishing capacity and that a meeting to address fishing capacity would be held in the US in the summer of 2007. ICCAT was also implementing recommendations on high seas boarding, and fishing vessels operating in its convention area would be required to carry observers starting June 2007. Work was further being done to standardize statistical documents. Moreover, ICCAT was hosting a website of the five tuna RFMOs to provide important information to the public on IUU fishing vessels and available programmes of financial assistance.

26. The Consultations were informed that the West African Sub-regional Fisheries Commission, which includes six countries, provides the framework for cooperation and coordination regarding the management of straddling fish stocks in the sub-region. The 2001 sub-regional plan of action of the Commission calls on Member States to adopt national plans of action on sharks. In addition, it was reported that one Member State of the Commission joined ICCAT in 2006 and was granted a quota for some species under the management of the RFMO.

27. In addition, delegations reported on the outcome of the meeting of the five tuna RFMOs in Kobe. They indicated that the tuna RFMOs agreed to establish closer cooperation between them on monitoring, control and surveillance measures (MCS) and on stock assessments. A technical meeting on harmonization of trade and catch tracking schemes will be held in July 2007, and a meeting to discuss implementation of the course of action adopted in Kobe will be held in January or February 2008. The next meeting of the tuna RFMOs will be hosted by the EC in May 2009 in Spain.

28. Several delegations expressed satisfaction with the result of the first meeting of tuna RFMOs and highlighted it as an example of the political cooperation necessary for the effectiveness and consistency of the work of these organizations at the global level. Other delegations drew attention to the need for RFMOs with the competence to conserve and manage straddling fish stocks to hold a similar joint meeting in the future.

29. A number of delegations reported on efforts to establish a new multilateral management regime in the South Pacific. New Zealand, Australia and Chile were co-sponsors of the negotiations for a new agreement in the South Pacific to regulate fishing for non-highly migratory species. The first meeting for the establishment of the South Pacific RFMO (SPRFMO) was held in Wellington, New Zealand (February 2006), and the second meeting was held in Hobart, Australia (December 2006). Delegations reported that there were in-depth discussions on the text of a draft agreement, but consensus was not reached on interim measures to be implemented pending the entry into force of the agreement. A number of delegations expressed their strong desire that interim measures be adopted at the next SPRFMO meeting. It was emphasized that any interim measures should be consistent with General Assembly resolution 61/105, in particular its recommendations regarding destructive fishing practices.

30. Some of these delegations further stressed that it was important for this new RFMO to be considered as a step forward from previous RFMOs and seen as a RFMO that uses best practices in the management of fisheries, on the basis of the ecosystem approach and the precautionary approach. It should also implement the recommendation of the Review Conference on discrete high seas fish stocks. The third meeting for the establishment of the SPRFMO, which will be held in Chile, 30 April to 4 May 2007, will give participants an opportunity to consider a further revision of the draft agreement prepared by the Chairman.

31. The Informal Consultations were also informed of efforts being undertaken to establish an arrangement for a deep sea fishery in the Northwest Pacific. To date, two meetings have been held and interim measures have been agreed upon. The next session

in the summer of 2007 will focus on the drafting of an agreement. One observer raised concerns as to whether the adopted interim measures met the obligations in General Assembly resolution 61/105 concerning the protection of vulnerable marine ecosystems, since the measures would allow current bottom fishing to continue until at least 2008.

32. Several delegations expressed support for ongoing efforts to improve the structure, governance and operations of existing RFMOs and emphasized that it was important for RFMOs to conduct performance assessments or reviews of their functions and mandates. It was emphasized that reviewing and strengthening the performance of RFMOs worldwide was fundamental to strengthening the implementation of the Agreement. Satisfaction was expressed with the completion by NEAFC of its first performance review.

33. Reference was made to the commitment made at the meeting in Kobe, Japan, to review the performance of the five tuna RFMOs using common criteria and methodology. The Consultations were also informed of an initiative by the “Independent High Level Panel” to develop a model for improved governance by RFMOs for the purpose of providing performance guidelines, on the basis of best practices of RFMOs.

34. Some delegations indicated that common criteria for performance reviews of RFMOs should only be developed for the tuna RFMOs, while others indicated that the criteria used for tuna RFMOs were relevant to all RFMOs and were of general application and hoped that the outcome of the side event would be transmitted to tuna RFMOs and made available to other RFMOs.

35. A number of delegations emphasized that it should be left to individual RFMOs to determine the criteria for their performance reviews, in accordance with their own rules of procedure. They noted that the use of “common criteria” was not mentioned in the outcome of the Review Conference, and that the NEAFC conducted a performance review without the use of any common criteria. Nonetheless, some delegations indicated that the development of common criteria for performance reviews for tuna RFMOs and the work being done on the model RFMO were complementary, and that any guidelines suggested for the model RFMO based on best practices could improve the “common criteria” approach.

36. One State non-party to the Agreement indicated that the review of the functions and operations of RFMOs was a positive task and that an agreement should be reached to evaluate these organizations based on their respective statutes. This delegation also stated that the objectives of the Agreement coincide with the provisions of other agreements and could be achieved if there was respect for the rules of cooperation. It stressed that although there are RFMOs which promote the objectives of the Agreement, those RFMOs should equally apply the provisions of other agreements, in view of the fact that RFMOs impose the same rules on all their members.

C. Implementation at the global level

37. During the debate under this item, many delegations highlighted the issue of IUU fishing, which continues to pose a threat to the management and conservation of fishery resources worldwide, and urged ongoing international action to combat IUU fishing. They stressed that obligations to combat IUU fishing were set forth in the Agreement, the resolutions of the General Assembly, and the outcome of the Review Conference. One delegation indicated that the key elements to deal with IUU fishing were port State control of access for fishing vessels and associated vessels, flag State responsibility, and access to markets.

38. The meeting was also informed of a number of new commitments made at the 27th session of COFI, including efforts for a new global legally binding agreement on port State measures, the promotion of flag state responsibility, coordination of RFMOs actions to address IUU fishing (including through positive and negative vessels lists), and an initiative to establish a global register of fishing vessels.

39. A number of delegations noted the importance of the work of FAO to develop a binding instrument on minimum standards for port State measures to better define port State rights and responsibilities. States were also encouraged to go further if possible and regional initiatives on port State measures were welcomed. Port State controls and the adoption of port State measures were identified as one important aspect in the fight against IUU fishing.

40. Several delegations also highlighted the work of the FAO to develop a global register of high seas fishing vessels as an important tool for tackling IUU fishing. It was noted that the register could also be used by RFMOs to develop authorized vessels lists and IUU vessels lists. It was also suggested that IUU vessel lists should be used in all RFMOs, so that any violation of the fisheries regulations in one RFMO would be considered a violation in other RFMOs.

41. Several delegations highlighted the need for ongoing efforts to better trace fish from the point of catch through the marketing process. Current efforts included regulating access to ports by fishing vessels, and regulating access to markets of illegal fish product, including through certification. It was suggested that economic deterrence measures and sanctions should be discussed within international organizations, including the OECD, as well as accompanying measures for developing countries to ensure consistent anti-IUU activities.

42. A number of delegations emphasized the importance of flag State responsibility as a key issue, particularly in the fight against IUU fishing, and that flag States needed to be responsible for vessels operating under their flag. Several tools were identified to address this problem, including ensuring a genuine link between the State and the fishing vessel flying its flag. It was noted that ICCAT was attempting to address this problem by developing a yearly review of flag States' implementation of their duties with respect to long-line fishing.

43. It was also noted that additional work needed to be done on the issue of “genuine link” and the need to identify beneficial owners. One observer suggested that attention should also be given to other relevant information less likely to change over time, including insurance companies and banks used by owners. It was also suggested that States should be provided with means to take measures against vessels when there is no responsible flag State. In this regard, a number of delegations welcomed the decision at COFI to ask FAO to look into the possibility of developing criteria for assessing flag State performance and actions that could be taken against vessels in the case of non-performance of a flag State.

44. In addition, the Consultations were informed that the International Monitoring, Control and Surveillance Network for Fisheries Related Activities had requested the US to host a three-year pilot programme for the enhancement of the Network, in partnership with Australia, Canada, New Zealand, and the United Kingdom.

45. With respect to the question of overcapacity, several delegations expressed the view that individual regional regimes may not be able to address this issue effectively if they are operating in isolation. They indicated that reducing excess capacity was an important aspect of controlling IUU fishing and that the international community needed to contain the growth of global fishing capacity while recognizing also the rights of developing States to develop their own fisheries. It was emphasized that overcapacity was the result of the failure of fisheries management, and therefore issues of the economics of fisheries operations and allocation needed to be addressed.

46. A number of delegations recommended that RFMOs should develop capacity management plans and establish controls on capacity levels when stocks are in an overfished state. However, they were of the view that these plans should not penalize States that have unilaterally reduced their own fishing capacity. These delegations emphasized also the importance of eliminating subsidies that contribute to overcapacity, overfishing and IUU fishing. In this connection, one delegation invited States to consider a new proposal that its country had tabled in the WTO to address the issue of harmful subsidies to the fisheries sector.

47. In addition, several delegations expressed support for the decision of the COFI meeting to develop technical guidelines for identifying vulnerable marine ecosystems and assessing the impacts of bottom fishing on such ecosystems, as well as the need for early establishment of arrangements for regulating bottom fisheries. They also expressed satisfaction that a programme of work had been agreed upon at COFI to provide guidance to the FAO on the implementation of General Assembly resolution 61/105.

48. One delegation however noted that all types of fishing gear should be regulated, not only those that were referred to in relevant General Assembly resolutions.

IV. Implementation of the outcome of the Review Conference

A. Progress in the implementation of the outcome of the Review Conference

49. Many delegations reported that they were pleased with the outcome of the Review Conference, which was described as a watershed event. It was noted that the recommendations of the Review Conference were an implementation package, adopted by consensus, and that the outcome would help the Agreement reach its full potential. The importance of maintaining momentum in implementing the recommendations was also emphasized, since all the recommendations were not being implemented at the same rate.

50. Reports were made on progress in the implementation of the outcome of the Review Conference, including efforts to strengthen RFMOs and promote greater adherence to scientific advice, increase RFMO cooperation, assess RFMO performance, establish new RFMOs, improve flag State performance, and manage high seas discrete stocks and vulnerable marine ecosystems. Information was also received from FAO regarding implementation of paragraph 19 of the outcome of the Review Conference on arrangements for the collection and dissemination of data in accordance with the relevant provisions of the Agreement, as well as the revision by the FAO of its global fisheries statistics database. Many delegations emphasized that additional work was needed in some areas, particularly on combating IUU fishing, enhancing flag States responsibilities and port States measures, and controlling access to markets of illegally-fished products.

51. Several delegations stated that RFMOs should develop processes to improve compliance with data collection and reporting obligations, as recommended by the Review Conference. They emphasized that RFMOs must adopt conservation and management measures for target stocks in accordance with the best available scientific information and the precautionary approach. Creation of new RFMOs where none presently exist and strengthening RFMO mandates should be given priority. They emphasized also that effective functioning of RFMOs was a key element for the implementation of the Agreement.

52. Moreover, a number of delegations noted that further work was needed on measures to be adopted and implemented on non-regulated species, especially for sharks, which are taken as directed fisheries in many cases and thus should be managed as fisheries. Additional work was also needed on applying ecosystem approaches, especially in relation to by-catch of associated and dependent species, including seabirds, sharks and sea turtles. It was suggested that RFMOs should adopt binding technical mitigation measures to minimize by-catch and develop observer programmes to collect scientific information on by-catch.

53. One State non-party highlighted the importance of international cooperation in ensuring long-term development of fish stocks and preservation of marine ecosystems. It pointed out that additional work was needed in a number of areas, including adjusting fishing effort to the status of the resource, respecting scientific assessments and recommendations, developing selective fishing gear, improving monitoring and

surveillance (including through vessel monitoring systems and negative vessel lists), and reviewing the functioning and operation of RFMOs. It pointed out that labeling and certification without regard to sustainability could lead to degradation of the resource, and that trade in “sustainably-fished products” should be facilitated at national and international levels.

54. One delegation raised issues related to allocations in tuna RFMOs. It indicated that tuna stocks were not healthy and thus had been put under strict total allowable catch limitations, which were already allocated to existing members. In order to allocate shares to new members, it was necessary for existing members to surrender allocations. It noted also that negotiations on allocations were becoming more difficult, and allocations were usually rolled over from previous years.

55. Several delegations also expressed concern over the number of States that failed to cooperate with RFMOs, and continued to undermine RFMO conservation and management measures. CCAMLR was cited as an example where vessels are often found fishing in areas closed by CCAMLR due to urgent concerns regarding the sustainability and viability of the target stocks. Concerns were also expressed over the performance of the CCSBT and the need to improve monitoring and compliance to ensure that its measures were effective. Particular attention was further drawn to the fact that only two of the four coastal States in the region of the Southeast Atlantic Fisheries Organization (SEAFO) were parties to SEAFO, while two main fishing States that were parties to the Agreement had not yet joined that RFMO. States parties were reminded that they have the obligation to become members of RFMOs that have management competence over areas within which they were conducting fishing activities, or to otherwise apply the conservation and management measures adopted by those RFMOs to their vessels fishing in such areas.

56. With particular reference to the proceedings of the Review Conference, one State non-party pointed out that it did not share the satisfaction of States parties with the outcome of the Review Conference, since States parties and States non-parties did not participate in the Conference on an equal footing. It noted that the discussions on procedures during the Conference distracted some delegations from discussing other issues which deserved immediate attention.

57. One State party expressed disappointment over attempts during the 2006 negotiations on the resolution on sustainable fisheries in the General Assembly to cast doubt on the outcomes of the Review Conference. It was stressed that the Informal Consultations were an important opportunity to consider implementation of the Agreement and to recommend priority areas for consideration through the General Assembly.

B. Promotion of further ratification and accession to the Agreement

58. Several delegations emphasized the need to work to ensure universal participation in the Agreement. It was noted that the participation of coastal States and high seas fishing States was critical to the effective implementation of the Agreement. Delegations indicated that they would continue to encourage further ratifications and accessions to the

Agreement, and work to build capacity and share information regarding implementation, in particular with developing States.

59. It was also emphasized that many standards had been set and norms had been adopted in regards to fisheries, and that the most important objective now was the implementation of the Agreement. Reference was made to the St. Johns Conference in May 2005 and the need to “move from words to action”. It was suggested that in order to do so it was necessary to identify the obstacles that had prevented some States from joining the Agreement and work to find solutions.

60. It was noted that States non-parties actively participated in the Review Conference, which demonstrated a willingness to cooperate and engage in dialogue, and that States parties should take advantage of this opportunity. The view was expressed that States non-parties were committed to the full and effective implementation of the Agreement and that States should work together to ensure universal participation.

61. It was emphasized that those States non-parties that shared the objectives of the Agreement should improve cooperation and consult with States parties, including by participating in annual meetings. One State non-party further emphasized that it was difficult to achieve universal participation if the views of non-party developing States were not taken into account, and that there was a need for dialogue to address the concerns of States non-parties, including concerns over provisions in the Agreement on compatibility and on Article 21 on boarding and inspection. The view was expressed that there were other mechanisms for achieving the objectives of each fishery and that regional solutions should be found to that effect.

62. In addition, one State non-party indicated that article 4 of the Agreement should be implemented in accordance with the provisions of the United Nations Convention on the Law of the Sea (UNCLOS). It further stated that the Agreement did not provide solutions to disputes involving coastal States’ rights, flag States’ rights and RFMOs’ competence in any region.

63. During the debate on this item, a number of delegations referred to the Assistance Fund under Part VII of the Agreement and its usefulness in assisting developing States in the implementation of the Agreement. Consequently, they invited States to contribute to the Assistance Fund and called upon developing States parties to make greater use of the Fund.

64. Information was provided by the Secretariat on the Terms of Reference of the Assistance Fund and the measures being taken to further publicize the availability of the Fund. It indicated that assistance was available for both travel costs and daily subsistence allowance and that applications to the Fund should be made at least one full month prior to the subject event. Particular reference was made to the annual report of the FAO on the activities of the Assistance Fund, which included a financial statement of the contributions to, and disbursements from, the Fund in 2006.

C. Resumption of the Review Conference

(i) Dates and venue of the Review Conference

65. The Chair announced that the Secretariat had made provision to schedule tentative dates for the reconvening of the Review Conference either in 2008 or in 2009. Should States parties decide to resume the Review Conference in 2010 or 2011, provision for dates would be made in the future.

66. The debate under this item indicated that there was a general preference for the resumption of the Review Conference to take place in either 2010 or 2011. Some States also expressed a preference for 2011 to allow time for preparations and further consultations, while other States indicated a preference for 2010, keeping with the four-year interval for the initial convening of the Review Conference. The Chair stated that it was not necessary to decide at this time whether the Review Conference should be resumed in 2010 or 2011, but noted that there seemed to be a common preference for the resumption of the review Conference in one of these two years.

(ii) Initial preparatory steps for the resumption of the Review Conference

67. Several delegations emphasized the importance of the fifth round of Informal Consultations in preparing for the Review Conference in 2006 and suggested that the same model be recommended for the resumption of the Review Conference. They indicated also that the report of the Secretary-General on the status of stocks and implementation of the Agreement had assisted the Review Conference and that another report should be prepared for the resumption of the Review Conference.

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

68. Some delegations supported the convening of another round of Informal Consultations in 2008, in view of the importance of such a meeting in maintaining continuity and momentum in implementing the recommendations of the Review Conference, the value of continuing discussions on implementation of the Agreement, the fact that implementation was at a critical stage, and the need to address some issues more thoroughly. They also noted the usefulness of the meeting in preparing for the resumption of the Review Conference.

69. Some other States supported the convening of the next round of Informal Consultations in 2009. They suggested that a meeting in 2009 would be a preparatory meeting for the resumed Review Conference in 2010, although it was also possible to have another preparatory meeting in 2010. Reference was also made in this regard to the mandate of the sixth round of Informal Consultations and the discussion in the Informal Consultations of matters that were not on the agenda. One delegation suggested that the date for the next round of Informal Consultations should be set after the date had been agreed upon for the Review Conference. A number of delegations stated that they were

flexible on this issue, while others indicated that they would have a position when the matter was discussed by the General Assembly.

VI. Consideration of recommendation(s) to be conveyed by States Parties to the sixty-second session of the General Assembly.

70. The States Parties made no recommendations to the sixty-second session of the General Assembly.

VII. Closing of the sixth round of Informal Consultations of States Parties to the Agreement

71. The Chair encouraged further dialogue and consultation on the issue of the next round of Informal Consultations of the States Parties to the Agreement prior to the negotiation of the resolution on sustainable fisheries in the General Assembly in the fall. The Chair further indicated that the summary report of the sixth round of Informal Consultations of States Parties to the Agreement would be prepared by the Chairman and made available on the Secretariat's website, in accordance with past practice.

ANNEX 1

Agenda

Sixth 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)

23-24 April 2007

United Nations, New York

1. Opening of the sixth 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. Consideration of national, subregional, regional and global implementation of the Agreement:
 - a. Implementation at the national level;
 - b. Implementation at the subregional and regional levels;
 - c. Implementation at the global level.
6. Implementation of the outcome of the Review Conference:
 - a. Progress in the implementation of the outcome of the Review Conference.
 - b. Promotion of further ratification and accession to the Agreement.
 - c. Resumption of the Review Conference:
 - (i) Dates and venue of the Review Conference;
 - (ii) Initial preparatory steps for the resumption of the Review Conference.
7. Consideration of the next round of informal consultations of the States Parties to the Agreement.
8. Consideration of recommendation(s) to be conveyed by States Parties to the sixty-second session of the General Assembly.
9. Other matters.

Annex II

Recommended Minimum Criteria for Reviewing the Performance of Regional Fisheries Management Organizations (RFMOs) Draft, 13 April 2007

	AREA	General Criteria	Detailed Criteria
1	<i>Conservation and management</i>	Status of living marine resources	<ul style="list-style-type: none"> • Status of major fish stocks under the purview of the RFMO in relation to maximum sustainable yield or other relevant biological standards. • Trends in status of those stocks. • Status of species that belong to the same ecosystems as, or are associated with or dependent upon, the major target stocks (hereinafter “non-target species”). • Trends in the status of those species.
		Data collection and sharing	<ul style="list-style-type: none"> • Extent to which the RFMO has agreed formats, specifications and timeframes for data submission consistent with UNFSA Annex I. • Extent to which RFMO Members and Cooperating Non-Members, individually or through the RFMO, collect and share complete and accurate fisheries data concerning target and non-target species and other relevant data in a timely manner. • Extent to which fishing data and fishing vessel data are gathered by the RFMO and shared among Members and other RFMOs. • Extent to which the RFMO has adopted and is implementing measures to address any failure by Members to collect and share data as required.
		Quality and provision of scientific advice	<ul style="list-style-type: none"> • Extent to which the RFMO receives and/or produces the best scientific advice relevant to the fish stocks and other living marine resources under its purview, as well as to the effects of fishing on the marine environment.
		Adoption of conservation and management measures	<ul style="list-style-type: none"> • Extent to which the RFMO has adopted conservation and management measures for both target and non-target species based on the best scientific evidence available. • Extent to which the RFMO has implemented the precautionary approach in accordance with UNFSA Article 6, including the application of precautionary reference points as set forth in UNFSA Annex II. • Extent to which the RFMO has adopted and is implementing rebuilding plans for depleted or overfished stocks. • Extent to which the RFMO has moved toward the adoption of conservation and management measures for previously unregulated fisheries, including new and exploratory fisheries. • Extent to which the RFMO has taken due account of the need to conserve marine biological diversity and minimize harmful impacts of fisheries on living marine resources and marine ecosystems. • Extent to which the RFMO has adopted measures to minimize pollution, waste, discards, catch by lost or abandoned gear and catch of non-target species, consistent with relevant international standards.
		Capacity management	<ul style="list-style-type: none"> • Extent to which the RFMO has identified fishing capacity levels commensurate with long-term sustainability of relevant fisheries. • Extent to which the RFMO has taken measures to prevent or eliminate excess fishing capacity.
		Compatibility of management measures	<ul style="list-style-type: none"> • Extent to which measures have been adopted in accordance UNFSA Article 7.
		Fishing allocations	<ul style="list-style-type: none"> • Extent to which the RFMO agrees on the periodic allocation of fishing opportunities, including taking into account requests for participation from new members or participants in accordance with UNFSA Article 11.

2	<i>Compliance and enforcement</i>	Flag State duties	<ul style="list-style-type: none"> Extent to which RFMO Members are fulfilling their duties as flag States under the treaty establishing the RFMO, pursuant to measures adopted by the RFMO, and under other relevant international instruments, including the UNFSA and the 1993 FAO Compliance Agreement.
		Port State Measures	<ul style="list-style-type: none"> Extent to which the RFMO has adopted measures relating to the exercise of the rights and duties of its Members as port States, in accordance with UNFSA Article 23. Extent to which RFMO Members implement these measures effectively.
		Monitoring, control and surveillance (MCS)	<ul style="list-style-type: none"> Extent to which the RFMO has adopted integrated MCS measures (e.g., required use of VMS, observers, catch documentation and trade tracking schemes, restrictions on transshipment, boarding and inspection schemes). Extent to which RFMO members implement such measures effectively.
		Other enforcement-related issues, including follow up on infringements	<ul style="list-style-type: none"> Extent to which RFMO Members follow up on infringements to management measures by which they are bound. Extent to which Cooperating Non-Members follow up on infringements to management measures that they have agreed to implement.
		Co-operative mechanisms to detect and deter non-compliance	<ul style="list-style-type: none"> Extent to which the RFMO has established adequate cooperative mechanisms to both monitor compliance and detect and deter non-compliance (e.g., vessel lists, sharing of information about non-compliance, market-related measures).
3	<i>Decision making and dispute settlement</i>	Decision-making	<ul style="list-style-type: none"> Extent to which RFMO has transparent and consistent decision-making procedures which facilitate the adoption of conservation and management measures in a timely and effective manner.
		Dispute settlement	<ul style="list-style-type: none"> Extent to which the RFMO has established adequate mechanisms for resolving disputes.
4	<i>International Cooperation</i>	Transparency	<ul style="list-style-type: none"> Extent to which the RFMO is operating in accordance with the transparency provisions of Article 12 of UNFSA. Extent to which RFMO decisions, meeting reports, scientific advice upon which decisions are made, and other relevant materials are publicly available.
		Relationship to cooperating non-members	<ul style="list-style-type: none"> Extent to which the RFMO facilitates cooperation between members and non-members, including through the adoption and implementation of procedures for granting cooperating status.
		Relationship to other non-members	<ul style="list-style-type: none"> Extent of fishing activity by vessels of non-members that are not cooperating with the RFMO and measures to deter such activities.
		Cooperation with other RFMOs	<ul style="list-style-type: none"> Extent to which the RFMO cooperates with other RFMOs, including through the network of Regional Fishery Body Secretariats.
		Special requirements of developing States	<ul style="list-style-type: none"> Extent to which the RFMO recognizes special needs of developing States. Extent to which RFMO members, individually or through the RFMO, provide relevant assistance to developing States.
5	<i>Availability of Resources</i>	Funding of RFMO activities	<ul style="list-style-type: none"> Extent to which financial and other resources are made available to achieve the aims of the RFMO and to implement the RFMO's decisions.