

**Fifth 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, 20 to 24 March 2006)**

**Report**

**SUMMARY**

This document contains the report of the fifth 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 were held in New York, from 20 to 24 March 2006.

As provided for in paragraph 23 of General Assembly resolution 60/31 of 17 November 2005, the fifth round of Informal Consultations served as preparation for the Review Conference to be convened by the Secretary-General from 22 to 26 May 2006, in New York, pursuant to article 36 of the Agreement and paragraph 20 of General Assembly resolution 60/31.

The outcomes of the meeting include: a provisional agenda and organization of work for the Review Conference; provisional rules of procedure; and elements for assessing the adequacy and effectiveness of the Agreement. The documents for the Review Conference, as recommended by the Informal Consultations, are available on the website of the Division for Ocean Affairs and the Law of the Sea ([http://www.un.org/Depts/los/convention\\_agreements/review\\_conf\\_fish\\_stocks.htm](http://www.un.org/Depts/los/convention_agreements/review_conf_fish_stocks.htm)).

## Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction.....	1-2	3
II. Organization of Work.....	3-11	3
A. Opening of the fifth round of Informal Consultations.....	3	3
B. Election of the Chairperson.....	4	3
C. Opening Statements.....	5-7	3
D. Attendance.....	8-10	4
E. Adoption of the Agenda.....	11	5
III. Preliminary exchange of views on the Report prepared by the Secretary-General and FAO in accordance with paragraph 17 of United Nations General Assembly Resolution 59/25.....	12-33	5
IV. Recommendations for consideration by the Review Conference.....	34-94	9
A. Organization of work.....	34-39	9
B. Draft provisional agenda.....	40-42	10
C. Draft Rules of Procedure.....	43-55	11
D. Composition of the Bureau, including Chair and Vice-Chairs, as well as possible drafting committee.....	56-60	13
E. Criteria for the review and assessment of the adequacy of the provisions of the Agreement in securing the conservation and management of straddling and highly migratory fish stocks.....	61-73	13
F. Consideration of the Conference's outputs.....	74-86	15
1. Record of deliberations.....	75	16
2. Agreed results.....	76-86	16
(i) Review and assessment conclusions.....	77-80	16
(ii) Proposed means of strengthening the substance and methods of implementation of the Agreement's provisions.....	81-86	17
G. Possible future actions.....	87-94	18
1. Future review conferences.....	88-89	18
2. Formalized meetings of States Parties.....	90-94	18
V. Closing of the fifth round of Informal Consultations.....	95-96	19
Annex		
Agenda of the fifth round of Informal Consultations.....		20

## **I. Introduction**

1. Pursuant to General Assembly resolution 60/31, paragraph 23, of 29 November 2005, the Secretary-General convened from 20 to 24 March 2006, in New York, a fifth round of Informal Consultations of States Parties to the United Nations 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), to serve as a preparation for the Review Conference. This Conference will be convened by the Secretary-General from 22 to 26 May 2006, at United Nations Headquarters.

2. The fifth round of Informal Consultations was entrusted with addressing procedural and organizational matters as well as substantive issues related to the Review Conference, and to make appropriate recommendations to the Conference. Pursuant to article 36, paragraph 2, the Review Conference is mandated to assess the adequacy of the provisions of the Agreement in securing the conservation and management of straddling fish stocks and highly migratory fish stocks and, if necessary, to propose means of strengthening the substance and methods of implementation of its provisions.

## **II. Organization of Work**

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

3. The Director of the Division for Ocean Affairs and the Law of the Sea (DOALOS), Mr. Vladimir Golitsyn, opened the fifth round of Informal Consultations of States Parties to the Agreement.

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

4. The meeting elected by acclamation Ambassador David Balton, Ambassador for Oceans and Fisheries, Department of State (United States) as Chairperson of the fifth round of Informal Consultations.

### **C. Opening Statements**

5. In his address to the meeting, Mr. Nicolas Michel, United Nations Under-Secretary-General for Legal Affairs, The Legal Counsel, stated that there was a wide consensus that the world's marine capture fisheries were at a crossroads, and that fisheries policy had to balance short-term economic and social benefits with the need to ensure the long-term sustainability of fishery resources. The Legal Counsel pointed out that the threats to world fisheries largely related to unsustainable fishing practices such as overcapacity, overfishing, illegal, unreported and unregulated fishing (IUU fishing), and the use of destructive fishing techniques and methods, which have resulted in high levels of by-catch and discards, and have had an adverse impact on vulnerable marine ecosystems. Several other factors aggravated the problems in high seas fisheries, including issues related to fishing rights and access to fishery resources; the persistence of direct and indirect subsidies that contribute to overcapacity and overfishing; the lack of control by some States over vessels flying their flag fishing on the high seas; the absence of a management regime in some areas of the high seas; the inadequacy of the geographical or species coverage of some regional fishery management organizations and arrangements (RFMOs); the absence of enforcement and compliance schemes in regulatory areas of a number of existing RFMOs; the lack of port State control in some areas; and the insufficient cooperation among States in the collection and sharing of high seas fishery data.

6. The Legal Counsel stressed that the Agreement could assist the international community in addressing the many issues affecting world fisheries as it contained key provisions that could improve the

conservation and management of high seas fishery resources, including provisions addressing the requirements of developing countries. In order for the Agreement to be effective, its provisions had to be translated into concrete measures at all levels, and had to be implemented by all stakeholders. He further underlined that the fifth round of Informal Consultations of States Parties, as a preparatory meeting for the Review Conference of the Agreement, had a crucial role to play in paving the way for a successful outcome of the Conference in assessing the effectiveness of the Agreement and devising means for strengthening its implementation.

7. In his opening statement, the Chairman recalled that the meeting was to focus exclusively on preparatory work for the Review Conference, noting that useful work had already been completed in preparation for the Review Conference, such as the comprehensive report prepared by the Secretary-General in cooperation with the Food and Agriculture Organization of the United Nations (FAO), in accordance with the provisions of General Assembly resolution 59/25 of 17 November 2004 and resolution 60/31, as well as a draft provisional agenda and draft Rules of Procedure for the Review Conference. Furthermore, the Chairman noted that a number of other documents to be discussed at the Informal Consultations would facilitate the work of the Review Conference, including the Chairman's working paper on Possible Criteria for Assessing Effectiveness of the Agreement, which he hoped would be finalized during the week in order to be used by the Review Conference to structure its assessment of the effectiveness of the Agreement; and the Chairman's background paper on Possible Initiatives for Strengthening the Substance and Methods of Implementation of the Provisions of the Agreement, intended to stimulate thinking on commitments and outcomes for the Review Conference. The Chairman also stressed the importance of reaching agreement during the Informal Consultations on the Rules of Procedure, the provisional agenda and the composition of the Bureau of the Review Conference.

#### **D. Attendance**

8. Representatives of the following Parties to the Agreement participated in the meeting: Australia, Austria, Belize, Brazil, Canada, Cyprus, European Community, Fiji, Finland, Germany, Greece, Guinea, Hungary, Iceland, India, Islamic Republic of Iran, Italy, Kenya, Marshall Islands, Mauritius, Monaco, Namibia, Netherlands, New Zealand, Norway, Portugal, Russian Federation, Samoa, South Africa, Spain, Sri Lanka, Tonga, Ukraine, United Kingdom, United States of America and Uruguay.

9. Representatives of the following States non-Parties to the Agreement participated in the meeting as provided for in paragraph 25 of General Assembly resolution 60/31: Argentina, Bahrain, Benin, Brunei Darussalam, Cape Verde, Chile, China, Colombia, Côte d'Ivoire, Croatia, Cuba, Dominican Republic, Ecuador, Egypt, Guatemala, Indonesia, Japan, Kuwait, Lebanon, Libyan Arab Jamahiriya, Madagascar, Malaysia, Morocco, Mexico, Mozambique, Nigeria, Peru, Philippines, Poland, Qatar, Republic of Korea, Thailand, Tunisia, Turkey, Uganda, United Republic of Tanzania, Venezuela, Viet Nam and Zambia.

10. Observers from United Nations Specialized agencies, programmes and bodies, and intergovernmental and non-governmental organizations also attended the meeting as follows:

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

(b) Other intergovernmental organizations: International Seabed Authority (ISA), IUCN-The World Conservation Union and the Pacific Islands Forum Fisheries Agency (FFA);

(c) Subregional and regional fisheries management organizations and arrangements (RFMOs): Comisión Permanente del Pacífico Sur (CPPS), Commission for the Conservation of Southern Bluefin Tuna (CCSBT), Inter-American Tropical Tuna Commission (IATTC), International Commission for the

Conservation of Atlantic Tunas (ICCAT), North-East Atlantic Fisheries Commission (NEAFC) and South-East Atlantic Fisheries Organization (SEAFO);

(d) Non-governmental organizations: Greenpeace International, Humane Society of America, Natural Resources Defense Council and World Wide Fund for Nature International.

## **E. Adoption of the agenda**

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

## **III. Preliminary exchange of views on the Report prepared by the Secretary-General and FAO in accordance with paragraph 17 of United Nations General Assembly Resolution 59/25**

12. Under this agenda item, delegations considered the report of the Secretary-General submitted in accordance with paragraph 17 of General Assembly resolution 59/25 to assist the Review Conference to implement its mandate under article 36, paragraph 2, of the Agreement (A/CONF.210/2006/1). They commended the Secretariat and FAO for preparing the report, and expressed appreciation to States, RFMOs and others who contributed information to the report. It was generally noted that the report confirmed the value of the Agreement as a set of standards for the conservation and sustainable use of marine living resources, but it also highlighted that much more needed to be done to implement the Agreement.

13. Several delegations indicated that the report clearly highlighted that the Agreement represented a milestone for the conservation and management of marine living resources and was an essential tool for modern fisheries governance. One delegation pointed out that recent progress would not have been made without the rights and obligations set out in the Agreement, which represent a management and performance standard to which all should aspire.

14. A number of delegations identified IUU fishing, over-capacity and over-fishing as the major threats to the sustainable use of marine living resources of the high seas, and stated that there was a need for urgent action to address these issues. One delegation proposed to combat IUU fishing by enhancing port State control, and proposed the initiation of a process to strengthen such control and possibly the establishment, under the FAO, of a legally binding instrument, building on the FAO Model Scheme on Port State Measures to Combat Illegal, Unreported and Unregulated Fishing. Some delegations suggested the elaboration, within RFMOs, of monitoring, control and surveillance mechanisms to deal with IUU fishing in areas under their control, as recommended by the High Seas Task Force (HSTF).

15. In addition, delegations expressed concerns over the insufficiency of data, in particular on the status of stocks, in the Secretary-General's report. This was due to the fact that either data were not available; they were not submitted for inclusion in the report; or had been collected after the preparation of the report had been completed. In this regard, the representative of one RFMO drew the attention of the Consultations to a report published recently indicating that the rates of population growth of dolphin stocks in the Eastern Pacific were faster than had been estimated earlier. He also noted that, contrary to information in the report of the Secretary-General, there was, at least in the Eastern Pacific, a warning that the incidental catch rates of silky sharks in purse-seine sets on fish aggregating devices (FADs) were declining. One delegation stated that it was a challenge to develop tools to implement the Agreement at the national level in data rich context, and more so in areas requiring international cooperation and in the context of limited information.

16. One delegation underlined that focus on the status of stocks was a vital component of the review process, as the core objective of the Agreement was to ensure the long-term conservation and sustainable use of straddling and highly migratory stocks. Several delegations proposed establishing benchmarks for future reviews of the status of stocks and the effectiveness of the Agreement, noting that, in order to do so, additional information on trends was needed. They further noted that although the report gave an overview of the stocks, it was difficult to establish the link between the information presented in Part II of the report and the effects of the Agreement, and added that it was difficult to establish such a link even with detailed information on the trends of the stocks due to the limited number of Parties to the Agreement and the fact that the Agreement had only been in force for a few years. Requests were made, where possible, for complementary information to be elaborated on trends of stocks managed by RFMOs, based on the information produced by their scientific advisory bodies. One observer delegation stressed the need for additional information on the status of non-target stocks, on the level of implementation of the provisions of the Agreement related to biodiversity, as well as on the impediments to implementation.

17. Commenting on paragraph 32 of the report of the Secretary-General, relating to purse-seine fisheries, one delegation noted that, in the Atlantic, it only entered into purse seine-fishing on an experimental basis and in a limited manner.

18. Responding to the above observations, the Director of DOALOS noted that requests for additional information encountered practical constraints due to limitations on the length of reports produced by the Secretariat. He explained that information on stocks not contained in the report of the Secretary-General was available in other publications, to which the report itself referred. He pointed out that while no addendum to the report could be issued, States Parties, States non-Parties, RFMOs and other organizations could provide information and views on matters to be addressed by the Review Conference, pursuant to General Assembly resolution 60/31. He indicated that, unless received by 31 March 2006, the views submitted by States would only be presented to the Review Conference in the form in which they had been submitted to the Secretariat and not as an official conference document. In addition, the observer from the FAO stated that a publication, which could supplement the Secretary-General's report, was being produced. This publication would contain more detailed information on stocks and would be available at the time of the Review Conference. In response to queries by a number of delegations, the representative of the FAO also explained that the report of the Secretary-General provided more detailed information on shark stocks than on other stocks as information on shark stocks was not as readily available from other sources as that on other stocks.

19. Several delegations agreed that there was a need for broader membership in the Agreement, in order for it to become a stronger foundation for conservation and management of straddling and highly migratory fish stocks. Some delegations placed emphasis on the need for increased membership from key fishing States. In this connection, several delegations welcomed the fact that the report addressed the implementation of the provisions of the Agreement by all States, including Parties and non-Parties to the Agreement, and emphasized the usefulness of the report in outlining the difficulties faced by non-Parties to join the Agreement. One delegation proposed that the Review Conference identify initiatives that could be undertaken to obtain broader membership. Another delegation suggested that the Review Conference consider concrete proposals to overcome the problems that prevent some States from becoming parties.

20. A number of States non-Parties indicated that a more in-depth analysis of the reasons why States were unable to ratify the Agreement was needed, in particular in relation to issues relating to article 7 (Compatibility of conservation and management measures), and articles 21 (Subregional and regional cooperation in enforcement) and 22 (Basic procedures for boarding and inspection pursuant to article 21). One delegation identified Article 7 as a major obstacle to the achievement of universality of the Agreement; another delegation requested further information on how the provisions of this article were

being implemented in practice. Another State non-Party indicated that although it had not yet become Party to the Agreement, it nevertheless applied its spirit through its participation in RFMOs. With particular reference to article 21, some States non-Parties voiced their concern over enforcement activities on the high seas and over possible abuse of the rights of flag States. One State non-Party noted that other instruments and mechanisms for enforcement on the high seas, such as the use of on-board observers and satellites, could be used instead of the mechanisms provided for in the Agreement.

21. The degradation of vulnerable marine ecosystems was also identified as a priority area for action by some delegations who noted that the provisions of the Agreement on the protection of ecosystems and biodiversity had not been sufficiently implemented. It was also noted that the Secretary-General's report called for better management of deep-sea fisheries, in particular around seamounts and other vulnerable ecosystems, and the hope was expressed that the Review Conference would consider this issue.

22. The delegations of Japan, Indonesia and the Philippines informed the meeting that they were in the process of becoming Parties to the Agreement. Several Parties expressed satisfaction with such announcements and wished for more States to follow in the near future.

23. A number of delegations noted that information on success and failures in implementing the Agreement could be drawn from the experience of States and RFMOs. In addition, the Chairman stressed that the absence of information should not be used to postpone taking concrete measures to strengthen the provisions of the Agreement and its implementation. However, the Chairman called on RFMOs that have readily available information on trends on stocks in their areas to submit such information to the Review Conference. One observer suggested that it would be useful for RFMOs to provide information to the Review Conference on the approximate number of States and vessels engaged in IUU fishing in areas under their control in order to provide a baseline of information and to serve as a basis for measuring progress in the future.

24. In order to update the meeting on recent developments, some delegations informed the meeting that the Ministers of the High Seas Task Force had launched some practical and tangible initiatives relevant to implementation of the Agreement and improved fisheries governance. They expressed the hope that the Review Conference could consider ways to incorporate these initiatives into implementation of the Agreement, and/or into the management measures of various RFMOs.

25. Many delegations highlighted the important role of RFMOs, as the principal mechanism for the implementation of the Agreement. In particular, several delegations expressed appreciation for the information contained in the Secretary-General's report regarding recent developments on implementation of the Agreement within RFMOs. At the same time, the need for further action to develop the institutional mandate and structure of RFMOs, as well as the need for RFMOs to adopt further measures implementing the provisions of the Agreement, were also noted. One delegation stated that the institutional capacity of RFMOs should be improved to respond to the needs of developing countries. Some delegations pointed out that RFMOs can only be as effective as the political will of their Member States, and thus that it was important that such States provide these organizations with the necessary mandate to effectively implement the Agreement. A number of participants indicated that RFMOs should be subject to an objective, independent review and that the Review Conference should consider this issue. In this respect, two delegations informed the Consultations that NEAFC had started the process of establishing marine protected areas (MPAs) and that it had amended its Convention to meet new challenges. NEAFC was also undergoing a performance review.

26. Another delegation stated that it was not in favour of creating new RFMOs, given the burden of additional financial obligations and the difficulty for developing States in taking part constructively in multiple organizations and mechanisms. Some delegations emphasized that, as far as possible the creation

of new RFMOs should only occur in regions that are not falling under the areas of competence of existing ones. In this regard, Australia, Chile and New Zealand reported that they were co-sponsoring the establishment of a new RFMO in the South Pacific region.

27. The observer from one RFMO stated that the effectiveness of RFMOs is limited for a number of reasons owing to their structure, and suggested that their effectiveness could be improved in various ways, including giving their secretariats the mandate to operate vessel monitoring systems (VMS) and to supervise real-time catch monitoring. He also suggested shifting the emphasis on cooperation between RFMOs to operational matters, such as the development of uniform trade documents and the establishment of a global register of authorized fishing vessels. The use of vessel lists, both positive and negative, was stressed as a valuable approach to combating IUU fishing. One observer delegation indicated that RFMOs should be given the functional ability, capacity and mandate to address the broader ecological impacts of human activities in the oceans and shift from single-species management to precautionary ecosystem management. This delegation further proposed that RFMOs be given a governance framework including international guidelines and time-bound goals.

28. Several delegations agreed that although a lot of work had been done to bring RFMOs in line with the provisions of the Agreement, more remained to be done. For example, the need to strengthen cooperation and coordination between and among RFMOs was generally recognized. The observer from one RFMO stressed that strengthened cooperation was particularly important with regard to RFMOs the areas of jurisdiction of which overlap or for those which share fish stocks. In this regard, Japan informed the meeting that it would host a joint meeting of regional tuna fisheries management organizations, to be held from 22-26 January 2007 in Kobe, Japan. The meeting will identify ways to strengthen cooperation between five regional tuna fisheries management organizations in dealing with overcapacity and IUU fishing. One delegation emphasized the importance of the work of RFMOs to control fishing activities, but stated that more efforts were needed to ensure that all interested States were given an opportunity to join RFMOs. Other delegations noted that the geographical and species coverage of RFMOs was also an issue to be addressed.

29. A number of RFMOs provided an update on their activities since the fourth round of Informal Consultations. Participation in the Fisheries Resources Monitoring System (FIRMS), the website of which would be launched in May 2006, was highlighted as a means of sharing information on fisheries and their effect on stocks.

30. Several delegations underlined the importance of the provisions contained in Part VII of the Agreement on assistance to developing States for the realization of their rights and fulfilment of their obligations under the Agreement. They stressed that assisting developing countries both to become Parties to the Agreement and to implement its provisions were fundamentally important to the success of the Agreement as a whole. The establishment of the Part VII Assistance Fund to provide financial assistance to developing States Parties in the implementation of the Agreement was thus welcomed by many and its use was encouraged. They also highlighted the importance of bilateral assistance. Iceland requested that the Secretary-General's report be corrected to reflect that Iceland is a contributor to the Assistance Fund established under Part VII of the Agreement.

31. In addition, a number of delegations made proposals on the preparations for the Review Conference. In particular, one delegation proposed that the Informal Consultations could establish whether any further information was needed for the first stage of the assessment by the Review Conference and reach an understanding on the organization and nature of expected outputs of the Review Conference. As for the Review Conference itself, one delegation stated that while it may be too early to assess the success of the Agreement in terms of measurable impacts, the Conference could take steps forward on how and when that assessment would be possible in the future, including issues relating to

remedial actions. With respect to the scope of the Review Conference, several delegations noted that the Conference could carry out an in-depth review on a few aspects of the Agreement, and leave a broader assessment for the future, or it could take a more general stock of progress on a wide range of elements, such as those contained in the Secretary-General's report, so that future processes would proceed to work more intensively in specific areas. The broader approach was preferred by some delegations.

32. One observer delegation stated that urgent action was needed to ensure that all unregulated high seas fisheries, especially deep-sea fisheries, became subject to effective conservation and management measures. She also suggested that reporting requirements should be reinforced and urged the adoption of a system for reporting on high seas fisheries that were not covered by the Agreement (in particular discrete stocks). She further suggested that technical improvements be considered under Annex I of the Agreement, such as formats for reporting on the bycatch of non-target species, including associated and dependent species.

33. A number of observer delegations, particularly representing NGOs, called for interim measures to prohibit the use of destructive fishing practices in the high seas. Noting that the Agreement should not be re-opened for amendment, some observer delegations stated that the scope of the Agreement should cover all high-seas stocks since, it was noted, the absence of a legal definition of straddling stocks complicated the identification of discrete stocks and stocks that were currently considered as non-target, but were caught as bycatch.

## **IV. Recommendations for consideration by the Review Conference**

### **A. Organization of work**

34. The Chairman invited participants to consider how best the Review Conference could carry out its task of assessing the effectiveness of the Agreement and proposing means to strengthen the provisions and implementation of the Agreement, including how the proposed criteria should be used.

35. Several delegations proposed establishing a drafting committee tasked with drafting the Conference's outputs. They noted that such a committee should not have the power to make any decisions of a political nature. Other delegations noted that one or more drafting groups should only be established when needed and once specific tasks were identified, that most of the discussions should occur in plenary, and that no parallel processes should be established, in the interest of transparency.

36. A number of delegations stressed the need to agree on the type of output expected from the Conference and to determine how this output should be prepared. The meeting was reminded that the 1993/1995 United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks did not establish any drafting committee but rather followed a process whereby the Chairman had prepared a draft text that was circulated and submitted to an open-ended group. The text was then submitted to the plenary for comments.

37. One delegation proposed a three-step approach to carrying out the Conference's mandate: first, considering the extent to which the provisions of the Agreement have been incorporated into national laws and measures of RFMOs and identifying gaps and challenges in doing so; second, considering the extent to which these provisions have been applied in practice; and third, deciding on ways forward. It was noted that due to time constraints and the extent of the assessment task, the third step might need to be considered at future review meetings. Another delegation stressed the need, when carrying out the assessment, to consider: first the identification of areas where there was momentum and implementation was taking place; second the identification of areas where the momentum and tools for stronger

implementation had only just started and therefore further efforts were needed; and third the identification of areas where little progress had been made. Another delegation indicated that article 36 of the Agreement provided for a two-step approach: an assessment of the implementation of the Agreement, including the extent to which its provisions had been incorporated into national laws and RFMOs' measures, application and remedial actions; and means for strengthening the implementation of the Agreement. Noting that the issues to be discussed at the Review Conference fell under two categories, namely, institutional and substantive ones, one delegation highlighted merits in addressing matters of an institutional nature first, including incorporation of the Agreement's provisions into national laws and RFMOs' measures, and obstacles to becoming Parties to the Agreement. One observer suggested going through the Agreement Part by Part in order to assess whether the provisions have been applied and whether inadequacies exist that must be remedied.

38. One delegation stressed the need to focus, during the Review Conference, on the Conference's outputs rather than on the assessment, which, it was said, should be done by each delegation prior to the Conference. It was said that the range of issues to be addressed could be categorized in themes but that these should not be specified in a narrow way upfront, but rather flow logically from the assessment. One delegation supported the idea of identifying specific themes of issues for the assessment and using the proposed criteria to carry out their assessment. Another delegation hoped that some basic questions would be answered by the Review Conference, including whether the Agreement had been working as was intended, and whether there were enough States Parties to the Agreement and if not, the reasons and ways to increase membership. On this basis, it was suggested to draw up a basic list of questions to be considered by the Review Conference.

39. The organization of work for the Review Conference was further considered along with the agenda for the Conference by a contact group, which met once, chaired by Ms. Holly Koehler, of the United States delegation. Based on the work of the contact group, the Informal Consultations recommended a framework for the organization of work by the Review Conference, which is available as document A/CONF.210/2006/4.

## **B. Draft provisional agenda**

40. Under this item, delegations considered a draft provisional agenda prepared by the Secretariat pursuant to paragraph 24 of General Assembly resolution 60/31. Participants discussed the possibility of outlining the components of the agenda in details, in particular with regard to the consideration of the "subject-matter referred to in paragraph 2 of article 36 of the Agreement." Proposed options to structure discussions on this element included: following the Parts of the Agreement; following the structure of the Secretary-General's report (A/CONF.210/2006/1); and following the structure of paragraph 2 of article 36 of the Agreement itself, thereby differentiating between the review and assessment of the adequacy of the provisions of the Agreement on one hand, and proposals for means of strengthening the substance and methods of implementation of these provisions on the other hand. One delegation also proposed structuring discussions around the issues identified by the Chairman in his working paper on criteria for assessing the effectiveness of the Agreement. These included: 1) the extent to which those provisions had been incorporated into national laws and measures of RFMOs; 2) the extent to which those provisions were actually being applied in practice; and 3) the extent to which States and RFMOs were taking action to remedy instances of failure to apply those provisions in practice. One non-Party said that the agenda should include consideration of the obstacles preventing some States from becoming Party to the Agreement. However, some delegations cautioned against entering into too many details, preferring a broadly formulated agenda to avoid any prioritization of specific issues.

41. Several delegations stated that the structure and content of the agenda should be decided once the organization of work and expected outcomes of the Review Conference were agreed upon.

42. In the Plenary, in considering the provisional agenda of the Conference proposed by the contact group (see paragraph 39 above), several delegations expressed their preference to refer to the outputs of the Conference as “the final report,” with the understanding that the term “report” encompassed a range of different possible outputs. Other delegations indicated their preference for “final outcomes” due to the fact that discussions were still ongoing on the final product of the Conference and that one possible output could be a report adopted by the Conference, but that there could be other outputs produced by the meeting. The provisional agenda of the Review Conference, as recommended by the Informal Consultations to the Review Conference, is available as document A/CONF.210/2006/3.

### **C. Draft Rules of Procedure**

43. Under this item, delegations considered draft rules of procedure prepared by the Secretariat pursuant to paragraph 24 of General Assembly resolution 60/31. Discussions largely focused on the modalities of the participation of States non-Parties to the Agreement in the Review Conference, in particular the extent to which they would be able to participate in the decision-making process of the Conference.

44. Several non-Parties to the Agreement expressed the view that the draft rules of procedure should be amended in order to allow both Parties and non-Parties to the Agreement to participate in the Review Conference with equal rights. They argued that, according to article 36 of the Agreement, the Review Conference was convened by the Secretary-General of the United Nations, and was therefore a United Nations Conference open to all States on an equal basis, not a meeting of States Parties. In addition, they stated that article 36 of the Agreement does not differentiate between Parties and non-Parties, and that the objectives of the Conference were to assess the effectiveness of the Agreement and propose, if necessary, means for strengthening its implementation. They argued that these objectives would only be successfully met if participation in the Conference was broad and States which were entitled to become Parties to the Agreement participated on an equal footing with States Parties.

45. A number of non-Parties indicated that the Agreement specified different types of procedures in articles 36, 45 and 48. They noted that the review process envisaged under article 36 only aimed at assessing the effectiveness of the Agreement; not at amending the Agreement or its Annexes, and thus could not affect the rights and obligations for States Parties. Such amendments to the Agreement or its Annexes would result only from the procedures outlined in articles 45 and 48 of the Agreement related to amendments to the Agreement or its Annexes, respectively. They noted, in this regard, that while non-Parties should not be involved in the procedures leading to amendments to the Agreement or its Annexes, since these would only bind Parties, they should be allowed to participate in the review process on an equal footing with States Parties.

46. A number of non-Party delegations also emphasized that the Agreement was being implemented by States which were members of RFMOs or other cooperative mechanisms, even though they were not formally bound by the Agreement. They argued that, considering that several States were members of RFMOs even though they were not Parties to the Agreement, a number of provisions contained in the Agreement affected them, as would decisions made at the Review Conference.

47. Most of the Parties to the Agreement stated their support for draft rules of procedure, which do not provide for participation of non-Parties to the Agreement in any voting at the Review Conference. At the same time, these delegations emphasized that the participation of non-Parties in the Conference was very important and would facilitate the work of the Conference. A number of delegations pointed out, in this regard, that the draft rules of procedure provided unprecedented participatory rights to non-Parties in ensuring a full consideration of their views during the Conference. It was noted that, in accordance with

customary international law, as reflected in article 34 of the 1969 Vienna Convention on the Law of Treaties, a treaty does not create either obligations or rights for a third State without its consent. In addition, it was stressed that Parties to a treaty have the exclusive right to make decisions with regard to its operation. In this regard, it was pointed out that allowing non-Parties to participate equally in the decision-making processes of the Conference would discriminate against Parties in that non-Parties could decide on obligations that would bind Parties, without being themselves legally bound by such obligations.

48. It was acknowledged that since the Conference may agree on recommendations pertaining to the work of other bodies, their successful implementation would depend on having broad support and consensus on these recommendations. Several States Parties suggested using language contained in paragraph 25 of General Assembly resolution 60/31 addressing participation of non-Parties in the fifth round of Informal Consultations. Accordingly, States which were not Parties to the Agreement would participate fully in the Review Conference, on an equal footing with States Parties to the Agreement, except without voting rights, on the understanding that every effort would be made to adopt recommendations on the basis of consensus. They noted that all recommendations of previous informal consultations had been agreed on the basis of consensus, including the creation of an Assistance Fund under Part VII of the Agreement. However, they pointed out that, should it be impossible to reach consensus, the Conference should proceed to a vote. In this regard, they suggested that rule 43 of the rules of procedure on conduct during voting should be corrected to the effect that no representative of any participating State may interrupt the voting.

49. The meeting agreed to establish a second contact group in order to reconcile diverging views on the provisions of the draft rules of procedure relating to decision-making and composition of the Bureau. The contact group, which met six times, was chaired by Mr. Joji Morishita, of the delegation of Japan.

50. As the contact group could not reach agreement on the subjects under its consideration, the Chairman presented in the final meeting of the plenary of the Informal Consultations a package of proposals related to the draft rules of procedure. This package of proposals was introduced with a view to accommodate the conflicting approaches of delegations. The proposed package provided that the Review Conference shall conduct its work on the basis of general agreement on matters of substance. If the President determined that it had not been possible to reach general agreement, he would specify a time period for consultations among interested participating States in order to reach such general agreement. The President may, in consultation with the Bureau, appoint a facilitator for the purpose of reconciling the differences in order to reach general agreement on the matters in question. The package provided that the Review Conference may proceed to a vote on matters of substance, in accordance with the rules of procedure, only after all efforts at achieving general agreement had been exhausted. Each Party to the Agreement would have one vote, and any participating State may request that its views on the matters in question be included in the record of the meeting. The package also included changes to the draft rule of procedure regarding the composition of the Bureau (see paragraph 60 below).

51. The package provided that, should it be approved, DOALOS would be entrusted with instituting changes to the draft rules of procedure, including any technical changes that may also be necessary as a result of the package.

52. A number of non-Parties indicated that they were not in a position to agree with the Chairman's proposal. They were of the view that the proposal fell short of recognizing the equal rights of non-Parties in the Review Conference and, therefore, was not consistent with article 36 of the Agreement.

53. The Chairman then submitted his package of proposals for approval by States Parties to the Agreement participating in the Informal Consultations. In accordance with paragraph 25 of General

Assembly resolution 60/31, the Chairman's proposal was approved by general agreement among States Parties to the Agreement, as no State Party requested to proceed to a vote.

54. A number of non-Parties expressed concerns over the procedure followed to adopt the proposal, noting that, in the absence of consensus among all participating States, a vote should have ensued according to their interpretation of paragraph 25 of General Assembly resolution 60/31.

55. The provisional rules of procedure as recommended by the fifth round of Informal Consultations to the Review Conference are available as document A/CONF.210/2006/6.

#### **D. Composition of the Bureau, including Chair and Vice Chairs, as well as a possible drafting committee**

56. The Chairman encouraged Parties to discuss the composition of the Bureau, including Chair and Vice-Chairs, through informal consultations, following common practice. Noting that full participation in the Conference entailed participation in the Bureau, the delegation of a non-Party stated that the composition of the Bureau depended on the outcomes of discussions on the Rules of Procedure and the participation of non-Parties in the Review Conference.

57. With respect to the possible establishment of a drafting committee, several delegations stated their preference for an early establishment of such a committee, with one delegation stressing that a decision on the establishment, composition and functioning of such a committee should be made during the Informal Consultations, not at the Review Conference. It was stressed that a drafting committee should operate in a transparent and inclusive manner and that the composition and functioning of such a committee should be in conformity with the Rules of Procedure. Other delegations stated that specific tasks entrusted to the drafting committee should be discussed before deciding upon the establishment of such a committee, so as not to prejudice the expected outcomes of the Conference. One delegation noted the need to operate according to the rules of procedure, which provide for the setting up of subsidiary bodies.

58. One observer delegation urged the meeting to consider NGO participation in the drafting committee following the practice of the 1993/1995 United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks.

59. Delegations expressed various views on the composition of the Bureau, in particular whether the Vice-Chairs could be chosen among representatives of States non-Parties.

60. The provisional rules of procedure recommended to the Review Conference by the Informal Consultations (A/CONF.210/2006/6) provide for the participation of two representatives of non-Parties to the Agreement as Vice-Chairs in an expanded Bureau of eight officers, and the possibility of establishing a committee for the purpose of drafting Conference documents. The committee shall be chaired by a member of the Bureau and shall be open to broad participation from among representatives of all participating States.

#### **E. Criteria for the review and assessment of the adequacy of the provisions of the Agreement in securing the conservation and management of straddling and highly migratory fish stocks**

61. Under this item, delegations considered possible criteria for assessing the effectiveness of the Agreement, as proposed by the Chairman. The Chairman explained that the revised Working Paper under

consideration incorporated comments made by delegations after the fourth round of Informal Consultations.

62. Most delegations agreed that the proposed criteria were useful and should be used as the basis for discussions at the Review Conference. Several delegations supported including an additional reference to article 7 of the Agreement (Compatibility of conservation and management measures) in the criterion concerning the adoption of measures for the conservation and management of stocks. One delegation also proposed including measures to address bycatch. Several delegations proposed that the criterion related to assessing the effects of fishing on the marine environment refer to article 5(d) to (g) of the Agreement (General principles) for a more comprehensive review of actions taken with regard to the protection of the marine environment.

63. One delegation also highlighted an overlap between the criterion concerning fisheries not regulated by an RFMO and the criterion related to the establishment of new RFMOs.

64. Many delegations pointed out that, since the Agreement imposed concrete obligations regarding monitoring, control and surveillance (MCS) and that MCS was essential for the effective implementation of the Agreement, it was important to establish, develop and reinforce MCS, including through cooperation between RFMOs. Some of them considered the issue of MCS more important than the issue of fishing allocations, and thus proposed that the criterion on fishing allocations be replaced by a criterion on MCS if time was a limiting factor for discussions at the Review Conference. One delegation noted, however, that the issue of allocations was important when considered broadly, as there were fundamental problems in the manner in which RFMOs provided access to members.

65. One delegation stated that it was important to review whether flag State obligations were being met, in particular those pertaining to the integrity of RFMOs regimes. Thus, they requested a reference to article 22 of the Agreement (Basic procedures for boarding and inspection pursuant to article 21) in the criterion on the implementation of flag State duties. Noting that article 21 (Subregional and regional cooperation in enforcement) and article 22 were linked, another delegation stated that article 21 should also be referenced. Several non-Parties indicated that the issue of boarding and inspection as contained in articles 21 and 22 of the Agreement should be reviewed and assessed with a view to considering alternative surveillance and monitoring mechanisms that would render unnecessary the boarding and inspection procedures. It was also proposed to explore the possibility of developing a technical annex to the Agreement providing for mechanisms for indemnification by the inspecting State in the event of damages caused by boarding in contravention with international law.

66. Other delegations proposed that the elements of the criterion related to the use of port State measures include the extent to which RFMOs have adopted port State measures themselves. One delegation also proposed to include the extent to which RFMOs have taken measures to implement the FAO Port State Model Scheme and the International Plan of Action (IPOA) on IUU Fishing. However, the Chairman expressed reluctance to single out specific instruments adopted since the adoption of the Agreement.

67. One observer delegation suggested including a criterion related to the adoption of the ecosystem-based approach to integrated oceans management, as an element that should precede the criterion on the adoption of measures for the conservation and management of stocks. Several delegations noted that references to article 5(d) and (e) of the Agreement would encompass all the elements of the ecosystem approach.

68. Another observer delegation proposed that the Review Conference should also consider improving reporting on new and unregulated fisheries and bycatch in all high seas fisheries, region by

region. It also considered useful to identify the extent of IUU fishing in all regions, including by non-cooperating non-Parties. It further suggested an additional criterion addressing the nature and scope of any review and evaluation procedures established by RFMOs and whether there are indicators to evaluate progress.

69. One delegation raised concerns over the use of criteria for assessment, noting that if the Conference were to carry out a detailed examination, for each State Party and RFMO, of the degree to which they have adopted measures under each criterion, it would not be in a position to complete its task.

70. Several delegations stated that emphasis should be on addressing the framework questions accompanying the proposed criteria, namely (1) the extent to which the provisions of the Agreement have been incorporated into national laws and regulations, as well as into the charters and/or measures of RFMOs, (2) the extent to which those provisions are actually being applied in practice, and (3) the extent to which States and RFMOs are taking action to remedy instances of failure to apply those provisions in practice. They indicated that the aim of the exercise was to exchange views on these aspects, not to be exhaustive on each criterion.

71. Several States non-Parties to the Agreement stated that, in assessing the effectiveness of the Agreement, the Review Conference should strictly abide by the provisions of the Agreement according to which the Agreement shall be interpreted and applied in the context of and in a manner consistent with UNCLOS. In this regard, they pointed out that coastal States are not obligated to implement any measures in the 200 nautical mile zone under national jurisdiction or anything that impairs the free exercise of their sovereign rights over that area. They stressed that high seas fishing should be carried out subject to, among others, the rights, duties and interest of coastal States pursuant to articles 63 and 64 of UNCLOS. They further stated that the efficient implementation of the Agreement required the development of criteria for fishery resource management respecting the interests and economic and social rights of coastal States as well as the criteria agreed by fishery management organizations. One observer delegation expressed the hope that the Review Conference would agree on the need to develop indicators to assess effectiveness of implementation at the regional level.

72. On the basis of these comments, the Chairman presented to the meeting a revised paper entitled *Possible Elements for Assessing the Effectiveness of the Agreement*. Suggestions were made, in particular that of broadening the scope of the criterion related to the effects of fishing on the marine environment to include measures taken to implement ecosystem approaches to fisheries management. One delegation proposed that the criterion related to developing States be elaborated to include a clear reference to the need for enhanced capacity building for developing States.

73. The Elements for Assessing the Adequacy and Effectiveness of the Agreement, as recommended by the Informal Consultations to the Review Conference, are available as document A/CONF.210/2006/5.

## **F. Consideration of the Conference's outputs**

74. In introducing this item, the Chairman proposed that there be a record of deliberations of the Review Conference. He indicated that the record of deliberations would be a factual account and summary of the views expressed at the Review Conference and would be prepared by the Chair and Vice-Chairs of the Conference, in cooperation with the Secretariat. The Chairman also suggested that, in addition to such record, the Review Conference would produce a negotiated text on the outcomes of discussions.

## 1. Record of deliberations

75. The Informal Consultations agreed that the Review Conference should produce two types of outcomes: a record of deliberations and a final report that reflected negotiated outcomes. In accordance with past practice, the draft record of deliberations, prepared by the Chair, with the assistance of the Secretariat, would be made available on the DOALOS website for three weeks to allow participants to provide suggestions and comments, including on the characterization of discussions. The Chair, in cooperation with the Bureau, would then review all suggestions and comments made by participants and decide which of those could be incorporated in the record of deliberations.

## 2. Agreed results

76. The Chairman noted that article 36 of the Agreement contained two basic elements constituting the mandate for the Review Conference: to review and assess the adequacy of provisions of the Agreement and, if necessary, propose means of strengthening the substance and methods of implementation of those provisions in order better to address any continuing problems in the conservation and management of straddling fish stocks and highly migratory stocks. He suggested that the time available at the Review Conference be equally divided between these two elements of the mandate, and proposed that the review and assessment be conducted on the basis of the proposed "*Possible Elements for Assessing the Effectiveness of the Agreement*". Following the review and assessment the President of the Conference, in consultation with the Bureau, would prepare a draft text to be submitted to a drafting group, which would further elaborate the text in order to create the basis of an agreed text on review and assessment. The Chairman further urged delegations to consider approaches that would then ensure sufficient time for the Conference to consider means of strengthening the substance of the Agreement.

### (i) Review and assessment conclusions

77. Several delegations expressed the view that if every criterion of the Chairman's paper was to be considered in an exhaustive manner, the Conference would not be able to complete its task. Therefore, they proposed that the criteria be used as a guide for the assessment and to identify priority areas for consideration. A number of delegations proposed considering illustrative examples, both positive and negative, in key areas of each criterion. One delegation proposed to focus on: what is working; what is starting to work; and what requires additional work. The possibility of conducting intersessional work was discussed but it was noted by the Chair that it would depend on whether there was an agreed Bureau by the end of the Consultations.

78. A number of delegations stated that the model proposed by the Chairman on the allocation of time during the Review Conference was useful. However, they stressed that discussions on means of strengthening the Agreement were important and therefore there was a need to ensure that sufficient time remained to conduct discussions and negotiations on this issue after the review and assessment. Other delegations suggested that the Conference could spend about three quarters of its time on the review and assessment and one quarter discussing the agreed results. They also suggested the possibility of drafting the agreed results in a working group in a way that would maintain the transparency of the proceedings.

79. Several delegations stressed the need for the assessment to be done by each delegation, prior to the meeting, in order to identify areas in need of attention at the Conference. It was also stressed that the assessment was not merely an exchange of information but also of views and judgement on actions taken so far. Most delegations agreed that any recommendations should be tied to the assessment performed by the Review Conference.

80. The Chairman proposed that one of the possible recommendations of the Conference could be the convening of another review conference to continue the assessment work on topics that would not have been dealt with during this Review Conference.

- (ii) Proposed means of strengthening the substance and methods of implementation of the Agreement's provisions

81. The Chairman noted that some areas for strengthening the substance and methods of implementation of the provisions of the Agreement had already been identified by participants, including further steps to: address IUU fishing; address excess capacity and overfishing; protect the marine environment from certain destructive fishing practices; increase the number of States Parties to the Agreement; and provide additional assistance to developing States. He highlighted a Chairman's background paper on possible initiatives for strengthening the substance and methods of implementation of the provisions of the Agreement (Annex V to the report of the fourth round of Informal Consultations).

82. Whereas several delegations indicated that it was premature to identify specific areas where strengthening of the provisions of the Agreement was needed before the completion of the assessment work, other delegations stated that the debates that had already taken place during the five rounds of Informal Consultations as well as in other fora made it possible to discuss areas for improvement.

83. Several delegations welcomed a paper on possible outcomes circulated by one delegation. The paper proposed a distinction among three categories of outputs from the Review Conference: (i) political commitments; (ii) recommended actions; and (iii) decisions concerning the institutional aspects of the Agreement and its future review process. They noted that the categories contained in the paper could, at time, overlap and that, as a consequence, it could be difficult to know under which category a certain output might fall in practice. One delegation proposed an alternative distinction between outputs with short-term and long-term implications, specifying that each of these could be divided in two sub-categories: substantive and procedural. Several delegations underlined the need for outputs that, regardless of the category under which they could be included, lead to practical measures. An observer delegation expressed the view that ways of strengthening the substance and methods of the provisions of the Agreement fell in three categories: mechanisms for the review and evaluation of the implementation; actions for the conservation and management of stocks; and measures related to monitoring, control and surveillance and enforcement.

84. A number of delegations raised the question as to whether it was appropriate for the Review Conference to produce outputs of a political nature, noting that the Review Conference should focus on the adoption of practical recommendations and not deal with political issues. In this context, several delegations stressed the need to consider the work of the High Seas Task Force as well as the provisions of UNCLOS in the recommendations of the Conference. Other delegations stated that an instrument of a nature similar to the "Reykjavik Declaration" would provide the appropriate framework/context to the other outputs of the Conference. One delegation indicated that it welcomed the idea of having a re-assertion of the political commitments underpinning the Agreement.

86. Some States non-Parties to the Agreement suggested that, in order to promote the universal nature of the Agreement, the Review Conference should focus on the obstacles that currently prevent some States from becoming Parties to it. However, other delegations underlined that amendments to the Agreement could not be one of the acceptable outcomes of the Conference as this would not be consistent with the purpose of article 36 of the Agreement. They stressed that amendments to the Agreement could only be made through the procedure envisaged in article 45 of the Agreement.

## **G. Possible future actions**

87. Under this item, delegations discussed both the possibility of holding future review conferences as well as the convening of formalized meetings of States Parties.

### **1. Future review conferences**

88. Most delegations were of the view that even though article 36 of the Agreement provides for the holding of one review conference, it does not preclude the possibility of convening future conferences, a possibility that they welcomed. While some delegations indicated that it was premature to discuss the need for or the details relating to future review conferences, other delegations suggested that future meetings of the Review Conference be held at intervals of five to six years.

89. Differing views were expressed on the possible ways to decide on the convening of future review conferences. One delegation stated that the upcoming Review Conference could decide to call for further conferences in the future. Some delegations expressed doubts as to whether the Review Conference had the legal authority to decide on convening future conferences, noting that under the provisions of article 36 of the Agreement the Review Conference did not have decision-making powers. Other delegations were of the view that States Parties to the Agreement could, at their future meetings, recommend to the General Assembly the convening of further review conferences. The delegation of a non-Party to the Agreement opposed the view that only States Parties could decide on future review conferences, insisting that, in their view, article 36 of the Agreement provided that all States and other stakeholders have an interest in this respect.

### **2. Formalized meetings of States Parties**

90. While the Agreement does not explicitly provide for the convening of Meetings of States Parties, following the entry into force of the Agreement in 2001, States Parties have held informal consultations, as decided by the General Assembly in resolution 56/13.

91. Most delegations agreed on the need to continue holding States Parties' meetings, either formally or informally. Some delegations stated that they would prefer a formal meeting of States Parties, while others were of the view that a more flexible and informal meeting was a better option. Delegations expressed different views on the frequency of such meetings: some indicated a preference for intervals of two years, while others favoured annual meetings.

92. Some delegations drew attention to the costs associated with annual meetings both from an organizational point of view and in terms of participation by developing countries. In this regard, one observer delegation noted that the Part VII Assistance Fund can be used to support participation in meetings by developing States Parties.

93. In this connection, one delegation stressed the importance of clarifying the relationship between the role of meetings of States Parties and the important oversight role of the General Assembly on the implementation of the Agreement. Another delegation stated that the General Assembly could decide on the establishment of formal meetings of States Parties, in which case rules of procedure for such meetings would have to be agreed upon.

94. It was generally agreed that the Review Conference would have to address ways forward on this issue.

## **V. Closing of the fifth round of Informal Consultations of States Parties to the Agreement**

95. In his closing statement at the fifth round of Informal Consultations of States Parties to the Agreement, Ambassador Balton highlighted the work that had been undertaken during the meeting, including adoption of a number of key recommendations for the Review Conference, including the provisional agenda for the Review Conference, the organization of work, the Elements for Assessing the Adequacy and Effectiveness of the Agreement, the Rules of Procedure and the composition of the Bureau. In particular, in relation to the Rules of Procedure, he stated that he would like to assure non-Parties to the Agreement that their interests would be fully taken into account at the Review Conference and that they would have every opportunity to participate fully in the deliberations of the Conference. He expressed his personal confidence that there would be no vote at the Conference.

96. A number of delegations also expressed the hope that the voting procedure would not be used during the Review Conference, in the spirit of mutual understanding and cooperation that had prevailed at all of these Informal Consultations and at previous relevant meetings.

## Annex

### **Fifth round of the 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 (United Nations Fish Stocks Agreement)**

**20-24 March 2006  
United Nations, New York**

#### Agenda

1. Opening of the fifth round of the informal consultations by the Chairperson of the fourth round of Informal Consultations of States Parties to the Agreement.
2. Election of the Chairperson.
3. Adoption of the agenda.
4. Preliminary exchange of views on the Report prepared by DOALOS and FAO in accordance with paragraph 17 of UNGA Resolution 59/25.
5. Recommendations for consideration by the Review Conference:
  - (a) Organization of work;
  - (b) Draft provisional agenda;
  - (c) Draft Rules of procedure;
  - (d) Composition of the bureau, including Chair and Vice chairs, as well as of a possible Drafting Committee;
  - (e) Criteria for the review and assessment of the adequacy of the provisions of the Agreement in securing the conservation and management of straddling and highly migratory fish stocks;
  - (f) Consideration of the Conference's outputs:
    - (i) Record of deliberations;
    - (ii) Agreed results:
      - (1) Review and assessment conclusions;
      - (2) Proposed means of strengthening the substance and methods of implementation of the Agreement's provisions;
  - (g) Possible future actions, *inter alia*:
    - (i) Future review conferences;
    - (ii) Formalised States Parties meetings.
6. Other matters.