

**Fourth 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, 31 May – 3 June 2005)**

**Report**

**SUMMARY**

This document contains the report of the fourth 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 31 May to 3 June 2005.

As provided for in paragraph 18 of General Assembly resolution 59/25, the major area of focus of the meeting was the preparation for the Review Conference to be convened by the Secretary-General pursuant to article 36 of the Agreement. The outcomes of the meeting include: a timeline and programme of work for the preparation for the Review Conference; a draft agenda for the preparatory meeting and a set of recommendations to the sixtieth session of the General Assembly related to the preparatory work and convening of the Review Conference and its preparatory meeting.

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## **I. Introduction**

1. Pursuant to General Assembly resolution 59/25, paragraph 18, of 17 November 2004 the Secretary-General convened a fourth 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) to consider, principally, but not exclusively, issues related to preparation for the Review Conference to be convened by the Secretary-General pursuant to article 36 of the Agreement, and to make any appropriate recommendation to the General Assembly.

2. Article 36, paragraph 1, of the Agreement provides that four years after the date of entry into force of the Agreement, the Secretary-General shall convene a conference with a view to assessing the effectiveness of the Agreement in securing the conservation and management of straddling fish stocks and highly migratory fish stocks.

3. Pursuant to paragraph 2 of this article, the conference is to review and assess the adequacy of the provisions of this 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 fish stocks.

## **II. Organization of work**

### **A. Opening of the fourth Informal Consultations**

4. The Director of the Division for Ocean Affairs and the Law of the Sea, Mr. Vladimir Golitsyn, opened the fourth round of Informal Consultations of States Parties to the Agreement.

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

5. The meeting elected by acclamation Ambassador David Balton, Deputy Assistant Secretary for Oceans and Fisheries, Department of State (United States) as Chairperson of the fourth round of Informal Consultations of States Parties.

### **C. Attendance**

6. Representatives of the following Parties attended the meeting: Australia, Austria, Brazil, Canada, Costa Rica, European Community, Fiji, Finland, Greece, Iceland, India, Iran (Islamic Republic of), Italy, Malta, Marshall Islands, Micronesia, Monaco, Namibia, Netherlands, New Zealand, Norway, Papua New Guinea, Portugal, Russian Federation, South Africa, Spain, Sri Lanka, Tonga, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America and Uruguay.

7. Observers from the following States, United Nations specialized agencies, programmes and bodies, and intergovernmental and non-governmental organizations also attended the meeting:

(a) Observer States: Argentina, Chile, China, Colombia, Dominican Republic, Egypt, Guatemala, Hungary, Indonesia, Japan, Kuwait, Lebanon, Madagascar, Mauritania, Mexico, Peru, Philippines, Republic of Korea, Turkey, Venezuela and Yemen;

(b) United Nations specialized agencies: Food and Agriculture Organization of the United Nations (FAO) and World Bank;

(c) Other intergovernmental organizations: International Seabed Authority (ISA), and International Union for the Conservation of Nature and Natural Resources (IUCN);

(d) Subregional and Regional Fisheries Management Organizations and Arrangements: Comisión Permanente del Pacífico Sur (CPPS), Fishery Committee for the East Central Atlantic (CECAF), Inter-American Tropical Tuna Commission (IATTC) and International Commission for the Conservation of Atlantic Tunas (ICCAT);

(e) Non-governmental organizations: Greenpeace International, International Coalition of Fisheries Associations (ICFA), Natural Resources Defense Council (NRDC), Turtle Island Restoration Network and WWF International.

## **D. Adoption of the agenda**

8. The Informal Consultations considered the provisional agenda of the meeting. The agenda was adopted as proposed (see Annex I).

## **III. Issues related to the preparation of the Review Conference under Article 36 of the Agreement**

### **A. Institutional and procedural issues related to the preparation of the Review Conference**

9. In his opening statement the Chairman recalled that although the Agreement entered into force in 2001 full implementation of its provisions was yet to be achieved. He indicated that the meeting could look at additional measures that could be taken to improve implementation, as well as how to increase the number of parties to the Agreement, which had stagnated in the last two years. He also made reference to the Assistance Fund under Part VII of the Agreement as one of its achievements. He stressed that, in accordance with General Assembly resolution 59/25, the meeting should focus on the Review Conference of the Agreement to be held in 2006. Finally, the Chairman stated that although the Informal Consultations could not take binding decisions, it could adopt recommendations that could be considered by the General Assembly.

10. Regarding the dates for the Review Conference, the Chairman indicated that, after consultation with the Secretariat, suggested dates for such a meeting were 22 to 26 May 2006 at United Nations headquarters in New York. Since there was a general acceptance about the proposed dates, delegations were advised to plan accordingly.

11. Several delegations highlighted the importance of outlining a timeline and programme of work for the process leading to the Review Conference. An open-ended working group was created to draft such a document. A final version of the timeline and programme of work agreed upon by the plenary of the Informal Consultations is attached as Annex II. Among other things, the document would provide guidance to the Division for Ocean Affairs and the Law of the Sea of the United Nations Office of Legal Affairs (DOALOS) and to FAO regarding the content and scope of the comprehensive report requested in paragraph 17 of General Assembly resolution 59/25.

12. The Chairman also referred to the possibility of convening a preparatory meeting for the Review Conference, in order to discuss issues such as the composition of the bureau, the organizational structure, rules of procedure and the provisional agenda for the Review Conference. He suggested that the preparatory meeting, to be held in March 2006, should mainly address procedural issues in order to allow the Review Conference to focus on substantive issues. Some delegations indicated in this regard

that the preparatory meeting should also discuss substantive issues in addition to procedural matters.

13. The Informal Consultations agreed on the convenience of holding such a preparatory meeting and were informed by the Secretariat that such a meeting could be held at United Nations Headquarters in New York from 20 to 24 March 2006. In this regard, some delegations pointed to the need for the Informal Preparatory Meeting to have a clear mandate. After a brief discussion, a draft provisional agenda for the Informal Preparatory Meeting was approved by the Informal Consultations. It is contained in Annex III to this report. The Informal Consultations recommended that, pursuant to the timeline and programme of work, DOALOS should circulate the draft provisional agenda for the Informal Preparatory Meeting 60 days in advance of said meeting.

14. During an exchange of views on participation in the Informal Preparatory Meeting, different opinions were expressed regarding the participation of States Parties and non-States Parties. While some delegations wanted to follow the format of the Informal Consultations, others indicated that both States Parties and non-States Parties should participate in the Informal Preparatory Meeting on an equal footing. In the end, delegations agreed to follow the format of the Informal Consultations at the Informal Preparatory Meeting.

15. A similar debate arose with respect to participation at the Review Conference. Several delegations expressed concern about the possibility of non-States Parties blocking the adoption of decisions by the Conference and preferred decision-making power to be vested in States Parties. Other delegations indicated that the terms of article 36 of the Agreement made no distinction between States Parties and non-States Parties, and that under the terms of that article only intergovernmental and non-governmental organizations were to participate as observers. Delegations agreed that this issue should be resolved in the rules of procedure for the Review Conference.

## **B. Substantive issues under Article 36 of the Agreement related to the preparation of the Review Conference**

### **1. Report on implementation by States, regional fishery management organizations and arrangements (RFMOs), relevant intergovernmental organizations (IGOs) and non-governmental organizations (NGOs)**

16. During the debate under this item, a number of States Parties provided information on measures they had adopted to implement the relevant provisions of the Agreement, as well as on recent events in relation to the Agreement.

17. **Canada** briefed the meeting about the outcomes of the Conference on the governance of high seas fisheries and the Agreement held in St. John's, Newfoundland and Labrador, from 1 to 5 May 2005. The Conference, entitled "Conference on the Governance of Highs Fisheries and the UN Fish Agreement - Moving from Words to Action", was attended by participants from 49 States and regional economic integration organizations, fishing entities, fisheries management organizations, industry, civil society and the academic community. Concurrent with the Conference, 19 countries participated in a Ministerial Roundtable at the invitation of the Government of Canada. Ministers issued a declaration setting out their commitment to specific actions to improve the governance of high seas fisheries.

18. The Conference held five simultaneous workshops that focused on the following five core themes: "Ecosystems-based considerations in fisheries management"; "Compliance and enforcement"; "Decision-making in Regional Fisheries Management Organizations and Arrangements"; "Balancing fishing capacity and fishing aspirations"; and "New areas and gaps". Participants in the workshops expressed a range of views on possible, practical ways by which States and RFMOs might move forward to strengthen the implementation of measures to promote sustainable fisheries. Regarding assistance to developing States, Canada recalled its announcement made at the Conference that it planned to contribute 500,000 Canadian dollars to the Assistance Fund under Part VII of the

Agreement. Finally, Canada stated that it was pleased to have hosted the Conference, which was believed to have accelerated the momentum in international fisheries issues.

19. **Iceland** as a participant in the Conference expressed satisfaction with its outcome and highlighted that at the Conference there was a reaffirmation of the regional approach to fisheries management and that the emphasis was placed on the implementation of existing instruments, most importantly the Agreement.

20. In reporting on national implementation of the Agreement, the **United States** enumerated a number of steps it had taken in this regard, such as its participation in the negotiations of the Western and Central Pacific Fisheries Convention as well as in the revision of the Inter-American Tropical Tuna Convention. It had also adopted measures to implement articles 5 and 6 of the Agreement. In particular, regarding science-based management, the US was working to establish an integrated and comprehensive ocean observation system that would significantly increase the ability to sustainably manage fishery resources.

21. Regarding the obligation to minimize pollution, the United States indicated that it had helped to establish a virtual North American “node” office that will coordinate the activities of the Global Programme of Action for the Protection of Marine Environment from Land-Based Activities (GPA) in the region. With respect to the issue of marine debris, a federal Interagency Marine Debris Coordinating Committee was reestablished in 2004, whose mandate will encompass reducing marine debris from all sources, initially focusing on derelict fishing gear.

22. On the issue of by-catch, the United States stated that it is actively involved in efforts to reduce by-catch and fish discards in international fisheries through international agreements and domestic legislation, as well as working internationally to secure the sustainable management of unmanaged stocks. The United States was a strong supporter of the negotiations for the Inter-American Convention for the Protection and Conservation of Sea Turtles and Their Habitats, and provided financial support to the interim secretariat, as well as urged other countries to become parties or participate in its work. Moreover, the United States was a strong proponent of the ICCAT decision to prohibit shark finning and that it had also led efforts in the Northwest Atlantic Fisheries Organization (NAFO) to establish conservation and management measures for a previously unregulated species of North Atlantic skate and supported efforts to adopt measures for two other previously unregulated stocks: white hake and redfish. In addition, with respect to fishing overcapacity, the US planned to publish two reports on the capacity situation in US fisheries and to remain an active player at the World Trade Organization to clarify and improve disciplines on fisheries subsidies.

23. The **European Community** informed the meeting that of ten new members that had recently joined the European Community, two were already Parties to the Agreement, while the other eight were bound by its terms pursuant to the treaty of accession to the EC. The EC also stated that it was about to accede to the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean and that the EC had chaired consultations on an agreement on non-tuna fisheries in the Southern Indian Ocean. A diplomatic conference to adopt this agreement was to be convened in February 2006.

24. **New Zealand** stated that, together with Australia and Chile, it was working on a new regional fisheries management organization covering non-tuna species in the South Pacific, which would open for negotiations in 2006. This new arrangement would close the gap in conservation and management measures for demersal species in the area and was expected to be operational in the near future. New Zealand also expressed concern about the impact of fishing activities on biodiversity, in particular on seamounts.

25. **Spain** informed the meeting that it had ratified the Agreement on the Conservation of Albatrosses and Petrels. It also recalled that fishery agreements had to be open and extend membership to all interested countries. In this regard, it added that, although the term “real interest” as mentioned in Article 8 (3) of the Agreement was yet to be defined, regional fisheries agreements should be open to appropriate participation in

order to comply with the obligation to cooperate in the conservation and sustainable use of resources.

26. **Namibia** highlighted the importance of the implementation of existing instruments and the modernization of RFMOs. It further informed the meeting that the Executive Secretary of the South-East Atlantic Fisheries Organization (SEAFO) had been appointed and called on both signatory States and States with an interest to consider ratifying or acceding to the Convention on the Conservation and Management of Fishery Resources in the South-East Atlantic Ocean (SEAFO Convention) as soon as possible.

27. The delegation of the **Republic of Korea** stated that it supported United Nations initiatives for the management of high seas fisheries resources and stressed its commitment to the fight of illegal, unreported and unregulated (IUU) fishing. In that regard, the Republic of Korea pointed to the successful implementation of its national plan of action on IUU fishing. In addition, as a member of fifteen RFMOs, the Republic of Korea made reference to the adoption of conservation measures and the national measures it had taken to put them in place. It also noted that it had become a member of WCPFC and that it was taking measures to accede IATTC.

28. **China** highlighted its contribution to the establishment of as well as its involvement in a number of RFMOs. It also provided information on some measures it had taken with respect to the issue of fishing capacity, including the reduction of its fishing fleet.

29. The observer from **FAO** highlighted existing cooperation between FAO and DOALOS with regard to the administration of the Assistance Fund under Part VII of the Agreement. He provided information about the composition of the panel of experts of the Fund and about the balance of the trust fund account, which by the end of May 2005 was \$345,469.65. He requested that applications for assistance be submitted sufficiently in advance to allow time for processing and also indicated the procedure to be followed regarding reporting requirements.

30. The observer from **IATTC** stated that, although only four of its members had ratified the Agreement, IATTC had taken measures to implement many of its provisions, including those relating to the application of the precautionary approach, the application of the ecosystem approach, the strengthening of the Commission's conservation and management functions and the adoption of effective compliance measures. In this regard, he made reference to a comprehensive observer program covering 100% of large purse-seine vessels and to the prohibition of landings and transshipments of illegally caught fish. The Antigua Convention, adopted in 2003 to update IATTC, included several provisions which drew on parts of the Agreement, such as the adoption of measures for species belonging to the same ecosystem or associated with or dependant upon the target stocks, the compatibility of measures established for the high seas and those adopted for areas under national jurisdiction, and the elaboration of the duties of flag States.

31. In addition, the observer from **ICCAT** enumerated a number of measures the Commission had taken on issues such as overcapacity, reflagging and IUU fishing. He stated that the lack of information on catches constituted one of its major problems and he made reference to a newly created fund at ICCAT to improve data collection and sharing.

32. The observer from **CPPS** indicated that its member States remained committed to the fight against IUU fishing and mentioned measures taken in this regard, including regional implementation of the FAO Code of Conduct and the adoption of the Galapagos Agreement. Additionally, he stated that the Review Conference should be an opportunity to identify impediments for the Agreement to attain universal participation.

33. The observer from **IUCN** introduced a set of recommendations in relation to the Agreement and the Review Conference. Regarding the Agreement, IUCN recommended the adoption of technical annexes on new and exploratory fisheries, deepwater fisheries and the use of area-based management measures to support sustainable fisheries and conserve and protect marine biodiversity from the impacts of fishing. With respect to the Review Conference, it proposed that the conference agree on a more substantial role for the Meetings of

States Parties.

34. The observer from **Greenpeace** voiced its concern about the capacity of RFMOs to deal with threats to deep-sea biodiversity and ecosystems from destructive fishing practices. He also noted that increasing threats to discrete high seas stocks were a worrying development and asked for the Agreement to be extended to cover all high seas stocks.

35. The observer from the **International Coalition of Fisheries Associations** (ICFA) introduced his organization, which was participating for the first time as an observer in the meeting. He provided the meeting with information about initiatives such as the Coalition of Legal Toothfish Operators (COLTO) and the Organization for the Promotion of Responsible Tuna Fisheries (OPRT). He also made reference to the issue of flags of non-compliance.

36. A number of delegations expressed their satisfaction about the creation of new RFMOs, while others agreed on the need for modernization of existing RFMOs.

## **2. Organizing framework for the Review Conference to assess the adequacy of the Agreement in securing the conservation and management of straddling and highly migratory fish stocks**

37. Delegations discussed options for an organizing framework for the Review Conference to assess the adequacy of the Agreement in securing the conservation and management of straddling and highly migratory fish stocks. They referred to a number of possibilities, including a part-by-part review, a provision-by-provision review or a thematic approach. After some discussion, there was general agreement on a part-by-part review as the preferred approach.

38. A number of delegations stated that the assessment should include both legal aspects and an assessment of the status of stocks. Regarding the latter, one delegation indicated that non-target species should be included, while other delegations pointed to the difficulties in obtaining the necessary data. Some delegations noted that the assessment should be on the implementation of the Agreement as well as on the adequacy of its provisions. It was suggested that the Annexes of the Agreement should also be subject to review. Other delegations proposed that the performance of RFMOs should be reviewed. However, some delegations stated that the Review Conference should not review RFMOs performance, as its task was to review and assess the adequacy of the Agreement, including the activities relating to implementation carried out by RFMOs.

39. A number of delegations also referred to the issue of membership in the Agreement, stating that the main goal of the Review Conference should be to increase participation in the Agreement and to remove existing obstacles preventing a larger group of States to become Parties to the Agreement.

40. While a number of delegations considered that the Review Conference should be entitled to make amendments to the Agreement, several delegations indicated that they did not support this idea, since the procedure, provided for in article 45 of the Agreement, should be followed for any amendments. Others noted that while amendments could be proposed at the Review Conference, the provisions of Article 45 of the Agreement would have to be followed for the adoption of amendments.

## **3. Possible criteria for the assessment of the adequacy of the Agreement in securing the conservation and management of straddling and highly migratory fish stocks**

41. Following the introduction of a Working Paper by the Chairman, the Informal Consultations discussed possible criteria for assessing the effectiveness of the Agreement. A number of delegations stated that the assessment should take the status of fish stocks into consideration. However, most

delegations indicated that there would be some difficulties in obtaining data for all major straddling fish stocks and highly migratory fish stocks.

42. The representative of FAO pointed out in this regard that his organization had limited data on straddling fish stocks and highly migratory fish stocks in areas outside national jurisdiction, and that working with regional fisheries bodies would be critical to obtaining the required information. In this connection, representatives of RFMOs provided the meeting with information about the type of information that was available from them and explained how this information could be useful for the review process.

43. A number of delegations highlighted that the Review Conference should review how RFMOs implemented the provisions of the Agreement. One delegation drew a distinction between the review of RFMOs by the Review Conference and the review of regional fisheries bodies carried out under the aegis of FAO.

44. One delegation made reference to the absence of conservation measures in the high seas due to the lack of direct cooperation and of applicable regional agreements and suggested including this issue as a way of assessing implementation of the Agreement.

45. The observer from the ISA distributed an article co-written by the Secretary-General of that organization, in which a number of issues were identified that could assist with the assessment of the Agreement.

46. The delegation of **Chile** explained the reasons why it had not ratified the Agreement. Firstly, it stated that the Agreement should not allow for measures to be taken in the EEZs without the consent of the coastal State. Secondly, the Agreement did not make reference to the rights of coastal States as regards associated species as provided for under article 116 of UNCLOS. Thirdly, the rights of port States under international law should be fully recognized. Lastly, the term “real interest” under article 9(3) of the Agreement should imply a certain degree of fishing history for the species and in the area concerned.

47. Following delegations’ comments and suggestions on the Working Paper, the draft assessment criteria were provisionally agreed by the Informal Consultations (see Annex IV). The Chairman invited delegates to provide him with additional suggestions on the Working Paper by 1 September 2005, so that he could further revise the document. The draft assessment criteria would be discussed at the Informal Preparatory Meeting in March 2006 for recommendation to the Review Conference. These criteria would also provide guidance to DOALOS and FAO in the preparation of the report requested by paragraph 17 of General Assembly resolution 59/25.

#### **4. Means of strengthening the substance and methods of implementation of the provisions of the Agreement**

48. The Chairman introduced his background paper on possible initiatives for strengthening the substance and methods of implementation of the provisions of the Agreement (see Annex V), which compiled several commitments and suggestions from international meetings on international fisheries.

49. A number of delegations welcomed the Chairman’s background paper, which they believed to be a useful document. Other delegations expressed their concern about the different commitments and initiatives combined in the document, which were derived from both binding and non-binding sources.

50. Some delegations stressed the need for linking the document with other international instruments, such as the Convention on Biological Diversity and MARPOL 73/78.

## **IV. Adoption of recommendations to the sixtieth session of the General Assembly**

51. The fourth round of the Informal Consultations of States Parties to the United Nations Fish Stocks Agreement agreed to recommend to the sixtieth session of the General Assembly for its consideration under the agenda item “Oceans and the law of the sea”, the sub-item “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” that the General Assembly:

(i) Request the Secretary-General to convene, in accordance with the recommendations of the fourth round of Informal Consultations of States Parties to the United Nations Fish Stocks Agreement, informal preparatory consultations from 20 to 24 March 2006 to address matters related to the Review Conference and to make appropriate recommendations to the Review Conference;

(ii) Invite States Parties, as well as States and entities entitled to become parties, sub-regional and regional fisheries management organizations and arrangements, and other inter-governmental and non-governmental organizations, to submit information and views on matters relevant to the mandate of the Review Conference and which would inform its work;

(iii) Request that the Secretary-General, in cooperation with FAO, prepare the comprehensive report requested in paragraph 17 of General Assembly resolution 59/25, in accordance with the specific guidance provided by the fourth round of Informal Consultations of States Parties to the United Nations Fish Stocks Agreement;

(iv) Request the Division for Ocean Affairs and the Law of the Sea to prepare draft rules of procedure and a provisional agenda for the Review Conference.

## ANNEX I

### Agenda

**Fourth 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 (United Nations Fish Stocks Agreement)**

**31 May-3 June 2005  
United Nations, New York**

1. Opening of the fourth round of Informal Consultations by the Chairperson of the third round of Informal Consultations.
2. Election of the Chairperson.
3. Adoption of the Agenda.
4. Organization of work.
5. Issues related to the preparation of the Review Conference under Article 36 of the Agreement:
  - A. Institutional and procedural issues related to the preparation of the Review Conference.
    - i) Dates and venue of the Review Conference.
    - ii) Possibility of convening preparatory informal consultations prior to the Review Conference to address procedural matters related to the Conference.
  - B. Substantive issues under Article 36 of the Agreement related to the preparation of the Review Conference.
    - i) Report on implementation by States, regional fishery management organizations and arrangements (RFMOs), relevant intergovernmental organizations (IGOs) and non-governmental organizations (NGOs).
    - ii) Organizing framework for the Review Conference to assess the adequacy of the Agreement in securing the conservation and management of straddling and highly migratory fish stocks.
    - iii) Possible criteria for that assessment (e.g., status of stocks, actions at the national and international levels).
    - iv) Means of strengthening the substance and methods of implementation of the provisions of the Agreement.
6. Adoption of any recommendation(s) of the fourth round of Informal Consultations of States Parties to be conveyed to the sixtieth session of the General Assembly.
7. Other matters.

## ANNEX II

### Timeline and Program of Work

#### May 2005 -- ICSP-4

- Recommend an organizing framework for the Review Conference.
- Consider an initial set of specific criteria for assessing the adequacy of the provisions of the Agreement.
- Provide specific guidance to DOALOS and FAO regarding the content and scope of the comprehensive report requested in paragraph 17 of UNGA Resolution 59/25. In particular, request that the report include the following components, recognizing that coordination between DOALOS and FAO may be required to complete these tasks:

#### To be undertaken by DOALOS:

- A review of the extent to which the Agreement has been incorporated into sub-regional or regional agreements or arrangements to conserve and manage SFS and HMFS, as well as national laws and regulations related to the implementation of the Agreement, and also of measures that have been adopted relevant to these stocks;
- An examination of those issues that have prevented some States from becoming party to the Agreement;
- An examination of those issues affecting implementation of the Agreement by developing States Parties, taking into account Part VII of the Agreement; and
- Information on SFS and HMFS for which no measures have yet been adopted.

#### To be undertaken by FAO:

- An overview of the status of SFS and HMFS, as well as of discrete high seas stocks and non-target and associated and dependent species, provided in a common format using the best available information from, inter alia, FAO, States, and regional and sub-regional fisheries management organizations and arrangements.
- Encourage all States Parties, as well as States and entities entitled to become parties, and sub-regional and regional fisheries management organizations and arrangements, to cooperate with DOALOS and FAO in providing relevant information for the preparation of the comprehensive report.
- Recommend to the UNGA that States Parties, as well as States and entities entitled to become parties, sub-regional and regional fisheries management organizations and arrangements, and other inter-governmental and non-governmental organizations be invited to submit information and views on matters relevant to the mandate of the Review Conference and which would inform its work.
- Recommend to the UNGA that DOALOS, in cooperation with FAO, be requested to prepare the comprehensive report requested in paragraph 17 of UNGA Resolution 59/25, in accordance with the specific guidance provided by ICSP-4.

- Recommend to the UNGA that DOALOS be requested to prepare draft rules of procedure for the Review Conference.
- Agree to hold informal preparatory consultations in 2006 and agree on a draft agenda for these consultations.

#### June 2005- December 2005

- An advance unedited version of the comprehensive report will be made available in English only via the DOALOS web site after 16 January 2006. Technical and factual corrections may be provided to DOALOS as quickly as possible after 16 January 2006, in accordance with UN practice regarding reports of the Secretary-General. Taking into account the time needed for processing and translation, the comprehensive report will be available in all official languages before the March informal preparatory consultations.
- DOALOS prepares a draft provisional agenda for the Review Conference, which is circulated 60 days in advance of the March 2006 informal preparatory consultations.
- DOALOS prepares draft rules of procedure for the Review Conference, which are circulated 60 days in advance of the March 2006 informal preparatory consultations.

#### September – November 2005 – 60<sup>th</sup> Session of UNGA

- The UNGA, through the Sustainable Fisheries resolution, requests the Secretary General to convene, in accordance with the recommendations of the ICSP-4, informal preparatory consultations in March of 2006 to address matters related to the Review Conference and to make appropriate recommendations to the Review Conference.
- The UNGA, through the Sustainable Fisheries resolution, invites States Parties, as well as States and entities entitled to become parties, sub-regional and regional fisheries management organizations and arrangements, and other inter-governmental and non-governmental organizations, to submit information and views on matters relevant to the mandate of the Review Conference and which would inform its work.
- The UNGA, through the Sustainable Fisheries resolution, requests that the Secretary-General, in cooperation with FAO, prepare the comprehensive report requested in paragraph 17 of UNGA Resolution 59/25, in accordance with the specific guidance provided by ICSP-4.
- The UNGA, through the Sustainable Fisheries resolution, requests DOALOS to prepare draft rules of procedure for the Review Conference.
- DOALOS circulates the draft agenda recommended by the ICSP-4 for the informal preparatory consultations 60 days in advance of the March preparatory consultations.

#### March 2006 – April 2006

- Preparatory consultations are held (20-24 March 2006), which:
  - Agrees on draft rules of procedure and a provisional agenda to be recommended to the Review Conference;

- Considers the comprehensive report prepared by the Secretary-General in cooperation with FAO;
- Agrees on a draft set of assessment criteria to be recommended to the Review Conference;
- Consults on the composition of the bureau and is provided with an update on consultations with respect to the Chair and Vice Chairs for the Review Conference;
- Considers the establishment of a drafting committee for the Review Conference; and
- Considers any other matters relevant to the organization of the work of the Review Conference.

May 2006

- Review Conference is held 22-26 May.

## ANNEX III

### Proposal - draft agenda

#### **Informal Preparatory Meeting in preparation of the Review Conference convened under Article 36 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 (the Agreement)**

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

1. Opening of the preparatory informal consultations by the Chairperson of the 4<sup>th</sup> 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. Organisation of work
  - b. Draft 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 State Parties Meetings
6. Other matters

## ANNEX IV

### Fourth Round of Informal Consultations of States Parties to the UNFSA

#### CHAIRMAN'S SUGGESTED WORKING PAPER I, Rev. 1 Possible Criteria for Assessing Effectiveness of the Agreement

The following table presents possible criteria for use by the Review Conference in reviewing and assessing the adequacy of the provisions of the Agreement. Many of the criteria relate to the actions of States Parties, individually and through RFMOs,<sup>1</sup> in giving effect to various provisions of the Agreement. With respect to those criteria, it might be useful for the Review Conference to consider:

- (1) the extent to which those provisions have been incorporated into national laws and regulations, as well as into the charters and/or measures of the 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.

UNFSA PART		Possible Criteria for Assessing Effectiveness	Possible Detailed Criteria
II.	Conservation and management of stocks	Status of fish stocks	Status of major straddling fish stocks (SFS) and highly migratory fish stocks (HMFS) in relation to maximum sustainable yield or other relevant biological standards. Trends in the status of those stocks.
		Status of other species	Status of species belonging to the same ecosystems as, or that are associated with or dependent upon, the major target stocks of SFS and HMFS.
		Application of the precautionary approach	Extent to which States Parties, individually and through RFMOs, have applied the precautionary approach in the development and implementation of measures for SFS and HMFS, in accordance with Articles 5 and 6, and Annex 2. In particular, extent to which such measures have been based on the best scientific evidence available.
		Overfishing and capacity management	Extent to which States Parties, individually and through RFMOs, have taken measures to prevent or eliminate overfishing and excess fishing capacity.
		Effects of fishing on the marine environment	Extent to which States Parties, individually and through RFMOs, have taken measures to protect the marine environment from adverse effects of fishing

<sup>1</sup> For purposes of this table, "RFMO" includes any subregional or regional fisheries management organization or arrangement with the competence to establish conservation and management measures for any straddling fish stock or highly migratory fish stock.

			operations, in accordance with Article 5(f)-(g) and Article 6(3)(d).
		New and exploratory fisheries	Extent to which States Parties have taken measures to regulate new or exploratory fisheries, in accordance with Articles 6(6).
		Fisheries not regulated by an RFMO	Extent to which States Parties have cooperated to address fisheries for SFS or HMFS that are not regulated by an RFMO, in accordance with Part III generally, particularly Article 8(2) and (5), Article 9 and Article 14.
		Data collection and sharing	Extent to which States Parties, individually and through RFMOs, collect and share, in a timely manner, complete and accurate data concerning fishing activities on SFS and HMFS, including for new or exploratory fisheries and fisheries not regulated by an RFMO, in accordance with Articles 5 and 14, and Annex I.
		Scientific research and technology development	Extent to which States Parties, individually and through RFMOs, promote and conduct scientific research and develop technology.
		Compatibility of measures	Extent to which measures established for major SFS and HMFS on the high seas and in areas under national jurisdiction are compatible. Extent to which coastal States and States fishing on the high seas have fulfilled their duty to cooperate for the purpose of achieving compatible measures in respect of such stocks.
III.	Mechanisms for international cooperation	Integrity of RFMO regimes	Extent to which States Parties whose vessels fish for any SFS or HMFS under the purview of any RFMO have either joined or agreed to join that RFMO or applied the measures adopted by such RFMO to the fishing activities of its vessels.
		Openness of RFMOs	Openness of RFMOs to any State with a real interest in the fishery concerned.
		Fishing activity by non-parties	Extent of fishing activity for major SFS or HMFS by vessels of States Parties that are not members or “cooperating non-parties” <sup>2</sup> of relevant RFMOs.
		Establishment of new RFMOs	Extent to which States Parties are cooperating to establish new RFMOs where needed for the conservation and management of major SFS and HMFS.
		Functioning of RFMOs	Extent to which RFMOs established prior to the Agreement have modernized their procedures and practices in accordance with the Agreement. Extent to which all RFMOs are fulfilling functions set forth in Article 10, determining the participatory rights of new members in accordance with Article 11, and

<sup>2</sup> For purposes of this table, “cooperating non-parties” refers to States that are not members of a relevant RFMO but that have agreed to apply the measures of that RFMO.

			operating in accordance with the transparency provisions of Article 12.
		Fishing allocations	Extent to which RFMOs have allocated fishing opportunities fairly and equitably.
IV.	Non-members and non-participants	Deterrence of non-member fishing activities	Extent to which States Parties that are members of RFMOs are taking measures, consistent with international law, to deter fishing activities of non-members that undermine the RFMO's conservation and management measures.
V.	Duties of the flag state	General control over vessels	Extent to which States Parties are exercising effective control over their vessels fishing on the high seas for SFS and HMFS.
		Implementation of specific flag State duties	Extent to which States Parties are fulfilling their duties as flag States under Article 18 relating to: licensing and authorization of vessels; establishing national records of vessels; marking of vessels and gear; reporting and catch verification; MCS; and transshipment regulation.
VI.	Compliance and enforcement	Ensuring compliance	Extent to which flag States Parties are ensuring compliance with RFMO measures for SFS and HMFS by their vessels fishing on the high seas.
		Investigation, penalization for violations	Extent to which flag States Parties are expeditiously carrying out relevant investigations and judicial proceedings, and imposing sanctions in respect of violations, in accordance with Article 19.
		Use of port State measures	Extent to which port States Parties have adopted measures to promote the effectiveness of RFMO measures.
VII	Requirements of developing states	Recognition of special requirements	Extent to which States Parties, individually and through RFMOs and other relevant multilateral mechanisms, are taking into account the special requirements of developing States in relation to implementation of the UNFSA.
		Provision of assistance	Extent to which States Parties, individually and through RFMOs and other relevant multilateral mechanisms, have provided assistance to developing States for the purposes of implementing the UNFSA.
		Building capacity to implement UNFSA	Extent to which developing States Parties are gaining the capacity to implement the UNFSA, individually and through RFMOs.
VIII	Settlement of disputes		Extent to which States Parties, individually and through RFMOs, have

			utilized dispute settlement procedures of the Agreement.
IX.	Non-parties	Increasing adherence to UNFSA	Movement of additional States toward becoming party to the UNFSA. Impediments that have prevented some States from becoming party.
	Annex I	Requirements for data collection and sharing	Extent to which States Parties, individually and through RFMOs, have implemented the data collection and sharing requirements set forth in Annex I.
	Annex II	Use of precautionary reference points	Extent to which States Parties, individually and through RFMOs, have applied the guidelines for precautionary reference points in Annex II.

## ANNEX V

### CHAIRMAN'S BACKGROUND PAPER I Possible initiatives for strengthening the substance and methods of implementation of the provisions of the Agreement

UNFSA PART		Commitments and other suggestions from recent international meetings	Source(s)	Relevant UNFSA Provision(s)
II.	Conservation and management of stocks	Restore depleted fish stocks on urgent basis and, where possible, by 2015.	JPOI <sup>3</sup> , St. John's <sup>4</sup>	Art. 5, particularly (a)-(c), (h), (k); Art. 6(3)-(5), Ann. I, II
		Further reduce by-catch, particularly of vulnerable species such as seabirds and sea turtles; minimize waste and discards.	UNGA, <sup>5</sup> St. John's	Art. 5 (d)-(g), (j), (k); Art. 6
		Protect vulnerable marine ecosystems from destructive fishing practices, including bottom trawling that has adverse impacts on such ecosystems.	UNGA, COFI <sup>6</sup>	Art. 5 (d)-(g), (j), (k); Art. 6
		Apply basic UNFSA provisions to high seas discrete stocks and/or to deep sea fisheries.	Discussed at COFI, St. John's	Arts. 5-6; Annex. I-II; others?
		Conserve and manage sharks, including by collecting data, assessing stocks, banning shark fisheries conducting solely to harvest fins.	UNGA, COFI	Art. 5, particularly (e), (f), (j); Art. 6, Ann. I
		Institute stronger capacity controls to prevent or eliminate overfishing and excess fishing capacity, including by capping and reducing excess capacity and by eliminating subsidies that contribute to overcapacity.	UNGA, FAO Ministerial, <sup>7</sup> St. John's	Art. 5(h), (j)
		Apply UNFSA provisions on the precautionary approach more stringently through RFMOs.	St. John's	Art. 5(c), Art. 6 and Annex II

<sup>3</sup> Johannesburg Plan of Implementation (2002).

<sup>4</sup> Ministerial Declaration adopted at the St. John's Conference on the Governance of High Seas Fisheries and the UN Fish Agreement (2005)

<sup>5</sup> UN General Assembly Resolution 59/25, (2005).

<sup>6</sup> FAO Committee on Fisheries, 26<sup>th</sup> Session, (2005).

<sup>7</sup> Rome Declaration on Illegal, Unreported and Unregulated Fishing, (2005).

III.	Mechanisms for international cooperation	Strengthen RFMOs, particularly in areas of decision-making, MCS and dispute settlement.	UNGA, St. John's	Art. 10, particularly (h), (j), (k); Art 12; Art. 13
		To address gaps in the regulation of high seas fisheries, broaden competence of RFMOs and/or establish new RFMOs.	UNGA, COFI, St. John's	Art. 8 (5)-(6), Arts. 9-13 generally
		Hold meeting of five tuna RFMOs in early 2007 to coordinate their actions.	COFI	Art. 13
		Review and assess the performance of RFMOs in light of indicators/criteria drawn from UNFSA and other relevant international instruments.	Discussed at COFI, St. John's; HSTF <sup>8</sup>	Arts. 8-13 generally; Art. 36
		Create a stronger link between RFMOs and UN system, either by building on biennial RFB meetings or through annual UNFSA meetings.	Discussed at St. John's	Art. 13
V.	Duties of the flag State	Ensure that all large-scale fishing vessels on the high seas must carry VMS no later than December 2008, or earlier if decided by flag State or relevant RFMO.	FAO Ministerial	Art. 18(3)-(4)
		Strengthen requirement that there be a genuine link between all fishing vessels and their flag States.	UNGA, COFI, FAO Ministerial, St. John's	Art. 18(2)
		Control transshipment at sea, including by requiring prior authorization for and full reporting of information about such transshipments; consider prohibiting transshipment at sea entirely.	UNGA, COFI, FAO Ministerial	Art. 18(1), 18(3)(e)-(h)
		Develop guidelines to assess performance of flag States so as to evaluate fulfillment of their responsibilities.	St. John's, HSTF	Art. 18 generally
VI.	Compliance and enforcement	Create a comprehensive global record of fishing vessels, including refrigerated transport vessels and supply vessels, which incorporates information on beneficial ownership.	FAO Ministerial, HSTF	Art. 20(1)
		Inform States whose vessels fish on the high seas of the form of identification issued to officers authorized to board/inspect; designate appropriate authority to receive notifications; give due publicity to such	UNGA	Art. 21(4)

<sup>8</sup> High Seas Task Force initiative.

		designations.		
		Ensure that nationals (owners/operators) do not engage in or support IUU fishing, including by adopting legislation to penalize nationals who violate the fishery laws of other States or undermine RFMO measures.	UNGA, FAO Ministerial, St. John's, HSTF	Art. 10(1), Art. 17(1), Art. 20(5)
		Develop effective national and internationally agreed boarding/inspection regimes.	FAO Ministerial	Arts. 21-22
		Increase participation in and strengthen International MCS Network.	UNGA, FAO Ministerial, St. John's; HSTF	Art. 20(1), (4), (5)
		Establish regional guidelines to ensure application of effective sanctions for fisheries violations.	St. John's	Art. 19(2)
		Implement FAO Model Scheme on port State controls, through actions of individual port States and through RFMOs or other regional arrangements.	UNGA, COFI, St. John's	Art. 23 generally
VII	Requirements of developing States	Provide financial and technical assistance to developing States in the implementation of UNFSA and other international instruments, particularly to enhance their MCS capabilities, including VMS.	FAO Ministerial, St. John's	Arts. 25-26
		Increase contributions to the Part VII Fund	UNGA, St. John's	Art. 26(1)
		Increase assistance to developing States through other avenues as well, including funds established by RFMOs, the GEF, PROFISH, fishCODE and bilaterally	UNGA, COFI, St. John's	Arts. 25-26
IX	Non-parties	Urge States to become UNFSA parties, including through direct outreach by ministers of States Parties and other means, including "treaty events."	UNGA, COFI, FAO Ministerial, St. John's, HSTF	Art. 33(1)
	Other suggestions	Formalize annual meetings of States Parties.	Discussed at St. John's	

		Have periodic Review Conferences.	Discussed at St. John's	Art. 36