

(ii) Decision of the Thirty-Fifth Session (1996)
Agenda item : Law of the Sea

(Adopted on 8.3.96)

The Asian-African Legal Consultative Committee at its Thirty-Fifth Session

Having considered the Secretariat Brief on "The Law of the Sea" contained in document No. AALCC/XXXV/Manila/96/3;

Noting with great satisfaction that the United Nations Convention on the Law of the Sea entered into force on 16 November 1994;

Noting also the Establishment of the International Seabed Authority (ISBA);

Satisfied with the decision relating to the Establishment of the International Tribunal for the Law of the Sea;

1. *Urges* the Member States who have not already done so to consider ratifying the Convention on the Law of the Sea;
2. *Expresses* its appreciation to the Secretariat for the comprehensive brief;
3. *Urges* the full and effective participation of the Member States in the International Seabed Authority so as to ensure and safeguard the legitimate interests of the developing countries, and for the development of the principle of the Common Heritage of Mankind;
4. *Reminds* Member States to give timely consideration to the need for adopting a common policy and strategy for the interim period before the commercial exploitation of the deep seabed minerals

becomes feasible, and for this purpose urges Member States to take an evolutionary approach especially to the "initial function" of the Authority so as to make the International Seabed Authority useful to the international community and developing countries during this initial period;

5. *Urges* Member States to cooperate in regional initiative for the securing of practical benefits of the new ocean regime;
6. *Directs* the Secretariat to continue to cooperate with such international organizations as are competent in the fields of ocean and marine affairs and to consider assisting Member States in their representation at the ISBA; and
7. *Decides* to inscribe on the agenda of its Thirty-sixth Session an item entitled "Implementation of the Law of the Sea Convention, 1982".

(iii) Secretariat Brief Law of the Sea

Consideration in the General Assembly of the item 'Law of the Sea'

The item "Law of the Sea" has been on the agenda of the General Assembly since its 37th session (1982) when it, *inter alia*, approved the assumption by the Secretary-General, of the United Nations, of the responsibilities entrusted to him under the Law of the Sea Convention and the related resolutions adopted by the Third United Nations Conference on the Law of the Sea. The item has thereafter been considered at successive sessions of the General Assembly.

It may be recalled that in the course of consideration of the item at its 49th session the General Assembly had *inter alia* expressed its profound satisfaction at the entry into force, on November 16, 1994, of the Law of the Sea Convention, 1982. By its resolution 49/28 the General Assembly called upon all States, that had not already done so to become parties to the Convention and the Agreement Relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea, in order to achieve the goal of universal participation. The General Assembly while reaffirming the unified character of the Convention called upon all States to harmonize their national legislation with the provisions of the Convention and to ensure consistent application of those provisions.

By that resolution the General Assembly also expressed its satisfaction at the establishment of the ISBA and welcomed the first meeting of the States Parties to the Convention concerning the establishment of the International Tribunal for the Law of the Sea and the Commission on the Limits of the Continental Shelf. It decided, *inter alia*, to undertake an annual survey and evaluation of the implementation of the Convention and other developments relating to ocean affairs and the Law of the Sea.

a. Role of International Organizations

The Assembly at its 49th session, *inter alia*, invited all the competent international organizations to assess the implications of the entry into force of the Convention in their respective fields of competence and to identify additional measures that may require to be taken as a consequence of the entry into force of the Convention with a view to ensuring a uniform, consistent and coordinated approach to the implementation of the provisions of the Convention throughout the United Nations system. It requested the Secretary-General, of the United Nations, to prepare a comprehensive report on the impact of the entry into force of the Convention on related existing or proposed instruments and programmes throughout the United Nations system and to submit a report thereon to the General Assembly at its 51st session.

It may be recalled that Resolution 49/28 also invited the competent international organizations, as well as developmental and funding institutions, to take specific account in their programmes and activities of the impact of the entry into force of the Convention on the needs of States, especially developing States, for technical and financial assistance and to support subregional or regional initiatives aimed at cooperation in the effective implementation of the Convention.

It may be stated that entry into force of the Convention has far-reaching implications for international organizations involved in marine affairs since the Convention contains numerous references to "competent international organizations" and the specific functions and tasks to be performed by them. However, with the exception of a few instances such competent organizations have never been formally identified in a systematic manner and this has caused ambiguities in their identification as well as overlapping of their respective mandates. The report of the Secretary-General of the United Nations on the Law of the Sea presented at the Fiftieth Session of the General Assembly described the activities of International Organizations under related treaties and instruments, involving particular questions of conformity and consistency with the Law of the Sea Convention. The report included an overview of actions taken by relevant International Organizations including (i) International Maritime Organization; (ii) World Meteorological Organization; (iii) Intergovernmental Oceanographic Commission; (iv) International Labour Organization; (v) United Nations Environment Programme; (vi) Food and Agriculture Organization of the United Nations; and United Nations Regional Commissions including the ESCAP and the ECA.

b. The Role and Function of the Secretary-General

General Assembly Resolution 49/28 has placed in sharp focus the role and function of the Secretary-General, of the United Nations, in the implementation of the provisions of the Law of the Sea Convention. Paragraph 15 of General Assembly resolution 49/28, requested the Secretary-General to continue to carry out the responsibilities entrusted to him upon the adoption of the Convention and to fulfil the functions consequent upon the entry into force of the Convention *inter alia* by :

- (i) preparing an annual comprehensive report on developments relating to the law of the sea taking into account relevant scientific and technical developments which could serve as a basis for a report to all States parties to the Convention, the ISBA and the competent international organizations. It may be stated that in preparing the report the Secretary-General would take into account all relevant scientific and technological developments;
- (ii) formulating recommendations for the consideration of and for action by the General Assembly, or other appropriate intergovernmental fora aimed at a better understanding of the provisions of the Convention and facilitating their effective implementation. The proposed formulation of recommendations could be undertaken through convening of meetings of groups of experts and by undertaking special studies;
- (iii) preparing periodically special reports on specific topics of current interest including those requested by intergovernmental enterprises and bodies;
- (iv) strengthening the existing system for the collection, compilation and dissemination of information on the law of the sea and related matters and developing a centralized system with integrated databases for providing coordinated information and advice among other things, on legislation and marine policy taking into account Chapter 17 of Agenda 21 as well as establishing a system for notifying Member States and relevant international organizations and bodies information of general interest submitted by States and intergovernmental bodies;
- (v) ensuring that the institutional capacity of the organization can respond to the requests of States, in particular developing States, and competent international organizations for advice and assistance and to identify additional sources of support for national, subregional and regional efforts to implement the Convention taking into account the special needs of developing countries; and

- (vi) establishing appropriate facilities for the deposit by States of maps, charts, and geographic coordinates concerning national maritime zones and establishing a system for their recording and publicity as part of an integrated programme on the law of the sea and ocean affairs distinct from the usual depositary function of the Secretary-General.

The General Assembly also requested the Secretary-General to make the necessary arrangements for administering and supporting the conciliation and arbitration procedures for the resolution of disputes under the Convention. It may be recalled in this regard that the Arbitration procedures in Annex VII and Conciliation procedure in Annex V of the Law of the Sea Convention require the Secretary-General to draw and maintain a list of arbitrators and conciliators with each State Party being entitled to nominate four members for each list.

In addition to the above, the Secretary-General was also requested to prepare for and to convene the meetings of States Parties to the Convention and the Commission on the Limits of the Continental Shelf and providing the necessary services therefor.

The Secretary-General of the United Nations has in his report submitted to the Fiftieth Session of the General Assembly reported the actions taken by him in respect of (i) Establishment of a system for the deposit, recording and publicity of charts and geographical coordinates; (ii) Preparation of the lists of conciliators, arbitrators and special arbitrators; and (iii) Development of a centralized system of integrated legislative databases.

Work of the Assembly of the ISBA

The second part of the First Session of the Assembly of the ISBA was convened in Kingston, Jamaica, from 27 February to 17 March, 1995.¹ The first part, primarily of a ceremonial nature, had earlier been held in Kingston from 16 to 18 November 1994 to commemorate the establishment of the ISBA, which coincided with the entry into force of the Convention on the Law of the Sea. Be that as it may, the third part of the first session was held in Kingston from 7 to 18 August 1995. The Secretariat of the AALCC was not represented at that session of the Assembly of the ISBA.

The Assembly had on its agenda *inter alia* the composition and election of members of the Council of the Authority, the nomination and election of the Secretary-General of the Authority and election of members of its

1. For an account of the progress of work at the second part of the First Session of the ISBA see Doc. AALCC/XXXIV/Doha/95/5A.

other major organs (the Legal and Technical Committee and the Finance Committee). Consideration of the final report of the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea, and also the organization of a Secretariat, the approval of a provisional budget and other financial matters, and the transfer of property and records from the Preparatory Commission to the Authority were also on the agenda of the meeting. Although the Assembly discussed most of the issues no substantive progress was made.

(a) Composition and Election of the Members of the Council

The complexity of determining the criteria for membership in the various groups of States in the Council, continued to pose great difficulties and consumed a fair amount of time of the session. According to the Agreement Relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea, the Council shall consist of 36 members from five groups of States.

Group I is to have four members from among those parties which, during the last five years, have either consumed more than 2 per cent in value terms of total world consumption or have had net imports of more than 2 per cent in value terms of total world imports of the commodities produced from the categories of minerals to be derived from the international seabed area—the “Area”. Of those four, one should be the State with the largest economy in eastern Europe in terms of gross domestic product, and the other having the largest economy in terms of gross domestic product on the date of the entry into force of the Convention. During the third part of the first Session held in August 1995. Group I affirmed the candidacy of Japan, Russian Federation, United Kingdom and United States. It was pointed out that while Japan and the United Kingdom had agreed to 4 years terms the other two viz. the Russian Federation and the USA had agreed to 2 years terms subject to agreed arrangements in Group B. It may be stated that the question of rotation in Group A remained unsettled.

Group II is to have four members from among the eight parties which have made the largest investments in preparation for and in the conduct of activities in the Area. During the third part of the first session of the Assembly of the ISBA held in August 1995 despite intensive consultations and deliberations Group II or Group B could not reach consensus on which 4 candidates would be nominated out of the 5 fielded viz. China, France, Germany, India and the Netherlands.

Group III comprises four States Parties which, on the basis of production in areas under their jurisdiction, are major net exporters of the categories of minerals to be derived from the Area, including at least two developing

States whose exports of such minerals have a substantial bearing upon their economies. Group C agreed on the selection of 4 candidates—Australia, and Chile, for 2 years terms and Indonesia, and Zambia for 4 years terms. It is understood that Indonesia and Zambia would serve only for 2 years and then relinquish their seats to Gabon and Poland without prejudice to the right of any other group member including Indonesia and Zambia to contest any seats as they become or fall vacant.

Group IV would have six members from among developing States, representing special interests. The special interests to be represented would include those States with large populations, land-locked or geographically disadvantaged States, island States, States which are major importers of the categories of minerals to be derived from the Area, States which are potential producers of such minerals and least developed States. This Group (D) had agreed to divide the 6 seats available to it equally among the 3 regional groups represented viz. the African Group, the Asian Group and the Latin American and Caribbean States. The 3 regional groups, had, however together put forward 12 candidacies.

The last group, *Group V*, would have 18 members elected on the basis of equitable geographical distribution, provided that each geographical region shall have at least one member elected. For this purpose, the geographical regions are Africa, Asia, Eastern Europe, Latin America and the Caribbean, and the Western Europe and Other States. It was felt that the selection of members to be elected for two or four years and the distribution of seats among the respective geographical groups were possible.

(b) The Finance Committee

As to the Finance Committee, the Agreement stipulates that the Assembly shall elect 15 members to the Committee from candidates nominated by States Parties, taking into account equitable geographical representation and special interests. The 5 categories of Council members shall be represented on the Finance Committee by at least one member and until the Authority remains dependent on assessed contributions, the 5 largest contributors to the budget of the United Nations will also be represented on the Committee. The remaining 5 members are to be elected from among the other States Parties. Members of the Finance Committee will be elected for five-year terms. The question of geographical distribution remains an issue to be resolved within that context. Following a preliminary exchange of views the President of the Assembly of the ISBA invited the delegates to take into account the need for the candidates' they propose, to possess the qualifications stipulated in the 1994 Agreement and be prepared to undertake all functions required of them.

(c) Appointment of a Secretary-General

The Assembly was to have appointed a Secretary-General of the Authority from among a list of candidates to be proposed by the Council. Mr. Luis Preval (Cuba). Mr. Satya Nandan (Fiji); Mr. Kenneth Rattray (Jamaica) and Mr. Joseph Warioba (United Republic of Tanzania) have announced their candidature for the position.

(d) Final Report of the Preparatory Commission

The Rapporteur-General of the Preparatory Commission, Ambassador Kenneth Rattray of Jamaica, presented its final report (LOS/PCN/153) on behalf of the Chairman of the Preparatory Commission. The report was prepared in accordance with paragraph 11 of Resolution I of the Third United Nations Conference on the Law of the Sea. As required by paragraph 11 of Resolution I, the report excludes the recommendations of the Preparatory Commission regarding the practical arrangements for the establishment of the International Tribunal for the Law of the Sea.

The report consists of 13 volumes which represent a comprehensive documentation of the work of the Preparatory Commission during its sessions from 1983 to 1994. The report is structured on the basis of the institutional framework of the Preparatory Commission, which consisted of: the Plenary including the General Committee; Special Commission 1; Special Commission 2; Special Commission 3; and Special Commission 4. As already mentioned the Assembly is not concerned with Special Commission 4, whose area of responsibility related only to the Tribunal.

(e) Future administrative and budgetary arrangements for the Authority

It may be recalled that according to Section 1, paragraph 14, of the Annex to the Agreement on the implementation of Part XI of the Convention, until the end of the year following the year during which the Agreement enters into force the administrative expenses of the Authority are to be met through the budget of the United Nations. Within the biennial cycle of the budget of the United Nations budgetary provisions had been made for the expenses of the Authority, up to the end of 1995, under a newly created budget section, section 33 entitled "International Seabed Authority". The budget of the Authority for 1996 was to have been prepared by the Secretary-General of the Authority. However, in the absence of the Secretary-General of the Authority and in the context of the submission and review of the proposed programme budget of the United Nations for the biennium 1996-1997, the President of the Assembly of the ISBA proposed that the

Assembly take a decision to entrust the task of preparing the budget of the Authority for 1996 to the Secretary-General of the United Nations and submitted a draft decision to that effect.

By a Resolution the Assembly of the International Seabed Authority recognizing that the budgetary provisions for the International Seabed Authority in 1996 are dependent upon the election of the members of the Council of the Authority and the election of the Secretary-General of the Authority from among the candidates to be proposed by the Council, neither of which has occurred reiterated the principle of cost-effectiveness and the principle that the setting up and the functioning of the organs and subsidiary bodies of the Authority shall be based on an evolutionary approach.

The Assembly of the ISBA requested the Secretary-General of the United Nations to submit to the General Assembly at its fiftieth session, on behalf of the International Seabed Authority a draft budget covering the administrative expenses of the Authority for 1996, including the cost of convening and servicing meetings of the Authority as necessary. In preparing the proposed budget for 1996, the Secretary-General should be guided by document A/C.5/49/25 which was the basis for the current expenditures authorized for the Authority under a new and separate section of the programme budget of the United Nations, taking also into account the adjustments to be made arising from the fact that the Secretary-General of the Authority could only be elected at the earliest during the next meeting of the Assembly in March 1996.

(f) Discussion on the Headquarters Agreement

The Assembly considered the draft Headquarters Agreement prepared by Preparatory Commission at its 21st meeting, and felt that it was basically acceptable and could be used as a starting point for negotiations with the Government of Jamaica. It approved the setting up of a small, open ended Working Group to identify issues that should be taken into account by the Authority or the Secretary-General in such negotiations.

It was agreed that the President of the Assembly should appoint a coordinator for the Working Group.² The Assembly decided that the *Ad Hoc* Group would deal also with the Protocol on the Privileges and Immunities of the Authority, but that priority would be given to the examination of the Headquarters Agreement. The Assembly authorized the Secretary-General to negotiate, as a matter of priority, the Headquarters

2. The Vice-President of the Assembly from Mexico was appointed as Co-ordinator of the Working Group which held two meetings. During these meetings the Working Group examined the draft Headquarters Agreement prepared by the Preparatory Commission.

Agreement with the Government of Jamaica and to submit the final draft of a agreement to the Assembly for adoption.

(g) Other matters considered by the Assembly

The Assembly held preliminary discussions on the question of the priorities of the Authority during its initial phase of work; on decisions to be made in relation to the recommendations of the Preparatory Commission for the International Seabed Authority and for the International Tribunal for the Law of the Sea; and on follow-up of the Commission's decisions concerning the registered pioneer investors, including the training to be provided by them.

It was suggested that two themes be considered by the Assembly, one being the issue of transparency in the relationship between the Council and the wider membership of the Assembly, and the other being the development of principles regarding environmental protection. It was felt that consideration of those issues need not prejudice the Council's competence in these matters.

The Assembly also held a discussion on the training programme relating to seabed mining. The Secretariat informed the Assembly that it had received a number of reports from registered pioneer investors regarding the discharge of their obligation, including the provision of training to persons designated by the Preparatory Commission or by the Assembly.

(h) Future Meetings of the ISBA

The President proposed that during the first week of the next session, the Assembly should concentrate on the election of the Council, the establishment of the Finance Committee and the appointment of the Secretary-General. The next priority, in his opinion, should be the adoption of the rules of procedure of the Council. He accordingly requested the Secretariat to provide for two meetings of the Authority in 1996 as follows:

- (a) The first meeting to take place from 11 March 1996 for up to three weeks, if necessary, principally for the purpose of electing the Council and the Secretary-General and establishing the Finance Committee;
- (b) The second meeting to take place for up to two weeks from 5 August 1996, primarily for the Finance Committee, Council and Assembly to consider and decide on the budget and to establish the Legal and Technical Commission.

During these meetings, the Assembly and the Council, as far as practicable, shall also consider the other items on their agendas.

Meeting of States Parties to the United Nations Convention on the Law of the Sea

It may be recalled that the PREPCOM as its session held in August 1994 had recommended that the Secretary-General convene an *ad hoc* meeting of the States Parties to the Convention soon after the entry into force of the Convention. Following this recommendation of the PREPCOM relating to the establishment of the International Seabed Tribunal an *ad hoc* meeting of States Parties to the Convention on the Law of the Sea was convened in New York in November 1994. That meeting of the States Parties to the Convention decided, on 22nd November 1994, *inter alia* that: (i) there will be a deferment of the first election of the Members of the Tribunal. The date of the first election of the 21 Members will be 1 August 1996. This will be a one-time deferment; (ii) Nominations would open on 16 May 1995. A State in the process of becoming a party to the Convention may nominate candidates. Such nominations shall remain provisional and shall not be included in the list to be circulated by the Secretary-General of the United Nations in accordance with Article 4 (2) of Annex VI, unless the State concerned has deposited its instrument of ratification or accession before 1 July 1996; (iii) nominations will close on 17 June 1996; (iv) The list of the candidates will be circulated by the Secretary-General on 5 July 1996; (v) Subject to the above decisions all procedures relating to the election of the members of the Tribunal as provided for in the Convention shall apply; and (vi) no changes shall be made to this schedule unless the States Parties agree by consensus.

A second Meeting of the States Parties to the Convention was convened in May 1995. In addition to the entities other than States Parties that had earlier been invited, relevant international organizations and non-governmental organizations were also invited to participate as observers. The second meeting of the State Parties to the Convention, *inter alia*, considered the draft rules of procedure submitted by the Secretariat and adopted a revision thereof as its rules of procedure. A rule relating to decisions having financial implications was deferred. During the Meeting the States Parties discussed and agreed on several criteria regarding the establishment of the Tribunal, its initial functions and related matters, and the Meeting took, *inter alia*, the following decisions:

- (a) The members of the Tribunal would hold their first organizational session on 1 October 1996;
- (b) The President of the Tribunal would reside at its seat and all other members would attend meetings of the Tribunal as and when required;

- (c) The overall remuneration of the members would consist of an annual allowance, a special allowance for each day that they are engaged in the business of the Tribunal and a subsistence allowance for each day that they attend meetings;
- (d) The official languages of the Tribunal would be English and French. A party to a dispute might use another language for written and oral pleadings and related documentation, but the translation and interpretation into one of the official languages should be at that party's expense;
- (e) When a language other than the Tribunal's official languages chosen by a party is an official language of the United Nations, the decision of the Tribunal should be translated into that official language at no cost to the parties;
- (f) Subject to availability of funds, and provided that it would not result in an increase in the budget, consideration would be given in the future to the translation of final decisions of the Tribunal into the other official languages of the United Nations at the request of any of the States Parties.

The Meeting also decided that the principle of cost-effectiveness would apply to all aspects of the Tribunal's work.

United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks

It may be recalled that Chapter 17 of Agenda 21 adopted by the UNCED rests on the foundation provided by the Convention on the Law of the Sea and *inter alia* called for the convening of an inter-governmental conference on straddling fish stocks and highly migratory fish stocks. The General Assembly, in its resolution 47/192, recalled Agenda 21, in particular Chapter 17, programme area C, relating to the sustainable use and conservation of marine living resources of the high seas, and decided to convene an Inter-governmental Conference under the auspices of the United Nations on Straddling Fish Stocks and Highly Migratory Fish Stocks.

The General Assembly directed that the Conference, take into account relevant activities at the subregional, regional and global levels, with a view to promoting effective implementation of the provisions of the United Nations Convention on the Law of the Sea on straddling fish stocks and highly migratory fish stocks. The Assembly further decided that the Conference, drawing, *inter alia*, on scientific and technical studies by the Food and Agriculture Organization of the United Nations, should: (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.

That Resolution, it may be recalled, had reaffirmed that the work and results of the Conference should be fully consistent with the provisions of the Convention on the Law of the Sea, in particular the rights and obligations of coastal States and States fishing on the high seas, and that States should give full effect to the high seas fisheries provisions of the Convention with regard to fisheries populations whose ranges lie both within and beyond exclusive economic zones (straddling fish stocks) and highly migratory fish stocks.

The Agreement on the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks

The Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the sea, 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Species was adopted without a vote, on August 4, 1995 by the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks.³ That Conference also adopted two resolutions,⁴ Resolution I while underscoring the significance of early and effective implementation of the Agreement *inter alia* called upon States and other entities to apply the Agreement provisionally. Resolution II adopted by the UN Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks, *inter alia*, recognizing the significance of periodic consideration and review of developments relating to the Conservation and management of Straddling Fish Stocks and Highly Migratory Fish Stocks recommended to the General Assembly that it review developments relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks, on the basis of a report to be submitted by the Secretary-General at the second session following the adoption of the Agreement and biennially thereafter.

The Agreement on the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks was opened for signature in New York on December 4, 1995 and has been signed by 25 States

3. See A/Conf.164/33.

4. See the *Final Act of the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks*. A/Conf.164/38.

including 3 Member States of the AALCC⁵ and will enter into force 30 days after it has been ratified by 30 signatory States—a process expected to take about two years. However, many states are expected to apply the Agreement provisionally in tune with Resolution II on the Early and Effective Implementation 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 as adopted by the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks. The Agreement will for the first time bind States to conserve and sustainably manage high seas fisheries and to amicably settle fishing disputes.

The Agreement reinforces the obligation of States to conserve and manage the fishery resources in a responsible manner in areas under their national jurisdiction as well as on the high seas. It requires ministries of agriculture and fisheries etc. of member States and regional bodies governing fisheries to adopt a “precautionary approach” in establishing conservation management measures in order to ensure the long-term and sustainable use of fish stocks. Thus States are obliged to act conservatively when there is doubt about the viability of stocks.

The Agreement would strengthen the rights of countries, other than flag States, to inspect fishing vessels and facilitate wider compliance with measures to protect fish stocks. It provides for an effective enforcement on the high seas not only by the flag State but also by non flag States under certain circumstances. If the flag State—the State which registered the vessel, does not respond to complaints of violations, the inspecting State may take the vessel into port for further action. It may be stated that some distant water fishing nations are of the view that the right to board and inspect vessels in international waters should be subject to regional fishing arrangements.

Finally, as mentioned above in the event of disputes between States over fishing rights, the agreement provides for compulsory and binding third party dispute settlement which is not currently provided by regional organizations. States are free to choose from among the options for dispute settlement established under the Law of the Sea Convention, 1982.

5. See the States signatory to the UN Agreement on the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks are: Argentina, Australia, Bangladesh, Brazil, Canada, Fiji, Guinea Bissau, Iceland, Indonesia, Israel, Jamaica, Marshall Islands, Micronesia (Federated States of), Morocco, New Zealand, Niue, Norway, Papua New Guinea, Russian Federation, Samoa, Senegal, Tonga, Ukraine, United Kingdom and the United States of America.