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Fourteenth 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, 2-3 May 2019)

Report

SUMMARY

The present document contains the report of the fourteenth 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

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I. Introduction

1. Pursuant to paragraph 55 of General Assembly resolution 72/72 of 5 December 2017, and paragraph 60 of General Assembly resolution 73/125 of 11 December 2018, the fourteenth round of Informal Consultations of States Parties to the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (the Agreement) was held at United Nations Headquarters, in New York, from 2 to 3 May 2019.

2. In paragraph 58 of resolution 73/125, the General Assembly recalled the recommendation of the resumed Review Conference in 2016 that the informal consultations of States parties to the Agreement be dedicated, on an annual basis, to the consideration of specific issues arising from the implementation of the Agreement, with a view to improving understanding, sharing experiences and identifying best practices for the consideration of States parties, as well as the General Assembly and the Review Conference (A/CONF.210/2016/5, annex, para. 15).

3. In paragraph 60 of resolution 73/125 of 11 December 2018, the General Assembly reiterated its request, in paragraph 55 of resolution 72/72, that the Secretary-General convene the fourteenth round of Informal Consultations of States Parties to the Agreement to focus on the topic “Performance reviews of regional fisheries management organizations and arrangements”.

II. Organization of work

A. Opening of the fourteenth round of Informal Consultations of States Parties to the Agreement

4. The Assistant Secretary-General for Legal Affairs, Mr. Stephen Mathias, opened the fourteenth round of Informal Consultations of States Parties to the Agreement.

5. In his opening remarks, Mr. Mathias noted that since the last round of Informal Consultations in 2018, Viet Nam had become a party to the Agreement, bringing the total number of parties to 90, including the European Union. He considered it important to continue to encourage broader participation in the Agreement, as called for by the General Assembly in its annual resolutions on sustainable fisheries. Full participation in, and effective implementation of, the Agreement were essential for the conservation and sustainable use of straddling fish stocks and highly migratory fish stocks.

6. Mr. Mathias also drew attention

7. Mr. Mathias recalled that, in line with the recommendation of the resumed Review Conference in 2016, the fourteenth round would be dedicated to the consideration of a specific issue arising from the Implementation of the Agreement, namely “Performance reviews of regional fisheries management organizations and arrangements”. In this regard, Mr. Mathias stressed the key role that RFMO/As play in the implementation of the Agreement, and that, therefore, the full and effective implementation of the Agreement depended on the effective performance of RFMO/As. He also recalled that the regular conduct of performance reviews of RFMO/As has been cited by the resumed Review Conference in 2016 as one of the measures to be undertaken to ensure full implementation of the recommendations from the Review Conference.

8. Mr. Mathias noted that performance reviews provided opportunities for RFMO/As to assess their performance in light of their functions and mandates, with a view to ensuring the full and effective implementation of the international law.7(en4.8(n)2s fu)-5(c)-.w Confates 0 TD93asustaileb”. Inl.

organizations and conventions: The Food and Agriculture Organization of the United Nations (FAO) and the United Nations Environment Programme (UNEP);

c. Intergovernmental organizations, subregional and regional fisheries management organizations and arrangements: General Fisheries Commission for the Mediterranean (GFCM), International Commission for the Conservation of Atlantic Tunas (ICCAT), Inter-American Tropical Tuna Commission (IATTC), International Pacific Halibut Commission (IPHC), International Union for Conservation of Nature (IUCN), North Atlantic Salmon Conservation Organization (N

are available on the website of the Division for Ocean Affairs and the Law of the Sea (DOALOS) of the Office of Legal Affairs.¹

18. A proposal for amendments to the Terms of Reference of the Assistance Fund established under Part VII of the Agreement was

28. Many delegations stressed the need for the review process to be broad and inclusive of all stakeholders, including observers and the scientific community. Several delegations underscored the need for the review process to be transparent, and the results to be made public.

29. Some delegations noted the benefit of

34. Another observer delegation from the United Nations Environment Programme noted that the experience of some Regional Seas Conventions and Action Plans in reviewing their performance could serve to inform the experience of RFMO/As. Attention was also drawn by an observer delegation from the FAO to developments in relation to the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (PSMA).

IV. Discussion panel on “Performance reviews of regional fisheries management organizations and arrangements”

35. In accordance with the agreed agenda of the fourteenth round of Informal Consultations, the discussion panel on “Performance reviews of regional fisheries management organizations and arrangements” was divided into the following four segments: (1) Importance and role of performance reviews; (2) Structure and conduct of performance reviews: experiences, best practices, challenges and opportunities; (3) Recommendations of and mechanisms for follow-up to performance reviews: experiences, best practices, challenges and opportunities; and (4) Further enhancing the effectiveness of performance reviews through the resumed Review Conference on the Agreement and other intergovernmental processes. The presentations of the invited panellists which have been shared with DOALOS are available on the website of DOALOS.³

A. Segment 1: Importance and role of performance reviews

36. Ms. Judith Swan, an international consultant on fisheries law, policy and institutions, gave a presentation via teleconference on the importance and role of performance reviews in improving the conservation and management of straddling fish stocks and highly migratory fish stocks. Ms. Swan traced the major milestones in the evolution of performance reviews over the course of two decades, which had resulted in the institutionalization of regular performance reviews. She also highlighted the role of performance reviews in guiding and incentivizing members to strengthen the effectiveness of their RFMO/As by recommending reforms and priority areas to address. Ms. Swan provided examples of the impact of RFMO/A governance on the conservation and management of fish stocks and the role of performance reviews in identifying progress and challenges for conservation and management of these resources. She noted key differences in the reviews undertaken thus far and highlighted some challenges in the implementation of performance reviews, including the reliance on the members’ agreement, ability and will and the capacity of the RFMO/A to undertake the review and implement its recommendations.

37. The presentation by Mr. Dmitry Gonchar, Principal Legal Officer, DOALOS, traced the historical evolution of RFMO/A performance review processes and their importance for the full and effective implementation of the Agreement. Mr. Gonchar pointed out that since some RFMO/As predated the development of the Agreement, performance reviews were an important tool for strengthening implementation of novel provisions of the Agreement by such organizations. Mr. Gonchar also observed that international binding and non-binding instruments, including the Convention, the Agreement and the Code of Conduct for Responsible Fisheries, as well as General Assembly resolutions and recommendations from the Review Conference, provided standards and criteria for assessing the performance of RFMO/As, and had contributed to strengthening performance review processes over time.

38. In his presentation, Mr. Piero Mannini, Senior Fishery Liaison Officer and Secretary of the Regional Fishery Body Secretariats Network (RSN), Food and Agriculture Organization of the United Nations (FAO), explained the principal characteristics of performance review processes of RFMO/As, as well as practices and challenges. He drew attention to FAO Fisheries and Aquaculture Circulars that provided a list of common criteria for conducting performance reviews. Mr. Mannini expressed the view that performance reviews needed to be consistent and mandatory for RFMO/As. While recognizing that each RFMO/A operated in a different geo-political and socioeconomic environment, he considered that there was a strong degree of commonality in the factors affecting the performance of RFMO/As. Mr. Mannini concluded that common key criteria needed to be identified and established for performance review processes with elements of independence, transparency and inclusivity. Furthermore, he noted that performance reviews should be institutionalized and carried out on a periodic basis, with follow-up actions monitored and reviewed.

B. Segment 2: Structure and conduct of performance reviews: experiences, best practices, challenges and opportunities

39. The first presentation was given by Mr. Sebastian Rodriguez, Executive Secretary of the South Pacific Regional Fisheries Management Organization (SPRFMO). Considering the first performance review conducted by SPRFMO in 2018, Mr. Rodriguez highlighted some of the lessons learned, including the need to provide guidance on drafting, the benefits of an easy-to-respond questionnaire and an executive summary, the need for secretariat involvement in the review process and clarity in the follow-up process, including regarding specifying the body responsible for the implementation of the recommendations and indicating a prioritization and timeline for recommendations. Mr. Rodriguez also identified several challenges and opportunities arising from the review. Among the key challenges, he identified selection of review panel members, the high number of recommendations, scheduling reviews at the same time as other meetings and the need to build the capacity and resources of the organization. In terms of opportunities, Mr. Rodriguez indicated that proper budgeting, promoting the participation of observers, adopting a qualitative approach, encouraging forward-thinking, incorporating best practices of other RFMO/As, and conducting annual follow-up of the implementation of recommendations could further enhance the achievements stemming from performance reviews.

40. Mr. Fred Kingston, Executive Secretary of the Northwest Atlantic Fisheries Organization (NAFO) described the experience of NAFO in carrying out performance reviews in 2011 and 2018, respectively, with a focus on the latter. Mr. Kingston recalled the terms of reference of the 2018 review and noted that the panel was comprised of both internal and external experts, whose expertise covered fisheries science, management and the international legal framework, and had defined the guiding principles and process for the review. In particular, the panel had identified progress achieved since the first performance review, as well as further issues relating to process and policy that needed to be addressed. He informed that NAFO would then develop an action plan to address the panel recommendations. Reflecting on the challenges of the performance review process, Mr. Kingston highlighted the budgetary implications, as well as the need for clear terms of reference and time needed for external panel members to become familiar with the workings of NAFO.

41. Ms. Alexa Cole of the National Oceanic and Atmospheric Administration,

to identifying members of the panel, Ms. Cole considered it important to identify the key issues for the organization and the type of review to be conducted. A delegation suggested that RFMO/As should be encouraged to select experts from developing countries. Mr. Sebastian Rodriguez and Mr. Kingston noted that performance reviews could also serve as a capacity-building opportunity to build expertise regarding the work of both RFMO/As and performance review panels.

45. Benefits and challenges posed by different methods of gathering information were highlighted during the discussion. Some delegations stressed the importance of incorporating the views of members of RFMOs and other stakeholders in the performance review process, including through interviews, questionnaires and written submissions. A delegation noted that, while the review process should be open, full transparency could raise issues of confidentiality which could make it difficult for some members to provide information. Another delegation observed that engagement with industry could be better achieved through open discussions. A third delegation observed that written responses could be time-consuming and less candid and queried whether more complete responses could be obtained through interviews. Ms. Cole indicated that informal input was essential to fully understand written comments and obtain a “behind-the-scenes” view. Ms. Boëchat de Almeida observed that, while open discussions could be valuable, written submissions afforded an opportunity for all stakeholders to participate. Some delegations, as well as Ms. Boëchat de Almeida, Ms. Cole and Mr. Alexandre Rodriguez noted the benefits of the attendance of panel members at meetings of RFMO/As, while the implications in terms of costs and time were also pointed out.

46. With respect to decision-making, several delegations queried whether recommendations should be required to be adopted by consensus or whether voting could be allowed under some circumstances. Ms. Boëchat de Almeida, Ms. Cole and Mr. Alexandre Rodriguez took the view that all reasonable attempts should be made to achieve consensus and that resorting to a vote in case of strong disagreement among panel members could hinder follow-up and implementation.

47. Some delegations also highlighted the need for sufficient time to be given for RFMO/As to consider and implement recommendations. Mr. Alexandre Rodriguez noted that a methodology needed to be developed by the RFMO/A to assess the implementation of recommendations. A delegation pointed out that performance reviews and the implementation of recommendations could also be impacted by the performance of coastal States.

48. Delegations also discussed the interval and scope of subsequent performance reviews in RFMO/As. A delegation suggested that an interval of eight to ten years was sufficient for an RFMO/A to act upon the recommendations from a performance review, while another delegation considered that an interval of five years was appropriate. Mr. Kingston noted that an interval of eight years, matching the term of office of an RFMO executive secretary, might be convenient. It was suggested that performance reviews should not occur too frequently and should be appropriately sequenced, taking into account the work of the particular RFMO/A. Another delegation suggested that the timing for subsequent performance reviews should be decided by the RFMO/A, and that a uniform or standard timeline for review was unnecessary. Ms. Boëchat de Almeida observed that the review interval should be linked to the scope of the performance review, whereby a longer interval may be expected between general reviews and a shorter time between more focused or thematic performance reviews.

Mr. Sebastian Rodriguez noted that the review interval would also depend on the type of fisheries regulated by the RFMO/A and external factors.

49. In terms of the scope and criteria of the performance review, Ms. Cole and Mr. Alexandre Rodriguez suggested that a more focused approach could be appropriate for subsequent reviews. Conversely, Mr. Kingston cautioned that the scope of subsequent reviews should not be too specific, to avoid conducting more frequent reviews across different areas and perceptions of avoidance of difficult issues. A delegation proposed that RFMO/As could carry out self-assessments using a set of assessment indicators, which could then be subject to external review. A delegation and Mr. Alexandre Rodriguez considered that it could be useful to also review how well the services of RFMO/A secretariats are being used as part of the performance review process.

50. In response to a question by a delegation

which was strongly critical of the organization, and the steps taken to implement the recommendations, including a comprehensive review

suggested there could be reporting by RFMO/As on the implementation of recommendations from performance reviews and any obstacles thereto.

57. In the final presentation of the segment, Ms. Holly Koehler, Vice President for Policy and Outreach of the International Seafood Sustainability Foundation (ISSF), indicated the need to strengthen the independence and transparency of performance reviews in the context of the implementation of recommendations, for example, through the participation of outside experts in the development of action plans and in working groups and through comprehensive publication of review information. She noted that in order to assess the full performance of an RFMO/A, terms of reference must allow for consideration of the marine ecosystem and the status of fisheries. Furthermore, recommendations should be specific and measurable, with clear steps for implementation to make it easier to set accountability goals and assess implementation.

58. In the subsequent discussion, many delegations and Mr. Compean, Mr. Campbell, Mr. Depypere and Mr. Leape agreed that transparency was vital to measuring progress in addressing recommendations. Several delegations noted that whether and how to implement the recommendations emanating from performance reviews was a matter for the members of RFMO/As to decide on, rather than the review panels. Several delegations and Mr. Depypere, Ms. Koehler and Mr. Leape also suggested that follow-up to a performance review could be a recurring agenda item in the context of RFMO/A meetings until all recommendations emanating from a particular review had been addressed. With regard to the establishment of working groups to follow-up on recommendations, a delegation cautioned that a proliferation of such bodies could pose challenges in terms of participation, particularly for smaller delegations.

59. A delegation queried whether there had been a difference in uptake of

61. In response to a question regarding how RFMO/A performance reviews could balance or reflect different interests, in particular the special situation of small island developing States (SIDS), Ms. Koehler indicated that the special interests of SIDS should be adequately reflected in the terms of reference of a performance review. Mr. Garat, Ms. Koehler and an observer delegation underscored the need for recommendations to be implemented in order to be meaningful, which in turn required the support of States. The same observer delegation encouraged States to place the Agreement at the center of the

criteria to the needs of the specific RFMO/A, including by performing a cost-benefit analysis for the review. He also stressed the need for transparency and broad participation in the performance review process for political buy-in, as well as a process to ensure implementation of recommendations. He concluded by noting the benefits of the resumed Review Conference and General Assembly resolution on sustainable fisheries setting out best practices, identifying global issues and guiding the future direction of performance reviews.

65. Ms. Kristina Gjerde, High Seas Policy Advisor, International Union for Conservation of Nature (IUCN), noted uneven progress in implementation of ecosystem approaches to fisheries management and other measures to integrate marine biodiversity into fisheries management and the resulting challenges of maintaining healthy marine ecosystems in the face of global stressors. Taking the example of the Sargasso Sea as an area of the high seas where management could be improved, she outlined three ways an international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction could enhance the effectiveness of performance reviews, namely: (i) building on principles and obligations on how to cooperate to implement States obligations to advance ecosystem-based management; (ii) aligning goals and operations through a conference of parties; and (iii) better informing decisions through a global scientific advisory process. She gave examples of how the proposed framework could help implement international obligations already contained in the Convention and the Agreement.

66. In the ensuing discussion, the need for political will in strengthening and implementing conservation and management measures in fisheries was stressed. Ms. Hewapathirana and Mr. Teo emphasized in this context the need for contracting parties to support the performance review process in RFMO/As, including through the participation of experts, in order to ensure political support and implementation of recommendations.

67. A delegation suggested that RFMO/As should give greater recognition and incentives, including in terms of quotas, to contracting parties that are making

70. In response to suggestions for standardized performance review processes, a delegation emphasized the need for performance reviews to take account of the unique characteristics and interests in RFMO/As, including the rights and interests of SIDS. The same delegation noted in this context that conservation and management measures in RFMO/As can place a disproportionate burden on SIDS working to improve fisheries in areas under national jurisdiction and stressed the need for compatibility between conservation and management measures taken for areas under national jurisdiction and those taken for adjacent high seas areas.

71. Several delegations highlighted the importance of fisheries for food security.

addressing new activities and issues that impacted the conservation and sustainable use of fish stocks. He also described, in this context, a national model to promote healthy ecosystems and reduce biodiversity loss that involved the sharing of information across management bodies within national governments and incorporating existing and new legal and regulatory global frameworks.

76. A delegation queried the way emerging issues could be incorporated in the performance review process. In response, Mr. Teo recalled the efforts in WCPFC to address emerging issues, such as standards on conditions of employment for crews on board fishing vessels and marine pollution from lost and abandoned fishing gear.

77. Several delegations noted the dissonance between global processes which dealt with issues in a very general manner and performance review processes which had to examine specific issues in detail. They stressed the need for regional and global fora to encourage discussions on common impediments, as well as sharing best practices and successes. Several delegations expressed support in this context for the revival of the Kobe process as a way to share and promote common successes and best practices among tuna RFMOs. Mr. Teo noted concerns by contracting parties in some tuna RFMOs over the setting of standards and taking of decisions in such fora.

78. The FAO observer delegation reminded delegations of the existing frameworks in place for global discussions on fisheries, in particular the FAO's Committee on Fisheries (COFI), which meets biennially to examine inte

forth in Annex II to the present report, and will be posted on the website of the Part VII Assistance Fund.⁴

82. The Chairperson and several delegations expressed appreciation to the delegation of Norway for their efforts in steering the discussions that led to the successful adoption of the revised Terms of Reference of the Part VII Assistance Fund. Delegations expressed their support for the amendments to the Terms of Reference in order to, inter alia, facilitate future contributions and further assist developing States Parties in the implementation of the Agreement.

83. Ms. Gabriele Goettsche-Wanli, Director, DOALOS, provided an update on the status of the Part VII Assistance Fund. At the outset, she underscored the importance of Part VII of the Agreement and noted, in particular, that article 25 required States Parties to cooperate in order to enhance the ability of developing States, in particular the least-developed among them and small island developing States, to conserve and manage straddling fish stocks and highly migratory fish stocks and to develop their own fisheries for such stocks, to enable their participation in high seas fisheries for such stocks and to facilitate their participation in sub-regional and RFMO/As. In this regard, one of the forms of cooperation identified in article 25 of the Agreement was the provision of financial assistance. In accordance with article 26 of the Agreement, States were required to cooperate to establish special funds to assist developing States in the implementation of the Agreement.

84. Ms. Goettsche-Wanli recalled that the Assistance Fund was established by the General Assembly in resolution 58/14 of 24 November 2003, to be administered by FAO, in collaboration with the United Nations. Taking into account the wide scope of assistance envisioned by the Terms of Reference of the Assistance Fund, Ms. Goettsche-Wanli noted that proper capitalization of the Assistance Fund could contribute significantly to the enhancement of the ability of developing States to exercise their rights and fulfil their obligations under the Agreement.

85. Although the Part VII Assistance Fund was essential to meeting the aims of the Agreement, Ms. Goettsche-Wanli noted the Fund was depleted and no assistance could be granted. New contributions were therefore urgently needed. Without such assistance, many developing States, in particular the least-developed among them and small island developing States, faced great challenges in implementing the provisions of the Agreement, and also in participating in relevant meetings, a situation of concern to all States.

86. Ms. Goettsche-Wanli recalled in this regard that the General Assembly, in resolution 73/125 of 5 December 2018, had urged States, intergovernmental organizations, international financial institutions, national institutions and non-governmental organizations, as well as natural and juridical persons, to make voluntary financial contributions to the Assistance Fund. It was hoped that the revisions adopted to the Terms of Reference of the Assistance Fund would contribute to the Fund's capitalization.

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Consultations of States Parties in 2021 would be for two days and be dedicated exclusively to preparations for the resumed Review Conference.

92. Regarding the topic of focus for the fifteenth round of Informal Consultations of States Parties, delegations decided that the next round of Informal Consultations of States Parties in 2020 would focus on the topic “Implementation of an ecosystem approach to fisheries management”. Several delegations noted in this context the complexity of effectively implementing an ecosystem approach to fisheries management, including issues relating to lack of resources and knowledge and capacity constraints, as well as the importance of healthy marine ecosystems for fisheries and food security. These delegations also underscored the importance in these discussions of sharing the knowledge, best practices and experiences of RFMO/As. The Chairpersons recalled that comprehensive discussions on this topic had last been held in the context of the Reykjavík Conference on Responsible Fisheries in the Marine Ecosystem in 2001. It was suggested that the Chairperson, with the assistance of the Secretariat, could circulate a proposal for the structure for the consideration of the topic of focus, including the organization of panels, for the consideration of States Parties.

93. In preparing for the next two rounds of Informal Consultations, it was suggested that delegations indicate the presumptive Chairperson for the Consultations in order to facilitate the organization of the meetings by the Secretariat (DOALOS), as had been done at the thirteenth round of Informal Consultations. In this regard, several delegations expressed their support for the current Chairperson, Mr. Fabio Hazin, who is also serving as President of the resumed Review Conference, to continue chairing the Informal Consultations during the fifteenth and the sixteenth rounds of the Informal Consultations to be held in 2020 and 2021, respectively. Mr. Hazin confirmed his availability to do so.

VII. Other matters

A. Sustainable Development Goal Indicator 14.6.1 on “Progress by countries in the degree of implementation of international instruments aiming to combat illegal, unreported and unregulated fishing”

94. Under this agenda item, the Chairperson drew attention to the Sustainable Development Goal 14, in particular, indicator 14.6.1 entitled “Progress by countries in the degree of implementation of international instruments aiming to combat illegal, unreported and unregulated fishing”. He noted in this regard that FAO, as the custodian Agency for indicator 14.6.1, had developed a set of questions for measuring progress in respect of the indicator, which had been included in the biannual FAO questionnaire on the implementation of the FAO Code of Conduct for Responsible Fisheries. Those questions were developed to evaluate the state of implementation of several international instruments that combat IUU fishing. The responses from States would be converted using a “weighing” algorithm to obtain a score for indicator 14.6.1.

95. The Chairperson recalled in this regard that implementation of the Agreement was an important component of assessing progress in achieving 14.6.1., highlighting, in this context, that the Review Conference is the competent intergovernmental forum for assessing the effectiveness of the Agreement by reviewing its implementation. The Chairperson suggested that delegations, therefore, may wish to provide some guidance as to how to properly integrate the outcomes of the Review Conference into the measurement of progress in respect of target 14.6.

96. FAO provided details on the reporting m

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Annex I

Key points relating to the performance reviews of regional fisheries management organizations and arrangements raised during the fourteenth round of Informal Consultations, summarized by the Chairperson

On the basis of the presentations and discussions at the fourteenth round of Informal Consultations of States Parties to the Agreement, the Chairperson would like to draw attention to the following key points that, in his personal view, emerged from the Consultations. It is noted that since these key points were not discussed at the Consultations, they remain under the sole responsibility of the Chairperson.

Consideration should also be given to financing the costs of the performance review, including the possibility of setting aside annual contributions for that purpose in the RFMO/A regular budget rather than requesting a special assessment.

straddling fish stocks and highly migratory fish stocks and to develop their own fisheries for such stocks, to enable their participation in high seas fisheries for such stocks and to facilitate their participa

Annex II

Assistance Fund under Part VII of the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks

Terms of Reference

Background and scope

1. Article 25 of Part VII of the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (hereinafter referred to as “the Agreement”) requires States Parties to cooperate either directly or through subregional, regional and global organizations to enhance the ability of developing States, in particular the least-developed among them and small island developing States, to conserve and manage straddling fish stocks and highly migratory fish stocks and to develop their own fisheries for such stocks; to enable their participation in high seas fisheries for such stocks, including facilitating access to such fisheries subject to articles 5 and 11 of the Agreement; and to facilitate the participation in subregional and regional fisheries management organizations and arrangements.
2. Article 25 of the Agreement further provides that cooperation with developing States for the purposes of that article shall include the provision of financial assistance, assistance relating to human resources development, technical assistance

Law of the Sea, Office of Legal Affairs of the United Nations (UN/OLA/DOALOS), acting on behalf of the United Nations, as provided for in paragraph 13.

Establishment of the Assistance Fund

5. The Assistance Fund established pursuant to General Assembly resolution 58/14 will be administered by the FAO.
6. The purpose of the Fund is to provide financial assistance to developing States Parties to the Agreement to assist in the implementation of the Agreement in accordance with Part VII of the Agreement.
7. This Fund is one component of assistance to be provided in accordance with Part VII of the Agreement and supplements other sources of assistance.

Implementing Office

8. The FAO will administer the Fund and act as the implementing office for the Fund in accordance with its Financial Regulations and other applicable Rules, and in collaboration with UN/OLA/DOALOS.
9. In the administration of the Fund, the FAO and UN/OLA/DOALOS will take into account experience and best practice in the management of other trust funds established within the framework of the 1982 United Nations Convention on the Law of the Sea.

Collaboration between the United Nations and the Food and Agriculture Organization

10. The FAO and UN/OLA/DOALOS will collaborate with each other and will make available to each other all information and assistance as may be required in relation to the administration and operation of the Fund. In particular, they will, as appropriate, seek to achieve mutual benefits from any arrangements under this Fund with similar activities, including in relation to the promotion and implementation of the

13. In addition to general voluntary contributions to the Fund, contributions may also be made through donor agreements for specific activities which meet any of the purposes of the Fund set forth in paragraph 16. Such donor agreements between a donor, the FAO and the UN/OLA/DOALOS, will set out all activities to be undertaken, as mutually agreed upon by them. Such activities will be implemented by the FAO or UN/OLA/DOALOS.

Applications for assistance

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

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

c) All applications for financial assistance for travel will be submitted to UN/OLA/DOALOS at least one month in advance of the date of the event or activity for which assistance is requested. Applications for assistance for other types of activities will be submitted at least four months in advance of the planned activity.

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

Purposes of assistance

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

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

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

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

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

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

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

impartial experts of the highest professional standing, to assist in the review of the applications and to make recommendations on the amount of financial assistance to be given in each case. In cases where applications for assistance from the Fund are made against specific activities for which funding has been made available through a donor agreement in accordance with paragraph 13, a representative of the donor(s) that have entered into the said donor agreement will also be invited to participate in the panel.

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

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

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

21. The FAO will disburse financial assistance from the Fund in an expeditious manner in accordance with paragraphs 17-20 of these Terms of Reference.

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

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

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

Reporting

23. An annual report on the activities of the Fund, including a financial statement of the contributions to, and disbursements from the Fund, will be included in the report of the Secretary-General of the United Nations on “Sustainable fisheries, including through the 1995 Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, and related instruments”. A report on the activities of the Fund to date, including a financial statement of the contributions to and disbursements from the Fund will also be presented at the Review Conference provided for in Article 36 of the Agreement.

24. Additional reports on project(s) and programme(s) referred to in paragraphs 4 and 13 will be presented to the donor by FAO and

Annex III

Fourteenth round of Informal Consultations of States Parties to the Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (the Agreement)

Agenda

2-3 May 2019

United Nations, New York

1. Opening of the fourteenth round of Informal Consultations by a representative of the Secretary-General.
2. Election of the Chairperson.
3. Adoption of the agenda.
4. Organization of work.
5. General statements.
6. Discussion panel on “Performance reviews of regional fisheries management organizations and arrangements”
 - (a) Segment 1: Importance and role of performance reviews;
 - (b) Segment 2: Structure and conduct of performance reviews: experiences, best practices, challenges and opportunities;
 - (c) Segment 3: Recommendations of and mechanisms for follow-up to performance reviews: experiences, best practices, challenges and opportunities;
 - (d) Segment 4: Further enhancing the effectiveness of performance reviews through the resumed Review Conference on the Agreement and other intergovernmental processes.
7. Revision of the Terms of Reference of the Part VII Assistance Fund.
8. Initial preparatory work for the resumption of the Review Conference on the Agreement.
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