

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, 1995

The 1982 United Nations Convention on the Law of the Sea (“the Convention”) sets out the overarching legal regime for the conservation and management of marine living resources within areas under national jurisdiction and on the high seas and contains specific provisions relating to straddling fish stocks and highly migratory fish stocks (articles 63 and 64). In light of ongoing problems regarding the conservation and management of these stocks, Agenda 21 of the 1992 United Nations Conference on Environment and Development (UNCED) called for the convening of an intergovernmental conference to promote effective implementation of these provisions (A/CONF.157/26/Rev.1 (Vol. I), Annex II, paragraph 17.50).

During its forty-seventh session, in 1992, the General Assembly, by resolution 47/192 of 22 December, decided to convene, under the auspices of the United Nations and in accordance with the mandate agreed upon by UNCED, the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks (“the Conference”) in 1993, which was tasked to complete its work before the forty-ninth session of the General Assembly. The Conference was mandated to: (a) identify and assess existing problems related to the conservation and management of such fish stocks; (b) consider means of improving fisheries cooperation among States; and (c) formulate appropriate recommendations. Furthermore, the General Assembly reaffirmed that the work and results of the Conference should be fully consistent with the provisions of the Convention, in particular the rights and obligations of coastal States and States fishing on the high seas.

Pursuant to Agenda 21 and General Assembly resolution 47/192, the Conference met in New York in 1993, for an organizational session from 19 to 23 April (A/CONF.164/9) and for a second session from 12 to 30 July (A/CONF.164/16). Mr. Satya N. Nandan (Fiji) was elected as Chairman of the Conference at its organizational session. At the conclusion of the general debate at the second session, the Chairman of the Conference outlined the key issues on which there was general agreement and stated that the Conference had dealt with the first part of its mandate, namely to identify and assess existing problems relating to straddling fish stocks and highly migratory fish stocks (Statement made by the Chairman of the Conference at the conclusion of the general debate on 15 July 1993, A/CONF.164/12). The Conference then turned its attention to the second and third parts of its mandate and proceeded to an examination of issues elaborated in “A guide to the issues before the Conference prepared by the Chairman” (A/CONF.164/10) – a document based on the provisions of the Convention, formal and informal discussions at the organizational session of the Conference and position papers provided by States. Eight issues were submitted for the consideration of the Conference for the formulation of its recommendations (A/CONF.164/10, para. 13) and discussions were resumed in informal consultations, based on working papers prepared by the Chairman (A/48/479, para. 14). On the basis of the consideration by the Conference of the key issues contained in these working papers, the Chairman prepared a negotiating text (A/CONF.164/13) which became the basic text for the future work of the Conference.

In accordance with resolution 47/192, the Secretary-General submitted to the General Assembly at its forty-eighth session a report on the progress made by the Conference at its organizational and second sessions in 1993 (A/48/479). By resolution 48/194 of 21 December 1993, the General Assembly noted the progress made by the Conference, approved the convening of two further sessions to be held in 1994 and requested the Secretary-General to submit to the General Assembly at its forty-ninth session the final report on the work of the Conference.

In 1994, the Conference held its third session from 14 to 31 March (A/CONF.164/20) and fourth session from 15 to 26 August (A/CONF.164/25), both in New York. During the third session, the Conference considered the negotiating text, which was divided into 11 sections and two annexes (A/CONF.164/20, para. 13). The Conference also received two information papers, one on the

precautionary approach to fisheries management (A/CONF.164/WP.1) and another on management reference points (A/CONF.164/WP.2), prepared by the Food and Agricultural Organization (FAO), which the Conference had requested at its second session. The consideration of these information papers were entrusted to two open-ended working groups. At the end of the session, the Chairman issued a revised negotiating text (A/CONF.164/13/Rev.1), which reflected progress towards closer agreement on a number of issues.

At its fourth session, the Conference examined the revised text, section by section, and held informal consultations on two items: (i) the matter raised by the Russian Federation on the question of fishing taking place in areas of the high seas surrounded by the exclusive economic zones of one or more coastal States; and (ii) the Norwegian proposal dealing with enforcement measures in a regulatory area adjacent to the exclusive economic zone of a coastal State. The informal consultations were however unable to reach any final conclusions on these matters. The Conference also discussed the question of the form of the instrument that would result from the Conference. Based on the discussions and proposals made during the review of the revised negotiating text, the Chairman prepared a new revised version of the text entitled "Draft 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" (A/CONF.164/22). The new text was in treaty form and consisted of a preamble, 13 parts and three annexes. There was however still no consensus at that time on the question of the form of the outcome of the Conference.

In response to the request made in General Assembly resolution 48/194, the Secretary-General submitted a report on the progress made by the Conference, at its third and fourth sessions in 1994, during the General Assembly's forty-ninth session (A/49/522). By resolution 49/121 of 19 December 1994, the General Assembly approved two further sessions to be convened in 1995 and requested the Secretary-General to submit to the General Assembly at its fiftieth session the final report on the work of the Conference.

The fifth and sixth sessions were held in New York from 27 March to 12 April (A/CONF.164/29) and 24 July to 4 August 1995 (A/CONF.164/36), respectively. During the fifth session, the Conference conducted a section-by-section examination of the Draft Agreement and began consideration of a revised text of the Draft Agreement (A/CONF.164/CRP.6 and Add.1). At the end of the fifth session, the Chairman introduced a complete revised text of the Draft Agreement (A/CONF.164/22/Rev.1), which he had prepared on the basis of documents A/CONF.164/CRP.6 and Add.1. At the sixth and final session, the Conference had before it the Draft Agreement, a document containing the Draft Agreement with editorial suggestions and drafting improvements proposed by the Secretariat (A/CONF.164/CRP.7) and the Draft Final Act of the Conference, including two draft resolutions (A/CONF.164/32). On 4 August 1995, the Conference adopted, without a vote, 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") (A/CONF.164/37) as well as resolutions I ("Early and effective implementation of the Agreement") and II ("Reports on developments by the Secretary-General of the United Nations") contained in the annex to the Draft Final Act of the Conference (A/CONF.164/32), and approved the Draft Final Act. In doing so, the Conference discharged the mandate given to it by the General Assembly in its resolution 47/192.

In response to the requests by the General Assembly in resolutions 48/194 and 49/121, the Secretary-General submitted a final report on the work of the Conference during the fiftieth session of the General Assembly (A/50/550).

The Agreement was opened for signature on 4 December 1995 and it remained open for signature until 4 December 1996, in accordance with its article 37. The Agreement entered into force on 11 December 2001, 30 days after the deposit of the thirtieth instrument of ratification, in accordance with its article 40, paragraph 1.

Pursuant to article 36 of the Agreement and in accordance with General Assembly resolution 59/25 of 17 November 2004, the Secretary-General convened a Review Conference on the Agreement in New York from 22 to 26 May 2006. The outcome of the Review Conference (A/CONF.210/2006/15, Annex) included a set of recommendations to strengthen the implementation of the Agreement. The Review Conference decided to suspend the meeting and keep the Agreement under review through the resumption of the Review Conference at a date not later than 2011. The Review Conference was resumed in 2010 pursuant to General Assembly resolutions 63/112 and 64/72 of 5 December 2008 and 4 December 2009, respectively, and was held in New York from 24 to 28 May 2010. At its last plenary meeting, the resumed Review Conference adopted the “Outcome of the resumed Review Conference” (A/CONF.210/2010/7, Annex) and decided to keep the Agreement under review through the resumption of the Review Conference at a date no earlier than 2015.