

**Seventh 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, 11 – 12 March 2008)**

**Report**

**SUMMARY**

The present document contains the report of the seventh 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, 11-12 March 2008.

As provided in paragraph 29 of General Assembly resolution 62/177 of 18 December 2007, the seventh round of Informal Consultations discussed subregional, regional and global implementation of the Agreement, taking into consideration the outcome of the Review Conference as regards proposed means of strengthening the implementation of the Agreement, and promoting a wider participation in the Agreement.

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## **I. Introduction**

1. Pursuant to paragraph 29 of General Assembly resolution 62/177 of 18 December 2007, a seventh 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 United Nations Headquarters, in New York, on 11 and 12 March 2008.
2. The Secretary General convened the Informal Consultations with the objectives of discussing the implementation of the Agreement at the subregional, regional, and global levels, taking into consideration the outcome of the Review Conference as regards proposed means of strengthening the implementation of the Agreement, promoting a wider participation in the Agreement and making any appropriate recommendations to be considered by the General Assembly.

## **II. Organization of work**

### **A. Opening of the seventh round of Informal Consultations**

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

### **B. Election of the Chairperson**

4. The meeting elected Ambassador David Balton, Deputy Assistant Secretary for Oceans and Fisheries in the Bureau of Oceans, Environment and Science, United States Department of State.

### **C. Attendance**

5. Representatives of the following parties attended the seventh round of Informal Consultations: Australia, Austria, Belgium, Brazil, Bulgaria, Canada, Cost Rica, Cyprus, European Community, Fiji, Finland, France, Germany, Greece, Guinea, Iceland, India, Iran, Japan, Kenya, Lithuania, Maldives, Marshall Islands, Micronesia, Nauru, Netherlands, New Zealand, Norway, Poland, Portugal, Republic of Korea, Russian Federation, Samoa, Senegal, Seychelles, Slovenia, South Africa, Spain, Tonga, Trinidad and Tobago, United Kingdom of Great Britain and Northern Ireland and 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 seventh round of Informal Consultations:

- (a) States non-parties: Algeria, Albania, Argentina, Benin, Bolivia, Cape Verde, Chile, China, Colombia, Congo, Cuba, Croatia, Democratic Republic of the Congo,

Djibouti, Dominican Republic, Egypt, El Salvador, Gabon, Ghana, Guatemala, Honduras, Indonesia, Iraq, Kuwait, Madagascar, Mexico, Morocco, Myanmar, Nigeria, Pakistan, Peru, Philippines, Sierra Leone, Slovakia, Thailand, Turkey, Uganda and Venezuela;

(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 (RFMO/As): Inter-American Tropical Tuna Commission (IATTC), International Commission for the Conservation of Atlantic Tunas (ICCAT), North East Atlantic Fisheries Commission (NEAFC) and Northwest Atlantic Fisheries Organization (NAFO);

(d) Other intergovernmental organizations: Asian African Legal Consultative Organization, International Seabed Authority and IUCN - the World Conservation Union; and

(e) Non-governmental organizations: International Ocean Institute (IOI) and World Wide Fund International (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).

### **III. Consideration of subregional, regional and global implementation of the Agreement, taking into consideration the outcome of the Review Conference**

8. In his opening statement, the Chairman highlighted previous significant accomplishments of the Informal Consultations, including establishment of the Part VII Assistance Fund, and preparations for the Review Conference held in May 2006, which produced an ambitious set of recommendations. He also welcomed the most recent States to become parties to the Agreement (Romania and the Republic of Korea), bringing the total number of parties to 68, including the European Community (EC).

9. In addition, the Chairman highlighted recent developments and international initiatives relating to the Agreement, including efforts to strengthen the mandates of RFMO/As and conduct performance reviews of RFMO/As; improving cooperation among RFMO/As, especially with regard to illegal, unreported and unregulated (IUU) fishing; conducting negotiations for interim measures in the South Pacific and the Northwest Pacific on high seas fishing; and developments relating to assessing the performance of flag States, minimum standards on port State measures, and technical guidelines for the management of deep sea fishing.

10. Several States parties also welcomed the most recent parties to Agreement and it was noted that eleven parties had joined UNFSA since the Review Conference in 2006. It was observed that parties to the Agreement now represented a critical mass of important fishing nations, including nations representing more than 50% of all fish exports and 80% of all fish imports. Nevertheless, the goal of universal participation had not been reached yet, and further efforts were needed to promote wider participation in the Agreement, in particular participation by developing States.

#### **A. Proposed means of strengthening the implementation of the Agreement**

11. Many States reported on progress in the implementation of the Agreement at regional and national levels. Among the noted developments, States drew attention to efforts being taken by RFMO/As to strengthen their mandates and measures; performance reviews being conducted in RFMO/As; new RFMO/As being developed in the South Pacific and the Northwest Pacific; and steps being taken to prevent IUU fishing and overfishing, including through the establishment of vessel lists and port State measures. A number of delegations observed that considerable progress had been made on many of the recommendations from the Review Conference in 2006.

12. However, States generally agreed that further progress was needed and many challenges remained. It was well-recognized that RFMO/As were the primary vehicles for the conservation and management of straddling fish stocks and highly migratory fish stocks, but concerns were raised over the credibility of RFMO/As, in particular, due to “institutionalized overfishing”. IUU fishing continued and further efforts were needed to deal with “free-riders”, including through market measures to increase the costs of such activities. Cooperation was needed between RFMO/As and other organizations to improve coordination and integration of measures. A number of States emphasized that challenges relating to sustainable fisheries, including overfishing, overcapacity and IUU fishing, needed to be addressed in an integrated manner.

13. There was general support for processes to improve flag State implementation and port State measures. One delegation emphasized the need to develop a flexible legally binding instrument for port State measures to allow for regional variations, in addition to measures that could be applied globally. It was noted that efforts had been made to manage deep sea fisheries, including through the development by the FAO of draft International Guidelines for the Management of Deep-sea Fisheries in the High Seas, but concerns were raised over the difficulty in agreeing on interim measures for some regions. Several States also stressed the need for fisheries management to take place within the context of ocean’s governance generally, including through application of the precautionary approach and ecosystem approaches. Many delegations further raised the need for increased capacity-building for developing countries and, therefore, encouraged States to contribute to the Assistance Fund established under Part VII of the Agreement.

14. One observer drew attention to recent scientific reports that raised concerns over the state of the world’s oceans and their ability to maintain sustainable fisheries. It was noted that management of human activities in marine areas had traditionally been done on a sectoral basis and it was emphasized that fisheries managers and managers of other sectors needed to provide for a better integration of all marine activities and interests. With respect to the implementation of the UN Fish Stocks Agreement, attention was

drawn to the need to integrate the conservation and management of high seas fish stocks with a broader and more integrated approach to oceans management, thus making it necessary for fisheries managers to assume a larger responsibility in protecting marine biodiversity and ecosystems from the impact of fishing, and to take into account large systemic impacts that may weaken the ability of fish stocks and their associated ecosystems to withstand current or even reduced fishing levels.

**(i) Conservation and management of stocks**

15. In its report on the national implementation of the Agreement, the **Republic of Korea** indicated that it had incorporated the conservation and management principles set out by the Agreement into its domestic laws and regulations, and continued efforts to apply the precautionary and ecosystem approaches to the fish stocks regulated by the Agreement. The delegation observed that “agflation” had become a key issue alongside other global challenges, such as energy security and climate change, and emphasized that all members of the international community were responsible for the sustainable use of fisheries resources.

16. **Canada** reported that its international fisheries governance programme had been made permanent after a three-year pilot period. The pillars of the framework included developing fisheries policy, biodiversity in the oceans, and enabling strategies, such as integrated approaches. It was now examining pathways to determine whether it was making progress in implementation, which included making use of economic incentives and monitoring their implementation and effectiveness. Canada was building a new integrated strategic approach to all fisheries, which included a framework to manage fisheries from harvesters to market.

17. **Japan** promulgated a comprehensive ocean policy law in 2007, which required the government to develop a basic ocean plan and review it every five years. The law struck a balance between development and the conservation and protection of the oceans. It also aimed at strengthening science and providing a basis for sound and sustainable development. Furthermore, Japan adopted a basic fisheries plan, which included strengthening stock assessment, reducing overcapacity, combating IUU fishing, strengthening monitoring, control and surveillance (MCS) measures, and reinforcing cooperation between tuna RFMOs.

18. **Norway** established an integrated management plan for the Barents Sea-Lofoten area and it was also developing a plan for the Norwegian Sea. It reported that IUU fishing had decreased for the first time in the Barents Sea due to measures being taken, in particular, to expand procedures for port State control.

19. **Iran** reported on its efforts to implement the Agreement, including through the adoption of its 1995 Preservation and Proper Utilization of Marine Resources Act, which entrusted the Iranian Fisheries Organization with overseeing the proper exploitation and management of marine resources. It had also adopted far-reaching measures to promote optimum utilization and proper management of marine resources to ensure the long-term sustainability of the fishery resources of the Caspian Sea. Two key frameworks provided for cooperation among littoral States to prevent destructive fishing and overfishing, and to control sources of pollution. The Fisheries Organization had also designated inspectors to oversee fishing operations in order to monitor implementation of guidelines on

responsible fisheries and to cut by-catch and related discards and ensure after-catch release of endangered species.

20. **Tonga, on behalf of the Pacific Islands Forum**, reported that the “Vava’u Declaration on Pacific Fisheries Resources: Our Fish, Our Future” was adopted at the Pacific Islands Forum Leaders’ Meeting in Tonga in 2007, which addressed key challenges facing the Pacific region in the management of fisheries resources. The delegation emphasized that fisheries were a source of export revenue and food security and represented one of the region’s few platforms for sustainable growth. The declaration called for a long-term strategic approach to fisheries management, including through upholding and strengthening existing regional arrangements, agreements and conservation measures.

21. With respect to the regional implementation of the Agreement, many delegations noted the essential role of RFMO/As in the implementation of the Agreement and progress made in this regard. It was reported that NEAFC had established a Permanent Committee on Management and Science, which would take into account impacts of fishing activities on other species and marine ecosystems as well as the need to conserve marine biological diversity. However, concerns were raised over the credibility of RFMO/As and the need to improve their functioning. Some delegations emphasized that it was important for members of RFMO/As to reach agreement on management measures based on the best available scientific information, and disappointment was expressed over the inability of some RFMOs to agree on effective conservation and management measures (for example, in the Western and Central Pacific Fisheries Commission (WCPFC) over Yellowfin and Bigeye tuna and IATTC). It was highlighted that lack of agreement on management measures for single stocks, as well as establishing catch limits contrary to scientific advice, had led to “institutionalized overfishing”. Further, reliance on “minimum common denominator” measures based on number of days and levels of effort was impaired by ineffective monitoring, control and surveillance measures.

22. One delegation indicated that there was a critical need to implement the recommendation from the Review Conference on the conservation and management of currently unregulated straddling fish stocks and highly migratory fish stocks with respect to shark stocks. The delegation also noted that, while a number of RFMO/As had adopted resolutions concerning the practice of shark finning, there were other aspects of this issue and General Assembly resolution 62/177 had identified various actions to be taken by States, including through RFMO/As, to implement the FAO International Plan of Action for the Conservation and Management of Sharks (IPOA-Sharks). Another delegation stated that it was devising and implementing a plan of action in accordance with IPOA-Sharks, and drew attention to a proposal to negotiate a new binding agreement for sharks under the framework of the Convention on Migratory Species.

23. A number of delegations noted that another impediment to the ability of RFMO/As to effectively conserve and manage stocks was the inaccuracy and incompleteness of data, which was identified as an on-going problem. Further efforts were needed to strengthen data collection and reporting by members of RFMO/As, including through regular audits of compliance and the development of processes to rectify cases when obligations were not met.

24. Several delegations emphasized the urgent need to implement the ecosystem approach and to apply the precautionary approach to fisheries management. A number of States addressed the enhancement of understanding of ecosystem approaches by RFMO/As, and the need for action to conserve associated and dependent species. They invited RFMO/As to adopt binding conservation and management measures requiring the use of specific technical mitigation measures and data reporting to minimize by-catch and increase post-release survival of by-catch species. One delegation also called for the implementation of observer programmes to collect accurate scientific information on by-catch.

25. Another delegation noted that UNFSA recognized the unique vulnerability of developing nations that depend upon marine resources for food security, basic development and cultural identity, and that by-catch and related discards had a negative impact on these resources and prevented meaningful implementation of article 24 of the Agreement. It was emphasized that international action to reduce or eliminate by-catch and related discards would not only benefit threatened fish stocks, but would also reduce barriers to achieving the Millennium Development Goals for these countries.

26. In this context, a number of delegations also emphasized the importance of marine biodiversity and welcomed progress to address the impacts of fishing on vulnerable marine ecosystems, including immediate and serious threats to marine biodiversity from destructive fishing practices. Progress had been made with respect to the FAO Technical Consultation on International Guidelines for the Management of Deep-Sea fisheries in the High Seas, which were held in February 2008 in Rome, and scheduled to resume in August 2008. The draft International Guidelines included standards and criteria for identifying vulnerable marine ecosystems and the impacts of fishing activities on such ecosystems. One delegation invited States and RFMO/As to apply the draft International Guidelines in their implementation of General Assembly resolution 61/105, which called on States and RFMO/As to adopt and implement specific measures to prevent significant adverse impacts to vulnerable marine ecosystems by 31 December 2008, or not authorize bottom fishing activities. It was noted that implementation of aspects of the draft International Guidelines would be discussed during the third meeting for the establishment of an RFMO in the Northwest Pacific, which would be held in the Russian Federation in May 2008.

27. With reference to article 5(b) of UNFSA, one observer noted that the international community had not succeeded in carrying out assessments of the impacts of fishing, and that while such assessments could be complex they needed to be carried out using information that was currently available. Another delegation stressed that creative innovation and leadership was needed in the implementation of measures to address challenges relating to human impacts. In this context, attention was also drawn to the impacts of climate change, and it was emphasized that lack of scientific knowledge should not preclude action in the face of severe threats posed by climate change, including its effect on fisheries.

28. A number of delegations welcomed the implementation of resolution 61/105 by RFMO/As with the competence to regulate bottom fisheries, and by States participating in negotiations to establish new RFMO/As with competence to regulate bottom fisheries. It was reported that the Commission for the Conservation of Antarctic Marine Living

Resources (CCAMLR) had adopted a conservation measure in 2007 to implement resolution 61/105, following an interim restriction on the use of bottom trawling gear in 2006. The measure required a number of steps and mutually reinforcing actions, including scientific assessment to determine if such activities would contribute to possible adverse impacts on vulnerable marine ecosystems, a “move on” rule, full observer coverage, and robust data collection and sharing. One delegation observed that RFMO/As were part of the solution regarding protection of vulnerable marine ecosystems and their role was reflected in resolution 61/105 and the draft International Guidelines for the Management of Deep-sea Fisheries in the High Seas. The EC reported that it was developing legislation to implement the measures called for in resolution 61/105, which would apply to vessels flying the flag of Member States that fished in areas not regulated by RFMO/As, and would be based on the regulatory responsibilities of flag States.

29. Several States highlighted the importance of establishing new RFMO/As with the aim of achieving global coverage of all oceans and seas, as necessary, and the need to agree on interim measures until such arrangements were established. In this respect, delegations welcomed efforts to establish new RFMOs in the South Pacific and Northwest Pacific and satisfaction was expressed over agreement on interim measures in these negotiations. Some delegations expressed concerns over difficulties encountered in the context of the South Indian Ocean Fisheries Agreement (SIOFA) due to the limited participation in that organization and the absence of agreement over interim measures. It was emphasized that the situation in the Indian Ocean needed to be tackled as a priority by all States concerned. One delegation reported that until interim measures were agreed in the SIOFA area, it had unilaterally placed additional conditions and license restrictions on its high seas operators conducting fishing activities in the convention area.

30. Regarding the issue of overcapacity, several States emphasized that further progress was needed to reduce the capacity of the world’s fishing fleet, including through the implementation of the International Plan of Action for the Management of Fishing Capacity (IPOA-Capacity) by RFMO/As and their members. One delegation stated that RFMO/As should pursue capacity management plans, starting with capacity assessments, and establish effective controls on the level and use of capacity in those fisheries where the status of stock was most critical. It was emphasized that capacity management plans should not penalize States that had already reduced their capacity unilaterally, and should recognize the legitimate rights of developing States to develop their fisheries. Another delegation noted that overcapacity could prevent cooperation between States concerning fisheries.

31. With respect to derelict fishing gear, one delegation observed that steps had been taken to address this problem, but more efforts were needed. As a priority, it was suggested that RFMO/As should adopt measures to implement MARPOL Annex V Guidelines, raise awareness among the fishing community, and promote the collection of data on debris types and impacts.

#### **(ii) Mechanisms for international cooperation and non-members**

32. Several delegations emphasized the need for international cooperation in the effective and long-term conservation and management of straddling fish stocks and highly

migratory fish stocks. Cooperation was also necessary to modernize and strengthen RFMO/As to ensure they adopted robust and systematic approaches to international fisheries governance. It was noted that the constituent documents of some RFMO/As that predated the Agreement had been revised to make them consistent with the principles in UNFSA, and that two RFMOs established since the adoption of UNFSA had used the Agreement as a template to develop their convention texts.

33. In this regard, several delegations welcomed performance reviews that had been initiated or completed by many RFMOs (including in CCAMLR, ICCAT, the Indian Ocean Tuna Commission (IOTC), NAFO, NEAFC, and the Commission for the Conservation of Southern Bluefin Tuna (CCSBT)). One delegation noted that flexible approaches were needed in this regard and it was recalled that the meeting of the tuna RFMOs in Kobe, Japan, had developed RFMO performance review criteria, and that the High Seas Task Force had developed a “model RFMO” that presented best practices for RFMO/As.

34. Many delegations welcomed efforts to strengthen RFMO/A cooperation and dialogue, such as the meeting of the tuna RFMOs in Kobe, Japan, which was followed by a meeting of the Chairs of the tuna RFMOs in San Francisco, United States, in January 2008. Some delegations noted that the Pacific was an area where enhanced cooperation among tuna RFMOs was particularly important. It was suggested that enhanced cooperation should also be promoted among non-tuna RFMOs. The importance of broader cooperation between fisheries organizations and other relevant bodies, such as regional environmental organizations, was highlighted by several delegations, in particular in light of the need to integrate fisheries management with broader ocean management, as demonstrated by the work of General Assembly on the impacts of fishing activities on vulnerable marine ecosystems.

35. In this context, one delegation raised the issue of the transparency of RFMO/As and decisions made by some RFMO/As in relation to the participation of States with a real interest in fisheries for which these organizations exercised management responsibilities. This delegation indicated that States who were refused membership in RFMO/As might consider that their duty to cooperate under UNCLOS had been discharged. In order to avoid this result, it was critical for RFMO/As to integrate States that had an interest in the fisheries. Another delegation indicated that States might have an interest in fishing relevant stocks, but this did not constitute a real interest under the Agreement. According to this delegation, those States that had a real interest in particular fisheries were the coastal States that had the same stock in their EEZs and the States that had previous fishing experience in the fisheries concerned.

36. One State non-party noted that the Agreement was one of a number of important instruments dealing with the management of straddling fish stocks and highly migratory fish stocks. It suggested that in order to enhance international cooperation, States should strive to harmonize relevant instruments, enhance cooperation between relevant institutions and, where possible, become members of all relevant instruments. This delegation also noted that international cooperation based on provisions of the Agreement could be achieved by non-parties through implementation of the objectives and general principles of the Agreement.

### **(iii) Monitoring, control and surveillance and compliance and enforcement**

37. Many delegations referred to the issue of monitoring, control and surveillance (MCS), compliance and enforcement in the context of combating IUU fishing. Several delegations highlighted the need for flag States to implement effective measures in the fight against IUU fishing, including the need to strengthen control over vessels flying their flags through effective action to address non-compliance, and by supporting and fully implementing multilaterally agreed MCS measures. They also welcomed the work by FAO to develop criteria for assessing flag State performance and to consider possible actions against States that consistently fail to act responsibly. In that connection, it was reported that Canada was organizing a workshop in March 2008 to begin a dialogue on the development of criteria for evaluating flag State performance, in order to support future work of FAO in that area.

38. A number of delegations emphasized that reducing the profitability of IUU fishing operations was critical to combating IUU fishing effectively. One delegation indicated that there was a regulatory gap in which consumer or market States and other commercial actors were allowed to reap the financial gains from IUU fishing activities, but were outside the reach of traditional international law of the sea. Consequently, they suggested that additional international dialogue could recognize new legal, economic and social means by which to expand responsibility in respect of IUU fishing. Several delegations also emphasized the need for a multifaceted approach to address these activities.

39. One delegation drew attention to the challenges posed by IUU fishing in the Pacific region and noted that IUU fishing operators were attracted by the potential value of the migratory stocks and the limited enforcement in the region. It was emphasized that some small island developing States struggled to effectively patrol vast areas of their EEZs, and national enforcement capacities were limited by the high cost of fuel and other pressing development needs.

40. In addition, several delegations described national measures they had implemented to strengthen compliance with, and enforcement of, conservation and management measures. The **United States (US)** reported on the newly reauthorized Magnuson-Stevens Act, which was signed into law in January 2007, and called for the US to work multilaterally to address IUU fishing and by-catch of protected living marine resources, including through vessel lists, stronger port State controls and market-related measures. Accordingly, the US had published a definition of IUU fishing and was developing procedures for the identification of States whose vessels engaged in IUU activities that resulted in by-catch of protected living marine resources under the Act. The procedures would provide for the US to certify if appropriate corrective action had been taken, and would include possible restrictions on the imports of fish from States that failed to take corrective steps. The US would be soliciting comments on the draft framework and encouraged the participation of other States in this process.

41. The **EC** was working on internal rules to combat IUU fishing and it was trying to incorporate better information on IUU vessels and flag States that did not address IUU fishing. The EC indicated that it intended to incorporate the different rules into a single code containing the fishing regime applicable to its Member States. The EC was also addressing trade in IUU fishing products as it was determined to be a responsible market

State. It noted that most of its imports were in frozen fish, as opposed to port landings, which raised difficult issues since trade in fish and fish products had not been regulated historically.

42. **Canada** reported that it was assessing whether it had the legal and regulatory tools necessary to meet its responsibilities as a market State, and indicated that it may amend its national plan of action on combating IUU fishing before the next meeting of the Committee on Fisheries of the FAO in 2009. **Brazil** reported that its MCS measures included patrols carried out by its navy and carried out jointly with neighbouring States. **Iran** stated that it had established an elite law enforcement unit to prevent IUU fishing in the areas under national jurisdiction in the Persian Gulf and the Caspian Sea.

43. **Australia** reported that it had committed funding to the International MCS Network, which aimed to increase the effectiveness and analytical capacity of existing MCS capacities, and it encouraged States to participate in the upcoming Second Global Fisheries Enforcement Training Workshop, in Trondheim, Norway, 7 to 11 August 2008. The **Marshall Islands** reported that a number of MCS measures, including joint enforcement measures and cooperative efforts between small island developing States (SIDS) and key developed States, had been important in combating IUU fishing in the Pacific region.

44. Many delegations also reported on regional and global developments to combat IUU fishing. It was reported that NEAFC had developed expanded port State measures, which required prior notification of landings and verification by flag States of catch information before landings would be authorized by port States. It was reported that, due to such measures, IUU fishing vessels had been driven further south and east to find ports to land fish, which reduced the profitability of such IUU fishing operations. There had also been a dramatic reduction of IUU fishing in the NAFO area due to penalties and the application of port State measures.

45. In this context, several delegations welcomed the development of a legally binding instrument on minimum standards for port State control and the progress made at FAO in this regard. It was observed that such an instrument would support the conservation and management measures adopted by RFMO/As and affect the economics of IUU fishing by raising the risks and costs of such activities, and that it exemplified the desire of the international community to eliminate refuges for bad actors. One delegation indicated that it should be impossible for IUU operators to land illegally caught fish in any port in the world. Another delegation observed that the instrument needed to accommodate regional differences in issues relating to IUU fishing, and that minimum standards for port State measures would be difficult to define. It was noted that there was a need to balance the necessity of strengthening port State measures with ensuring the feasibility of implementation of such measures. One delegation noted that focusing on port State measures would not be sufficient to address IUU fishing, and that it was also necessary to address States that hid behind the exclusive jurisdiction of flag States to act irresponsibly.

46. In this context it was also reported that some RFMO/As had adopted measures to regulate transshipment. Some delegations noted that significant gaps remained, however, and that further work was needed to regulate this practice to ensure accurate collection

and verification of data and compliance with agreed conservation and management measures.

47. Some delegations referred to recent initiatives by RFMO/As to cooperate and coordinate with respect to so-called positive and negative vessels lists, including the establishment of a common list of IUU fishing vessels by the tuna RFMOs, as agreed at the meeting in Kobe, Japan. It was reported that ICCAT had adopted a recommendation in 2007 to include vessels listed by other tuna RFMOs, and that the tuna RFMOs were working closely to harmonize their vessel lists.

48. One delegation also urged States parties to support the development with FAO of a global register of fishing vessels, including refrigerated transport and supply vessels, which incorporated available information on beneficial ownership, since it had the potential to be a powerful tool for detecting, impeding and eliminating vessels that engage in IUU fishing.

#### **(iv) Developing States**

49. Several delegations recognized that financial and technical capacity-building was important to increase adherence to the Agreement by developing States and to promote its full implementation and the achievement of its objectives. It was observed that capacity-building should enhance the capacity of developing States to implement the Agreement in conformity with article 25 of the Agreement. Some delegations stated that capacity building should also promote the participation of developing States in fisheries for straddling fish stocks and highly migratory fish stocks. With respect to the specific needs of SIDS, it was noted that the Millennium Development Goals and the United Nations system as a whole had recognized the development challenges of SIDS, but that more direct regional and global action was needed to further their development aspirations. One delegation emphasized that assistance to developing States in the development of their domestic fisheries, as recognized in article 24 of the Agreement, needed to be translated from words into action.

50. Some delegations called for further efforts, in particular, in relation to the use of, and contributions to, the Part VII Assistance Fund. It was noted that the Fund contained more than US\$800,000, and some delegations stressed the need for further contributions to the Fund and for developing States to make use of these resources in accordance with the Terms of Reference.

51. In addition, RFMO/As were invited to establish mechanisms, including voluntary funds and dedicated budget items, to enhance the participation of developing States in their work. It was reported that ICCAT had provided technical assistance to its developing Member States in 2007 through a number of assistance funds, including the Part VII Assistance Fund, in particular, for the establishment of a system of statistical data, the participation by developing coastal States in scientific meetings, the collection of historical data, scientific observation programmes and the collection of biological information, as well as the delivery of training programmes.

52. *Annual report on the activities of the Part VII Assistance Fund for 2007.* In accordance with paragraph 21 of the Terms of Reference, FAO presented a financial report on the status of the Assistance Fund as at 31 December 2007. Since the

establishment of the Assistance Fund in 2003, total contributions in the amount of US \$814,653 (by the Governments of Canada, Iceland, Norway and the United States) had been made. There had been a slight increase in requests for assistance under the Fund in 2007 (15 requests in 2007 as compared to 14 requests in 2006), and a total expenditure of US \$51,653 was made in 2007, all of which related to participation in meetings (47 per cent was disbursed under paragraph 14 (a) for participation in sessions of CCAMLR, ICCAT, SEAFO, and WCPFC; 43 per cent supported participation in negotiation sessions for the establishment of the South Pacific RFMO).

53. Some delegations questioned whether the Fund could be used for capacity-building in the development of national legislation and the ratification process. In this respect, it was noted that three applications had been received for capacity-building assistance in 2007, but these applications were denied because they fell outside the Terms of Reference. FAO indicated that there was little flexibility in this regard since the Terms of Reference were precise regarding the types of activities for which funds could be disbursed.

54. *Proposed revisions to the Terms of Reference of the Part VII Assistance Fund.* The FAO and DOALOS proposed revisions to the Terms of Reference, in accordance with paragraph 23, to promote the efficient and transparent operation of the Fund. In particular, the proposed revisions aimed at clarifying certain procedural matters relating to the submission of applications, the process for the determination of applications, the use of financial assistance provided from the Fund, and the reporting obligations of recipients of financial assistance. The proposed revisions were accepted with minor changes (see Annex II). It was also agreed that a standard format for reporting by beneficiaries under paragraph 22 of the Terms of Reference would be posted on the websites of FAO and DOALOS.

## **B. Promoting a wider participation in the Agreement**

55. During the discussions on this agenda item many delegations emphasized the importance of promoting a wider participation in the Agreement and noted that strong adherence to the Agreement by both coastal and high-seas fishing States would enhance its effectiveness. They recalled that the Review Conference had highlighted issues identified by several States non-parties to be impediments to their possible participation in the Agreement and recommended that States exchange ideas on ways to promote further ratification and accession to the Agreement through a continuing dialogue.

56. In this regard, one delegation indicated that the impediments identified by States non-parties to their broader participation in the Agreement could be broadly listed into three categories: (i) impediments due to lack of capacity; (ii) technical, juridical or policy differences involving the interpretation of the Agreement; and (iii) impediments that reflected political differences. This delegation observed that the former two categories could be addressed more easily and should be the focus of attention.

57. Many delegations agreed that there was a need to address these technical, juridical or policy differences. In this respect, the boarding and inspection provisions of the Agreement were highlighted by some delegations as requiring particular attention. One delegation raised specific questions to determine whether the concerns of States non-parties had been addressed through recent developments in fisheries management, such as the procedures developed in WCPFC for implementing articles 21 and 22 of the

Agreement and the proposed FAO instrument on port State measures. Attention was also drawn to the provisions of article 21(15) as offering an avenue for alternative enforcement mechanisms.

58. Several States parties emphasized that it would be necessary to look at ways to accommodate the concerns of States non-parties without amending the Agreement. It was noted that it would be difficult to reach consensus on any amendment, and concern was raised over re-opening debate on provisions in the Agreement. Some delegations indicated that amending the Agreement was unnecessary since some of the differences in perspective resulted from different interpretations of the provisions. One State non-party expressed concern over the narrow approach taken in some provisions of the Agreement, and indicated that States parties also needed to show flexibility in this regard. This delegation observed that Article 36 of the Agreement called for a review of its provisions and it was noted that there had been many developments in both fisheries management and in the state of global fisheries since the entry into force of the Agreement. Other delegations noted that degradation of the state of global fisheries should not be considered as indicative of any shortcoming in the Agreement, but rather as an incentive to increase further participation in the Agreement.

59. A number of delegations indicated that the benefits of the Agreement for States non-parties should also be clearly outlined to facilitate adherence to the Agreement. Some recent parties to the Agreement described benefits in this respect, including a greater ability to control fishing within their national jurisdiction, increased cooperation in enforcement, and an improved normative framework for action. One delegation also observed that it considered the Agreement part and parcel of the implementation of the provisions of UNCLOS.

60. In addition, delegations highlighted the need to coordinate outreach to States non-parties in relation to their participation in the Agreement. It was suggested that States non-parties who are members of RFMO/As should be approached by States parties to encourage their participation in the Agreement, especially those members who have not expressed any particular concern about UNFSA. On request, a chart identifying States parties to RFMO/As who were not parties to the Agreement was circulated by the Secretariat. It was also suggested that further efforts were needed to better coordinate other outreach efforts to States non-parties on bilateral and multilateral levels. One delegation indicated that action should be taken at the regional level to ensure that neighbouring countries are under the same regime, and reference was made to an Economic Community of West African States (ECOWAS) regional seminar to take place the first week of June 2008, in Accra, Ghana where participation in the Agreement could be encouraged.

61. One State non-party, however, expressed the view that it was possible to fulfil the principal aims of the Agreement and adopt measures consistent with the substantive provisions of the Agreement without participating in the Agreement. In this regard, it encouraged States parties to consider ways in which cooperation between the Agreement and other agreements or arrangements could be strengthened.

62. With particular reference to capacity-building, several States stressed the important role of the Part VII Assistance Fund for that purpose, and encouraged its broader use by

developing States parties to the Agreement. Some States noted that the Fund could not be used to assist non-parties to join the Agreement and the view was expressed that some non-parties would not join the Agreement until they had achieved the level of capacity necessary to implement the Agreement. Consequently, it was important to consider the many other possible sources of funding, and to accurately identify the needs of developing non-parties in this regard.

63. In this connection, several delegations observed that it was difficult to obtain comprehensive information on sources of assistance available to developing States to improve their fisheries management. The meeting therefore agreed to request that the Secretariat, together with the FAO, compile a comprehensive list of sources of assistance and other available vehicles for capacity-building. It was also recalled that some countries offered bilateral assistance to developing States to assist them in building capacity in fisheries conservation and management. However, it was also noted that such assistance was currently provided on an ad hoc basis, which complicated long-term planning by recipient States.

64. Some developing States stressed the need to improve technical assistance within the provisions of the Agreement, including by fully implementing the provisions of articles 24 and 25. In this respect, the capacity of developing States to implement conservation measures, manage fish stocks and monitor fishing vessels, were considered of high importance. One delegation expressed disappointment over the implementation of article 24 of the Agreement and indicated that greater efforts were needed to allow developing States to develop their own capacity and participate in high seas fishing.

65. Delegations welcomed an open dialogue to promote participation in the Agreement and agreed to convene a meeting to address this issue. Various proposals were made on how to organize such an event, but it was generally agreed that the issue should be a focus of the eighth meeting of the Informal Consultations of States Parties to the Agreement. To this end, several delegations suggested the organization of panel presentations, which could involve academia, States parties, non-parties and relevant organizations, such as the FAO and RFMOs. It was proposed that panel presentations could focus on, inter alia, the issues of boarding and inspection, compatibility of measures, capacity-building, and the effective implementation of article 24 of the Agreement. It was considered particularly important that sufficient time be allowed for an in-depth exploration of issues, and that widespread participation of all interested parties be achieved. The Chairman agreed to work with interested States and the Secretariat to organize such an event to be held as part of the next Informal Consultations of States Parties to the Agreement in 2009.

## **IV. Resumption of the Review Conference**

### **A. Dates and venue of the Review Conference**

66. It was recalled that the Review Conference had agreed to keep the Agreement under review through its resumption at a date not later than 2011. A number of delegations expressed their preference to resume the Review Conference in 2010 for various reasons, including their interest in maintaining a four-year cycle of review, and to allow for better

scheduling of other meetings, in particular, the meeting of COFI in 2011, which could benefit from recommendations from the resumed Review Conference. Some delegations expressed the need to resume the Review Conference at an early date in order to better address conservation and management in respect of particular stocks.

67. Other delegations indicated that they did not have a particular preference for the date of the resumed Review Conference, or that they had a preference for its resumption in 2011, but were flexible regarding the timing. In this respect, delegations noted that holding the Conference in 2011 would allow more time for preparation, and for continuing the dialogue with non-parties regarding promoting a wider participation in the Agreement. Some delegations also indicated that there was no legal basis for holding a Review Conference every four years.

68. Several delegations also raised the issue of future periodic reviews following the resumption of the Review Conference. While some delegations emphasized the need for further periodic reviews of the Agreement, other delegations indicated that there was no basis in article 36 for periodic review. One delegation stated that the need for future reviews should be clearly established.

69. In the end, it was agreed that the Informal Consultations would recommend to the United Nations General Assembly that the resumed Review Conference should be convened in 2010 at the United Nations Headquarters, in New York.

## **B. Initial preparatory steps for the resumption of the Review Conference**

70. In considering this issue, the Chair reminded delegations of the preparatory steps that had been undertaken for the Review Conference in 2006 and circulated documents prepared as part of the preparatory work for the Review Conference.

71. Various interventions were made on the preparatory work for the resumed Review Conference. One delegation indicated a preference to follow the preparatory steps for the Review Conference in 2006, and noted that an updated report of the Secretary-General on implementation of the Agreement, in collaboration with FAO, would be important. This delegation also supported holding a one week preparatory meeting in 2010.

72. One non-party stressed that particular attention should be paid to timing to ensure that all issues were adequately discussed in the organization of the Review Conference, including the need to schedule the Informal Consultations of States Parties to the Agreement in 2009 for a duration of more than two days. In this regard, one delegation proposed that two days should be allocated in 2009 to the issue of wider participation in the Agreement, and two days for discussions regarding preparations for the resumed Review Conference. Another delegation emphasized the need for a reasonable period of time between the Informal Consultations in 2009 and the resumed Review Conference to allow the dialogue on promoting a wider participation in the Agreement to take effect. Some delegations also referred to the need to be guided by article 36 of the Agreement in the preparation for the resumed Review Conference, and it was suggested that the rules of procedure regarding the participation of States that are not party be revisited.

73. Some delegations also raised the issue of the relationship between the resumed Review Conference and the Informal Consultations, and the need to consider how the

resumed Review Conference would relate to ongoing rounds of the Informal Consultations. In this respect, several delegations emphasized that it would be important for the purposes of the resumed Review Conference to be clear and distinct, including whether to review the implementation of the entire Agreement or to focus on some aspects of implementation. One delegation considered that serious reflection was needed regarding the issues to be considered by the resumed Review Conference.

74. Delegations agreed to devote the eighth round of Informal Consultation of States Parties to the Agreement in 2009 partly to the preparatory work for the resumed Review Conference in 2010, and to hold a further preparatory meeting at a later date. It was suggested that relevant organizations could begin planning on the basis of these recommendations. Delegations also agreed on the importance of wide participation in the resumed Review Conference, including by RFMOs, and on the need for careful planning, in particular, to identify the purpose of the resumed Conference.

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

75. Delegations agreed that the eighth round of Informal Consultations should be held in 2009 for at least four days, and should be devoted to the dialogue concerning a wider participation in the Agreement and preparations for the resumed Review Conference in 2010, as well as other topics as appropriate.

76. It was suggested that the Chair conduct consultations regarding the format of the next round of Informal Consultations, including any panel presentations, and commence these preparations.

## **VI. Consideration of recommendations to be conveyed to the sixty-third session of the General Assembly**

77. A paper was circulated by Canada setting out proposed recommendations for consideration by the General Assembly (see Annex III), but the proposal was not fully discussed due to time constraints. It was suggested that the paper could be discussed during the informal consultations on the General Assembly resolution on sustainable fisheries.

78. In the end, the seventh round of the Informal Consultations of States Parties to the United Nations Fish Stocks Agreement agreed to recommend to the General Assembly the following courses of action:

(i) To request the Secretary-General to resume in 2010 the Review Conference convened pursuant to article 36 of the Agreement and to begin the necessary preparatory work, and adopt budgetary decisions in this regard;

(ii) To request the Secretary-General to convene an eighth round of Informal Consultations in 2009 for a duration of at least 4 days to consider, *inter alia*, promoting a wider participation in the Agreement through a continuing dialogue and initial preparatory work for the resumption of the Review Conference, and to make any appropriate recommendation to the General Assembly;

(iii) To request the Secretary-General to present to the resumed Review Conference an updated comprehensive report, prepared in cooperation with the FAO, in accordance with paragraph 2 of article 36 of the Agreement; and

(iv) To request the Secretariat, in cooperation with the FAO, to compile a comprehensive list of sources of available assistance that could be accessed by developing States to increase their capacity and promote a wider participation in the Agreement.

## **VII. Closing of the seventh round of Informal Consultations of States Parties to the Agreement**

79. The Chair noted achievements during the meeting with respect to the resumption of the Review Conference in 2010 and the Informal Consultations to be held in 2009, as well as the revisions to the Terms of Reference of the Assistance Fund under Part VII of the Agreement.

## **ANNEX 1**

### **Agenda**

#### **Seventh round of informal consultations 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 Agreement)**

**11-12 March 2008**

**United Nations, New York**

1. Opening of the seventh 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 subregional, regional and global implementation of the Agreement taking into consideration the outcome of the Review Conference:
  - a. Proposed means of strengthening the implementation of the Agreement;
  - b. Promoting a wider participation in the Agreement.
6. Resumption of the Review Conference:
  - a. Dates and venue of the Review Conference;
  - b. 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-third session of the General Assembly.
9. Other matters.

## ANNEX II

### **Assistance Fund under Part VII 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**

#### **Terms of Reference\***

##### **Reasons for establishing the Assistance Fund**

1. Article 25 of Part VII 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 (hereinafter referred to as “the Agreement”) requires States Parties to cooperate either directly or through subregional, regional and global organizations to enhance the ability of developing States, in particular the least-developed among them and small island developing States, to conserve and manage straddling fish stocks and highly migratory fish stocks and to develop their own fisheries for such stocks; to enable their participation in high seas fisheries for such stocks, including facilitating access to such fisheries subject to articles 5 and 11 of the Agreement; and to facilitate the participation in subregional and regional fisheries management organizations and arrangements.
2. Article 25 of the Agreement further provides that cooperation with developing States for the purposes of that article shall include the provision of financial assistance, assistance relating to human resources development, technical assistance, transfer of technology, including through joint venture arrangements, and advisory and consultative services. Such assistance shall inter alia be directed specifically towards improved conservation and management of straddling fish stocks and highly migratory fish stocks through collection, reporting, verification, exchange and analysis of fisheries data and related information as well as stock assessment and scientific research and monitoring control, surveillance, compliance and enforcement, including training and capacity-building at the local level, development and funding of national and regional observer programmes and access to technology and equipment.
3. Under Article 26 of the Agreement, States are required to cooperate to establish special funds to assist developing States in the implementation of the Agreement, including assisting developing States to meet the costs involved in any proceedings for the settlement of disputes to which they may be parties.
4. This fund is one component of assistance to be provided in accordance with Part VII of the Agreement and supplements other sources of assistance.

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\* As revised at the seventh round of Informal Consultations of the States Parties to the Agreement, New York, 11-12 March 2008.

### **Establishment of the Assistance Fund**

5. The Fund is established pursuant to General Assembly resolution A/58/14.
6. The purpose of the Fund is to provide financial assistance to developing States Parties to the Agreement to assist in the implementation of the Agreement in accordance with Part VII of the Agreement.

### **Implementing Office**

7. The Food and Agriculture Organization (FAO) will administer the Fund and act as the implementing office for the Fund. The FAO will establish a Trust Fund account for the purpose of the Fund in collaboration with the United Nations. All voluntary financial contributions made to the FAO for this purpose shall be deposited by FAO into the Trust Fund account.
8. In the administration of the Fund, the United Nations and the FAO shall take into account experience and best practice in the management of other trust funds established within the framework of the 1982 United Nations Convention on the Law of the Sea.

### **Collaboration between the United Nations and the Food and Agriculture Organization**

9. The United Nations and the FAO will collaborate with each other and will make available to each other all information and assistance as may be required in relation to the administration and operation of the Fund. In particular they will, as appropriate, seek to achieve mutual benefits from any arrangements under this Fund with similar activities, including in relation to the promotion and implementation of the 1993 FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas and the 1995 FAO Code of Conduct for Responsible Fisheries.
10. The United Nations will receive applications, ensure that the agreed procedural requirements are met, and then forward them expeditiously to the FAO for review and decision, in accordance with these Terms of Reference. In the case of applications for assistance under paragraph 14(g) of these Terms of Reference concerning proceedings for the settlement of disputes under the Agreement, the United Nations will review and decide on these applications.

### **Contributions to the Assistance Fund**

11. The United Nations and FAO invite States, intergovernmental organizations, international financial institutions, national institutions, non-governmental organizations, as well as natural and juridical persons, to make voluntary financial contributions to the Fund.

### **Applications for assistance**

12. a) An application for financial assistance from the Fund may be submitted by any developing State Party to the Agreement. Such an application may also be submitted on behalf of the Party by an appropriate sub-regional or regional organization or arrangement;

b) An application for financial assistance by a developing State Party to the Agreement shall be submitted by way of an official communication from the relevant national authority of the applicant. An application for financial assistance on behalf of a developing State Party by an appropriate sub-regional or regional organization or arrangement shall be accompanied by an official communication from the relevant national authority of the developing State Party confirming that the application is submitted on its behalf;

c) All applications for financial assistance shall be submitted to the United Nations (Division for Ocean Affairs and the Law of the Sea of the Office of Legal Affairs) at least one month in advance of the date of the event or activity for which assistance is requested.

13. The application should specify how it relates to the implementation of the Agreement and include a description of the desired outputs of the project/expenditure and an itemisation of anticipated costs.

### **Purposes of assistance**

14. The purpose of the financial assistance applied for should be specified and may be sought for the following purposes:

a) Facilitating the participation of representatives from developing States Parties, in particular the least-developed among them and Small Island developing States Parties to the Agreement, in the meetings and activities of relevant regional and subregional fisheries management organizations and arrangements.

Such assistance may include such costs as travel costs and, if appropriate, daily subsistence allowances for delegations participating in relevant regional and subregional fisheries management organisations or arrangements, including technical experts.

b) Assisting with travel costs, and if appropriate daily subsistence allowances, associated with the participation of developing States Parties, in particular the least-developed among them and small island developing States Parties to the Agreement, in relevant meetings concerning high seas fisheries of relevant global organizations, such as the United Nations Development Programme, the Food and Agriculture Organization and other specialised agencies, the Global Environment Facility, the Commission on Sustainable Development and other appropriate international and regional organizations and bodies.

Applications for this purpose shall include details of how the meeting in question relates to implementation of the Agreement.

c) Supporting ongoing and future negotiations to establish new regional or subregional fisheries management organizations and arrangements in areas where such bodies are not currently in place, to renegotiate founding agreements for such organizations and arrangements and to strengthen existing subregional and regional fisheries management organizations and arrangements in accordance with the Agreement.

A condition for such support is that reference to implementing the Agreement is made in founding documents and/or work programmes of the regional or subregional fisheries management organizations or arrangements and in the national fisheries policies and/or management plans of States Parties.

d) Building capacity for activities in key areas such as effective exercise of flag State responsibilities, monitoring, control and surveillance, data collection and scientific research relevant to straddling and highly migratory fish stocks on a national and/or regional level.

e) Facilitating exchange of information and experience on the implementation of the Agreement.

f) Assisting developing States Parties to the Agreement, in particular the least-developed among them and small island developing States, with human resources development, technical training, and technical assistance in relation to conservation and management of straddling and highly migratory fish stocks and development of fisheries for such stocks, consistent with the duty to ensure the proper conservation and management of such stocks.

g) Assisting in meeting the costs involved in proceedings for the settlement of disputes between States Parties to the Agreement concerning the interpretation or application of the Agreement in accordance with Part VIII of the Agreement or proceedings concerning the interpretation or application of a subregional, regional or global fishery agreement relating to straddling fish stocks or highly migratory fish stocks to which they are parties, including any dispute concerning the conservation and management of such stocks and complementary to any assistance provided under the ITLOS Trust Fund established by General Assembly resolution 55/7 or the Trust Fund for the International Court of Justice established by General Assembly resolution A/47/444 or the financial assistance fund established by the Permanent Court of Arbitration.

### **Consideration of applications and granting of assistance**

15. Requests for financial assistance shall be considered without delay in the order in which they have been submitted. FAO will establish a panel of independent and impartial experts of the highest professional standing to review the applications and to make recommendations on the amount of financial assistance to be given in each case.

The panel also will include two official representatives from States Parties to the Agreement, one of whom is a donor to the Fund, as well as technical experts and a representative from the United Nations, as required.

16. In cases of applications for travel related expenses under paragraph 14, the FAO may make decisions on applications without referral to the panel.

17. Review of applications and decisions shall be guided by the purposes of the Fund, the provisions of the Agreement, the financial needs of the requesting developing State Party and availability of funds, with priority given to least developed countries and Small Island developing States Parties to the Agreement. The financial assistance shall be provided on an impartial basis. Consideration of applications will also include an assessment of whether any existing alternative sources of assistance are available. All decisions on assistance from the Fund shall take into account the size of the Fund and the need for cost effectiveness in its use.

18. In considering applications, the United Nations and the FAO should also work together to inform relevant regional fisheries management organizations and UN bodies about applications under the Fund in order that they may comment if they so choose.

19. The United Nations and the FAO, as appropriate, will provide financial assistance from the Fund in an expeditious manner in accordance with paragraphs 15-18 of these Terms of Reference.

20. a) Financial assistance provided from the Fund shall be applied by the applicant solely for the purpose specified in the application for financial assistance.

b) If an applicant wishes to apply such financial assistance for a purpose other than the purpose for which it is provided, the applicant shall submit an amended application for financial assistance. The amended application shall be submitted and considered in accordance with these Terms of Reference.

c) If financial assistance provided from the Fund is not applied by an applicant for the purpose for which it is approved, the applicant shall notify FAO as soon as possible and take immediate steps to refund promptly the financial assistance to FAO. Failure to comply with these requirements may affect the decision concerning any future application for assistance.

### **Application of the Financial Regulations and Rules of the Food and Agriculture Organization**

21. FAO shall establish and manage the Fund in accordance with its Financial Regulations and other applicable Rules.

## **Reporting**

22. An annual report on the activities of the Fund, including a financial statement of the contributions to and disbursements from the Fund, shall be included in the report of the Secretary-General of the United Nations on “Sustainable fisheries, including through the 1995 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, and related instruments”. A report on the activities of the Fund to date, including a financial statement of the contributions to and disbursements from the Fund shall also be presented at the Review Conference provided for in Article 36 of the Agreement.

23. Recipients of assistance shall be required to provide a report on the purpose and outcome of the approved expenditure to the FAO for the above-mentioned report. The United Nations and the FAO shall share these reports. Failure to provide such a report promptly may affect the decision concerning any future application for assistance.

## **Revision and Review**

24. These Terms of Reference may be revised if circumstances so require.

25. The States Parties to the Agreement shall periodically review the activities of the Fund with a view to assessing and evaluating the effectiveness of the financial assistance provided pursuant to these Terms of Reference.

26. Taking into account paragraph 17 of these Terms of Reference, the States Parties to the Agreement may also make recommendations on priorities for the use of the Fund.

## **Publicity**

27. The United Nations and FAO will maintain on their websites details of the Fund, including details on application procedures, assistance provided, and links to other relevant websites. The United Nations and the FAO should also explore ways to promote contributions to the fund and knowledge of the fund through regional fisheries management organizations and arrangements, multilateral donor organizations, and international financial institutions.

## ANNEX III

### POSSIBLE RECOMMENDATIONS TO THE GENERAL ASSEMBLY INCREMENTAL TO THE 2007 RESOLUTION, WHICH COVER MANY ISSUES DISCUSSED AT ICSP-7 (Suggested by Canada)

#### NEW PARTIES TO UNFSA

1. Welcomes with satisfaction the most recent ratifications and accessions to UNFSA, and calls upon all States, and entities referred to in the Convention and in Article 1, paragraph 2 (b) of the Agreement, that have not done so to ratify or accede to the Agreement and in the interim to consider applying it provisionally.

#### REGIONAL FISHERIES MANAGEMENT ORGANIZATIONS

2. Urges accelerated progress in the initiation and completion of performance reviews by RFMOs and arrangements in order to, inter alia, strengthen their decision-making processes;
3. Calls upon tuna RFMOs and arrangements to adopt urgently conservation and management measures that are based on precautionary and ecosystem approaches and that adhere to the best scientific advice, in particular measures to set total allowable catches;
4. Encourages increased cooperation and coordination among existing RFMOs and arrangements, including coordination of conservation and management measures, where appropriate.
5. Welcomes the upcoming meeting in early 2009 of the members and cooperating members and non-members of the five tuna RFMOs in order to review progress and discuss ways to expedite the implementation of, and build upon, the Agreed Course of Actions adopted in Kobe, Japan, in January 2007.

#### MONITORING, CONTROL AND SURVEILLANCE

6. Welcomes the workshop convened by Canada in cooperation with the European Commission, Iceland, and the FAO for the purpose of conducting preparatory work towards the convening of an expert consultation by the FAO to develop criteria for assessing the performance of flag states as well as to examine possible actions against vessels flying the flags of states not meeting such criteria.

#### CAPACITY BUILDING

7. Requests the Secretary General to compile an analysis of sources of financial assistance that could be accessed by States in preparation for their ratification or

accession to UNFSA, including, inter alia, trust funds, programmes of international financial institutions, the Global Environment Facility, and FAO and other activities.

8. Urges States to explore various ways and means to enhance information exchange and to develop initiatives to expedite capacity building

Informal Consultations of States Parties to the United Nations Fish Stock Agreement (UNFSA) in 2009:

9. Recalls paragraph 6 of resolution 56/13, and requests the Secretary-General to convene in 2009, in accordance with past practice, an eighth round of informal consultations of States parties to the Agreement, with the objectives of continuing a focused dialogue regarding promoting a wider participation in the Agreement, which could include expert presentations, discussing the implementation of the Agreement at the subregional, regional and global levels, taking into consideration the outcome of the Review Conference as regards proposed means of strengthening the implementation of the Agreement, considering the initial preparations for the resumption of the Review Conference, and making any appropriate recommendations to be considered by the General Assembly;
10. Requests the Secretary-General to invite States, and entities referred to in the Convention and in article 1, paragraph 2 (b), of the Agreement, not party to the Agreement, as well as the United Nations Development Programme, the Food and Agriculture Organization of the United Nations and other specialized agencies, the Commission on Sustainable Development, the World Bank, the Global Environment Facility and other relevant international financial institutions, subregional and regional fisheries management organizations and arrangements, other fisheries bodies, other relevant intergovernmental bodies and relevant non-governmental organizations, in accordance with past practice, to attend the eighth round of informal consultations of States parties to the Agreement as observers;

REVIEW CONFERENCE AND ITS RESUMPTION

11. Encourages accelerated progress by States, individually and through regional fisheries management organizations (RFMOs) and arrangements in the implementation of the outcome of the Review Conference on the Agreement held in New York from 22 to 26 May 2006, including identifying emerging priorities.
12. Request the Secretary-General to resume, pursuant to article 36 of the UNFSA, the review conference that suspended its procedures on 26 May 2006 in [2010] and to begin the necessary preparatory work and adopt budgetary decisions in this regard.