

2000-19

2000. 12

， ， ，

가

1980 .

가 .

1990 가

. 1992 5 . 「 」

가 . (“

)가 「 21」

. 「 21」 . 「 」 「 21」 ,

1992 9 . 1993 “

)” 1995 (; . ,

1993 , 1995 8 “ ”

1997 . (IUU) 가 ,

. IUU IUU

가 가 ,

. IUU

. “

” “ ” 가

가 , 가

가 , ,

, 가
 , 가
 , 가

2000 12

韓國海洋水產開發院
院 長 李 廷 旭

<	>	1
1		5
1.		5
2.		5
2		7
1.		7
2.		10
3.		11
4.		13
5.		14
1)	/ 14	
2)	/ 15	
6. FAO	(Compliance Agreement)	24
7. FAO		24
1)	/ 24	
2)	/ 25	
3		26
1.		26
1)	/ 26	
2)	/ 27	
2.		30
1)	Donut Hole /	31
2)	Peanut Hole /	36
3)	Loop Hole /	38

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1)	/ 39	
2)	/ 40	
3)	/ 41	
4)	/ 41	
5)	/ 42	
6)	/ 42	
7)	/ 43	
4.	46
1) IUU	/ 46	
2)	/ 48	
4	50
1.	50
2. 가	51
1)	가 / 51	
2)	가 가 / 55	
3.	57
1)	/ 57	
2)	/ 58	
4.	.....	59
1)	/ 59	
2)	/ 67	
5	.....	73
1.	FAO	73
1) 가	/ 73	
2) 가	/ 75	
2.	.....	76
1)	/ 75	

2) / 78

3) / 79

4) 가 / 80

.....	83
1 : (가)	85
2 : ()	120
3 : FAO (가)	165
4 : FAO ()	175
5 : ()	189

< 3-1>	.....	32
< 3-2>	.....	35
< 5-1>	.....	77
< 5-2>	.....	77
< 5-3>	.....	77
< 5-4>	(1998)	78
< 5-5>	.....	81
< 5-6>	.....	82

— : 1 5

— : 3 , 5

— : 5

— : 3

• • •

()

()

()

()

()

< >

○

- Mare Liberum Mare Clausum 가

- 1609 , “Mare Liberum”

. 가

. 가

,

가

- 1636 Selden, “Mare Clausum”

- 1945

.

- 1958 1

. “ ”

- 1982

.

○

- 가

.

가

.

가()

○

- 87

. “

가

.”

.

-

(

92)

· “ 가 .”

- 116

· “ 가 가

(a)

(b) , 63 2 64 67

,

(c)

* All States have the rights for their nationals to engage in fishing on the high seas subject to :

- the rights and duties as well as the interests of coastal States ...

○

-

○

- 1991 FAO 가

- 1992 5 “ ”

· FAO

- 1992 6 (UNCED)

· Agenda 21

·

- 1992 FAO

- 1993.6 1995.8

- 1995.10 FAO

○

-

가

·

가

가 가

가

- FAO

.

가

-

FAO

가

-

.

가

1.

1980

FAO (Compliance),

FAO

가

가

2.

6

, 가 .

2

1.

Mare Liberum Mare Clausum

가 .¹⁾

1609 Mare Liberum()

‘ , .

(res communis)

가

“

가? 가?”²⁾

가

가

가

“

가 가 .”³⁾

가

, 가

1) , 3 Mare Liberum Mare Clausum . D.

J. Attard, *The Exclusive Economic Zone in International Law*, 1987, p.1.

2) Hugo Grotius, *Mare Liberum*, Magoffin (1916), p.4.

3) Hugo Grotius, *ibid*, p.57.

. 1613 Welwood “海洋法律 要論
(An Abridgement of All Sea-Laws)” Mare Liberum
가

가
가
가 .
가 .
가 .⁴⁾ Welwood

John Selden 1636
Mare Clausum() . Selden
가
Welwood Selden

. 가
Selden

Selden Mare Clausum
. Mare Clausum Mare Liberum
가

2 가
가
3 , 2
1945

1958 1 가 . 1

가 “
(, “ ’)”
가

4) Willaim Welwood, *An Abridgement of all Sea-Laws*(1613), p.362.

“ () ”.

公海

6

1

“

가 .”

가

가 Mare Clausum

가

(Mare Liberum)

(Flag State Jurisdiction) 5)

1

.6)

1960

2

1

2

,

12

2

12

가

가

,

12

가

1965

12

1973

3

(UNCLOS III : The Third

5)

가

가

가

가

6)

3

“

.”

United Nations Conference on the Law of the Sea)⁷⁾ 1982
200

2. (旗國主義)

가
가
가(,
) (:enforcement jurisdiction) 가
87 ()
“ 가
.”
87 “ (freedom of fishing)”
116
“ 가
가 .”

7) UNCLOS
Convention/LOS Convention
Conference on the Law of the Sea) 1958 1
3 3
UNCLOS
The Law of the Sea
(United Nations
가

92

“

가

가

”8)

(Mare Liberum)

가

Mare Clausum

,

,

가

3.

(公海漁業秩序)

,

116

.

“ 가

(subject to)

가 .

(a)

(b) , 63 2 64 67

,

(c) ”

8) . Ships shall sail under the flag of one State only and, save in exceptional cases expressly provided for in international treaties or in this Convention, shall be subject to its exclusive jurisdiction on the high seas.

116 , 가
가 ((a),
(b), (c)) . (a)
가가
가 . (b) 63 2
, 64 , 65
67 , ,
. (c) .
가
(117), 가 ,
(118) .
116 (a), (b), (c)가
. 63 2
64
. 63 2 ,
가
(shall seek ... to agree upon the measures). 64
, 가
(shall
co-operate ... with a view to ensuring conservation and promoting the
objective of optimum utilization of such species).
63 64 “
” ,
가 . , 118
가
.

4.

70%가 . 1970

1990

2 .

5% .

가가

가 , ,

90% 6 가

가

1980

가 . 1992 5

(Cancun) (International

Conference on Responsible Fishing)가 .

(FAO)가

(International Code of Conduct on Responsible Fishing)

(United Nations Conference on

Environment and Development: “ ”)가

Agenda 21 .

Agenda 21 17 17

Programme Area C

(Sustainable Use and Conservation of Marine Living Resources of the High

Seas) . Agenda 21/Chapter 17/C

“ ,

,

(vessel reflagging to escape

control), , 가

가 , .”
 , ,
 Agenda 21 , “ 가
 ... 가
 ” 9)
 Agenda 21 , FAO 1992 9
 (Technical Consultation on High Seas Fishing)
 , 1993 “
 (Agreement
 to Promote Compliance with International Conservation and Management
 Measures by Fishing Vessels on the High Seas: ‘Compliance
 Agreement’, ‘)” 1995
 (Code of Conduct for Responsible Fisheries) .
 , 1992
 1993 6
 , 120 가가 . 1995 8
 6 (inter-sessional
 meeting), 가 , ,
 1995 12 .

5 .

1)

○

○ 50 (18 Part)

9) Agenda 21/17.50.

가

(1)

가

,

가

(sedentary fish stocks)

,

(1).¹¹⁾

(2) 가

가

가

가

가

.¹²⁾

가(state parties)

(fishing entity)

(1 2).

(3)

(coastal States)

(States fishing on the high seas)

,

.

(Maximum Sustainable

Yield: MSY)

.

가

.

(overexploitation),

(overfishing)

.

(precautionary approach)

.

11)

77

“ 가

”

.

12)

가

.

.¹³⁾

“ 가 가

不在가

”(6).

가

가

가가

가가

(shall seek to agree upon the measures).

가

(shall

cooperate with a view to ensuring conservation and promoting the objective of optimum utilization)(7).

“ ”

63 2

.¹⁴⁾

EEZ

,

13)

1990

“

(precautionary principle)”

가

Bergen

“

가

”.

A. E. Boyle & P. W. Birnie, *International Law and the Environment*, 1992, pp.97

98

14)

63 2

“

가

”

EEZ . ,

EEZ EEZ (以遠)

(,)

EEZ

(compatibility)

()

EEZ (compatible measures)

(7).

EEZ 가

,

가 ,

,

EEZ ,

EEZ

EEZ

(4) :

((

) ()

,

(:

regional or sub-regional)

.

가

가

, 가 (

8 3). 가가 가

가 (8

4).

가

(

8 5).

EEZ 가

(NAFO), Donut Hole(), Peanut

Hole(, 가), Loop

Hole() .

가 1994

(CCSBT) 가 1994 , 2000 ‘

,

(5)

,

가

가

가 가 .

가 가

,

가 .

.

.

,

가가

.15)

가?

,

.

○ , 가

○ 가 ; 가

; 가

가

○ 가

가

○

○ , ,

○ , (inspection) , ,
(monitoring)

○ , ,
가 , ,

○

15)

”

91

“ 가

(genuine link)

○

가
.

(6)

(,)

가 .

가
(investigation) ,
가 .

가
.
 , ,

가
.

1

가 (boarding and
inspection) .

가
(a State

Party)

가
가
가 ()

가 (boarding) (inspection) ,
가
, 가(inspecting state)
.
가 5
가 ,
가가 (investigation) 가
. 가 ,
. 가 ,
.
가 .
5
가?
(invetigation)가 가 ,
.
가
(a serious violation)
가 ,
가
, 가
(investigation) 가
.
,
.
가
가가
.
가

5

“ ” ,

. .

○ 가

○

○

, ,

○

(moratorium)

○

○

(multiple violations)

○

,

가

,

가

.

가 .

, ,

.

(7)

3 (가)

가

(encourage)

(33 1).

(deter)

(33 2).

가?

가(, A 가)가

, A 가

가

A

가

(21 1).

가가(A 가)가

A

(17 1). A

가

가

(17 2).

6. FAO (Compliance Agreement)

가

.

(

3 3).

(FOC: Flag of Conve-

nience)

.

,

.

7. FAO

1)

1980

가

. 1991 FAO

(COFI)

19

FAO

가

(responsible),

(sustained)

.

1992

(International Conference on

Responsible Fishing)

FAO가

28 . FAO 25
 1995 10 31 . FAO

2)

FAO

가 , FAO

가,

(fishing entities: ,),

, 가 ,

, , , ,

1.

1)

. 가

“ ”

.

EEZ

.

64

.¹⁶⁾

.

.

17)

(,) EEZ

16) “ 1 64

가

”

17)

1 4

“

” , 1996

.18)

(the adjacent high seas)가

“

”

.

,

.19)

.

2)

64

(Burke)

가

가

.20)

가

가

.

가

가

.

EEZ

. 64

2

“ 1

(

)

(部)

가

(in addition to)

”

64

(56 , 61)

.

18)

1

“

.

,

200

(

“

”

)

....”

19)

3

.

“ 4

(

“

”

)

線

가

(all waters of

the Pacific Ocean)

”

20) W. T. Burke, *The New International Law of Fisheries*, 1994, p.218.

64

116 64 가 .

가

가 .²¹⁾

116 “All States have the rights for their nationals to engage in fishing on the high seas subject to:”

“the rights and duties as well as the interests of coastal States provided for, inter alia, in article 63, paragraph 2, and articles 64 to 67” 116

(subject to) .²²⁾

64 116

가

.²³⁾

21) *Ibid.*, pp.220-221.

22) Andre Tahinaro, “Conservation and Management of Transboundary Fish Stocks: Comments in the Light of the Adoption of the 1995 Agreement for the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks”, *Ocean Development and International Law*, Vol.28, 1996, p.18. Tahinaro

23) *Ibid.*, “On the other hand, states fishing on the high seas expressed the view that the 1982 Law of the Sea Convention does not contain provisions allowing coastal states to exercise authority on the high seas beyond the EEZ. They indicated that high seas fishing must be conducted so that all states may benefit, but this cannot be done by de facto extension of coastal states' control. They pointed out that high seas fishing in certain areas requires tighter control and more effective management, but that they would certainly resist unilateral imposition of conservation measures by coastal states beyond EEZs. Furthermore, they added that conservation measures taken within the EEZ and those applied to the adjacent high seas with respect to straddling fish stocks and highly migratory fish stocks should be assessed on an equal basis, ensuring that both measures are complementary to each other. For these states, concordance of conservation and management within and beyond areas of national jurisdiction does not simply mean the alignment of measures to be taken in international waters with those taken by the coastal states in its EEZ. Therefore, they stressed that due regard to the needs, interests, and practices of both distant water fishing states and coastal states was the point of departure for discussion on how to establish the fundamental principles for the achievement of compatibility and coherence”.

○

○

○

○

○

가

,24)

가

가

가

가

EEZ

EEZ

가

가

1992

12

31

가

가

24) W. T. Burke, *Op. Cit.*, p.204 .

.26)

EEZ

1) Donut Hole

(1)

1977

()가 EFZ

. 1977

(, , ,)

1984

TAC

. 1988

.27)

가

가

(Donut Hole)

가

가

1980

1985

, 가 1986

가

.28)

1984

18

. 1986

100

1989

147

26) Jeffrey L. Canfield, "Recent Developments in Bering Sea Fisheries Conservation and Management", *Ocean Development and International Law*, Vol.24, 1993, p.259.

27) Evelyn Meltzer, "Global Overview of Straddling and Highly Migratory Fish Stocks: The Nonsustainable Nature of High Seas Fisheries", *Ocean Development and International Law*, Vol.25, 1994, p.284.

28) 1990 가 ,

1989 1990

40%

. Ibid., p.288.

Donut Hole
Donut Hole
29)
90% 가 EEZ

1989

1990

< 3-1>

:

1980	18.2	12.5	5.7			
1981	0.2		0.2			
1982	4.1	2.9	1.2			
1983	70.7	66.6	4.1			
1984	181.5	80.6	100.9			
1985	363.4	82.4	163.5	1.6	115.9	0.0
1986	1,039.7	155.7	705.6	3.2	163.2	12.0
1987	1,326.2	241.9	803.5	16.5	230.3	34.0
1988	1,396.7	268.6	750.6	18.4	298.7	61.0
1989	1,447.6	342.3	654.9	31.1	268.6	150.7
1990	918.3	244.3	416.9	27.8	223.5	4.8
1991	293.4	78.0	140.4	16.7	54.8	3.5
1992	6.8	1.0	2.3	3.6	0	0

: Evelyne Meltzer, "Global Overview of Straddling and Highly Migratory Fish Stocks: The Nonsustainable Nature of High Seas Fisheries", *Ocean Development and International Law*, Vol.25, p.287.

29) 1988

396

. Jeffrey Canfield, *Op. cit.*, p.273.

1991 2 9 2 21 , , ,
 , , 가 1
 가 .

63 2 , 116 b , 118
 (,) .

122 123 가

.³⁰⁾

가

가

, 1989

3

(transmitter)

가

.³¹⁾

2 4 ,

가 가

1992 8 12 14

2 (1993 5 1994)

(Moratorium)

EEZ

30) Jeffrey Canfield, *Op. cit.*, p.270.

31) , .

1995

9

가³²⁾

1994 2 6 2 11 10 가

20

가 (Ad-referendum text)

6

(2)

(2).

(Allowable Harvest Level :
AHL)
Quota : INQ)

(4).

가 ,

(5).

AHL

가 가 (Aleutian) (海盆)

1

(7). 1

가

가

32) 6 : 1993.1.13~1.15(); 7 : 1993.6.29~7.1(); 8 :
1993.10.6~10.8(); 9 : 1993.11.29~12.3().

가
60%
167
AHL “0”
167
AHL
167 가

< 3-2>

167	-
167 ~200	13
200 ~250	19
250	

: 「 」, 1994. 3, p.43

1999 11 8 12 4
AHL

,
7
(167) AHL

2000 AHL 7
AHL , ,

,
2000 AHL . 1999 가
39 2,537 () ,

65 4,228 가 .
2000 11 6

AHL

INQ
 2
 가
 가
 INQ
 2
 INQ
 ,
 ,
 ,
 (11).
 ,
 , 가
 가
 AHL,
 INQ
 가
 ,
 ,
 TAC
 가
 2) Peanut Hole

35 , 300
33)

3%

EEZ

34)

122 ()

123 ()

35)

36)

1991 가

1991 51 70

1992 100

1993

100

1992 4

가가

EEZ

(

)

1992

10

, 1991 1 1

1993

가

33) Evelyn Meltzer, *Op. cit.*, p.290.

34) *Ibid.*, p.292.

35) *Ibid.*, p.292.

36) David Freeston, "Legal Aspect of Fishing Disputes in East Asia", *Paper for Island and Marine Dispute of East Asia Seminar*, Geopolitics and International Boundaries Center, University of London, 10 May 1994, p.10.

1993 6 1 , , , , , 3 , 1993 6 15 가 37) 25% 3 1993 10 가 , EEZ , EEZ 1968 2 1977 가 200 50 1991 9 16 , 1997 26 , 5 38) 3) Loop Hole 가 1980 가

37) Evelyne Meltzer, *Op. cit.*, p.291.

38) , 「 () , 1999, p.18.

○

○

○ 1993

○

(6. 1 7. 31)

1970 8 9 가 , 가
 ,

2) (NAFO : Northwest Atlantic Fisheries Organization)

1949 (ICNAF) , 1978 10 24

8 가가

NAFO , NAFO

1979. 1. 1

NAFO가

,

, ,

4

가

,

,

1993 12 NAFO 가

, 가

,

1989

3 5

, 1990

2 1

.

가

1996

90

2

.

NAFO

(1998 TAC

19 6)

,

가

.

3) (The Convention on the Conservation and Management of Pollock Resources in the Central Bering Sea)

() , 1990 6 .

200 , 1995 12 6 , , , , .

167 167 200 13 , 200 250 19 , 250 .

가 , 가 .

1996 11 1 1997 11 2 가 , 167 가 .

가 , .

4) (Indian Ocean Tuna Commission - IOTC)

1982 . (IPTP)

IOTC 1996. 3. 27 가 10 IOTC FAO .

IOTC

, 가

16

14

1996 60

2

5) (Indian Ocean Fishery Commission - IOFC)

IOFC 1967 6 12 FAO 6 1 , FAO
FAO , FAO

IOFC , IOFC/IPFC

(Indo-Pacific Fishery Commission)

, 가 ,

, 「 」

IOTC(Indian Ocean Tuna Commission)가 1996 3

, IOFC

(APFIC)

1997 11 29 FAO IOFC

IOFC

6) (Convention for the Conservation of Southern Bluefin Tuna - CCSBT)

1993

1994 5 20

. CCSBT

3

CCSBT

가

가

TAC

가 . CCSBT

Scientific Committee SBT

가

SBT

가

CCSBT 3

CCSBT

가

가

가 . CCSBT

1995 1996 2 76% 550

1997

1 5,500

CCSBT

1 903

4,206 27%

SBT

1995 317 1996 1,179

가

1998 4 CCSBT 1

1999

(가)

가

가

CCSBT

7)

(1)

1994

가

1994

(MHLC)

2000 9 5

(2)

(Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean)가 . (sauries) .

“ (precautionary approach)” .

(compatible) .

()

가

가 가 . ,

가

가(A)가 B

B

B (investigation)

A

가(A) (B)
가 (unauthorized fishing) A

B (sanction)가 . ,

가

(boarding and inspection) 가 .

2

21

22

,

.

,

,

,

.

,

.

.

.

가

.

.

(3)

가가

.

가

가

.

(species approach),

,

,

가

.

,

EEZ

EEZ

,

EEZ

가

가

4.

1) IUU

(1) IUU

IUU(Illegal, Unreported and Unregulated)

1997 10

CCAMLR

,

. 1999 2 FAO

IUU

-

-

-

가

-

가

-

IUU

,

.

(2) IUU

1999 UN

가

.

IUU

가 EEZ

1 3

CCAMLR

, 10

.

(3) IUU

-

가

-

-

-

(4) IUU

IUU

가 가

,

.

. 가 CCAMLR

7 가 .

2)

(1)

2000 5 가 57

IUU

가 (Expert Consultation) , 10

72 , 1 , UN UN , 10

9 180

(Technical Consultation) IUU

.40)

2

FAO

(COFI) 가 .

가 IUU

, (unreported),

(unregulated) 가 (combat)

.

가 , , ,

.

,

.

(2)

가

가

가

40)

,

.

가 .

, FAO , UN , 1995 ,

IUU , FAO

IUU

가

가

4

1. 41)

(286).

(279),

가 (280 , 281).

, , 가

가,

(287).

287 ,

(3),

(5).⁴²⁾

41) A. O. Adede, *The System for Settlement of Disputes under the United Nations Convention on the Law of the Sea*, Martinus Nijhoff Publishers, 1987, pp.241-251

42)

가

(297),

(, ,)

2. 가

1) 가

가

가

가

가

가

41

“

가

(any provisional measures)

(indicate)

가 ”

(subject matter)

가

가

(irreparable damage)

가

가

. 가

. Anglo-Iranian

(*prima facie*)

가

가

.⁴³⁾

가

Interhandel

Case(1957), Fisheries Jurisdiction Case(1972), Nuclear Test Case(1973)

1972 Fisheries Jurisdiction

“

가

”

.⁴⁴⁾ 1973

Nuclear Test

Elicott

Fisheries Jurisdiction

가 가

prima facie

가

43) 1951 ICJ Reports, p.89.

44) 1972 ICJ Reports, p.12.

, Nuclear Test
 , 가 가
 .45)
 “가 가
 가
 .
 (prima facie)
 가
 .”46)
 가 가
 가
 가 가
 1976 , 1992
 가 가 Anglo-Iranian
 Nuclear Test 가
 가 가 가 “ (indicate)”
 가 가가
 가 가 .47)
 가
 290 가
 290 가
 가 1 5 .

45) Kaiyan Homi Kaikobad, “The Court, the Council and Interim Protection: A Commentary on the Lockerbie Order of 14 April 1992”, *The Australian Year Book of International Law*, 1996, Vol.17, p.119.

46) Nuclear Tests(Australia v France) Case, *1973 ICJ Reports*, p.99.

47) D. J. Harris, *Cases and Materials on International Law*, 1997, p.955.

1 .

“

가 (prima facie) 가

,

(serious harm)

(any provisional measure)

(prescribe) .”

가

가 “ ”

.

가 .

가

41

,

.

“가 (indicate)”

가 “가

(prescribe)” . “indicate”

“prescribe”

,

가 .

가 (enforcement jurisdiction)

“prescriptive jurisdiction”

.

가 , 가

.

290 5 “

가 (shall

comply promptly)” 가

.

가

가 .

290 1 , 5

가 . 290 5

“ 가 가

가 가, 가

2 가

(

)가 가

가 , ,

가 가

.”

5 가 가

가

가 (urgency of the situation) . 290 5

가 가

가

가

가

“ ”

(temporal dimension)⁴⁸⁾

(qualitative dimension)⁴⁹⁾

가

가

290 1 가

48) Myron H. Nordquist eds., *United Nations Convention on the Law of the Sea 1982: A Commentary*, Vol.V, P.56.

49) “Separate Opinion of Judge Treves”, *ITLOS Order*, Southern Bluefin Tuna Cases.

, 290 5 가 가

“

가 (as a matter of urgency)

”50)

Treves

“가 가 290 5 가
가 1

가 가

가
가 가

290 5 .”51)

2) 가 가

가(Saiga) 1998 3 11

가

Saiga

1997 12 4 40

(Guinea)

, Saiga

1998 1 11 가

가 가 가

1997 12 4

50) ITLOS, Southern Bluefin Tuna Cases, Order, para. 80.

51) “Separate Opinion of Judge Treves”, ITLOS Order, Southern Bluefin Tuna Cases.

가 290 5

가 ,

290 1 가 .

Saiga 가

가 .

“가

,

(prima facie) 가

297 1

.”⁵²⁾

가

290 5 가 ,

가

“ 가

가 ”

가 가

가

(irreparability)

52) ITLOS, M/V “SAIGA”(No.2) Case, Order, para. 29-30,

3.

1)

(Camouco)

가
(
20 50 , 20 80) (, “ ”)
가 48m, 1000
, 571 , 가 ,
1999 9 28 가
가
, 가
(“ ”)

가
34kg 가
가
1999 10 8
가 가

2
300
2000 1 17
가

2 7 . 2000
110

가

58

가

가

1 17 20 2 7

가 가

2)

“
2000 8 21
2000 11 8
(Kerguelen)

•

4 59

(7 30) . 2000 5 6 40 11 27
292

7 30 가

30

2000 12 7

8 가 .
2000 12 18 1 8 (24)

4 .

1)

(1)

1950 . 1961

81 . 1980

(parental stock) 1960 23-30% . 1985 , ,
38,650

. 1989 , , 1 1,750
, 6,065 , 5,256 ,
420 . 1993 , ,

(Convention for the Conservation of Southern Bluefin Tuna:

CCSBT)

1994 4 CCSBT 1989

1 1,750 . ,

1989 . 1994

가 .

(10 20) , 1

1 4 , ,

30 45

200Kg 가 40

4 5 .

1982

TAC

3

1989 TAC 1 1,750

6,065 , 5,265 , 420 . 1993

3

CCSBT , , 3 TAC 1 1,750

1998 CCSBT Scientific Committee

1980 (biologically safe)

2020

1980 .

가 가

3 1994 1997

(1 1,750) , 1998 3

가

가 가 3

6,000

3 .

TAC

,

,

.

, 1998

1,464

. 1999

,

3

, 1999 6 1

.

.53)

()

6,000

3,000

,

3,000

가

가

1998

CCSBT

1998

3

.

1998

1,464

1999 5

.

가

6 1

.

1999 7 15

가

가

1999 8 27

가

.

53) 1998
EEZ

TAC

가

().

(2)

1999 7 30

1998 1999

(Southern Bluefin Tuna, :

thunnus maccoyii)

(serious),

(irreparable)

가

가 가

.

가 가

7

290

5

가

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가

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)

)

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)

)

,

,

)

가

1999 8 9

.

가

,

가 가

가

,

가

가

.

)

)

6

가

,

“ , , 1993

가

가

1999 7 28 가 .

)

)

)

가

, , 5,265, 6,065, 420
1999 1999

2000

)

가(,

) ()

(3)

CCSBT

mediation

1999 6 30

CCSBT

mediation

mediation

1999 7 14

1999 7 15

Sir Keith
 1999 7
 15 가
 가
 290 5
 Crawford 가
prima facie
 Nuclear Test
 가
 가
 CCSBT CCSBT
 15 2 가
 ,
 1999 6
 CCSBT
 287 (, 288 1
 ,)
 가
 가 가
 , 64
 (),⁵⁴⁾ 116 119 (),
 300 ()
 가 가

54)

64

, 1
 가 8

17가

가
CCSBT

, 287 1 가
3

.55)

CCSBT 16 , CCSBT

.56)

가 Precautionary Principle
가 , 290 5 가

55) 1999 10 19

287 1

가 .

56) CCSBT 16

1. If any dispute arises between two or more of the Parties concerning the interpretation or implementation of this Convention, those Parties shall consult among themselves with a view to having the dispute resolved by negotiation, inquiry, mediation, conciliation, judicial settlement or other peaceful means of their own choice.
2. Any dispute of this character not so resolved shall, with the consent in each case of all parties to the dispute, be referred for settlement to the International Court of Justice or to arbitration; but failure to reach agreement on reference to the International Court of Justice or to arbitration shall not absolve parties to the dispute from the responsibility of continuing to seek to resolve it by any of the various peaceful means referred to in paragraph 1 above.
3. In cases where the dispute is referred to arbitration, the arbitral tribunal shall be constituted as provided in the Annex to this Convention. The Annex forms an integral part of this Convention.

290 1

1998 1,700

12.5% , 1999

2,400 TAC 20.5%, 39.5%

(in both the medium and long term) 가

가

damage 가

irreparable damage

가

가

CCSBT

가

3

CCSBT

8

290 1 가

“ ” “ ”

가 290 5

가

100%

가

(scientific uncertainty)

precautionary principle

precautionary principle .57)

1992 Agenda 21

“precautionary and anticipatory approach”⁵⁸⁾

6

“ 가

precautionary principle”

”

18

가

가

“

가 (with prudence and caution)

, ”⁵⁹⁾

가 precautionary principle

2)

(1)

(ICSID: International Center

for Settlement of Investment Disputes)

,

2000 8 4

가

, 가 1999

57) precautionary principle , *International Law & the Environment* (Patrica W. Birnie and Alan Boyle) p.97 98. .

58) Agenda 21 Chapter 17, para 17.1

59) ITLOS, Southern Bluefin Tuna Cases, Order, para. 77.

68

8 가 가 .

가 .

,

가

.

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(2)

1998 8 31

,

CCSBT,

.

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가

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1999 6 1

, 6

8

CCSBT 16

1

가

. CCSBT 16 CCSBT

.

“1.

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2.

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1

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3.

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1999 6 23

CCSBT

283 1

, 가
가

가

가 가

283

1

“

,

”

1999 6 23

CCSBT

(mediation)

가

3

CCSBT 16 2

(arbitration)

가

1999 7 15

가

CCSBT

가

가 .

가

가

가

CCSBT

가

가

가

가

290

5 .

“ 가 , 가

가 2 가

가 , , 가 (prima facie) 가

1 4 가

.”

1999 7 30 가

가

가

1999 8 27 290 5 가

가 2000 8 4 , . CCSBT

16

가

가 1999 8

가

(3) 가

가

“

”

가

CCSBT

70

“

”

CCSBT

CCSBT

가

CCSBT

가

2000 8 1 4

4

2000 3

1,500

·

(4)

CCSBT 가

· 22

·

“ , , , , 가 , ”

CCSBT CCSBT가

· 가

· 1982

6 1991 214 1996 가

·

· CCSBT 가

CCSBT가

·

1. FAO

1) 가

[illegible]

60) 가 : , , ,
 , , , , ,
 , , , , , 가, , , .

(21 1).
가
가

가 가

.
17 . 1

가 , 2

가 .
가 가 가
가 가

FAO 25 가
2000 16 가가 FAO
FAO 가 . FAO

,

가 .
.

, FAO

,
가 .
FAO

가 가
가 2000 5 20 FAO
FAO .

“FAO

”

.61)

가

가

FAO

2001

가

.

2) 가

FAO

가

가

.

3 (13

20)

,

FAO

“

”(a genuine link)

.

가

가

가

.

가

,

가

45

,

가

,

가

34

.

34 가

.

34

, “ ,

”

“

가

”

.

.

18

가

,

,

(transshipment)

,

61) 21, 2000 7 3 , p. 10.

·
19
18 19

가

·
FAO

가

2.

1)

,

< 5-1> < 5-3>
25% 가 ,
30%가
(·) 12%가

< 5-1>

: M/T (%)

	1992	1994	1996	1998
	1,295,396(39.4)	1,486,357(42.8)	1,623,822(50.1)	1,308,336(46.2)
	1,023,926(31.1)	887,198(25.5)	715,378(22.1)	722,597(25.5)
	935,478(28.4)	1,072,126(30.8)	874,810(27.0)	776,631(27.4)
	34,241(0.1)	30,906(0.1)	30,278(0.1)	26,851(0.1)
	3,289,041(100.0)	3,476,587(100.0)	3,244,288(100.0)	2,834,415(100.0)

: , 「 」, 1999.

< 5-2>

:

	1992	1994	1996	1998
	1,014(66.8)	1,170(71.0)	1,167(71.4)	911(66.5)
	504(33.2)	477(29.0)	468(28.6)	458(33.5)
	1,518(100.0)	1,647(100.0)	1,635(100.0)	1,369(100.0)

: , 「 」, 1999.

< 5-3>

: , %

	1992	1994	1996	1998
	83,948 (100.0)	68,636 (100.0)	60,610 (100.0)	56,003 (100.0)
	8,895	7,960	7,500	7,215
	7,045	6,687	7,542	7,781
	14,275 (17.0)	9,412 (13.7)	7,067 (11.7)	6,658 (11.9)
	31,142	29,126	28,997	26,657
	17,510	12,055	7,677	6,595
	5,081	3,396	1,827	1,096

: , 「 」, 21 , 1999.

가

가

2)

1998 ()

25 8,443M/T 62)

71 () (201,177M/T) , 77

() 5 7,146M/T 61 () 81 ()

120M/T 가

가 (skipjack)

가 14 3,390M/T 가 (yellow fin),

(big eye)

< 5-4> ¹⁾ (1998) : M/T

	가						
61()	-	-	2	6	22	2	32
67() ²⁾	-	-	-	-	-	-	-
71()	140,685	690	2,313	56,876	110	503	201,177
77() ³⁾	2,705	3,177	27,275	14,091	4,159	5,739	57,146
81() ⁴⁾	-	9	43	24	-	12	88
	143,390	3,876	29,633	70,997	4,291	6,256	258,443

: , 「 , 21 , 1999.

: 1) FAO

2), 3), 4)

(130)

62) < 5-4>

67, 77, 81

가

가

3)

·
 , 1993 UN 100
 ·
 11 , 2002
 30 ·
 가
 , 가 FAO
 (20 30%) 가
 ·
 () 가
 ·
 가
 ,
 ·
 1
 , 가 ,
 , 가
 가
 (horizontal integration) 가
 1 2
 ·
 (economies of
 scale) 가

가

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,

,

,

가

가

,

가

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.

< 5-5>

1)

: M/T

1958	257	1979	57,323
1959	538	1980	58,370
1960	914	1981	53,055
1961	367	1982	66,196
1962	657	1983	44,853
1963	2,558	1984	39,900
1964	2,438	1985	58,390
1965	8,043	1986	82,750
1966	17,598	1987	106,946
1967	19,030	1988	117,977
1968	19,299	1989	144,350
1969	35,431	1990	218,105
1970	27,690	1991	266,269
1971	29,856	1992	223,042
1972	40,358	1993	163,107
1973	41,464	1994	235,324
1974	46,338	1995	214,890
1975	49,569	1996	185,841
1976	68,771	1997	205,198
1977	59,985	1998	259,668
1978	51,579	1999	181,588

: , 「 30 」, 「 」

: 1)

,

가

.

< 5-6>

1)

: M/T

	1985	1990	1992	1994	1996	1998
	7	50	24	68	1	0
	4	4	4	4	4	4
	11	54	28	72	5	4

:
: l) , r
(- +) , 1999.

- , 「
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 , 1999.
- , 「
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 , 1999.
- 「
21」, 46 , 2000 7 3 .
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 , 「
」, 30 , 1990.
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Comments in the Light of the Adoption of the 1995 Agreement for the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks”, 28 Ocean Development and International Law, 1997.

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1 : (가)

10	1982 12 (‘
’)	가

1982 12 10 , 가

가 ,

, , 21 17

C , 가

, , , 가

가 ,

, ,

가 ,

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가 ,

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1

- 1 () 1. ,
- (a) “ ” 1982 12 10 .
- (b) “ ” 1
- (c) “ ” , 77
- (d) “ ” 2 가가 1

2. (a) “ ” ,
- 가 .
- (b) ,
- () 305 1 (c), (d) (e)
- () 47 , 9 , 1 “
- ” , 가
- “ ”
- 가 .

3.

2 ()

가

3 () 1.

. , 6 7 ,

가

가

가

2. 가

1 : (가) 87

3. , ,
5 가 5 , 6 7

가
4 ()
가 ,
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2

5 ()

(a) 가

(b) 가 ,
가 ,
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(c) 6

(d) , ,
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가 .
(e) ,
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(f) 가

(g)

(h)

(i)

j)

(k)

(1)

6 () 1.

2.

3.

(a)

(b) 2

가

(c)

(d)

4.

3 (b)

5.

6.

7.

가

가

가

가

가

가

가

가

가

가

7 () 1.
가 , ,

가 ;
(a) , 3

,
(b) , 가

, 3
2. 가

가 .
(a) 가
61 가

(b) ,

(c) ,

(d) , ,

가

(e)

(f)

가

가

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가가

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8 () 1.

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9 (,) 1.

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(a)

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(b)

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(c)

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(d)

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2.

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가

가

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10 (,)

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(a)

가

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(b)

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(c)

- (d) 가 , , 가 .
- (e) , , , ,
- (f) 가 가 1 .
- (g) 가 ,
- (h) , ,
- (i) 가
- (j)
- (k) 8 .
- (l) 가 가 .
- (m) 11 (가) , 가
- (a)
- (b) 가 ,
- (c) , , 가
- (d)

(e) 가

(f) 가

12 (,) 1.
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2.

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가

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13 ()

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14 () 1.

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1

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(a)

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(b)

가가 가

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(c)

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2.

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(a)

(b)

가

3. 13 , ,

가 가

. 가

15 ()

, 9 , .

16 () 1.

가

가 가

. , 7

. , 가

61

,

, ,

2. 8 , 1

.

1 : (가) 97

, 1 7 4
5 6
가 가 .
.

4 가

17 (가) 1. ,
가 가 ,
.

2. 가

가 .

3. 가

, , 가 , 1 3
가
.

4. 가 ,
가 가
.

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5

18 () 1. 가
 ,

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2.

가 .

3.

(a) , 가

, 가 가 .

(b) .

() , 가 가 , ,
 가

() 가
 , , 가 가 가

() , 가 가
 가

() 가

(c) 가 ,
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(d) FAO ‘ ,
 가 ,

(e) , , , , ,

(f) , , , ,

(g) , , , ,

() 21 22 ,
; 가

() 가 , 가
;

() 가 , 가
;

(h) 가 , ,

() , , , , ,

4. , , , , ,
가 , 가

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(a)

(b) ,

,
가 ,

(c)

, , ,

(d)

가

(e)

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2.

가

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가

가 ,

20 () 1.

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2.

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1 : (가) 101

. 가

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3.

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가

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4.

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5.

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6.

가

가

가

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가

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111

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7.

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가

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21 (

) 1.

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가

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- 가 2 ,
- 가 .
2. ,
- 1 ,
- 22
- 가 ,
- 가 .
3. 2
- 1 ,
- 가 가
- 22 .
4. , 가
- 가
- 가 ,
- 가
5. 1 가 ,
- 가
6. 5
- 3 2
- (a) 19 , 가

- (b) 가 . ,
7. 가 , 가 .
8. 가 . , 가 , 6 7 , 가 가 2 , 가 . , ,
9. 가 가
10. 가 . , , 가 , 가 . ,
11. (a) 18 3(a) , 가 가 (b) , (c) , , ,

(d)

(e)

(f) , ,

(g) ,

(h)

(i) ,

12. , 19

13.

14. , ,

1

가

가 ,

,

가

가

가 .

15. ,

,

가

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가

1

16. ,

가가

17.

가

,

가

.

- 가 , .
18. 가
- 가 , , .
- 22 (2 1) 1.
- 가
- (a) , .
- (b) .
- (c) .
- (d) .
- (e) , .
- (f) , .
2. 가 , , , , .
- 가 .
3. .
- (a) .
- (b) .
- (c) .
- (d) .

(e)

(f)

4.

21

,

가

가

23 (

) 1.

가

2.

3.

4.

가

7

24 (

) 1.

(UNDP),

(FAO/UN)

(Global Environment Facility),

2.

(a)

(b)

(c)

25 () 1.

(a)

(b)

(c)

2.

3.

(a)

(b)

(c)

26 () 1.

가

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2.

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8

27 ()

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28 ()

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29 ()

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가

가

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가

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30 () 1.

15

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2.

15

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가

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3. 287
.
,
287

4. 가
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가
287 1

가 . 287 , 가가
가가
5 , 7
8 , 가
5 2 , 9 2 8
2 , 가
가 .

5. ,
,
,
,

3 1 () 1. ,

2. 290 ,
,
7 5

16 2
3. 가
290 5

가 ,

32 () 297
3 .

9

33 () 1.

2. .

10

34 ()
 , .

11

35 ()

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1 : (가) III

12

36 () 1.

4 ,

, 가 .
, 가 ,
가 .

2. 가 ,

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13

37 () 1 2(b) 가
, 1995 12 4 12

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38 () 1 2 (b)

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39 (가) 1 2(b)

가 . 가 .

40 () 1. 30 가 가

30 .

2. 30 가 가

가 가 , 가

가 30 .

41 () 1.

가 .

.

2. 가

가 가

42 ()

43 () 42 가 가 ,
 , 가
 가

44 () 1. , 가

2. 2 가 ,
 ,

, 가
 ,

3. 2
 ,

45 () 1.
 ,
 ,
 6 2 1
 ,

2. 1 가 ,
 ,

3. ,
12

4. 38 , 39 , 47 50

5. , 3 2가 가 30
가 가 30

6. 가
7. 5 가 ,
가 가 ,
(a) ,
(b)

46 () 1.

1

2.

47 (가) 1. 9 1 가

- (a) 2 ,
- (b) 3 1
2. 9 1 가
- 가 ,
- (a) 가
- () 가 .
- ()
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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 States Parties to this Agreement,

Recalling the relevant provisions of the United Nations Convention on the
Law of the Sea of 10 December 1982,

Determined to ensure the long-term conservation and sustainable use of
straddling fish stocks and highly migratory fish stocks,

Resolved to improve cooperation between States to that end,

Calling for more effective enforcement by flag States, port States and
coastal States of the conservation and management measures adopted for such
stocks,

Seeking to address in particular the problems identified in chapter 17,
programme area C, of Agenda 21 adopted by the United Nations Conference
on Environment and Development, namely, that the management of high seas
fisheries is inadequate in many areas and that some resources are
overpublicized; noting that there are problems of unregulated fishing,
over-capitalization, excessive fleet size, vessel beflagging to escape controls,
insufficiently selective bea unreliable databases and lack of sufficient
cooperation between States, Committing themselves to responsible fisheries,

Conscious of the need to avoid adverse impacts on the marine
environment, preserve biodiversity, maintain the integrity of marine
ecosystems and minimize the risk of long-term or irreversible effects of

fishing operations,

Recognizing the need for specific assistance, including financial, scientific and technological assistance, in order that developing States can participate effectively in the conservation, management and sustainable use of straddling fish stocks and highly migratory fish stocks,

Convinced that an agreement for the implementation of the relevant provisions of the Convention would best serve these purposes and contribute to the maintenance of international peace and security,

Affirming that matters not regulated by the Convention or by this Agreement continue to be governed by the rules and principles of general international law,

Have agreed as follows:

PART I GENERAL PROVISIONS

Article 1 (Use of terms and scope) 1. For the purposes of this Agreement:

- (a) "Convention" means the United Nations Convention on the Law of the Sea of 10 December 1982;
- (b) "conservation and management measures" means measures to conserve and manage one or more species of living marine resources that are adopted and applied consistent with the relevant rules of international law as reflected in the Convention and this Agreement;
- (c) "fish" includes mollusks and crustaceans except those belonging to sedentary species as defined in article 77 of the Convention; and
- (d) "arrangement" means a cooperative mechanism established in accordance with the Convention and this Agreement by two or more States for the purpose, inter alia, of establishing conservation and management measures in a subregion or region for one or more straddling fish stocks or highly migratory fish stocks.

2. (a) "States Parties" means States which have consented to be bound by this Agreement and for which the Agreement is in force.

(b) This Agreement applies *mutatis mutandis*:

() to any entity referred to in article 305, paragraph 1 (c), (d) and (e), of the Convention and

() subject to article 47, to any entity referred to as an "international organization" in Annex , article 1, of the Convention which becomes a Party to this Agreement, and to that extent "States Parties" refers to those entities.

3. This Agreement applies *mutatis mutandis* to other fishing entities whose vessels fish on the high seas.

Article 2 (Objective) The objective of this Agreement is to ensure the long-term conservation and sustainable use of straddling fish stocks and highly migratory fish stocks through effective implementation of the relevant provisions of the Convention.

Article 3 (Application) 1. Unless otherwise provided, this Agreement applies to the conservation and management of straddling fish stocks and highly migratory fish stocks beyond areas under national jurisdiction, except that articles 6 and 7 apply also to the conservation and management of such stocks within areas under national jurisdiction, subject to the different legal regimes that apply within areas under national jurisdiction and in areas beyond national jurisdiction as provided for in the Convention.

2. In the exercise of its sovereign rights for the purpose of exploring and exploiting, conserving and managing straddling fish stocks and highly migratory fish stocks within areas under national jurisdiction, the coastal State shall apply *mutatis mutandis* the general principles enumerated in article 5.

3. States shall give due consideration to the respective capacities of developing States to apply articles 5, 6 and 7 within areas under national jurisdiction and their need for assistance as provided for in this Agreement. To this end, Part VII applies *mutatis mutandis* in respect of

areas under national jurisdiction.

Article 4 (Relationship between this Agreement and the Convention) Nothing in this Agreement shall prejudice the rights, jurisdiction and duties of States under the Convention. This Agreement shall be interpreted and applied in the context of and in a manner consistent with the Convention.

PART CONSERVATION AND MANAGEMENT OF STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS

Article 5 (General principles) In order to conserve and manage straddling fish stocks and highly migratory fish stocks, coastal States and States fishing on the high seas shall, in giving effect to their duty to cooperate in accordance with the Convention:

- (a) adopt measures to ensure long-term sustainability of straddling fish stocks and highly migratory fish stocks and promote the objective of their optimum utilization;
- (b) ensure that such measures are based on the best scientific evidence available and are designed to maintain or restore stocks at levels capable of producing maximum sustainable yield, as qualified by relevant environmental and economic factors, including the special requirements of developing States, and taking into account fishing patterns, the interdependence of stocks and any generally recommended international minimum standards, whether subregional, regional or global;
- (c) apply the precautionary approach in accordance with article 6;
- (d) assess the impacts of fishing, other human activities and environmental factors on target stocks and species belonging to the same ecosystem or associated with or dependent upon the target stocks;
- (e) adopt, where necessary, conservation and management measures for species belonging to the same ecosystem or associated with or

dependent upon the target stocks, with a view to maintaining or restoring populations of such species above levels at which their reproduction may become seriously threatened;

- (f) minimize pollution, waste, discards, catch by lost or abandoned gear, catch of non-target species, both fish and non-fish species, (hereinafter referred to as non-target species) and impacts on associated or dependent species, in particular endangered species, through measures including, to the extent practicable, the development and use of selective, environmentally safe and cost-effective fishing gear and techniques;
- (g) protect biodiversity in the marine environment;
- (h) take measures to prevent or eliminate overfishing and excess fishing capacity and to ensure that levels of fishing effort do not exceed those commensurate with the sustainable use of fishery resources;
- (i) take into account the interests of artisanal and subsistence fishers;
- (j) collect and share, in a timely manner, complete and accurate data concerning fishing activities on, inter alia, vessel position, catch of target and non-target species and fishing effort, as set out in Annex I, as well as information from national and international research programmes;
- (k) promote and conduct scientific research and develop appropriate technologies in support of fishery conservation and management; and
- (l) implement and enforce conservation and management measures through effective monitoring, control and surveillance.

Article 6 (Application of the precautionary approach) 1. States shall apply the precautionary approach widely to conservation, management and exploitation of straddling fish stocks and highly migratory fish stocks in order to protect the living marine resources and preserve the marine environment.

- 2. States shall be more cautious when information is uncertain, unreliable or inadequate. The absence of adequate scientific information shall not be used as a reason for postponing or failing to take conservation and

management measures.

3. In implementing the precautionary approach, States shall:

- (a) improve decision-making for fishery resource conservation and management by obtaining and sharing the best scientific information available and implementing improved techniques for dealing with risk and uncertainty;
- (b) apply the guidelines set out in Annex II and determine, on the basis of the best scientific information available, stock-specific reference points and the action to be taken if they are exceeded;
- (c) take into account, inter alia, uncertainties relating to the size and productivity of the stocks, reference points, stock condition in relation to such reference points, levels and distribution of fishing mortality and the impact of fishing activities on non-target and associated or dependent species, as well as existing and predicted oceanic, environmental and socio-economic conditions; and
- (d) develop data collection and research programmes to assess the impact of fishing on non-target and associated or dependent species and their environment, and adopt plans which are necessary to ensure the conservation of such species and to protect habitats of special concern.

4. States shall take measures to ensure that, when reference points are approached, they will not be exceeded. In the event that they are exceeded, States shall, without delay, take the action determined under paragraph 3 (b) to restore the stocks.

5. Where the status of target stocks or non-target or associated or dependent species is of concern, States shall subject such stocks and species to enhanced monitoring in order to review their status and the efficacy of conservation and management measures. They shall revise those measures regularly in the light of new information.

6. For new or exploratory fisheries, States shall adopt as soon as possible cautious conservation and management measures, including, inter alia, catch limits and effort limits. Such measures shall remain in force until

there are sufficient data to allow assessment of the impact of the fisheries on the long-term sustainability of the stocks, whereupon conservation and management measures based on that assessment shall be implemented. The latter measures shall, if appropriate, allow for the gradual development of the fisheries.

7. If a natural phenomenon has a significant adverse impact on the status of straddling fish stocks or highly migratory fish stocks, States shall adopt conservation and management measures on an emergency basis to ensure that fishing activity does not exacerbate such adverse impact. States shall also adopt such measures on an emergency basis where fishing activity presents a serious threat to the sustainability of such stocks. Measures taken on an emergency basis shall be temporary and shall be based on the best scientific evidence available.

Article 7 (Compatibility of conservation and management measures) 1. Without prejudice to the sovereign rights of coastal States for the purpose of exploring and exploiting, conserving and managing the living marine resources within areas under national jurisdiction as provided for in the Convention, and the right of all States for their nationals to engage in fishing on the high seas in accordance with the Convention:

- (a) with respect to straddling fish stocks, the relevant coastal States and the States whose nationals fish for such stocks in the adjacent high seas area shall seek, either directly or through the appropriate mechanisms for cooperation provided for in Part III, to agree upon the measures necessary for the conservation of these stocks in the adjacent high seas area;
- (b) with respect to highly migratory fish stocks, the relevant coastal States and other States whose nationals fish for such stocks in the region shall cooperate, either directly or through the appropriate mechanisms for cooperation provided for in Part III, with a view to ensuring conservation and promoting the objective of optimum utilization of such stocks throughout the region, both within and

beyond the areas under national jurisdiction.

2. Conservation and management measures established for the high seas and those adopted for areas under national jurisdiction shall be compatible in order to ensure conservation and management of the straddling fish stocks and highly migratory fish stocks in their entirety. To this end, coastal States and States fishing on the high seas have a duty to cooperate for the purpose of achieving compatible measures in respect of such stocks. In determining compatible conservation and management measures, States shall:

- (a) take into account the conservation and management measures adopted and applied in accordance with article 61 of the Convention in respect of the same stocks by coastal States within areas under national jurisdiction and ensure that measures established in respect of such stocks for the high seas do not undermine the effectiveness of such measures;
- (b) take into account previously agreed measures established and applied for the high seas in accordance with the Convention in respect of the same stocks by relevant coastal States and States fishing on the high seas;
- (c) take into account previously agreed measures established and applied in accordance with the Convention in respect of the same stocks by a subregional or regional fisheries management organization or arrangement;
- (d) take into account the biological unity and other biological characteristics of the stocks and the relationships between the distribution of the stocks, the fisheries and the geographical particularities of the region concerned, including the extent to which the stocks occur and are fished in areas under national jurisdiction;
- (e) take into account the respective dependence of the coastal States and the States fishing on the high seas on the stocks concerned; and
- (f) ensure that such measures do not result in harmful impact on the living marine resources as a whole.

3. In giving effect to their duty to cooperate, States shall make every effort to agree on compatible conservation and management measures within a reasonable period of time.
4. If no agreement can be reached within a reasonable period of time, any of the States concerned may invoke the procedures for the settlement of disputes provided for in Part .
5. Pending agreement on compatible conservation and management measures, the States concerned, in a spirit of understanding and cooperation, shall make every effort to enter into provisional arrangements of a practical nature. In the event that they are unable to agree on such arrangements, any of the States concerned may, for the purpose of obtaining provisional measures, submit the dispute to a court or tribunal in accordance with the procedures for the settlement of disputes provided for in Part .
6. Provisional arrangements or measures entered into or prescribed pursuant to paragraph 5 shall take into account the provisions of this Part, shall have due regard to the rights and obligations of all States concerned, shall not jeopardize or hamper the reaching of final agreement on compatible conservation and management measures and shall be without prejudice to the final outcome of any dispute settlement procedure.
7. Coastal States shall regularly inform States fishing on the high seas in the subregion or region, either directly or through appropriate subregional or regional fisheries management organizations or arrangements, or through other appropriate means, of the measures they have adopted for straddling fish stocks and highly migratory fish stocks within areas under their national jurisdiction.
8. States fishing on the high seas shall regularly inform other interested States, either directly or through appropriate subregional or regional fisheries management organizations or arrangements, or through other appropriate means, of the measures they have adopted for regulating the activities of vessels flying their flag which fish for such stocks on the high seas.

PART MECHANISMS FOR INTERNATIONAL COOPERATION CONCERNING
STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS

Article 8 (Cooperation for conservation and management) 1.

Coastal States and States fishing on the high seas shall, in accordance with the Convention, pursue cooperation in relation to straddling fish stocks and highly migratory fish stocks either directly or through appropriate subregional or regional fisheries management organizations or arrangements, taking into account the specific characteristics of the subregion or region, to ensure effective conservation and management of such stocks.

2. States shall enter into consultations in good faith and without delay, particularly where there is evidence that the straddling fish stocks and highly migratory fish stocks concerned may be under threat of over-exploitation or where a new fishery is being developed for such stocks. To this end, consultations may be initiated at the request of any interested State with a view to establishing appropriate arrangements to ensure conservation and management of the stocks. Pending agreement on such arrangements, States shall observe the provisions of this Agreement and shall act in good faith and with due regard to the rights, interests and duties of other States.

3. Where a subregional or regional fisheries management organization or arrangement has the competence to establish conservation and management measures for particular straddling fish stocks or highly migratory fish stocks, States fishing for the stocks on the high seas and relevant coastal States shall give effect to their duty to cooperate by becoming members of such organization or participants in such arrangement, or by agreeing to apply the conservation and management measures established by such organization or arrangement. States having a real interest in the fisheries concerned may become members of such organization or participants in such arrangement. The terms of participation in such organization or arrangement shall not preclude such

States from membership or participation; nor shall they be applied in a manner which discriminates against any State or group of States having a real interest in the fisheries concerned.

4. Only those States which are members of such an organization or participants in such an arrangement, or which agree to apply the conservation and management measures established by such organization or arrangement, shall have access to the fishery resources to which those measures apply.
5. Where there is no subregional or regional fisheries management organization or arrangement to establish conservation and management measures for a particular straddling fish stock or highly migratory fish stock, relevant coastal States and States fishing on the high seas for such stock in the subregion or region shall cooperate to establish such an organization or enter into other appropriate arrangements to ensure conservation and management of such stock and shall participate in the work of the organization or arrangement.
6. Any State intending to propose that action be taken by an intergovernmental organization having competence with respect to living resources should, where such action would have a significant effect on conservation and management measures already established by a competent subregional or regional fisheries management organization or arrangement, consult through that organization or arrangement with its members or participants. To the extent practicable, such consultation should take place prior to the submission of the proposal to the intergovernmental organization.

Article 9 (Subregional and regional fisheries management organizations and arrangements) 1. In establishing subregional or regional fisheries management organizations or in entering into subregional or regional fisheries management arrangements for straddling fish stocks and highly migratory fish stocks, States shall agree, inter alia, on:

- (a) the stocks to which conservation and management measures apply,

taking into account the biological characteristics of the stocks concerned and the nature of the fisheries involved;

- (b) the area of application, taking into account article 7, paragraph 1, and the characteristics of the subregion or region, including socio-economic, geographical and environmental factors;
- (c) the relationship between the work of the new organization or arrangement and the role, objectives and operations of any relevant existing fisheries management organizations or arrangements; and
- (d) the mechanisms by which the organization or arrangement will obtain scientific advice and review the status of the stocks, including, where appropriate, the establishment of a scientific advisory body.

2. States cooperating in the formation of a subregional or regional fisheries management organization or arrangement shall inform other States which they are aware have a real interest in the work of the proposed organization or arrangement of such cooperation.

Article 10 (Functions of subregional and regional fisheries management organizations and arrangements) In fulfilling their obligation to cooperate through subregional or regional fisheries management organizations or arrangements, States shall:

- (a) agree on and comply with conservation and management measures to ensure the long-term sustainability of straddling fish stocks and highly migratory fish stocks;
- (b) agree, as appropriate, on participatory rights such as allocations of allowable catch or levels of fishing effort;
- (c) adopt and apply any generally recommended international minimum standards for the responsible conduct of fishing operations;
- (d) obtain and evaluate scientific advice, review the status of the stocks and assess the impact of fishing on non-target and associated or dependent species;
- (e) agree on standards for collection, reporting, verification and exchange of data on fisheries for the stocks;

- (f) compile and disseminate accurate and complete statistical data, as described in Annex I, to ensure that the best scientific evidence is available, while maintaining confidentiality where appropriate;
- (g) promote and conduct scientific assessments of the stocks and relevant research and disseminate the results thereof;
- (h) establish appropriate cooperative mechanisms for effective monitoring, control, surveillance and enforcement;
- (i) agree on means by which the fishing interests of new members of the organization or new participants in the arrangement will be accommodated;
- (j) agree on decision-making procedures which facilitate the adoption of conservation and management measures in a timely and effective manner;
- (k) promote the peaceful settlement of disputes in accordance with Part ;
- (l) ensure the full cooperation of their relevant national agencies and industries in implementing the recommendations and decisions of the organization or arrangement; and
- (m) give due publicity to the conservation and management measures established by the organization or arrangement.

Article 11 (New members or participants) In determining the nature and extent of participatory rights for new members of a subregional or regional fisheries management organization, or for new participants in a subregional or regional fisheries management arrangement, States shall take into account, *inter alia*:

- (a) the status of the straddling fish stocks and highly migratory fish stocks and the existing level of fishing effort in the fishery;
- (b) the respective interests, fishing patterns and fishing practices of new and existing members or participants;
- (c) the respective contributions of new and existing members or participants to conservation and management of the stocks, to the collection and provision of accurate data and to the conduct of scientific research on the stocks;

- (d) the needs of coastal fishing communities which are dependent mainly on fishing for the stocks;
- (e) the needs of coastal States whose economies are overwhelmingly dependent on the exploitation of living marine resources; and
- (f) the interests of developing States from the subregion or region in whose areas of national jurisdiction the stocks also occur.

Article 12(Transparency in activities of subregional and regional fisheries management organizations and arrangements) 1. States shall provide for transparency in the decision-making process and other activities of subregional and regional fisheries management organizations and arrangements.

2. Representatives from other intergovernmental organizations and representatives from non-governmental organizations concerned with straddling fish stocks and highly migratory fish stocks shall be afforded the opportunity to take part in meetings of subregional and regional fisheries management organizations and arrangements as observers or otherwise, as appropriate, in accordance with the procedures of the organization or arrangement concerned. Such procedures shall not be unduly restrictive in this respect. Such intergovernmental organizations and non-governmental organizations shall have timely access to the records and reports of such organizations and arrangements, subject to the procedural rules on access to them.

Article 13(Strengthening of existing organizations and arrangements) States shall cooperate to strengthen existing subregional and regional fisheries management organizations and arrangements in order to improve their effectiveness in establishing and implementing conservation and management measures for straddling fish stocks and highly migratory fish stocks.

Article 14(Collection and provision of information and cooperation in scientific research) 1. States shall ensure that fishing vessels flying their flag provide such information as may be necessary in order to fulfil their obligations under this Agreement. To this end, States shall in

accordance with Annex I:

- (a) collect and exchange scientific, technical and statistical data with respect to fisheries for straddling fish stocks and highly migratory fish stocks;
 - (b) ensure that data are collected in sufficient detail to facilitate effective stock assessment and are provided in a timely manner to fulfil the requirements of subregional or regional fisheries management organizations or arrangements; and
 - (c) take appropriate measures to verify the accuracy of such data.
2. States shall cooperate, either directly or through subregional or regional fisheries management organizations or arrangements:
- (a) to agree on the specification of data and the format in which they are to be provided to such organizations or arrangements, taking into account the nature of the stocks and the fisheries for those stocks; and
 - (b) to develop and share analytical techniques and stock assessment methodologies to improve measures for the conservation and management of straddling fish stocks and highly migratory fish stocks.
3. Consistent with Part XIII of the Convention, States shall cooperate, either directly or through competent international organizations, to strengthen scientific research capacity in the field of fisheries and promote scientific research related to the conservation and management of straddling fish stocks and highly migratory fish stocks for the benefit of all. To this end, a State or the competent international organization conducting such research beyond areas under national jurisdiction shall actively promote the publication and dissemination to any interested States of the results of that research and information relating to its objectives and methods and, to the extent practicable, shall facilitate the participation of scientists from those States in such research.

Article 15 (Enclosed and semi-enclosed seas) In implementing this Agreement in an enclosed or semi-enclosed sea, States shall take into account the natural characteristics of that sea and shall also act in a

manner consistent with Part XI of the Convention and other relevant provisions thereof.

Article 16(Areas of high seas surrounded entirely by an area under the national jurisdiction of a single State) 1. States fishing for straddling fish stocks and highly migratory fish stocks in an area of the high seas surrounded entirely by an area under the national jurisdiction of a single State and the latter State shall cooperate to establish conservation and management measures in respect of those stocks in the high seas area. Having regard to the natural characteristics of the area, States shall pay special attention to the establishment of compatible conservation and management measures for such stocks pursuant to article 7. Measures taken in respect of the high seas shall take into account the rights, duties and interests of the coastal State under the Convention, shall be based on the best scientific evidence available and shall also take into account any conservation and management measures adopted and applied in respect of the same stocks in accordance with article 61 of the Convention by the coastal State in the area under national jurisdiction. States shall also agree on measures for monitoring, control, surveillance and enforcement to ensure compliance with the conservation and management measures in respect of the high seas.

2. Pursuant to article 8, States shall act in good faith and make every effort to agree without delay on conservation and management measures to be applied in the carrying out of fishing operations in the area referred to in paragraph 1. If, within a reasonable period of time, the fishing States concerned and the coastal State are unable to agree on such measures, they shall, having regard to paragraph 1, apply article 7, paragraphs 4, 5 and 6, relating to provisional arrangements or measures. Pending the establishment of such provisional arrangements or measures, the States concerned shall take measures in respect of vessels flying their flag in order that they not engage in fisheries which could undermine the stocks concerned.

PART NON-MEMBERS AND NON-PARTICIPANTS

Article 17 (Non-members of organizations and non-participants in arrangements) 1. A State which is not a member of a subregional or regional fisheries management organization or is not a participant in a subregional or regional fisheries management arrangement, and which does not otherwise agree to apply the conservation and management measures established by such organization or arrangement, is not discharged from the obligation to cooperate, in accordance with the Convention and this Agreement, in the conservation and management of the relevant straddling fish stocks and highly migratory fish stocks.

2. Such State shall not authorize vessels flying its flag to engage in fishing operations for the straddling fish stocks or highly migratory fish stocks which are subject to the conservation and management measures established by such organization or arrangement.

3. States which are members of a subregional or regional fisheries management organization or participants in a subregional or regional fisheries management arrangement shall, individually or jointly, request the fishing entities referred to in article 1, paragraph 3, which have fishing vessels in the relevant area to cooperate fully with such organization or arrangement in implementing the conservation and management measures it has established, with a view to having such measures applied de facto as extensively as possible to fishing activities in the relevant area. Such fishing entities shall enjoy benefits from participation in the fishery commensurate with their commitment to comply with conservation and management measures in respect of the stocks.

4. States which are members of such organization or participants in such arrangement shall exchange information with respect to the activities of fishing vessels flying the flags of States which are neither members of the organization nor participants in the arrangement and which are engaged in fishing operations for the relevant stocks. They shall take

measures consistent with this Agreement and international law to deter activities of such vessels which undermine the effectiveness of subregional or regional conservation and management measures.

PART DUTIES OF THE FLAG STATE

Article 18(Duties of the flag State) 1. A State whose vessels fish on the high seas shall take such measures as may be necessary to ensure that vessels flying its flag comply with subregional and regional conservation and management measures and that such vessels do not engage in any activity which undermines the effectiveness of such measures.

2. A State shall authorize the use of vessels flying its flag for fishing on the high seas only where it is able to exercise effectively its responsibilities in respect of such vessels under the Convention and this Agreement.

3. Measures to be taken by a State in respect of vessels flying its flag shall include:

(a) control of such vessels on the high seas by means of fishing licences, authorizations or permits, in accordance with any applicable procedures agreed at the subregional, regional or global level;

(b) establishment of regulations:

() to apply terms and conditions to the licence, authorization or permit sufficient to fulfil any subregional, regional or global obligations of the flag State;

() to prohibit fishing on the high seas by vessels which are not duly licensed or authorized to fish, or fishing on the high seas by vessels otherwise than in accordance with the terms and conditions of a licence, authorization or permit;

() to require vessels fishing on the high seas to carry the licence, authorization or permit on board at all times and to produce it on demand for inspection by a duly authorized person; and

- () to ensure that vessels flying its flag do not conduct unauthorized fishing within areas under the national jurisdiction of other States;
- (c) establishment of a national record of fishing vessels authorized to fish on the high seas and provision of access to the information contained in that record on request by directly interested States, taking into account any national laws of the flag State regarding the release of such information;
- (d) requirements for marking of fishing vessels and fishing gear for identification in accordance with uniform and internationally recognizable vessel and gear marking systems, such as the Food and Agriculture Organization of the United Nations Standard Specifications for the Marking and Identification of Fishing Vessels;
- (e) requirements for recording and timely reporting of vessel position, catch of target and non-target species, fishing effort and other relevant fisheries data in accordance with subregional, regional and global standards for collection of such data;
- (f) requirements for verifying the catch of target and non-target species through such means as observer programmes, inspection schemes, unloading reports, supervision of transshipment and monitoring of landed catches and market statistics;
- (g) monitoring, control and surveillance of such vessels, their fishing operations and related activities by, inter alia:
 - () the implementation of national inspection schemes and subregional and regional schemes for cooperation in enforcement pursuant to articles 21 and 22, including requirements for such vessels to permit access by duly authorized inspectors from other States;
 - () the implementation of national observer programmes and subregional and regional observer programmes in which the flag State is a participant, including requirements for such vessels to permit access by observers from other States to carry out the functions

agreed under the programmes; and

- () the development and implementation of vessel monitoring systems, including, as appropriate, satellite transmitter systems, in accordance with any national programmes and those which have been subregionally, regionally or globally agreed among the States concerned;

(h) regulation of transshipment on the high seas to ensure that the effectiveness of conservation and management measures is not undermined; and

- () regulation of fishing activities to ensure compliance with subregional, regional or global measures, including those aimed at minimizing catches of non-target species.

4. Where there is a subregionally, regionally or globally agreed system of monitoring, control and surveillance in effect, States shall ensure that the measures they impose on vessels flying their flag are compatible with that system.

PART COMPLIANCE AND ENFORCEMENT

Article 19 (Compliance and enforcement by the flag State) 1. A State shall ensure compliance by vessels flying its flag with subregional and regional conservation and management measures for straddling fish stocks and highly migratory fish stocks. To this end, that State shall:

- (a) enforce such measures irrespective of where violations occur;
- (b) investigate immediately and fully any alleged violation of subregional or regional conservation and management measures, which may include the physical inspection of the vessels concerned, and report promptly to the State alleging the violation and the relevant subregional or regional organization or arrangement on the progress and outcome of the investigation;
- (c) require any vessel flying its flag to give information to the

investigating authority regarding vessel position, catches, fishing gear, fishing operations and related activities in the area of an alleged violation;

- (d) if satisfied that sufficient evidence is available in respect of an alleged violation, refer the case to its authorities with a view to instituting proceedings without delay in accordance with its laws and, where appropriate, detain the vessel concerned; and
- (e) ensure that, where it has been established, in accordance with its laws, a vessel has been involved in the commission of a serious violation of such measures, the vessel does not engage in fishing operations on the high seas until such time as all outstanding sanctions imposed by the flag State in respect of the violation have been complied with.

2. All investigations and judicial proceedings shall be carried out expeditiously. Sanctions applicable in respect of violations shall be adequate in severity to be effective in securing compliance and to discourage violations wherever they occur and shall deprive offenders of the benefits accruing from their illegal activities. Measures applicable in respect of masters and other officers of fishing vessels shall include provisions which may permit, inter alia, refusal, withdrawal or suspension of authorizations to serve as masters or officers on such vessels.

Article 20 (International cooperation in enforcement) 1. States shall cooperate, either directly or through subregional or regional fisheries management organizations or arrangements, to ensure compliance with and enforcement of subregional and regional conservation and management measures for straddling fish stocks and highly migratory fish stocks.

2. A flag State conducting an investigation of an alleged violation of conservation and management measures for straddling fish stocks or highly migratory fish stocks may request the assistance of any other State whose cooperation may be useful in the conduct of that investigation. All States shall endeavour to meet reasonable requests

made by a flag State in connection with such investigations.

3. A flag State may undertake such investigations directly, in cooperation with other interested States or through the relevant subregional or regional fisheries management organization or arrangement. Information on the progress and outcome of the investigations shall be provided to all States having an interest in, or affected by, the alleged violation.
4. States shall assist each other in identifying vessels reported to have engaged in activities undermining the effectiveness of subregional, regional or global conservation and management measures.
5. States shall, to the extent permitted by national laws and regulations, establish arrangements for making available to prosecuting authorities in other States evidence relating to alleged violations of such measures.
6. Where there are reasonable grounds for believing that a vessel on the high seas has been engaged in unauthorized fishing within an area under the jurisdiction of a coastal State, the flag State of that vessel, at the request of the coastal State concerned, shall immediately and fully investigate the matter. The flag State shall cooperate with the coastal State in taking appropriate enforcement action in such cases and may authorize the relevant authorities of the coastal State to board and inspect the vessel on the high seas. This paragraph is without prejudice to article 111 of the Convention.
7. States Parties which are members of a subregional or regional fisheries management organization or participants in a subregional or regional fisheries management arrangement may take action in accordance with international law, including through recourse to subregional or regional procedures established for this purpose, to deter vessels which have engaged in activities which undermine the effectiveness of or otherwise violate the conservation and management measures established by that organization or arrangement from fishing on the high seas in the subregion or region until such time as appropriate action is taken by the flag State.

Article 21(Subregional and regional cooperation in enforcement)

1. In any high seas area covered by a subregional or regional fisheries management organization or arrangement, a State Party which is a member of such organization or a participant in such arrangement may, through its duly authorized inspectors, board and inspect, in accordance with paragraph 2, fishing vessels flying the flag of another State Party to this Agreement, whether or not such State Party is also a member of the organization or a participant in the arrangement, for the purpose of ensuring compliance with conservation and management measures for straddling fish stocks and highly migratory fish stocks established by that organization or arrangement.
2. States shall establish, through subregional or regional fisheries management organizations or arrangements, procedures for boarding and inspection pursuant to paragraph 1, as well as procedures to implement other provisions of this article. Such procedures shall be consistent with this article and the basic procedures set out in article 22 and shall not discriminate against non-members of the organization or non-participants in the arrangement. Boarding and inspection as well as any subsequent enforcement action shall be conducted in accordance with such procedures. States shall give due publicity to procedures established pursuant to this paragraph.
3. If, within two years of the adoption of this Agreement, any organization or arrangement has not established such procedures, boarding and inspection pursuant to paragraph 1, as well as any subsequent enforcement action, shall, pending the establishment of such procedures, be conducted in accordance with this article and the basic procedures set out in article 22.
4. Prior to taking action under this article, inspecting States shall, either directly or through the relevant subregional or regional fisheries management organization or arrangement, inform all States whose vessels fish on the high seas in the subregion or region of the form of identification issued to their duly authorized inspectors. The vessels used for boarding and inspection shall be clearly marked and identifiable as

being on government service. At the time of becoming a Party to this Agreement, a State shall designate an appropriate authority to receive notifications pursuant to this article and shall give due publicity of such designation through the relevant subregional or regional fisheries management organization or arrangement.

5. Where, following a boarding and inspection, there are clear grounds for believing that a vessel has engaged in any activity contrary to the conservation and management measures referred to in paragraph 1, the inspecting State shall, where appropriate, secure evidence and shall promptly notify the flag State of the alleged violation.
6. The flag State shall respond to the notification referred to in paragraph 5 within three working days of its receipt, or such other period as may be prescribed in procedures established in accordance with paragraph 2, and shall either:
 - (a) fulfil, without delay, its obligations under article 19 to investigate and, if evidence so warrants, take enforcement action with respect to the vessel, in which case it shall promptly inform the inspecting State of the results of the investigation and of any enforcement action taken; or
 - (b) authorize the inspecting State to investigate.
7. Where the flag State authorizes the inspecting State to investigate an alleged violation, the inspecting State shall, without delay, communicate the results of that investigation to the flag State. The flag State shall, if evidence so warrants, fulfil its obligations to take enforcement action with respect to the vessel. Alternatively, the flag State may authorize the inspecting State to take such enforcement action as the flag State may specify with respect to the vessel, consistent with the rights and obligations of the flag State under this Agreement.
8. Where, following boarding and inspection, there are clear grounds for believing that a vessel has committed a serious violation, and the flag State has either failed to respond or failed to take action as required under paragraphs 6 or 7, the inspectors may remain on board and

secure evidence and may require the master to assist in further investigation including, where appropriate, by bringing the vessel without delay to the nearest appropriate port, or to such other port as may be specified in procedures established in accordance with paragraph 2. The inspecting State shall immediately inform the flag State of the name of the port to which the vessel is to proceed. The inspecting State and the flag State and, as appropriate, the port State shall take all necessary steps to ensure the well-being of the crew regardless of their nationality.

9. The inspecting State shall inform the flag State and the relevant organization or the participants in the relevant arrangement of the results of any further investigation.
10. The inspecting State shall require its inspectors to observe generally accepted international regulations, procedures and practices relating to the safety of the vessel and the crew, minimize interference with fishing operations and, to the extent practicable, avoid action which would adversely affect the quality of the catch on board. The inspecting State shall ensure that boarding and inspection is not conducted in a manner that would constitute harassment of any fishing vessel.
11. For the purposes of this article, a serious violation means:
 - (a) fishing without a valid licence, authorization or permit issued by the flag State in accordance with article 18, paragraph 3 (a);
 - (b) failing to maintain accurate records of catch and catch-related data, as required by the relevant subregional or regional fisheries management organization or arrangement, or serious misreporting of catch, contrary to the catch reporting requirements of such organization or arrangement;
 - (c) fishing in a closed area, fishing during a closed season or fishing without, or after attainment of, a quota established by the relevant subregional or regional fisheries management organization or arrangement;
 - (d) directed fishing for a stock which is subject to a moratorium or for

which fishing is prohibited;

- (e) using prohibited fishing gear;
- (f) falsifying or concealing the markings, identity or registration of a fishing vessel;
- (g) concealing, tampering with or disposing of evidence relating to an investigation;
- (h) multiple violations which together constitute a serious disregard of conservation and management measures; or
- (i) such other violations as may be specified in procedures established by the relevant subregional or regional fisheries management organization or arrangement.

12. Notwithstanding the other provisions of this article, the flag State may, at any time, take action to fulfil its obligations under article 19 with respect to an alleged violation. Where the vessel is under the direction of the inspecting State, the inspecting State shall, at the request of the flag State, release the vessel to the flag State along with full information on the progress and outcome of its investigation.
13. This article is without prejudice to the right of the flag State to take any measures, including proceedings to impose penalties, according to its laws.
14. This article applies *mutatis mutandis* to boarding and inspection by a State Party which is a member of a subregional or regional fisheries management organization or a participant in a subregional or regional fisheries management arrangement and which has clear grounds for believing that a fishing vessel flying the flag of another State Party has engaged in any activity contrary to relevant conservation and management measures referred to in paragraph 1 in the high seas area covered by such organization or arrangement, and such vessel has subsequently, during the same fishing trip, entered into an area under the national jurisdiction of the inspecting State.
15. Where a subregional or regional fisheries management organization or arrangement has established an alternative mechanism which effectively

discharges the obligation under this Agreement of its members or participants to ensure compliance with the conservation and management measures established by the organization or arrangement, members of such organization or participants in such arrangement may agree to limit the application of paragraph 1 as between themselves in respect of the conservation and management measures which have been established in the relevant high seas area.

16. Action taken by States other than the flag State in respect of vessels having engaged in activities contrary to subregional or regional conservation and management measures shall be proportionate to the seriousness of the violation.
17. Where there are reasonable grounds for suspecting that a fishing vessel on the high seas is without nationality, a State may board and inspect the vessel. Where evidence so warrants, the State may take such action as may be appropriate in accordance with international law.
18. States shall be liable for damage or loss attributable to them arising from action taken pursuant to this article when such action is unlawful or exceeds that reasonably required in the light of available information to implement the provisions of this article.

Article 22 (Basic procedures for boarding and inspection pursuant to article 21) 1. The inspecting State shall ensure that its duly authorized inspectors:

- (a) present credentials to the master of the vessel and produce a copy of the text of the relevant conservation and management measures or rules and regulations in force in the high seas area in question pursuant to those measures;
- (b) initiate notice to the flag State at the time of the boarding and inspection;
- (c) do not interfere with the master's ability to communicate with the authorities of the flag State during the boarding and inspection;
- (d) provide a copy of a report on the boarding and inspection to the master and to the authorities of the flag State, noting therein any

objection or statement which the master wishes to have included in the report;

- (e) promptly leave the vessel following completion of the inspection if they find no evidence of a serious violation; and
 - (f) avoid the use of force except when and to the degree necessary to ensure the safety of the inspectors and where the inspectors are obstructed in the execution of their duties. The degree of force used shall not exceed that reasonably required in the circumstances.
2. The duly authorized inspectors of an inspecting State shall have the authority to inspect the vessel, its licence, gear, equipment, records, facilities, fish and fish products and any relevant documents necessary to verify compliance with the relevant conservation and management measures.
3. The flag State shall ensure that vessel masters:
- (a) accept and facilitate prompt and safe boarding by the inspectors;
 - (b) cooperate with and assist in the inspection of the vessel conducted pursuant to these procedures;
 - (c) do not obstruct, intimidate or interfere with the inspectors in the performance of their duties;
 - (d) allow the inspectors to communicate with the authorities of the flag State and the inspecting State during the boarding and inspection;
 - (e) provide reasonable facilities, including, where appropriate, food and accommodation, to the inspectors; and
 - (f) facilitate safe disembarkation by the inspectors.
4. In the event that the master of a vessel refuses to accept boarding and inspection in accordance with this article and article 21, the flag State shall, except in circumstances where, in accordance with generally accepted international regulations, procedures and practices relating to safety at sea, it is necessary to delay the boarding and inspection, direct the master of the vessel to submit immediately to boarding and inspection and, if the master does not comply with such direction, shall suspend the vessel's authorization to fish and order the vessel to return

immediately to port. The flag State shall advise the inspecting State of the action it has taken when the circumstances referred to in this paragraph arise.

Article 23 (Measures taken by a port State) 1. A port State has the right and the duty to take measures, in accordance with international law, to promote the effectiveness of subregional, regional and global conservation and management measures. When taking such measures a port State shall not discriminate in form or in fact against the vessels of any State.

2. A port State may, inter alia, inspect documents, fishing gear and catch on board fishing vessels, when such vessels are voluntarily in its ports or at its offshore terminals.

3. States may adopt regulations empowering the relevant national authorities to prohibit landings and transshipments where it has been established that the catch has been taken in a manner which undermines the effectiveness of subregional, regional or global conservation and management measures on the high seas.

4. Nothing in this article affects the exercise by States of their sovereignty over ports in their territory in accordance with international law.

PART REQUIREMENTS OF DEVELOPING STATES

Article 24 (Recognition of the special requirements of developing States) 1. States shall give full recognition to the special requirements of developing States in relation to conservation and management of straddling fish stocks and highly migratory fish stocks and development of fisheries for such stocks. To this end, States shall, either directly or through the United Nations Development Programme, the Food and Agriculture Organization of the United Nations and other specialized agencies, the Global Environment Facility, the Commission on Sustainable Development

and other appropriate international and regional organizations and bodies, provide assistance to developing States.

2. In giving effect to the duty to cooperate in the establishment of conservation and management measures for straddling fish stocks and highly migratory fish stocks, States shall take into account the special requirements of developing States, in particular:

- (a) the vulnerability of developing States which are dependent on the exploitation of living marine resources, including for meeting the nutritional requirements of their populations or parts thereof;
- (b) the need to avoid adverse impacts on, and ensure access to fisheries by, subsistence, small-scale and artisanal fishers and women fishworkers, as well as indigenous people in developing States, particularly small island developing States; and
- (c) the need to ensure that such measures do not result in transferring, directly or indirectly, a disproportionate burden of conservation action onto developing States.

Article 25 (Forms of cooperation with developing States) 1. States shall cooperate, either directly or through subregional, regional or global organizations:

- (a) 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;
 - (b) to assist developing States, in particular the least-developed among them and small island developing States, to enable them to participate in high seas fisheries for such stocks, including facilitating access to such fisheries subject to articles 5 and 11; and
 - (c) to facilitate the participation of developing States in subregional and regional fisheries management organizations and arrangements.
2. Cooperation with developing States for the purposes set out in this article shall include the provision of financial assistance, assistance relating to human resources development, technical assistance, transfer of

technology including through joint venture arrangements, and advisory and consultative services.

3. Such assistance shall, *inter alia*, be directed specifically towards:

- (a) improved conservation and management of straddling fish stocks and highly migratory fish stocks through collection, reporting, verification, exchange and analysis of fisheries data and related information;
- (b) stock assessment and scientific research; and
- (c) monitoring, control, surveillance, compliance and enforcement, including training and capacity-building at the local level, development and funding of national and regional observer programmes and access to technology and equipment.

Article 26 (Special assistance in the implementation of this Agreement) 1. States shall cooperate to establish special funds to assist developing States in the implementation of this Agreement, including assisting developing States to meet the costs involved in any proceedings for the settlement of disputes to which they may be parties.

2. States and international organizations should assist developing States in establishing new subregional or regional fisheries management organizations or arrangements, or in strengthening existing organizations or arrangements, for the conservation and management of straddling fish stocks and highly migratory fish stocks.

PART PEACEFUL SETTLEMENT OF DISPUTES

Article 27 (Obligation to settle disputes by peaceful means) States have the obligation to settle their disputes by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

Article 28 (Prevention of disputes) States shall cooperate in order to prevent disputes. To this end, States shall agree on efficient and

expeditious decision-making procedures within subregional and regional fisheries management organizations and arrangements and shall strengthen existing decision-making procedures as necessary.

Article 29 (Disputes of a technical nature) Where a dispute concerns a matter of a technical nature, the States concerned may refer the dispute to an ad hoc expert panel established by them. The panel shall confer with the States concerned and shall endeavour to resolve the dispute expeditiously without recourse to binding procedures for the settlement of disputes.

Article 30 (Procedures for the settlement of disputes) 1. The provisions relating to the settlement of disputes set out in Part of the Convention apply mutatis mutandis to any dispute between States Parties to this Agreement concerning the interpretation or application of this Agreement, whether or not they are also Parties to the Convention.

2. The provisions relating to the settlement of disputes set out in Part XV of the Convention apply mutatis mutandis to any dispute between States Parties to this Agreement concerning the interpretation or application of a subregional, regional or global fisheries agreement relating to straddling fish stocks or highly migratory fish stocks to which they are parties, including any dispute concerning the conservation and management of such stocks, whether or not they are also Parties to the Convention.

3. Any procedure accepted by a State Party to this Agreement and the Convention pursuant to article 287 of the Convention shall apply to the settlement of disputes under this Part, unless that State Party, when signing, ratifying or acceding to this Agreement, or at any time thereafter, has accepted another procedure pursuant to article 287 for the settlement of disputes under this Part.

4. A State Party to this Agreement which is not a Party to the Convention, when signing, ratifying or acceding to this Agreement, or at any time thereafter, shall be free to choose, by means of a written declaration, one or more of the means set out in article 287, paragraph 1, of the Convention for the settlement of disputes under this Part. Article 287 shall apply to such a declaration, as well as to any dispute

to which such State is a party which is not covered by a declaration in force. For the purposes of conciliation and arbitration in accordance with Annexes , and to the Convention, such State shall be entitled to nominate conciliators, arbitrators and experts to be included in the lists referred to in Annex , article 2, Annex , article 2, and Annex , article 2, for the settlement of disputes under this Part.

5. Any court or tribunal to which a dispute has been submitted under this Part shall apply the relevant provisions of the Convention, of this Agreement and of any relevant subregional, regional or global fisheries agreement, as well as generally accepted standards for the conservation and management of living marine resources and other rules of international law not incompatible with the Convention, with a view to ensuring the conservation of the straddling fish stocks and highly migratory fish stocks concerned.

Article 31 (Provisional measures) 1. Pending the settlement of a dispute in accordance with this Part, the parties to the dispute shall make every effort to enter into provisional arrangements of a practical nature.

2. Without prejudice to article 290 of the Convention, the court or tribunal to which the dispute has been submitted under this Part may prescribe any provisional measures which it considers appropriate under the circumstances to preserve the respective rights of the parties to the dispute or to prevent damage to the stocks in question, as well as in the circumstances referred to in article 7, paragraph 5, and article 16, paragraph 2.

3. A State Party to this Agreement which is not a Party to the Convention may declare that, notwithstanding article 290, paragraph 5, of the Convention, the International Tribunal for the Law of the Sea shall not be entitled to prescribe, modify or revoke provisional measures without the agreement of such State.

Article 32 (Limitations on applicability of procedures for the settlement of disputes) Article 297, paragraph 3, of the Convention applies also to this Agreement.

PART NON-PARTIES TO THIS AGREEMENT

Article 33(Non-parties to this Agreement) 1. States Parties shall encourage non-parties to this Agreement to become parties thereto and to adopt laws and regulations consistent with its provisions.

2. States Parties shall take measures consistent with this Agreement and international law to deter the activities of vessels flying the flag of on-parties which undermine the effective implementation of this Agreement.

PART GOOD FAITH AND ABUSE OF RIGHTS

Article 34(Good faith and abuse of rights) States Parties shall fulfil in good faith the obligations assumed under this Agreement and shall exercise the rights recognized in this Agreement in a manner which would not constitute an abuse of right.

Part XI RESPONSIBILITY AND LIABILITY

Article 35(Responsibility and liability) States Parties are liable in accordance with international law for damage or loss attributable to them in regard to this Agreement.

PART XII REVIEW CONFERENCE

Article 36(Review conference) 1. Four years after the date of entry into force of this Agreement, the Secretary-General of the United Nations shall convene a conference with a view to assessing the effectiveness of this

Agreement in securing the conservation and management of straddling fish stocks and highly migratory fish stocks. The Secretary-General shall invite to the conference all States Parties and those States and entities which are entitled to become parties to this Agreement as well as those intergovernmental and non-governmental organizations entitled to participate as observers.

2. The conference shall 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.

PART FINAL PROVISIONS

Article 37 (Signature) This Agreement shall be open for signature by all States and the other entities referred to in article 1, paragraph 2(b), and shall remain open for signature at United Nations Headquarters for twelve months from the fourth of December 1995.

Article 38 (Ratification) This Agreement is subject to ratification by States and the other entities referred to in article 1, paragraph 2(b). The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

Article 39 (Accession) This Agreement shall remain open for accession by States and the other entities referred to in article 1, paragraph 2(b). The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 40 (Entry into force) 1. This Agreement shall enter into force 30 days after the date of deposit of the thirtieth instrument of ratification or accession.

2. For each State or entity which ratifies the Agreement or accedes thereto after the deposit of the thirtieth instrument of ratification or

accession, this Agreement shall enter into force on the thirtieth day following the deposit of its instrument of ratification or accession.

Article 41 (Provisional application) 1. This Agreement shall be applied provisionally by a State or entity which consents to its provisional application by so notifying the depositary in writing. Such provisional application shall become effective from the date of receipt of the notification.

2. Provisional application by a State or entity shall terminate upon the entry into force of this Agreement for that State or entity or upon notification by that State or entity to the depositary in writing of its intention to terminate provisional application.

Article 42 (Reservations and exceptions) No reservations or exceptions may be made to this Agreement.

Article 43 (Declarations and statements) Article 42 does not preclude a State or entity, when signing, ratifying or acceding to this Agreement, from making declarations or statements, however phrased or named, with a view, inter alia, to the harmonization of its laws and regulations with the provisions of this Agreement, provided that such declarations or statements do not purport to exclude or to modify the legal effect of the provisions of this Agreement in their application to that State or entity.

Article 44 (Relation to other agreements) 1. This Agreement shall not alter the rights and obligations of States Parties which arise from other agreements compatible with this Agreement and which do not affect the enjoyment by other States Parties of their rights or the performance of their obligations under this Agreement.

2. Two or more States Parties may conclude agreements modifying or suspending the operation of provisions of this Agreement, applicable solely to the relations between them, provided that such agreements do not relate to a provision derogation from which is incompatible with the effective execution of the object and purpose of this Agreement, and provided further that such agreements shall not affect the application of the basic principles embodied herein, and that the provisions of such

agreements do not affect the enjoyment by other States Parties of their rights or the performance of their obligations under this Agreement.

3. States Parties intending to conclude an agreement referred to in paragraph 2 shall notify the other States Parties through the depositary of this Agreement of their intention to conclude the agreement and of the modification or suspension for which it provides.

Article 45 (Amendment) 1. A State Party may, by written communication addressed to the Secretary-General of the United Nations, propose amendments to this Agreement and request the convening of a conference to consider such proposed amendments. The Secretary-General shall circulate such communication to all States Parties. If, within six months from the date of the circulation of the communication, not less than one half of the States Parties reply favourably to the request, the Secretary-General shall convene the conference.

2. The decision-making procedure applicable at the amendment conference convened pursuant to paragraph 1 shall be the same as that applicable at the United Nations Conference on Straddling Fish Stocks and Highly Migratory Fish Stocks, unless otherwise decided by the conference. The conference should make every effort to reach agreement on any amendments by way of consensus and there should be no voting on them until all efforts at consensus have been exhausted.
3. Once adopted, amendments to this Agreement shall be open for signature at United Nations Headquarters by States Parties for twelve months from the date of adoption, unless otherwise provided in the amendment itself.
4. Articles 38, 39, 47 and 50 apply to all amendments to this Agreement.
5. Amendments to this Agreement shall enter into force for the States Parties ratifying or acceding to them on the thirtieth day following the deposit of instruments of ratification or accession by two thirds of the States Parties. Thereafter, for each State Party ratifying or acceding to an amendment after the deposit of the required number of such instruments, the amendment shall enter into force on the thirtieth day

following the deposit of its instrument of ratification or accession.

6. An amendment may provide that a smaller or a larger number of ratifications or accessions shall be required for its entry into force than are required by this article.

7. A State which becomes a Party to this Agreement after the entry into force of amendments in accordance with paragraph 5 shall, failing an expression of a different intention by that State:

(a) be considered as a Party to this Agreement as so amended; and

(b) be considered as a Party to the unamended Agreement in relation to any State Party not bound by the amendment.

Article 46 (Denunciation) 1. A State Party may, by written notification addressed to the Secretary-General of the United Nations, denounce this Agreement and may indicate its reasons. Failure to indicate reasons shall not affect the validity of the denunciation. The denunciation shall take effect one year after the date of receipt of the notification, unless the notification specifies a later date.

2. The denunciation shall not in any way affect the duty of any State Party to fulfil any obligation embodied in this Agreement to which it would be subject under international law independently of this Agreement.

Article 47 (Participation by international organizations) 1. In cases where an international organization referred to in Annex IX, article 1, of the Convention does not have competence over all the matters governed by this Agreement, Annex IX to the Convention shall apply mutatis mutandis to participation by such international organization in this Agreement, except that the following provisions of that Annex shall not apply:

(a) article 2, first sentence; and

(b) article 3, paragraph 1.

2. In cases where an international organization referred to in Annex IX, article 1, of the Convention has competence over all the matters governed by this Agreement, the following provisions shall apply to

participation by such international organization in this Agreement:

- (a) at the time of signature or accession, such international organization shall make a declaration stating:
 - () that it has competence over all the matters governed by this Agreement;
 - () that, for this reason, its member States shall not become States Parties, except in respect of their territories for which the international organization has no responsibility; and
 - () that it accepts the rights and obligations of States under this Agreement;
- (b) participation of such an international organization shall in no case confer any rights under this Agreement on member States of the international organization;
- (c) in the event of a conflict between the obligations of an international organization under this Agreement and its obligations under the agreement establishing the international organization or any acts relating to it, the obligations under this Agreement shall prevail.

Article 48 (Annexes) 1. The Annexes form an integral part of this Agreement and, unless expressly provided otherwise, a reference to this Agreement or to one of its Parts includes a reference to the Annexes relating thereto.

- 2. The Annexes may be revised from time to time by States Parties. Such revisions shall be based on scientific and technical considerations. Notwithstanding the provisions of article 45, if a revision to an Annex is adopted by consensus at a meeting of States Parties, it shall be incorporated in this Agreement and shall take effect from the date of its adoption or from such other date as may be specified in the revision. If a revision to an Annex is not adopted by consensus at such a meeting, the amendment procedures set out in article 45 shall apply.

Article 49 (Depositary) The Secretary-General of the United Nations shall be the depositary of this Agreement and any amendments or revisions thereto.

Article 50 (Authentic texts) The Arabic, Chinese, English, French, Russian and Spanish texts of this Agreement are equally authentic.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, being duly authorized thereto, have signed this Agreement.

OPENED FOR SIGNATURE at New York, this fourth day of December, one thousand nine hundred and ninety-five, in a single original, in the Arabic, Chinese, English, French, Russian and Spanish languages.

ANNEX STANDARD REQUIREMENTS FOR THE COLLECTION AND SHARING OF DATA

Article 1 (General principles) 1. The timely collection, compilation and analysis of data are fundamental to the effective conservation and management of straddling fish stocks and highly migratory fish stocks. To this end, data from fisheries for these stocks on the high seas and those in areas under national jurisdiction are required and should be collected and compiled in such a way as to enable statistically meaningful analysis for the purposes of fishery resource conservation and management. These data include catch and fishing effort statistics and other fishery-related information, such as vessel-related and other data for standardizing fishing effort. Data collected should also include information on non-target and associated or dependent species. All data should be verified to ensure accuracy. Confidentiality of non-aggregated data shall be maintained. The dissemination of such data shall be subject to the terms on which they have been provided.

2. Assistance, including training as well as financial and technical assistance, shall be provided to developing States in order to build capacity in the field of conservation and management of living marine resources. Assistance should focus on enhancing capacity to implement data collection and verification, observer programmes, data analysis and

research projects supporting stock assessments. The fullest possible involvement of developing State scientists and managers in conservation and management of straddling fish stocks and highly migratory fish stocks should be promoted.

Article 2 (Principles of data collection, compilation and exchange)

The following general principles should be considered in defining the parameters for collection, compilation and exchange of data from fishing operations for straddling fish stocks and highly migratory fish stocks:

- (a) States should ensure that data are collected from vessels flying their flag on fishing activities according to the operational characteristics of each fishing method (e.g., each individual tow for trawl, each set for long-line and purse-seine, each school fished for pole-and-line and each day fished for troll) and in sufficient detail to facilitate effective stock assessment;
- (b) States should ensure that fishery data are verified through an appropriate system;
- (c) States should compile fishery-related and other supporting scientific data and provide them in an agreed format and in a timely manner to the relevant subregional or regional fisheries management organization or arrangement where one exists. Otherwise, States should cooperate to exchange data either directly or through such other cooperative mechanisms as may be agreed among them;
- (d) States should agree, within the framework of subregional or regional fisheries management organizations or arrangements, or otherwise, on the specification of data and the format in which they are to be provided, in accordance with this Annex and taking into account the nature of the stocks and the fisheries for those stocks in the region. Such organizations or arrangements should request non-members or non-participants to provide data concerning relevant fishing activities by vessels flying their flag;
- (e) such organizations or arrangements shall compile data and make the available in a timely manner and in an agreed format to all interested

States under the terms and conditions established by the organization or arrangement; and

- (f) scientists of the flag State and from the relevant subregional or regional fisheries management organization or arrangement should analyse the data separately or jointly, as appropriate.

Article 3 (Basic fishery data) 1. States shall collect and make available to the relevant subregional or regional fisheries management organization or arrangement the following types of data in sufficient detail to facilitate effective stock assessment in accordance with agreed procedures:

- (a) time series of catch and effort statistics by fishery and fleet;
- (b) total catch in number, nominal weight, or both, by species (both target and non-target) as is appropriate to each fishery. [Nominal weight is defined by the Food and Agriculture Organization of the United Nations as the live-weight equivalent of the landings];
- (c) discard statistics, including estimates where necessary, reported as number or nominal weight by species, as is appropriate to each fishery;
- (d) effort statistics appropriate to each fishing method; and
- (e) fishing location, date and time fished and other statistics on fishing operations as appropriate.

2. States shall also collect where appropriate and provide to the relevant subregional or regional fisheries management organization or arrangement information to support stock assessment, including:

- (a) composition of the catch according to length, weight and sex;
- (b) other biological information supporting stock assessments, such as information on age, growth, recruitment, distribution and stock identity; and
- (c) other relevant research, including surveys of abundance, biomass surveys, hydro-acoustic surveys, research on environmental factors affecting stock abundance, and oceanographic and ecological studies.

Article 4 (Vessel data and information) 1. States should collect the following types of vessel-related data for standardizing fleet composition

and vessel fishing power and for converting between different measures of effort in the analysis of catch and effort data:

- (a) vessel identification, flag and port of registry;
- (b) vessel type;
- (c) vessel specifications (e.g., material of construction, date built, registered length, gross registered tonnage, power of main engines, hold capacity and catch storage methods); and
- (d) fishing gear description (e.g., types, gear specifications and quantity).

2. The flag State will collect the following information:

- (a) navigation and position fixing aids;
- (b) communication equipment and international radio call sign; and
- (c) crew size.

Article 5 (Reporting) A State shall ensure that vessels flying its flag send to its national fisheries administration and, where agreed, to the relevant subregional or regional fisheries management organization or arrangement, logbook data on catch and effort, including data on fishing operations on the high seas, at sufficiently frequent intervals to meet national requirements and regional and international obligations. Such data shall be transmitted, where necessary, by radio, telex, facsimile or satellite transmission or by other means.

Article 6 (Data verification) States or, as appropriate, subregional or regional fisheries management organizations or arrangements should establish mechanisms for verifying fishery data, such as:

- (a) position verification through vessel monitoring systems;
- (b) scientific observer programmes to monitor catch, effort, catch composition (target and non-target) and other details of fishing operations;
- (c) vessel trip, landing and transshipment reports; and
- (d) port sampling.

Article 7 (Data exchange) 1. Data collected by flag States must be shared with other flag States and relevant coastal States through appropriate subregional or regional fisheries management organizations or arrange-

ments. Such organizations or arrangements shall compile data and make them available in a timely manner and in an agreed format to all interested States under the terms and conditions established by the organization or arrangement, while maintaining confidentiality of non-aggregated data, and should, to the extent feasible, develop database systems which provide efficient access to data.

2. At the global level, collection and dissemination of data should be effected through the Food and Agriculture Organization of the United Nations. Where a subregional or regional fisheries management organization or arrangement does not exist, that organization may also do the same at the subregional or regional level by arrangement with the States concerned

ANNEX GUIDELINES FOR THE APPLICATION OF PRECAUTIONARY REFERENCE POINTS IN CONSERVATION AND MANAGEMENT OF STRADDLING FISH STOCKS AND HIGHLY MIGRATORY FISH STOCKS

1. A precautionary reference point is an estimated value derived through an agreed scientific procedure, which corresponds to the state of the resource and of the fishery, and which can be used as a guide for fisheries management.
2. Two types of precautionary reference points should be used: conservation, or limit, reference points and management, or target, reference points. Limit reference points set boundaries which are intended to constrain harvesting within safe biological limits within which the stocks can produce maximum sustainable yield. Target reference points are intended to meet management objectives.
3. Precautionary reference points should be stock-specific to account, inter alia, for the reproductive capacity, the resilience of each stock and the characteristics of fisheries exploiting the stock, as well as other sources of

mortality and major sources of uncertainty.

4. Management strategies shall seek to maintain or restore populations of harvested stocks, and where necessary associated or dependent species, at levels consistent with previously agreed precautionary reference points. Such reference points shall be used to trigger pre-agreed conservation and management action. Management strategies shall include measures which can be implemented when precautionary reference points are approached.
5. Fishery management strategies shall ensure that the risk of exceeding limit reference points is very low. If a stock falls below a limit reference point or is at risk of falling below such a reference point, conservation and management action should be initiated to facilitate stock recovery. Fishery management strategies shall ensure that target reference points are not exceeded on average.
6. When information for determining reference points for a fishery is poor or absent, provisional reference points shall be set. Provisional reference points may be established by analogy to similar and better-known stocks. In such situations, the fishery shall be subject to enhanced monitoring so as to enable revision of provisional reference points as improved information becomes available.
7. The fishing mortality rate which generates maximum sustainable yield should be regarded as a minimum standard for limit reference points. For stocks which are not overfished, fishery management strategies shall ensure that fishing mortality does not exceed that which corresponds to maximum sustainable yield, and that the biomass does not fall below a predefined threshold. For overfished stocks, the biomass which would produce maximum sustainable yield can serve as a rebuilding target.

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AGREEMENT TO PROMOTE COMPLIANCE WITH INTERNATIONAL CONSERVATION AND MANAGEMENT MEASURES BY FISHING VESSELS ON THE HIGH SEAS

PREAMBLE

The Parties to this Agreement,

Recognizing that all States have the right for their nationals to engage in fishing on the high seas, subject to the relevant rules of international law, as reflected in the United Nations Convention on the Law of the Sea,

Further recognizing that, under international law as reflected in the United Nations Convention on the Law of the Sea, all States have the duty to take, or to cooperate with other States in taking, such measures for their respective nationals as may be necessary for the conservation of the living resources of the high seas,

Acknowledging the right and interest of all States to develop their fishing sectors in accordance with their national policies, and the need to promote cooperation with developing countries to enhance their capabilities to fulfil their obligations under this Agreement,

Recalling that Agenda 21, adopted by the United Nations Conference on Environment and Development, calls upon States to take effective action, consistent with international law, to deter reflagging of vessels by their nationals as a means of avoiding compliance with applicable conservation and management rules for fishing activities on the high seas,

Further recalling that the Declaration of Cancun, adopted by the International Conference on Responsible Fishing, also calls on States to take

action in this respect,

Bearing in mind that under Agenda 21, States commit themselves to the conservation and sustainable use of marine living resources on the high seas,

Calling upon States which do not participate in global, regional or subregional fisheries organizations or arrangements to join or, as appropriate, to enter into understandings with such organizations or with parties to such organizations or arrangements with a view to achieving compliance with international conservation and management measures,

Conscious of the duties of every State to exercise effectively its jurisdiction and control over vessels flying its flag, including fishing vessels and vessels engaged in the transshipment of fish,

Mindful that the practice of flagging or reflagging fishing vessels as a means of avoiding compliance with international conservation and management measures for living marine resources, and the failure of flag States to fulfil their responsibilities with respect to fishing vessels entitled to fly their flag, are among the factors that seriously undermine the effectiveness of such measures,

Realizing that the objective of this Agreement can be achieved through specifying flag States' responsibility in respect of fishing vessels entitled to fly their flags and operating on the high seas, including the authorization by the flag State of such operations, as well as through strengthened international cooperation and increased transparency through the exchange of information on high seas fishing,

Noting that this Agreement will form an integral part of the International Code of Conduct for Responsible Fishing called for in the Declaration of Cancun,

Desiring to conclude an international agreement within the framework of the Food and Agriculture Organization of the United Nations, hereinafter referred to as FAO, under Article XI of the FAO Constitution,

Have agreed as follows:

Article (DEFINITIONS) For the purposes of this Agreement:

- (a) “fishing vessel” means any vessel used or intended for use for the purposes of the commercial exploitation of living marine resources, including mother ships and any other vessels directly engaged in such fishing operations;
- (b) “international conservation and management measures” means measures to conserve or manage one or more species of living marine resources that are adopted and applied in accordance with the relevant rules of international law as reflected in the 1982 United Nations Convention on the Law of the Sea. Such measures may be adopted either by global, regional or subregional fisheries organizations, subject to the rights and obligations of their members, or by treaties or other international agreements;
- (c) “length” means
 - () for any fishing vessel built after 18 July 1982, 96 percent of the total length on a waterline at 85 percent of the least moulded depth measured from the top of the keel, or the length from the foreside of the stem to the axis of the rudder stock on that waterline, if that be greater. In ships designed with a rake of keel the waterline on which this length is measured shall be parallel to the designed waterline;
 - () for any fishing vessel built before 18 July 1982, registered length as entered on the national register or other record of vessels;
- (d) “record of fishing vessels” means a record of fishing vessels in which are recorded pertinent details of the fishing vessel. It may constitute a separate record for fishing vessels or form part of a general record of vessels;
- (e) “regional economic integration organization” means a regional economic integration organization to which its member States have transferred competence over matters covered by this Agreement, including the authority to make decisions binding on its member States in respect of those matters;
- (f) “vessels entitled to fly its flag” and “vessels entitled to fly the flag of

a State”, includes vessels entitled to fly the flag of a member State of a regional economic integration organization.

Article (APPLICATION) 1. Subject to the following paragraphs of this Article, this Agreement shall apply to all fishing vessels that are used or intended for fishing on the high seas.

2. A Party may exempt fishing vessels of less than 24 metres in length entitled to fly its flag from the application of this Agreement unless the Party determines that such an exemption would undermine the object and purpose of this Agreement, provided that such exemptions:

- (a) shall not be granted in respect of fishing vessels operating in fishing regions referred to in paragraph 3 below, other than fishing vessels that are entitled to fly the flag of a coastal State of that fishing region; and
- (b) shall not apply to the obligations undertaken by a Party under paragraph 1 of Article III, or paragraph 7 of Article VI of this Agreement.

3. Without prejudice to the provisions of paragraph 2 above, in any fishing region where bordering coastal States have not yet declared exclusive economic zones, or equivalent zones of national jurisdiction over fisheries, such coastal States as are Parties to this Agreement may agree, either directly or through appropriate regional fisheries organizations, to establish a minimum length of fishing vessels below which this Agreement shall not apply in respect of fishing vessels flying the flag of any such coastal State and operating exclusively in such fishing region.

Article (FLAG STATE RESPONSIBILITY) 1. (a) Each Party shall take such measures as may be necessary to ensure that fishing vessels entitled to fly its flag do not engage in any activity that undermines the effectiveness of international conservation and management measures.

(b) In the event that a Party has, pursuant to paragraph 2 of Article II, granted an exemption for fishing vessels of less than 24 metres in length entitled to fly its flag from the application of other provisions

of this Agreement, such Party shall nevertheless take effective measures in respect of any such fishing vessel that undermines the effectiveness of international conservation and management measures. These measures shall be such as to ensure that the fishing vessel ceases to engage in activities that undermine the effectiveness of the international conservation and management measures.

2. In particular, no Party shall allow any fishing vessel entitled to fly its flag to be used for fishing on the high seas unless it has been authorized to be so used by the appropriate authority or authorities of that Party. A fishing vessel so authorized shall fish in accordance with the conditions of the authorization.
3. No Party shall authorize any fishing vessel entitled to fly its flag to be used for fishing on the high seas unless the Party is satisfied that it is able, taking into account the links that exist between it and the fishing vessel concerned, to exercise effectively its responsibilities under this Agreement in respect of that fishing vessel.
4. Where a fishing vessel that has been authorized to be used for fishing on the high seas by a Party ceases to, be entitled to fly the flag of that Party, the authorization to fish on the high seas shall be deemed to have been cancelled.
5. (a) No Party shall authorize any fishing vessel previously registered in the territory of another Party that has undermined the effectiveness of international conservation and management measures to be used for fishing on the high seas, unless it is satisfied that
 - () any period of suspension by another Party of an authorization for such fishing vessel to be used for fishing on the high seas has expired; and
 - () no authorization for such fishing vessel to be used for fishing on the high seas has been withdrawn by another Party within the last three years.
- (b) The provisions of subparagraph (a) above shall also apply in respect of fishing vessels previously registered in the territory of a State

which is not a Party to this Agreement, provided that sufficient information is available to the Party concerned on the circumstances in which the authorization to fish was suspended or withdrawn.

- (c) The provisions of subparagraphs (a) and (b) shall not apply where the ownership of the fishing vessel has subsequently changed, and the new owner has provided sufficient evidence demonstrating that the previous owner or operator has no further legal, beneficial or financial interest in, or control of fishing vessel.
 - (d) Notwithstanding the provisions of subparagraphs (a) and (b) above, a Party may authorize a fishing vessel, to which those subparagraphs would otherwise apply, to be used for fishing on the high seas, where the Party concerned, after having taken into account all relevant facts, including the circumstances in which the fishing authorization has been withdrawn by the other Party or State, has determined that to grant an authorization to use the vessel for fishing on the high seas would not undermine the object and purpose of this Agreement.
6. Each party shall ensure that all fishing entitled to fly its flag that it has entered in the record maintained under Article IV are marked in such a way that they can be readily identified in accordance with generally accepted standards, such as the FAO Standard Specifications for the Marking and Identification of Fishing Vessels.
 7. Each Party shall ensure that each fishing vessel entitled to fly its flag shall provide it with such information on its operations as may be necessary to enable the Party to fulfil its obligations under this Agreement, including in particular information pertaining to the area of its fishing operations and to its catches and landings.
 8. Each Party shall take enforcement measures in respect of fishing vessels entitled to fly its flag which act in contravention of the provisions of this Agreement, including, where appropriate, making the contravention of such provisions an offence under national legislation. Sanctions applicable in respect of such contraventions shall be of sufficient gravity as to be

effective in securing compliance with the requirements of this Agreement and to deprive offenders of the benefits accruing from their illegal activities. Such sanctions shall, for serious offences, include refusal, suspension or withdrawal of the authorization to fish on the high seas.

Article (RECORDS OF FISHING VESSELS) Each Party shall, for the purposes of this Agreement, maintain a record of fishing vessels entitled to fly its flag and authorized to be used for fishing on the high seas, and shall take such measures as may be necessary to ensure that all such fishing vessels are entered in that record.

Article (INTERNATIONAL COOPERATION) 1. The Parties shall cooperate as appropriate in the implementation of this Agreement, and shall, in particular, exchange information, including evidentiary material, relating to activities of fishing vessels in order to assist the flag State in identifying those fishing vessels flying its flag reported to have engaged in activities undermining international conservation and management measures, so as to fulfil its obligations under Article .

2. When a fishing vessel is voluntarily in the port of a Party other than its flag State, that Party, where it has reasonable grounds for believing that the fishing vessel has been used for an activity that undermines the effectiveness of international conservation and management measures, shall promptly notify the flag State accordingly. Parties may make arrangements regarding the undertaking by port States of such investigatory measures as may be considered necessary to establish whether the fishing vessel has indeed been used contrary to the provisions of this Agreement.

3. The Parties shall, when and as appropriate, enter into cooperative agreements or arrangements of mutual assistance on a global, regional, subregional or bilateral basis so as to promote the achievement of the objectives of this Agreement.

Article (EXCHANGE OF INFORMATION) 1. Each Party shall make readily available to FAO the following information with respect to each fishing vessel entered in the record required to be maintained under

Article :

- (a) name of fishing vessel, registration number, previous names (if known), and port of registry;
 - (b) previous flag (if any);
 - (c) International Radio Call Sign (if any);
 - (d) name and address of owner or owners;
 - (e) where and when built;
 - (f) type of vessel;
 - (g) length.
2. Each Party shall, to the extent practicable, make available to FAO the following additional information with respect to each fishing vessel entered in the record required to be maintained under Article :
- (a) name and address of operator (manager) or operators (managers) (if any);
 - (b) type of fishing method or methods;
 - (c) moulded depth;
 - (d) beam;
 - (e) gross register tonnage;
 - (f) power of main engine or engines.
3. Each Party shall promptly notify to FAO any modifications to the information listed in paragraphs 1 and 2 of this Article.
4. FAO shall circulate periodically the information provided under paragraphs 1, 2, and 3 of this Article to all Parties, and, on request, individually to any Party. FAO shall also, subject to any restrictions imposed by the Party concerned regarding the distribution of information, provide such information on request individually to any global, regional or subregional fisheries organization.
5. Each Party shall also promptly inform FAO of -
- (a) any additions to the record;
 - (b) any deletions from the record by reason of -
 - () the voluntary relinquishment or non-renewal of the fishing authorization by the fishing vessel owner or operator;

- () the withdrawal of the fishing authorization issued in respect of the fishing vessel under paragraph 8 of Article III;
 - () the fact that the fishing vessel concerned is no longer entitled to fly its flag;
 - () the scrapping, decommissioning or loss of the fishing vessel concerned; or
 - () any other reason.
6. Where information is given to FAO under paragraph 5 (b) above, the Party concerned shall specify which of the reasons listed in that paragraph is applicable.
7. Each Party shall inform FAO of
- (a) any exemption it has granted under paragraph 2 of Article II, the number and type of fishing vessel involved and the geographical areas in which such fishing vessels operate; and
 - (b) any agreement reached under paragraph 3 of Article .
8. (a) Each Party shall report promptly to FAO all relevant information regarding any activities of fishing vessels flying its flag that undermine the effectiveness of international conservation and management measures, including the identity of the fishing vessel or vessels involved and measures imposed by the Party in respect of such activities. Reports on measures imposed by a Party may be subject to such limitations as may be required by national legislation with respect to confidentiality, including, in particular, confidentiality regarding measures that are not yet final.
- (b) Each Party, where it has reasonable grounds to believe that a fishing vessel not entitled to fly its flag has engaged in any activity that undermines the effectiveness of international conservation and management measures, shall draw this to the attention of the flag State concerned and may, as appropriate, draw it to the attention of FAO. It shall provide the flag State with full supporting evidence and may provide FAO with a summary of such evidence, FAO shall not circulate such information until such time as the flag State has

had an opportunity to comment on the allegation and evidence submitted, or to object as the case may be.

9. Each Party shall inform FAO of any cases where the Party, pursuant to paragraph 5 (d) of Article , has granted an authorization notwithstanding the provisions of paragraph 5 (a) or 5 (b) of Article . The information shall include pertinent data permitting the identification of the fishing vessel and the owner or operator and, as appropriate, any other information relevant to the Party's decision.
10. FAO shall circulate promptly the information provided under paragraphs 5, 6, 7, 8 and 9 of this Article to all Parties, and, on request, individually to any Party. FAO shall also, subject to any restrictions imposed by the Party concerned regarding the distribution of information, provide such information promptly on request individually to any global, regional or subregional fisheries organization.
11. The Parties shall exchange information relating to the implementation of this Agreement, including through FAO and other appropriate global, regional and subregional fisheries organizations.

Article (COOPERATION WITH DEVELOPING COUNTRIES) The Parties shall cooperate, at a global, regional, subregional or bilateral level, and, as appropriate, with the support of FAO and other international or regional organizations, to provide assistance, including technical assistance, to Parties that are developing countries in order to assist them in fulfilling their obligations under this Agreement.

Article (NON-PARTIES) 1. The Parties shall encourage any State not party to this Agreement to accept this Agreement and shall encourage any non-Party to adopt laws and regulations consistent with the provisions of this Agreement.

2. The Parties shall cooperate in a manner consistent with this Agreement and with international law to the end that fishing vessels entitled to fly the flags of non-Parties do not engage in activities that undermine the effectiveness of international conservation and management measures.
3. The Parties shall exchange information amongst themselves, either

directly or through FAO, with respect to activities of fishing vessels flying the flags of non-Parties that undermine the effectiveness of international conservation and management measures.

Article (SETTLEMENT OF DISPUTES) 1. Any Party may seek consultations with any other Party or Parties on any dispute with regard to the interpretation or application of the provisions of this Agreement with a view to reaching a mutually satisfactory solution as soon as possible.

2. In the event that the dispute is not resolved through these consultations within a reasonable period of time, the Parties in question shall consult among themselves as soon as possible with a view to having the dispute settled by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement or other peaceful means of their own choice.

3. Any dispute of this character not so resolved shall, with the consent of all Parties to the dispute, be referred for settlement to the International Court of Justice, to the International Tribunal for the Law of the Sea upon entry into force of the 1982 United Nations Convention on the Law of the Sea or to arbitration. In the case of failure to reach agreement on referral to the International Court of Justice, to the International Tribunal for the Law of the Sea or to arbitration, the Parties shall continue to consult and cooperate with a view to reaching settlement of the dispute in accordance with the rules of international law relating to the conservation of living marine resources.

Article (ACCEPTANCE) 1. This Agreement shall be open to acceptance by any Member or Associate Member of FAO, and to any non-member State that is a member of the United Nations, or of any of the specialized agencies of the United Nations or of the International Atomic Energy Agency.

2. Acceptance of this Agreement shall be effected by the deposit of an instrument of acceptance with the Director-General of FAO, hereinafter referred to as the Director-General.

3. The Director-General shall inform all Parties, all Members and Associate Members of FAO and the Secretary-General of the United

Nations of all instruments of acceptance received.

4. When a regional economic integration organization becomes a Party to this Agreement, such regional economic integration organization shall, in accordance with the provisions of Article .7 of the FAO Constitution, as appropriate, notify such modifications or clarifications to its declaration of competence submitted under Article .5 of the FAO Constitution as may be necessary in light of its acceptance of this Agreement. Any Party to this Agreement may, at any time, request a regional economic integration organization that is a Party to this Agreement to provide information as to which, as between the regional economic integration organization and its Member States, is responsible for the implementation of any particular matter covered by this Agreement. The regional economic integration organization shall provide this information within a reasonable time.

Article XI (ENTRY INTO FORCE) 1. This Agreement shall enter into force as from the date of receipt by the Director-General of the twenty-fifth instrument of acceptance.

2. For the purpose of this Article, an instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such an organization.

Article XII (RESERVATIONS) Acceptance of this Agreement may be made subject to reservations which shall become effective only upon unanimous acceptance by all Parties to this Agreement. The Director-General shall notify forthwith all Parties of any reservation. Parties not having replied within three months from the date of the notification shall be deemed to have accepted the reservation. Failing such acceptance, the State or regional economic integration organization making the reservation shall not become a Party to this Agreement.

Article (AMENDMENTS) 1. Any proposal by a Party for the amendment of this Agreement shall be communicated to the Director-General.

2. Any proposed amendment of this Agreement received by the Director-General from a Party shall be presented to a regular or special session

of the Conference for approval and, if the amendment involves important technical changes or imposes additional obligations on the Parties, it shall be considered by an advisory committee of specialists convened by FAO prior to the Conference.,

3. Notice of any proposed amendment of this Agreement shall be transmitted to the Parties by the Director-General not later than the time when the agenda of the session of the Conference at which the matter is to be considered is dispatched.
4. Any such proposed amendment of this Agreement shall require the approval of the Conference and shall come into force as from the thirtieth day after acceptance by two-thirds of the Parties. Amendments involving new obligations for Parties, however, shall come into force in respect of each Party only on acceptance by it and as from the thirtieth day after such acceptance. Any amendment shall be deemed to involve new obligations for Parties unless the Conference, in approving the amendment, decides otherwise by consensus.
5. The instruments of acceptance of amendments involving new obligations shall be deposited with the Director-General, who shall inform all Parties of the receipt of acceptance and the entry into force of amendments.
6. For the purpose of this Article, an instrument deposited by a regional economic integration organization shall not be counted as additional to those deposited by member States of such an organization.

Article XI (WITHDRAWAL) Any Party may withdraw from this Agreement at any time after the expiry of two years from the date upon which the Agreement entered into force with respect to that Party, by giving written notice of such withdrawal to the Director-General who shall immediately inform all the Parties and the Members and Associate Members of FAO of such withdrawal. Withdrawal shall become effective at the end of the calendar year following that in which the notice of withdrawal has been received by the Director-General.

Article (DUTIES OF THE DEPOSITARY) The Director-General shall be the Depositary of this Agreement. The Depositary shall:

- (a) send certified copies of this Agreement to each Member and Associate Member of FAO and to such non-member States as may become party to this Agreement;
- (b) arrange for the registration of this Agreement, upon its entry into force, with the +Secretariat of the United Nations in accordance with Article 102 of the Charter of the United Nations;
- (c) inform each Member and Associate Member of FAO and any non-member States as may become Party to this Agreement of:
 - () instruments of acceptance deposited in accordance with Article ;
 - () the date of entry into force of this Agreement in accordance with Article XI;
 - () proposals for and the entry into force of amendments to this Agreement in accordance with Article ;
 - () withdrawals from this Agreement pursuant to Article XI .

Article (AUTHENTIC TEXTS) The Arabic, Chinese, English, French, and Spanish texts of this Agreement are equally authentic.

CONVENTION ON THE CONSERVATION AND MANAGEMENT OF HIGHLY MIGRATORY FISH STOCKS IN THE WESTERN AND CENTRAL PACIFIC OCEAN
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The Contracting Parties to this Convention,

Determined to ensure the long-term conservation and sustainable use, in particular for human food consumption, of highly migratory fish stocks in the western and central Pacific Ocean for present and future generations,

Recalling the relevant provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 and 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,

Recognizing that, under the 1982 Convention and the Agreement, coastal States and States fishing in the region shall cooperate with a view to ensuring conservation and promoting the objective of optimum utilization of highly migratory fish stocks throughout their range,

Mindful that effective conservation and management measures require the application of the precautionary approach and the best scientific information available,

Conscious of the need to avoid adverse impacts on the marine environment, preserve biodiversity, maintain the integrity of marine ecosystems and minimize the risk of long-term or irreversible effects of fishing operations,

Recognizing the ecological and geographical vulnerability of the small island developing States, territories and possessions in the region, their economic and social dependence on highly migratory fish stocks, and their

need for specific assistance, including financial, scientific and technological assistance, to allow them to participate effectively in the conservation, management and sustainable use of the highly migratory fish stocks,

Further recognizing that smaller island developing States have unique needs which require special attention and consideration in the provision of financial, scientific and technological assistance,

Acknowledging that compatible, effective and binding conservation and management measures can be achieved only through cooperation between coastal States and States fishing in the region,

Convinced that effective conservation and management of the highly migratory fish stocks of the western and central Pacific Ocean in their entirety may best be achieved through the establishment of a regional Commission,

Have agreed as follows:

PART I GENERAL PROVISIONS

Article 1 (Use of terms) For the purposes of this Convention:

- (a) "1982 Convention" means the United Nations Convention on the Law of the Sea of 10 December 1982;
- (b) "Agreement" means 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;
- (c) "Commission" means the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean established in accordance with this Convention;
- (d) "fishing" means:
 - () searching for, catching, taking or harvesting fish;
 - () attempting to search for, catch, take or harvest fish;
 - () engaging in any other activity which can reasonably be expected to

result in the locating, catching, taking or harvesting of fish for any purpose;

- () placing, searching for or recovering fish aggregating devices or associated electronic equipment such as radio beacons;
- () any operations at sea directly in support of, or in preparation for, any activity described in subparagraphs (i) to (iv), including transshipment;
- () use of any other vessel, vehicle, aircraft or hovercraft, for any activity described in subparagraphs (i) to (v) except for emergencies involving the health and safety of the crew or the safety of a vessel;

- (e) “fishing vessel” means any vessel used or intended for use for the purpose of fishing, including support ships, carrier vessels and any other vessel directly involved in such fishing operations;
- (f) “highly migratory fish stocks” means all fish stocks of the species listed in Annex 1 of the 1982 Convention occurring in the Convention Area, and such other species of fish as the Commission may determine;
- (g) “regional economic integration organization” means a regional economic integration organization to which its member States have transferred competence over matters covered by this Convention, including the authority to make decisions binding on its member States in respect of those matters;
- (h) “transshipment” means the unloading of all or any of the fish on board a fishing vessel to another fishing vessel either at sea or in port.

Article 2(Objective) The objective of this Convention is to ensure, through effective management, the long-term conservation and sustainable use of highly migratory fish stocks in the western and central Pacific Ocean in accordance with the 1982 Convention and the Agreement.

Article 3(Area of application) 1. Subject to article 4, the area of competence of the Commission (hereinafter referred to as “the Convention Area”) comprises all waters of the Pacific Ocean bounded to the south and

to the east by the following line:

From the south coast of Australia due south along the 141° meridian of east longitude to its intersection with the 55° parallel of south latitude; thence due east along the 55° parallel of south latitude to its intersection with the 150° meridian of east longitude; thence due south along the 150° meridian of east longitude to its intersection with the 60° parallel of south latitude; thence due east along the 60° parallel of south latitude to its intersection with the 130° meridian of west longitude; thence due north along the 130° meridian of west longitude to its intersection with the 4° parallel of south latitude; thence due west along the 4° parallel of south latitude to its intersection with the 150° meridian of west longitude; thence due north along the 150° meridian of west longitude.

2. Nothing in this Convention shall constitute recognition of the claims or positions of any of the members of the Commission concerning the legal status and extent of waters and zones claimed by any such members.
3. This Convention applies to all stocks of highly migratory fish within the Convention Area except sauries. Conservation and management measures under this Convention shall be applied throughout the range of the stocks, or to specific areas within the Convention Area, as determined by the Commission.

Article 4 (Relationship between this Convention and the 1982 Convention) Nothing in this Convention shall prejudice the rights, jurisdiction and duties of States under the 1982 Convention and the Agreement. This Convention shall be interpreted and applied in the context of and in a manner consistent with the 1982 Convention and the Agreement.

PART CONSERVATION AND MANAGEMENT OF HIGHLY MIGRATORY FISH STOCKS

Article 5 (Principles and measures for conservation and manage-

ment) In order to conserve and manage highly migratory fish stocks in the Convention Area in their entirety, the members of the Commission shall, in giving effect to their duty to cooperate in accordance with the 1982 Convention, the Agreement and this Convention:

- (a) adopt measures to ensure long-term sustainability of highly migratory fish stocks in the Convention Area and promote the objective of their optimum utilization;
- (b) ensure that such measures are based on the best scientific evidence available and are designed to maintain or restore stocks at levels capable of producing maximum sustainable yield, as qualified by relevant environmental and economic factors, including the special requirements of developing States in the Convention Area, particularly small island developing States, and taking into account fishing patterns, the interdependence of stocks and any generally recommended international minimum standards, whether subregional, regional or global;
- (c) apply the precautionary approach in accordance with this Convention and all relevant internationally agreed standards and recommended practices and procedures;
- (d) assess the impacts of fishing, other human activities and environmental factors on target stocks, non-target species, and species belonging to the same ecosystem or dependent upon or associated with the target stocks;
- (e) adopt measures to minimize waste, discards, catch by lost or abandoned gear, pollution originating from fishing vessels, catch of non-target species, both fish and non-fish species, (hereinafter referred to as non-target species) and impacts on associated or dependent species, in particular endangered species and promote the development and use of selective, environmentally safe and cost-effective fishing gear and techniques;
- (f) protect biodiversity in the marine environment;
- (g) take measures to prevent or eliminate over-fishing and excess fishing

capacity and to ensure that levels of fishing effort do not exceed those commensurate with the sustainable use of fishery resources;

- (h) take into account the interests of artisanal and subsistence fishers;
- (i) collect and share, in a timely manner, complete and accurate data concerning fishing activities on, inter alia, vessel position, catch of target and non-target species and fishing effort, as well as information from national and international research programmes; and
- (j) implement and enforce conservation and management measures through effective monitoring, control and surveillance.

Article 6 (Application of the precautionary approach) 1. In applying the precautionary approach, the members of the Commission shall:

- (a) apply the guidelines set out in Annex II of the Agreement, which shall form an integral part of this Convention, and determine, on the basis of the best scientific information available, stock-specific reference points and the action to be taken if they are exceeded;
 - (b) take into account, inter alia, uncertainties relating to the size and productivity of the stocks, reference points, stock condition in relation to such reference points, levels and distributions of fishing mortality and the impact of fishing activities on non-target and associated or dependent species, as well as existing and predicted oceanic, environmental and socio-economic conditions; and
 - (c) develop data collection and research programmes to assess the impact of fishing on non-target and associated or dependent species and their environment, and adopt plans where necessary to ensure the conservation of such species and to protect habitats of special concern.
2. Members of the Commission shall be more cautious when information is uncertain, unreliable or inadequate. The absence of adequate scientific information shall not be used as a reason for postponing or failing to take conservation and management measures.
3. Members of the Commission shall take measures to ensure that, when reference points are approached, they will not be exceeded. In the event

they are exceeded, members of the Commission shall, without delay, take the action determined under paragraph 1(a) to restore the stocks.

4. Where the status of target stocks or non-target or associated or dependent species is of concern, members of the Commission shall subject such stocks and species to enhanced monitoring in order to review their status and the efficacy of conservation and management measures. They shall revise those measures regularly in the light of new information.
5. For new or exploratory fisheries, members of the Commission shall adopt as soon as possible cautious conservation and management measures, including, inter alia, catch limits and effort limits. Such measures shall remain in force until there are sufficient data to allow assessment of the impact of the fisheries on the long-term sustainability of the stocks, whereupon conservation and management measures based on that assessment shall be implemented. The latter measures shall, if appropriate, allow for the gradual development of the fisheries.
6. If a natural phenomenon has a significant adverse impact on the status of highly migratory fish stocks, members of the Commission shall adopt conservation and management measures on an emergency basis to ensure that fishing activity does not exacerbate such adverse impacts. Members of the Commission shall also adopt such measures on an emergency basis where fishing activity presents a serious threat to the sustainability of such stocks. Measures taken on an emergency basis shall be temporary and shall be based on the best scientific information available.

Article 7(Implementation of principles in areas under national jurisdiction) 1. The principles and measures for conservation and management enumerated in article 5 shall be applied by coastal States within areas under national jurisdiction in the Convention Area in the exercise of their sovereign rights for the purpose of exploring and exploiting, conserving and managing highly migratory fish stocks.

2. The members of the Commission shall give due consideration to the respective capacities of developing coastal States, in particular small

island developing States, in the Convention Area to apply the provisions of articles 5 and 6 within areas under national jurisdiction and their need for assistance as provided for in this Convention.

Article 8 (Compatibility of conservation and management measures)

1. Conservation and management measures established for the high seas and those adopted for areas under national jurisdiction shall be compatible in order to ensure conservation and management of highly migratory fish stocks in their entirety. To this end, the members of the Commission have a duty to cooperate for the purpose of achieving compatible measures in respect of such stocks.

2. In establishing compatible conservation and management measures for highly migratory fish stocks in the Convention Area, the Commission shall:

(a) take into account the biological unity and other biological characteristics of the stocks and the relationships between the distribution of the stocks, the fisheries and the geographical particularities of the region concerned, including the extent to which the stocks occur and are fished in areas under national jurisdiction;

(b) take into account:

() the conservation and management measures adopted and applied in accordance with article 61 of the 1982 Convention in respect of the same stocks by coastal States within areas under national jurisdiction and ensure that measures established in respect of such stocks for the Convention Area as a whole do not undermine the effectiveness of such measures;

() previously agreed measures established and applied in respect of the same stocks for the high seas which form part of the Convention Area by relevant coastal States and States fishing on the high seas in accordance with the 1982 Convention and the Agreement;

(c) take into account previously agreed measures established and applied in accordance with the 1982 Convention and the Agreement in

respect of the same stocks by a subregional or regional fisheries management organization or arrangement;

(d) take into account the respective dependence of the coastal States and the States fishing on the high seas on the stocks concerned; and

(e) ensure that such measures do not result in harmful impact on the living marine resources as a whole.

3. The coastal State shall ensure that the measures adopted and applied by it to highly migratory fish stocks within areas under its national jurisdiction do not undermine the effectiveness of measures adopted by the Commission under this Convention in respect of the same stocks.

4. Where there are areas of high seas in the Convention Area entirely surrounded by the exclusive economic zones of members of the Commission, the Commission shall, in giving effect to this article, pay special attention to ensuring compatibility between conservation and management measures established for such high seas areas and those established in respect of the same stocks in accordance with article 61 of the 1982 Convention by the surrounding coastal States in areas under national jurisdiction.

PART COMMISSION FOR THE CONSERVATION AND MANAGEMENT OF HIGHLY MIGRATORY FISH STOCKS IN THE WESTERN AND CENTRAL PACIFIC OCEAN

SECTION 1. GENERAL PROVISIONS

Article 9 (Establishment of the Commission) 1. There is hereby established the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, which shall function in accordance with the provisions of this Convention.

2. A fishing entity referred to in the Agreement, which has agreed to be

bound by the regime established by this Convention in accordance with the provisions of Annex I, may participate in the work, including decision-making, of the Commission in accordance with the provisions of this article and Annex I.

3. The Commission shall hold an annual meeting. The Commission shall hold such other meetings as may be necessary to carry out its functions under this Convention.
4. The Commission shall elect a chairman and a vice-chairman from among the Contracting Parties, who shall be of different nationalities. They shall be elected for a period of two years and shall be eligible for re-election. The chairman and vice-chairman shall remain in office until the election of their successors.
5. The principle of cost-effectiveness shall apply to the frequency, duration and scheduling of meetings of the Commission and its subsidiary bodies. The Commission may, where appropriate, enter into contractual arrangements with relevant institutions to provide expert services necessary for the efficient functioning of the Commission and to enable it to carry out effectively its responsibilities under this Convention.
6. The Commission shall have international legal personality and such legal capacity as may be necessary to perform its functions and achieve its objectives. The privileges and immunities which the Commission and its officers shall enjoy in the territory of a Contracting Party shall be determined by agreement between the Commission and the member concerned.
7. The Contracting Parties shall determine the location of the headquarters of the Commission and shall appoint its Executive Director.
8. The Commission shall adopt, and amend as required, by consensus, rules of procedure for the conduct of its meetings, including meetings of its subsidiary bodies, and for the efficient exercise of its functions.

Article 10 (Functions of the Commission) 1. Without prejudice to the sovereign rights of coastal States for the purpose of exploring and exploiting, conserving and managing highly migratory fish stocks within

areas under national jurisdiction, the functions of the Commission shall be to:

- (a) determine the total allowable catch or total level of fishing effort within the Convention Area for such highly migratory fish stocks as the Commission may decide and adopt such other conservation and management measures and recommendations as may be necessary to ensure the long-term sustainability of such stocks;
- (b) promote cooperation and coordination between members of the Commission to ensure that conservation and management measures for highly migratory fish stocks in areas under national jurisdiction and measures for the same stocks on the high seas are compatible;
- (c) adopt, where necessary, conservation and management measures and recommendations for non-target species and species dependent on or associated with the target stocks, with a view to maintaining or restoring populations of such species above levels at which their reproduction may become seriously threatened;
- (d) adopt standards for collection, verification and for the timely exchange and reporting of data on fisheries for highly migratory fish stocks in the Convention Area in accordance with Annex I of the Agreement, which shall form an integral part of this Convention;
- (e) compile and disseminate accurate and complete statistical data to ensure that the best scientific information is available, while maintaining confidentiality, where appropriate;
- (f) obtain and evaluate scientific advice, review the status of stocks, promote the conduct of relevant scientific research and disseminate the results thereof;
- (g) develop, where necessary, criteria for the allocation of the total allowable catch or the total level of fishing effort for highly migratory fish stocks in the Convention Area;
- (h) adopt generally recommended international minimum standards for the responsible conduct of fishing operations;
- (i) establish appropriate cooperative mechanisms for effective monitoring,

control, surveillance and enforcement, including a vessel monitoring system;

- (j) obtain and evaluate economic and other fisheries-related data and information relevant to the work of the Commission;
 - (k) agree on means by which the fishing interests of any new member of the Commission may be accommodated;
 - (l) adopt its rules of procedure and financial regulations and such other internal administrative regulations as may be necessary to carry out its functions;
 - (m) consider and approve the proposed budget of the Commission;
 - (n) promote the peaceful settlement of disputes; and
 - (o) discuss any question or matter within the competence of the Commission and adopt any measures or recommendations necessary for achieving the objective of this Convention.
2. In giving effect to paragraph 1, the Commission may adopt measures relating to, *inter alia*:
- (a) the quantity of any species or stocks which may be caught;
 - (b) the level of fishing effort;
 - (c) limitations of fishing capacity, including measures relating to fishing vessel numbers, types and sizes;
 - (d) the areas and periods in which fishing may occur;
 - (e) the size of fish of any species which may be taken;
 - (f) the fishing gear and technology which may be used; and
 - (g) particular subregions or regions.
3. In developing criteria for allocation of the total allowable catch or the total level of fishing effort the Commission shall take into account, *inter alia*:
- (a) the status of the stocks and the existing level of fishing effort in the fishery;
 - (b) the respective interests, past and present fishing patterns and fishing practices of participants in the fishery and the extent of the catch being utilized for domestic consumption;

- (c) the historic catch in an area;
 - (d) the needs of small island developing States, and territories and possessions, in the Convention Area whose economies, food supplies and livelihoods are overwhelmingly dependent on the exploitation of marine living resources;
 - (e) the respective contributions of participants to conservation and management of the stocks, including the provision by them of accurate data and their contribution to the conduct of scientific research in the Convention Area;
 - (f) the record of compliance by the participants with conservation and management measures;
 - (g) the needs of coastal communities which are dependent mainly on fishing for the stocks;
 - (h) the special circumstances of a State which is surrounded by the exclusive economic zones of other States and has a limited exclusive economic zone of its own;
 - (i) the geographical situation of a small island developing State which is made up of non-contiguous groups of islands having a distinct economic and cultural identity of their own but which are separated by areas of high seas;
 - (j) the fishing interests and aspirations of coastal States, particularly small island developing States, and territories and possessions, in whose areas of national jurisdiction the stocks also occur.
4. The Commission may adopt decisions relating to the allocation of the total allowable catch or the total level of fishing effort. Such decisions, including decisions relating to the exclusion of vessel types, shall be taken by consensus.
5. The Commission shall take into account the reports and any recommendations of the Scientific Committee and the Technical and Compliance Committee on matters within their respective areas of competence.
6. The Commission shall promptly notify all members of the measures and recommendations decided upon by the Commission and shall give due

publicity to the conservation and management measures adopted by it.

Article 11(Subsidiary bodies of the Commission) 1. There are hereby established as subsidiary bodies to the Commission a Scientific Committee and a Technical and Compliance Committee to provide advice and recommendations to the Commission on matters within their respective areas of competence.

2. Each member of the Commission shall be entitled to appoint one representative to each Committee who may be accompanied by other experts and advisers. Such representatives shall have appropriate qualifications or relevant experience in the area of competence of the Committee.
3. Each Committee shall meet as often as is required for the efficient exercise of its functions, provided that each Committee shall, in any event, meet prior to the annual meeting of the Commission and shall report to the annual meeting the results of its deliberations.
4. Each Committee shall make every effort to adopt its reports by consensus. If every effort to achieve consensus has failed, the report shall indicate the majority and minority views and may include the differing views of the representatives of the members on all or any part of the report.
5. In the exercise of their functions, each Committee may, where appropriate, consult any other fisheries management, technical or scientific organization with competence in the subject matter of such consultation and may seek expert advice as required on an ad hoc basis.
6. The Commission may establish such other subsidiary bodies as it deems necessary for the exercise of its functions, including working groups for the purpose of examining technical issues relating to particular species or stocks and reporting thereon to the Commission.
7. The Commission shall establish a committee to make recommendations on the implementation of such conservation and management measures as may be adopted by the Commission for the area north of the 20 ° parallel of north latitude and on the formulation of such measures in

respect of stocks which occur mostly in this area. The committee shall include the members situated in such area and those fishing in the area. Any member of the Commission not represented on the committee may send a representative to participate in the deliberations of the committee as an observer. Any extraordinary cost incurred for the work of the committee shall be borne by the members of the committee. The committee shall adopt recommendations to the Commission by consensus. In adopting measures in relation to particular stocks and species in such area, the decision of the Commission shall be based on any recommendations of the committee. Such recommendations shall be consistent with the general policies and measures adopted by the Commission in respect of the stocks or species in question and with the principles and measures for conservation and management set out in this Convention. If the Commission, in accordance with the rules of procedure for decision-making on matters of substance, does not accept the recommendation of the committee on any matter, it shall return the matter to the committee for further consideration. The committee shall reconsider the matter in the light of the views expressed by the Commission.

SECTION 2. SCIENTIFIC INFORMATION AND ADVICE

Article 12 (Functions of the Scientific Committee) 1. The Scientific Committee is established to ensure that the Commission obtains for its consideration the best scientific information available.

2. The functions of the Committee shall be to:

- (a) recommend to the Commission a research plan, including specific issues and items to be addressed by the scientific experts or by other organizations or individuals, as appropriate, and identify data needs and coordinate activities that meet those needs;
- (b) review the assessments, analyses, other work and recommendations prepared for the Commission by the scientific experts prior to

consideration of such recommendations by the Commission and provide information, advice and comments thereon, as necessary;

- (c) encourage and promote cooperation in scientific research, taking into account the provisions of article 246 of the 1982 Convention, in order to improve information on highly migratory fish stocks, non-target species, and species belonging to the same ecosystem or associated with or dependent upon such stocks in the Convention Area;
 - (d) review the results of research and analyses of target stocks or non-target or associated or dependent species in the Convention Area;
 - (e) report to the Commission its findings or conclusions on the status of target stocks or non-target or associated or dependent species in the Convention Area;
 - (f) in consultation with the Technical and Compliance Committee, recommend to the Commission the priorities and objectives of the regional observer programme and assess the results of that programme;
 - (g) make reports and recommendations to the Commission as directed, or on its own initiative, on matters concerning the conservation and management of and research on target stocks or non-target or associated or dependent species in the Convention Area; and
 - (h) perform such other functions and tasks as may be requested by or assigned to it by the Commission.
3. The Committee shall exercise its functions in accordance with such guidelines and directives as the Commission may adopt.
 4. The representatives of the Oceanic Fisheries Programme of the Pacific Community and the Inter-American Tropical Tuna Commission, or their successor organizations, shall be invited to participate in the work of the Committee. The Committee may also invite other organizations or individuals with scientific expertise in matters related to the work of the Commission to participate in its meetings.

Article 13 (Scientific services) 1. The Commission, taking into account any recommendation of the Scientific Committee, may engage the services of scientific experts to provide information and advice on the fishery resources covered by this Convention and related matters that may be relevant to the conservation and management of those resources. The Commission may enter into administrative and financial arrangements to utilize scientific services for this purpose. In this regard, and in order to carry out its functions in a cost-effective manner, the Commission shall, to the greatest extent possible, utilize the services of existing regional organizations and shall consult, as appropriate, with any other fisheries management, technical or scientific organization with expertise in matters related to the work of the Commission.

2. The scientific experts may, as directed by the Commission:

- (a) conduct scientific research and analyses in support of the work of the Commission;
- (b) develop and recommend to the Commission and the Scientific Committee stock-specific reference points for the species of principal interest to the Commission;
- (c) assess the status of stocks against the reference points established by the Commission;
- (d) provide the Commission and the Scientific Committee with reports on the results of their scientific work, advice and recommendations in support of the formulation of conservation and management measures and other relevant matters; and
- (e) perform such other functions and tasks as may be required.

3. In carrying out their work, the scientific experts may:

- (a) undertake the collection, compilation and dissemination of fisheries data according to agreed principles and procedures established by the Commission, including procedures and policies relating to the confidentiality, disclosure and publication of data;
- (b) conduct assessments of highly migratory fish stocks, non-target species, and species belonging to the same ecosystem or associated

- with or dependent upon such stocks, within the Convention Area;
 - (c) assess the impacts of fishing, other human activities and environmental factors on target stocks and species belonging to the same ecosystem or dependent upon or associated with the target stocks;
 - (d) assess the potential effects of proposed changes in the methods or levels of fishing and of proposed conservation and management measures; and
 - (e) investigate such other scientific matters as may be referred to them by the Commission.
4. The Commission may make appropriate arrangements for periodic peer review of scientific information and advice provided to the Commission by the scientific experts.
 5. The reports and recommendations of the scientific experts shall be provided to the Scientific Committee and to the Commission.

SECTION 3. THE TECHNICAL AND COMPLIANCE COMMITTEE

Article 14 (Functions of the Technical and Compliance Committee)

1. The functions of the Technical and Compliance Committee shall be to:
 - (a) provide the Commission with information, technical advice and recommendations relating to the implementation of, and compliance with, conservation and management measures;
 - (b) monitor and review compliance with conservation and management measures adopted by the Commission and make such recommendations to the Commission as may be necessary; and
 - (c) review the implementation of cooperative measures for monitoring, control, surveillance and enforcement adopted by the Commission and make such recommendations to the Commission as may be necessary.
2. In carrying out its functions, the Committee shall:
 - (a) provide a forum for exchange of information concerning the means

- by which they are applying the conservation and management measures adopted by the Commission on the high seas and complementary measures in waters under national jurisdiction;
- (b) receive reports from each member of the Commission relating to measures taken to monitor, investigate and penalize violations of provisions of this Convention and measures adopted pursuant thereto;
 - (c) in consultation with the Scientific Committee, recommend to the Commission the priorities and objectives of the regional observer programme, when established, and assess the results of that programme;
 - (d) consider and investigate such other matters as may be referred to it by the Commission, including developing and reviewing measures to provide for the verification and validation of fisheries data;
 - (e) make recommendations to the Commission on technical matters such as fishing vessel and gear markings;
 - (f) in consultation with the Scientific Committee, make recommendations to the Commission on the fishing gear and technology which may be used;
 - (g) report to the Commission its findings or conclusions on the extent of compliance with conservation and management measures; and
 - (h) make recommendations to the Commission on matters relating to monitoring, control, surveillance and enforcement.
3. The Committee may establish, with the approval of the Commission, such subsidiary bodies as may be necessary for the performance of its functions.
4. The Committee shall exercise its functions in accordance with such guidelines and directives as the Commission may adopt.

SECTION 4 . THE SECRETARIAT

Article 15 (The Secretariat) 1. The Commission may establish a permanent Secretariat consisting of an Executive Director and such other staff as the Commission may require.

2. The Executive Director shall be appointed for a term of four years and may be re-appointed for a further term of four years.
3. The Executive Director shall be the chief administrative officer of the Commission, and shall act in that capacity in all the meetings of the Commission and of any subsidiary body, and shall perform such other administrative functions as are entrusted to the Executive Director by the Commission.
4. The Secretariat functions shall include the following:
 - (a) receiving and transmitting the Commission ' s official communications;
 - (b) facilitating the compilation and dissemination of data necessary to accomplish the objective of this Convention;
 - (c) preparing administrative and other reports for the Commission and the Scientific and Technical and Compliance Committees;
 - (d) administering agreed arrangements for monitoring, control and surveillance and the provision of scientific advice;
 - (e) publishing the decisions of and promoting the activities of the Commission and its subsidiary bodies; and
 - (f) treasury, personnel and other administrative functions.
5. In order to minimize costs to the members of the Commission, the Secretariat to be established under this Convention shall be cost effective. The setting up and the functioning of the Secretariat shall, where appropriate, take into account the capacity of existing regional institutions to perform certain technical secretariat functions.

Article 16(The staff of the Commission) 1. The staff of the Commission shall consist of such qualified scientific and technical and other personnel as may be required to fulfil the functions of the Commission. The staff shall be appointed by the Executive Director.

2. The paramount consideration in the recruitment and employment of the staff shall be the necessity of securing the highest standards of efficiency, competence and integrity. Subject to this consideration, due regard shall be paid to the importance of recruiting the staff on an equitable basis between the members of the Commission with a view to

ensuring a broad-based Secretariat.

SECTION 5. FINANCIAL ARRANGEMENTS OF THE COMMISSION

Article 17 (Funds of the Commission) 1. The funds of the Commission shall include:

- (a) assessed contributions in accordance with article 18, paragraph 2;
- (b) voluntary contributions;
- (c) the fund referred to in article 30, paragraph 3; and
- (d) any other funds which the Commission may receive.

2. The Commission shall adopt, and amend as required, by consensus, financial regulations for the administration of the Commission and for the exercise of its functions.

Article 18 (Budget of the Commission) 1. The Executive Director shall draft the proposed budget of the Commission and submit it to the Commission. The proposed budget shall indicate which of the administrative expenses of the Commission are to be financed from the assessed contributions referred to in article 17, paragraph 1 (a), and which such expenses are to be financed from funds received pursuant to article 17, paragraphs 1 (b), (c) and (d). The Commission shall adopt the budget by consensus. If the Commission is unable to adopt a decision on the budget, the level of contributions to the administrative budget of the Commission shall be determined in accordance with the budget for the preceding year for the purposes of meeting the administrative expenses of the Commission for the following year until such time as a new budget can be adopted by consensus.

2. The amount of the contribution to the budget shall be determined in accordance with a scheme which the Commission shall adopt, and amend as required, by consensus. In adopting the scheme, due consideration shall be given to each member being assessed an equal basic fee, a fee based upon national wealth, reflecting the state of development of the member concerned and its ability to pay, and a variable fee. The

variable fee shall be based, *inter alia*, on the total catch taken within exclusive economic zones and in areas beyond national jurisdiction in the Convention Area of such species as may be specified by the Commission, provided that a discount factor shall be applied to the catch taken in the exclusive economic zone of a member of the Commission which is a developing State or territory by vessels flying the flag of that member. The scheme adopted by the Commission shall be set out in the financial regulations of the Commission.

3. If a contributor is in arrears in the payment of its financial contributions to the Commission it shall not participate in the taking of decisions by the Commission if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. Interest shall be payable on such unpaid contributions at such rate as may be determined by the Commission in its financial regulations. The Commission may, nevertheless, waive such interest payments and permit such a member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the member.

Article 19 (Annual audit) The records, books and accounts of the Commission, including its annual financial statement, shall be audited annually by an independent auditor appointed by the Commission.

SECTION 6 . DECISION-MAKING

Article 20 (Decision-making) 1. As a general rule, decision-making in the Commission shall be by consensus. For the purposes of this article, “consensus” means the absence of any formal objection made at the time the decision was taken.

2. Except where this Convention expressly provides that a decision shall be made by consensus, if all efforts to reach a decision by consensus have been exhausted, decisions by voting on questions of procedure shall be taken by a majority of those present and voting. Decisions on questions of substance shall be taken by a three-fourths majority of those

present and voting provided that such majority includes a three-fourths majority of the members of the South Pacific Forum Fisheries Agency present and voting and a three-fourths majority of non-members of the South Pacific Forum Fisheries Agency present and voting and provided further that in no circumstances shall a proposal be defeated by two or fewer votes in either chamber. When the issue arises as to whether a question is one of substance or not, that question shall be treated as one of substance unless otherwise decided by the Commission by consensus or by the majority required for decisions on questions of substance.

3. If it appears to the Chairman that all efforts to reach a decision by consensus have been exhausted, the Chairman shall fix a time during that session of the Commission for taking the decision by a vote. At the request of any representative, the Commission may, by a majority of those present and voting, defer the taking of a decision until such time during the same session as the Commission may decide. At that time, the Commission shall take a vote on the deferred question. This rule may be applied only once to any question.
4. Where this Convention expressly provides that a decision on a proposal shall be taken by consensus and the Chairman determines that there would be an objection to such proposal, the Commission may appoint a conciliator for the purpose of reconciling the differences in order to achieve consensus on the matter.
5. Subject to paragraphs 6 and 7, a decision adopted by the Commission shall become binding 60 days after the date of its adoption.
6. A member which has voted against a decision or which was absent during the meeting at which the decision was made may, within 30 days of the adoption of the decision by the Commission, seek a review of the decision by a review panel constituted in accordance with the procedures set out in Annex II to this Convention on the grounds that:
 - (a) the decision is inconsistent with the provisions of this Convention, the Agreement or the 1982 Convention; or
 - (b) the decision unjustifiably discriminates in form or in fact against the

member concerned.

7. Pending the findings and recommendations of the review panel and any action required by the Commission, no member of the Commission shall be required to give effect to the decision in question.
8. If the review panel finds that the decision of the Commission need not be modified, amended or revoked, the decision shall become binding 30 days from the date of communication by the Executive Director of the findings and recommendations of the review panel.
9. If the review panel recommends to the Commission that the decision be modified, amended or revoked, the Commission shall, at its next annual meeting, modify or amend its decision in order to conform with the findings and recommendations of the review panel or it may decide to revoke the decision, provided that, if so requested in writing by a majority of the members, a special meeting of the Commission shall be convened within 60 days of the date of communication of the findings and recommendations of the review panel.

SECTION 7. TRANSPARENCY AND COOPERATION WITH OTHER ORGANIZATIONS

Article 21(Transparency) The Commission shall promote transparency in its decision-making processes and other activities. Representatives from intergovernmental organizations and non-governmental organizations concerned with matters relevant to the implementation of this Convention shall be afforded the opportunity to participate in the meetings of the Commission and its subsidiary bodies as observers or otherwise as appropriate. The rules of procedure of the Commission shall provide for such participation. The procedures shall not be unduly restrictive in this respect. Such intergovernmental organizations and non-governmental organizations shall be given timely access to pertinent information subject to the rules and procedures which the Commission may adopt.

Article 22(Cooperation with other organizations) 1. The Commission shall cooperate, as appropriate, with the Food and Agriculture Organization

of the United Nations and with other specialized agencies and bodies of the United Nations on matters of mutual interest.

2. The Commission shall make suitable arrangements for consultation, cooperation and collaboration with other relevant intergovernmental organizations, particularly those which have related objectives and which can contribute to the attainment of the objective of this Convention, such as the Commission for the Conservation of Antarctic Marine Living Resources, the Commission for the Conservation of Southern Bluefin Tuna, the Indian Ocean Tuna Commission and the Inter-American Tropical Tuna Commission.
3. Where the Convention Area overlaps with an area under regulation by another fisheries management organization, the Commission shall cooperate with such other organization in order to avoid the duplication of measures in respect of species in that area which are regulated by both organizations.
4. The Commission shall cooperate with the Inter-American Tropical Tuna Commission to ensure that the objective set out in article 2 of this Convention is reached. To that end, the Commission shall initiate consultation with the Inter-American Tropical Tuna Commission with a view to reaching agreement on a consistent set of conservation and management measures, including measures relating to monitoring, control and surveillance, for fish stocks that occur in the Convention Areas of both organizations.
5. The Commission may enter into relationship agreements with the organizations referred to in this article and with other organizations as may be appropriate, such as the Pacific Community and the South Pacific Forum Fisheries Agency, with a view to obtaining the best available scientific and other fisheries-related information to further the attainment of the objective of this Convention and to minimize duplication with respect to their work.
6. Any organization with which the Commission has entered into an arrangement or agreement under paragraphs 1, 2 and 5 may designate

representatives to attend meetings of the Commission as observers in accordance with the rules of procedure of the Commission. Procedures shall be established for obtaining the views of such organizations in appropriate cases.

PART OBLIGATIONS OF MEMBERS OF THE COMMISSION

Article 23 (Obligations of members of the Commission) 1. Each member of the Commission shall promptly implement the provisions of this Convention and any conservation, management and other measures or matters which may be agreed pursuant to this Convention from time to time and shall cooperate in furthering the objective of this Convention.

2. Each member of the Commission shall:

- (a) provide annually to the Commission statistical, biological and other data and information in accordance with Annex I of the Agreement and, in addition, such data and information as the Commission may require;
- (b) provide to the Commission in the manner and at such intervals as may be required by the Commission, information concerning its fishing activities in the Convention Area, including fishing areas and fishing vessels in order to facilitate the compilation of reliable catch and effort statistics; and
- (c) provide to the Commission at such intervals as may be required information on steps taken to implement the conservation and management measures adopted by the Commission.

3. The members of the Commission shall keep the Commission informed of the measures they have adopted for the conservation and management of highly migratory fish stocks in areas within the Convention Area under their national jurisdiction. The Commission shall circulate periodically such information to all members.

4. Each member of the Commission shall keep the Commission informed

of the measures it has adopted for regulating the activities of fishing vessels flying its flag which fish in the Convention Area. The Commission shall circulate periodically such information to all members.

5. Each member of the Commission shall, to the greatest extent possible, take measures to ensure that its nationals, and fishing vessels owned or controlled by its nationals fishing in the Convention Area, comply with the provisions of this Convention. To this end, members of the Commission may enter into agreements with States whose flags such vessels are flying to facilitate such enforcement. Each member of the Commission shall, to the greatest extent possible, at the request of any other member, and when provided with the relevant information, investigate any alleged violation by its nationals, or fishing vessels owned or controlled by its nationals, of the provisions of this Convention or any conservation and management measure adopted by the Commission. A report on the progress of the investigation, including details of any action taken or proposed to be taken in relation to the alleged violation, shall be provided to the member making the request and to the Commission as soon as practicable and in any case within two months of such request and a report on the outcome of the investigation shall be provided when the investigation is completed.

PART DUTIES OF THE FLAG STATE

Article 24 (Flag State duties) 1. Each member of the Commission shall take such measures as may be necessary to ensure that:

- (a) fishing vessels flying its flag comply with the provisions of this Convention and the conservation and management measures adopted pursuant hereto and that such vessels do not engage in any activity which undermine the effectiveness of such measures; and
- (b) fishing vessels flying its flag do not conduct unauthorized fishing within areas under the national jurisdiction of any Contracting Party.

2. No member of the Commission shall allow any fishing vessel entitled to fly its flag to be used for fishing for highly migratory fish stocks in the Convention Area beyond areas of national jurisdiction unless it has been authorized to do so by the appropriate authority or authorities of that member. A member of the Commission shall authorize the use of vessels flying its flag for fishing in the Convention Area beyond areas of national jurisdiction only where it is able to exercise effectively its responsibilities in respect of such vessels under the 1982 Convention, the Agreement and this Convention.
3. It shall be a condition of every authorization issued by a member of the Commission that the fishing vessel in respect of which the authorization is issued:
 - (a) conducts fishing within areas under the national jurisdiction of other States only where the fishing vessel holds any licence, permit or authorization that may be required by such other State; and
 - (b) is operated on the high seas in the Convention Area in accordance with the requirements of Annex III, the requirements of which shall also be established as a general obligation of all vessels operating pursuant to this Convention.
4. Each member of the Commission shall, for the purposes of effective implementation of this Convention, maintain a record of fishing vessels entitled to fly its flag and authorized to be used for fishing in the Convention Area beyond its area of national jurisdiction, and shall ensure that all such fishing vessels are entered in that record.
5. Each member of the Commission shall provide annually to the Commission, in accordance with such procedures as may be agreed by the Commission, the information set out in Annex IV to this Convention with respect to each fishing vessel entered in the record required to be maintained under paragraph 4 and shall promptly notify the Commission of any modifications to such information.
6. Each member of the Commission shall also promptly inform the Commission of:

- (a) any additions to the record;
 - (b) any deletions from the record by reason of:
 - () the voluntary relinquishment or non-renewal of the fishing authorization by the fishing vessel owner or operator;
 - () the withdrawal of the fishing authorization issued in respect of the fishing vessel under paragraph 2;
 - () the fact that the fishing vessel concerned is no longer entitled to fly its flag;
 - () the scrapping, decommissioning or loss of the fishing vessel concerned; and
 - () any other reason, specifying which of the reasons listed above is applicable.
7. The Commission shall maintain its own record, based on the information provided to it pursuant to paragraphs 5 and 6, of fishing vessels referred to in paragraph 4. The Commission shall circulate periodically the information contained in such record to all members of the Commission, and, on request, individually to any member.
8. Each member of the Commission shall require its fishing vessels that fish for highly migratory fish stocks on the high seas in the Convention Area to use near real-time satellite position-fixing transmitters while in such areas. The standards, specifications and procedures for the use of such transmitters shall be established by the Commission, which shall operate a vessel monitoring system for all vessels that fish for highly migratory fish stocks on the high seas in the Convention Area. In establishing such standards, specifications and procedures, the Commission shall take into account the characteristics of traditional fishing vessels from developing States. The Commission, directly, and simultaneously with the flag State where the flag State so requires, or through such other organization designated by the Commission, shall receive information from the vessel monitoring system in accordance with the procedures adopted by the Commission. The procedures adopted by the Commission shall include appropriate measures to protect the

confidentiality of information received through the vessel monitoring system. Any member of the Commission may request that waters under its national jurisdiction be included within the area covered by such vessel monitoring system.

9. Each member of the Commission shall require its fishing vessels that fish in the Convention Area in areas under the national jurisdiction of another member to operate near real-time satellite position-fixing transmitters in accordance with the standards, specification and procedures to be determined by the coastal State.
10. The members of the Commission shall cooperate to ensure compatibility between national and high seas vessel monitoring systems.

PART COMPLIANCE AND ENFORCEMENT

Article 25 (Compliance and enforcement) 1. Each member of the Commission shall enforce the provisions of this Convention and any conservation and management measures issued by the Commission.

2. Each member of the Commission shall, at the request of any other member, and when provided with the relevant information, investigate fully any alleged violation by fishing vessels flying its flag of the provisions of this Convention or any conservation and management measure adopted by the Commission. A report on the progress of the investigation, including details of any action taken or proposed to be taken in relation to the alleged violation, shall be provided to the member making the request and to the Commission as soon as practicable and in any case within two months of such request and a report on the outcome of the investigation shall be provided when the investigation is completed.

3. Each member of the Commission shall, if satisfied that sufficient evidence is available in respect of an alleged violation by a fishing vessel flying its flag, refer the case to its authorities with a view to

instituting proceedings without delay in accordance with its laws and, where appropriate, detain the vessel concerned.

4. Each member of the Commission shall ensure that, where it has been established, in accordance with its laws, that a fishing vessel flying its flag has been involved in the commission of a serious violation of the provisions of this Convention or of any conservation and management measures adopted by the Commission, the vessel concerned ceases fishing activities and does not engage in such activities in the Convention Area until such time as all outstanding sanctions imposed by the flag State in respect of the violation have been complied with. Where the vessel concerned has conducted unauthorized fishing within areas under the national jurisdiction of any coastal State Party to this Convention, the flag State shall, in accordance with its laws, ensure that the vessel complies promptly with any sanctions which may be imposed by such coastal State in accordance with its national laws and regulations or shall impose appropriate sanctions in accordance with paragraph 7. For the purposes of this article, a serious violation shall include any of the violations specified in article 21, paragraphs 11 (a) to (h) of the Agreement and such other violations as may be determined by the Commission.
5. Each member of the Commission shall, to the extent permitted by its national laws and regulations, establish arrangements for making available to prosecuting authorities of other members evidence relating to alleged violations.
6. Where there are reasonable grounds for believing that a fishing vessel on the high seas has engaged in unauthorized fishing within an area under the national jurisdiction of a member of the Commission, the flag State of that vessel, at the request of the member concerned, shall immediately and fully investigate the matter. The flag State shall cooperate with the member concerned in taking appropriate enforcement action in such cases and may authorize the relevant authorities of such member to board and inspect the vessel on the high seas. This paragraph

is without prejudice to article 111 of the 1982 Convention.

7. All investigations and judicial proceedings shall be carried out expeditiously. Sanctions applicable in respect of violations shall be adequate in severity to be effective in securing compliance and to discourage violations wherever they occur and shall deprive offenders of the benefits accruing from their illegal activities. Measures applicable in respect of masters and other officers of fishing vessels shall include provisions which may permit, inter alia, refusal, withdrawal or suspension of authorizations to serve as masters or officers on such vessels.
8. Each member shall transmit to the Commission an annual statement of compliance measures, including imposition of sanctions for any violations, it has taken in accordance with this article.
9. The provisions of this article are without prejudice to:
 - (a) the rights of any of the members of the Commission in accordance with their national laws and regulations relating to fisheries, including the right to impose appropriate sanctions on the vessel concerned in respect of violations occurring within areas under national jurisdiction in accordance with such national laws and regulations; and
 - (b) the rights of any of the members of the Commission in relation to any provision relating to compliance and enforcement contained in any relevant bilateral or multilateral fisheries access agreement not inconsistent with the provisions of this Convention, the Agreement or the 1982 Convention.
10. Each member of the Commission, where it has reasonable grounds for believing that a fishing vessel flying the flag of another State has engaged in any activity that undermines the effectiveness of conservation and management measures adopted for the Convention Area, shall draw this to the attention of the flag State concerned and may, as appropriate, draw the matter to the attention of the Commission. To the extent permitted by its national laws and regulations it shall provide the flag State with full supporting evidence

and may provide the Commission with a summary of such evidence. The Commission shall not circulate such information until such time as the flag State has had an opportunity to comment, within a reasonable time, on the allegation and evidence submitted, or to object as the case may be.

11. The members of the Commission may take action in accordance with the Agreement and international law, including through procedures adopted by the Commission for this purpose, to deter fishing vessels which have engaged in activities which undermine the effectiveness of or otherwise violate the conservation and management measures adopted by the Commission from fishing in the Convention Area until such time as appropriate action is taken by the flag State.

12. The Commission, when necessary, shall develop procedures which allow for non-discriminatory trade measures to be taken, consistent with the international obligations of the members of the Commission, on any species regulated by the Commission, against any State or entity whose fishing vessels fish in a manner which undermines the effectiveness of the conservation and management measures adopted by the Commission.

Article 26 (Boarding and inspection) 1. For the purposes of ensuring compliance with conservation and management measures, the Commission shall establish procedures for boarding and inspection of fishing vessels on the high seas in the Convention Area. All vessels used for boarding and inspection of fishing vessels on the high seas in the Convention Area shall be clearly marked and identifiable as being on government service and authorized to undertake high seas boarding and inspection in accordance with this Convention.

2. If, within two years of the entry into force of this Convention, the Commission is not able to agree on such procedures, or on an alternative mechanism which effectively discharges the obligations of the members of the Commission under the Agreement and this Convention to ensure compliance with the conservation and management measures established by the Commission, articles 21 and 22 of the Agreement

shall be applied, subject to paragraph 3, as if they were part of this Convention and boarding and inspection of fishing vessels in the Convention Area, as well as any subsequent enforcement action, shall be conducted in accordance with the procedures set out therein and such additional practical procedures as the Commission may decide are necessary for the implementation of articles 21 and 22 of the Agreement.

3. Each member of the Commission shall ensure that fishing vessels flying its flag accept boarding by duly authorized inspectors in accordance with such procedures. Such duly authorized inspectors shall comply with the procedures for boarding and inspection.

Article 27 (Measures taken by a port State) 1. A port State has the right and the duty to take measures, in accordance with international law, to promote the effectiveness of subregional, regional and global conservation and management measures. When taking such measures a port State shall not discriminate in form or in fact against the fishing vessels of any State.

2. Whenever a fishing vessel of a member of the Commission voluntarily enters a port or offshore terminal of another member, the port State may, inter alia, inspect documents, fishing gear and catch on board such fishing vessel.
3. Members of the Commission may adopt regulations empowering the relevant national authorities to prohibit landings and transshipments where it has been established that the catch has been taken in a manner which undermines the effectiveness of conservation and management measures adopted by the Commission.
4. Nothing in this article affects the exercise by Contracting Parties of their sovereignty over ports in their territory in accordance with international law.

PART REGIONAL OBSERVER PROGRAMME AND REGULATION OF TRANSHIPMENT

- Article 28(Regional observer programme) 1. The Commission shall develop a regional observer programme to collect verified catch data, other scientific data and additional information related to the fishery from the Convention Area and to monitor the implementation of the conservation and management measures adopted by the Commission.
2. The observer programme shall be coordinated by the Secretariat of the Commission, and shall be organized in a flexible manner which takes into account the nature of the fishery and other relevant factors. In this regard, the Commission may enter into contracts for the provision of the regional observer programme.
3. The regional observer programme shall consist of independent and impartial observers authorized by the Secretariat of the Commission. The programme should be coordinated, to the maximum extent possible, with other regional, subregional and national observer programmes.
4. Each member of the Commission shall ensure that fishing vessels flying its flag in the Convention Area, except for vessels that operate exclusively within waters under the national jurisdiction of the flag State, are prepared to accept an observer from the regional observer programme, if required by the Commission.
5. The provisions of paragraph 4 shall apply to vessels fishing exclusively on the high seas in the Convention Area, vessels fishing on the high seas and in waters under the jurisdiction of one or more coastal States, and vessels fishing in waters under the jurisdiction of two or more coastal States. When a vessel is operating on the same fishing trip both in waters under the national jurisdiction of its flag State and in the adjacent high seas, an observer placed under the regional observer programme shall not undertake any of the activities specified in paragraph 6 (e) when the vessel is in waters under the national jurisdiction of its flag State, unless the flag State of the vessel agrees

otherwise.

6. The regional observer programme shall operate in accordance with the following guidelines and under the conditions set out in article 3 of Annex III of this Convention:

- (a) the programme shall provide a sufficient level of coverage to ensure that the Commission receives appropriate data and information on catch levels and related matters within the Convention Area, taking into account the characteristics of the fisheries;
- (b) each member of the Commission shall be entitled to have its nationals included in the programme as observers;
- (c) observers shall be trained and certified in accordance with uniform procedures to be approved by the Commission;
- (d) observers shall not unduly interfere with the lawful operations of the vessel and, in carrying out their functions, they shall give due consideration to the operational requirements of the vessel and shall communicate regularly with the captain or master for this purpose;
- (e) the activities of observers shall include collecting catch data and other scientific data, monitoring the implementation of conservation and management measures adopted by the Commission and reporting of their findings in accordance with procedures to be developed by the Commission;
- (f) the programme shall be cost effective, shall avoid duplication with existing regional, subregional and national observer programmes, and shall, to the extent practicable, seek to minimize disruption to the operations of vessels fishing in the Convention Area;
- (g) a reasonable period of notice of the placement of an observer shall be given.

7. The Commission shall develop further procedures and guidelines for the operation of the regional observer programme, including:

- (a) to ensure the security of non-aggregated data and other information which the Commission deems to be of a confidential nature;
- (b) for the dissemination of data and information collected by observers

to the members of the Commission;

- (c) for boarding of observers which clearly define the rights and responsibilities of the captain or master of the vessel and the crew when an observer is on board a vessel, as well as the rights and responsibilities of observers in the performance of their duties.

8. The Commission shall determine the manner in which the costs of the observer programme would be defrayed.

Article 29 (Transshipment) 1. In order to support efforts to ensure accurate reporting of catches, the members of the Commission shall encourage their fishing vessels, to the extent practicable, to conduct transshipment in port. A member may designate one or more of its ports as transshipment ports for the purposes of this Convention, and the Commission shall circulate periodically to all members a list of such designated ports.

2. Transshipment at a port or in an area within waters under the national jurisdiction of a member of the Commission shall take place in accordance with applicable national laws.

3. The Commission shall develop procedures to obtain and verify data on the quantity and species transhipped both in port and at sea in the Convention Area and procedures to determine when transshipment covered by this Convention has been completed.

4. Transshipment at sea in the Convention Area beyond areas under national jurisdiction shall take place only in accordance with the terms and conditions set out in article 4 of Annex III to this Convention, and any procedures established by the Commission pursuant to paragraph 3 of this article. Such procedures shall take into account the characteristics of the fishery concerned.

5. Notwithstanding paragraph 4 above, and subject to specific exemptions which the Commission adopts in order to reflect existing operations, transshipment at sea by purse-seine vessels operating within the Convention Area shall be prohibited.

PART REQUIREMENTS OF DEVELOPING STATES

Article 30 (Recognition of the special requirements of developing States) 1. The Commission shall give full recognition to the special requirements of developing States Parties to this Convention, in particular small island developing States, and of territories and possessions, in relation to conservation and management of highly migratory fish stocks in the Convention Area and development of fisheries for such stocks.

2. In giving effect to the duty to cooperate in the establishment of conservation and management measures for highly migratory fish stocks, the Commission shall take into account the special requirements of developing States Parties, in particular small island developing States, and of territories and possessions, in particular:

- (a) the vulnerability of developing States Parties, in particular small island developing States, which are dependent on the exploitation of marine living resources, including for meeting the nutritional requirements of their populations or parts thereof;
- (b) the need to avoid adverse impacts on, and ensure access to fisheries by, subsistence, small-scale and artisanal fishers and fishworkers, as well as indigenous people in developing States Parties, particularly small island developing States Parties, and territories and possessions; and
- (c) the need to ensure that such measures do not result in transferring, directly or indirectly, a disproportionate burden of conservation action onto developing States Parties, and territories and possessions.

3. The Commission shall establish a fund to facilitate the effective participation of developing States Parties, particularly small island developing States, and, where appropriate, territories and possessions, in the work of the Commission, including its meetings and those of its subsidiary bodies. The financial regulations of the Commission shall include guidelines for the administration of the fund and criteria for eligibility for assistance.

4. Cooperation with developing States, and territories and possessions, for the purposes set out in this article may include the provision of financial assistance, assistance relating to human resources development, technical assistance, transfer of technology, including through joint venture arrangements, and advisory and consultative services. Such assistance shall, inter alia, be directed towards:

- (a) improved conservation and management of highly migratory fish stocks through collection, reporting, verification, exchange and analysis of fisheries data and related information;
- (b) stock assessment and scientific research; and
- (c) monitoring, control, surveillance, compliance and enforcement, including training and capacity-building at the local level, development and funding of national and regional observer programmes and access to technology and equipment.

PART PEACEFUL SETTLEMENT OF DISPUTES

Article 31(Procedures for the settlement of disputes) The provisions relating to the settlement of disputes set out in Part VIII of the Agreement apply, mutatis mutandis, to any dispute between members of the Commission, whether or not they are also Parties to the Agreement.

PART NON-PARTIES TO THIS CONVENTION

Article 32(Non-parties to this Convention) 1. Each member of the Commission shall take measures consistent with this Convention, the Agreement and international law to deter the activities of vessels flying the flags of non-parties to this Convention which undermine the effectiveness of conservation and management measures adopted by the Commission.

2. The members of the Commission shall exchange information on the

activities of fishing vessels flying the flags of non-parties to this Convention which are engaged in fishing operations in the Convention Area.

3. The Commission shall draw the attention of any State which is not a Party to this Convention to any activity undertaken by its nationals or vessels flying its flag which, in the opinion of the Commission, affects the implementation of the objective of this Convention.
4. The members of the Commission shall, individually or jointly, request non-parties to this Convention whose vessels fish in the Convention Area to cooperate fully in the implementation of conservation and management measures adopted by the Commission with a view to ensuring that such measures are applied to all fishing activities in the Convention Area. Such cooperating non-parties to this Convention shall enjoy benefits from participation in the fishery commensurate with their commitment to comply with, and their record of compliance with, conservation and management measures in respect of the relevant stocks.
5. Non-parties to this Convention, may, upon request and subject to the concurrence of the members of the Commission and to the rules of procedure relating to the granting of observer status, be invited to attend meetings of the Commission as observers.

PART XI GOOD FAITH AND ABUSE OF RIGHTS

Article 33 (Good faith and abuse of rights) The obligations assumed under this Convention shall be fulfilled in good faith and the rights recognized in this Convention shall be exercised in a manner which would not constitute an abuse of right.

PART XII FINAL PROVISIONS

Article 34 (Signature, ratification, acceptance, approval) 1. This

Convention shall be open for signature by Australia, Canada, China, Cook Islands, Federated States of Micronesia, Fiji Islands, France, Indonesia, Japan, Republic of Kiribati, Republic of the Marshall Islands, Republic of Nauru, New Zealand, Niue, Republic of Palau, Independent State of Papua New Guinea, Republic of the Philippines, Republic of Korea, Independent State of Samoa, Solomon Islands, Kingdom of Tonga, Tuvalu, United Kingdom of Great Britain and Northern Ireland in respect of Pitcairn, Henderson, Ducie and Oeno Islands, United States of America and Republic of Vanuatu and shall remain open for signature for twelve months from the fifth day of September 2000.

2. This Convention is subject to ratification, acceptance or approval by the signatories.
3. Instruments of ratification, acceptance or approval shall be deposited with the depositary.
4. Each Contracting Party shall be a member of the Commission established by this Convention.

Article 35 (Accession) 1. This Convention shall remain open for accession by the States referred to in article 34, paragraph 1, and by any entity referred to in article 305, paragraph 1, subparagraphs (c), (d) and (e) of the 1982 Convention which is situated in the Convention Area.

2. After the entry into force of this Convention, the Contracting Parties may, by consensus, invite other States and regional economic integration organizations, whose nationals and fishing vessels wish to conduct fishing for highly migratory fish stocks in the Convention Area to accede to this Convention.

3. Instruments of accession shall be deposited with the depositary.

Article 36 (Entry into force) 1. This Convention shall enter into force 30 days after the deposit of instruments of ratification, acceptance, approval or accession by:

- (a) three States situated north of the 20 ° parallel of north latitude; and
- (b) seven States situated south of the 20 ° parallel of north latitude.

2. If, within three years of its adoption, this Convention has not been

ratified by three of the States referred to in paragraph 1 (a), this Convention shall enter into force six months after the deposit of the thirteenth instrument of ratification, acceptance, approval or accession or in accordance with paragraph 1, whichever is the earlier.

3. For each State, entity referred to in article 305, paragraph 1, subparagraphs (c), (d) and (e) of the 1982 Convention which is situated in the Convention Area, or regional economic integration organization which ratifies, formally confirms, accepts or approves the Convention or accedes thereto after the entry into force of this Convention, this Convention shall enter into force on the thirtieth day following the deposit of its instrument of ratification, formal confirmation, acceptance, approval or accession.

Article 37 (Reservations and exceptions) No reservations or exceptions may be made to this Convention.

Article 38 (Declarations and statements) Article 37 does not preclude a State, entity referred to in article 305, paragraph 1, subparagraphs (c), (d) and (e) of the 1982 Convention which is situated in the Convention Area, or regional economic integration organization, when signing, ratifying or acceding to this Convention, from making declarations or statements, however phrased or named, with a view, inter alia, to the harmonization of its laws and regulations with the provisions of this Convention, provided that such declarations or statements do not purport to exclude or to modify the legal effect of the provisions of this Convention in their application to that State, entity or regional economic integration organization.

Article 39 (Relation to other agreements) This Convention shall not alter the rights and obligations of Contracting Parties, and fishing entities referred to in article 9, paragraph 2, which arise from other agreements compatible with this Convention and which do not affect the enjoyment by other Contracting Parties of their rights or the performance of their obligations under this Convention.

Article 40 (Amendment) 1. Any member of the Commission may propose

amendments to this Convention to be considered by the Commission. Any such proposal shall be made by written communication addressed to the Executive Director at least 60 days before the meeting of the Commission at which it is to be considered. The Executive Director shall promptly circulate such communication to all members of the Commission.

2. Amendments to this Convention shall be considered at the annual meeting of the Commission unless a majority of the members request a special meeting to consider the proposed amendment. A special meeting may be convened on not less than 60 days notice. Amendments to this Convention shall be adopted by consensus. The text of any amendment adopted by the Commission shall be transmitted promptly by the Executive Director to all members of the Commission.

3. Amendments to this Convention shall enter into force for the Contracting Parties ratifying or acceding to them on the thirtieth day following the deposit of instruments of ratification or accession by a majority of Contracting Parties. Thereafter, for each Contracting Party ratifying or acceding to an amendment after the deposit of the required number of such instruments, the amendment shall enter into force on the thirtieth day following the deposit of its instrument of ratification or accession.

Article 41(Annexes) 1. The Annexes form an integral part of this Convention and, unless expressly provided otherwise, a reference to this Convention or to one of its Parts includes a reference to the Annexes relating thereto.

2. The Annexes to this Convention may be revised from time to time and any member of the Commission may propose revisions to an Annex. Notwithstanding the provisions of article 40, if a revision to an Annex is adopted by consensus at a meeting of the Commission, it shall be incorporated in this Convention and shall take effect from the date of its adoption or from such other date as may be specified in the revision.

Article 42(Withdrawal) 1. A Contracting Party may, by written notification addressed to the depositary, withdraw from this Convention and may

indicate its reasons. Failure to indicate reasons shall not affect the validity of the withdrawal. The withdrawal shall take effect one year after the date of receipt of the notification, unless the notification specifies a later date.

2. Withdrawal from this Convention by a Contracting Party shall not affect the financial obligations of such member incurred prior to its withdrawal becoming effective.

3. Withdrawal from this Convention by a Contracting Party shall not in any way affect the duty of such member to fulfil any obligation embodied in this Convention to which it would be subject under international law independently of this Convention.

Article 43 (Participation by territories) 1. The Commission and its subsidiary bodies shall be open to participation, with the appropriate authorization of the Contracting Party having responsibility for its international affairs, to each of the following:

American Samoa

French Polynesia

Guam

New Caledonia

Northern Mariana Islands

Tokelau

Wallis and Futuna

2. The nature and extent of such participation shall be provided for by the Contracting Parties in separate rules of procedure of the Commission, taking into account international law, the distribution of competence on matters covered by this Convention and the evolution in the capacity of such territory to exercise rights and responsibilities under this Convention.

3. Notwithstanding paragraph 2, all such participants shall be entitled to participate fully in the work of the Commission, including the right to be present and to speak at the meetings of the Commission and its subsidiary bodies. In the performance of its functions, and in taking decisions, the Commission shall take into account the interests of all participants.

Article 44 (Depositary) The Government of New Zealand shall be the

depository of this Convention and any amendments or revisions thereto. The depository shall register this Convention with the Secretary-General of the United Nations in accordance with article 102 of the Charter of the United Nations.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries, being duly authorized thereto, have signed this Convention.

DONE at Honolulu this fifth day of September, two thousand, in a single original.

ANNEX I. FISHING ENTITIES

1. After the entry into force of this Convention, any fishing entity whose vessels fish for highly migratory fish stocks in the Convention Area, may, by a written instrument delivered to the depository, agree to be bound by the regime established by this Convention. Such agreement shall become effective thirty days following the delivery of the instrument. Any such fishing entity may withdraw such agreement by written notification addressed to the depository. The withdrawal shall take effect one year after the date of receipt of the notification, unless the notification specifies a later date.
2. Such fishing entity shall participate in the work of the Commission, including decision-making, and shall comply with the obligations under this Convention. References thereto by the Commission or members of the Commission include, for the purposes of this Convention, such fishing entity as well as Contracting Parties.
3. If a dispute concerning the interpretation or application of this Convention involving a fishing entity cannot be settled by agreement between the parties to the dispute, the dispute shall, at the request of either party to the dispute, be submitted to final and binding arbitration in accordance with the relevant rules of the Permanent Court of Arbitration.
4. The provisions of this Annex relating to participation by fishing entities are solely for the purposes of this Convention.

ANNEX . REVIEW PANEL

1. In accordance with article 20, paragraph 6, an application for review of a decision of the Commission shall be submitted within 30 days of the adoption of the decision by written notification to the Executive Director. Such notification shall be accompanied by a statement of the grounds upon which the review is sought. The Executive Director shall circulate copies of the notification and the accompanying statement to all members of the Commission.
2. The review panel shall be constituted as follows:
 - (a) The review panel shall consist of three members appointed in accordance with this Annex from the list of experts in the field of fisheries drawn up and maintained by the Food and Agriculture Organization of the United Nations pursuant to Annex VIII, article 2, of the 1982 Convention or a similar list maintained by the Executive Director;
 - (b) The member of the Commission submitting the application for review (“the applicant”) shall appoint one member, who may or may not be its national. The appointment shall be included in the written notification referred to in paragraph 1;
 - (c) Where more than one member of the Commission is seeking review of the same decision, such members shall, within 20 days of receipt of the first notification submitted, appoint one member of the panel jointly by agreement, irrespective of the grounds upon which review is sought by each applicant. If the members concerned are unable to reach agreement on the appointment, the appointment shall be made in accordance with subparagraph (f), at the request of any such member;
 - (d) The chairman of the Commission shall, within 20 days of receipt of the notification referred to in paragraph 1 of this Annex, appoint one member;

- (e) The other member shall be appointed by agreement between the member or members of the Commission seeking the review and the chairman of the Commission. They shall appoint the President of the review panel from among those three members. If, within 20 days of receipt of the notification referred to in paragraph 1 of this Annex, the member or members seeking the review and the chairman of the Commission are unable to reach agreement on the appointment of one or more members of the panel to be appointed by agreement, or on the appointment of the President of the review panel, the remaining appointment or appointments shall be made in accordance with subparagraph (f), at the request of any party. Such request shall be made within 10 days of the expiration of the aforementioned 20 day period;
 - (f) Unless the parties agree that any appointment under subparagraphs (c), (d) and (e) of this paragraph be made by a person or a third State chosen by the parties, the President of the International Tribunal for the Law of the Sea shall make the necessary appointments.
 - (g) Any vacancy shall be filled in the manner described for the initial appointment.
3. A hearing shall be convened at a place and on a date to be determined by the panel within 30 days following the constitution of the review panel.
 4. The review panel shall determine its own procedures, providing for the expeditious conduct of the hearing and assuring to the applicant or applicants full opportunity to be heard and to present its or their case.
 5. The Executive Director shall act on behalf of the Commission and shall provide the review panel with sufficient information to enable it to understand the basis upon which the decision was made.
 6. Any member of the Commission may submit a memorandum to the review panel concerning the matter under review and the panel shall allow any such member full opportunity to be heard.
 7. Unless the review panel decides otherwise because of the particular

circumstances of the case, the expenses of the review panel, including the remuneration of its members, shall be borne as follows:

- (a) 70 per cent shall be borne by the applicant or, if there is more than one applicant, divided equally among the applicants; and
 - (b) 30 per cent shall be borne by the Commission from its annual budget.
8. Any decision of the review panel shall be taken by a majority of its members.
9. If the applicant or, where there is more than one applicant, any one of them, does not appear before the review panel, the panel may continue the proceedings and make its findings and recommendations. Absence of an applicant shall not constitute a bar to the review proceedings.
10. The findings and recommendations of the review panel shall be confined to the subject matter of the application and state the reasons on which it is based. It shall contain the names of the members who have participated and the date of the finding. Any member of the panel may attach a separate or dissenting opinion to the finding. The review panel shall not, however, substitute its decision for that of the Commission. The panel shall communicate its findings and recommendations, including its reasons, to the applicant or applicants and the Executive Director within 30 days of the end of the hearing. The Executive Director shall circulate copies of the review panel's findings and recommendations and reasons therefor to all members of the Commission.

ANNEX . TERMS AND CONDITIONS FOR FISHING

Article 1(Introductory) The operator of every fishing vessel authorized to be used for fishing in the Convention Area shall comply with the following terms and conditions at all times when the vessel is in the Convention Area. Such terms and conditions shall apply in addition to any terms and conditions which may apply to the vessel in areas under the national jurisdiction of a member of the Commission by reason of a licence issued by such member or pursuant to a bilateral or multilateral

fisheries agreement. For the purposes of this Annex, “operator” means any person who is in charge of, directs or controls a fishing vessel, including the owner, master or charterer.

Article 2 (Compliance with national laws) The operator of the vessel shall comply with the applicable national laws of each coastal State Party to this Convention in whose jurisdiction it enters and shall be responsible for the compliance by the vessel and its crew with such laws and the vessel shall be operated in accordance with such laws.

Article 3 (Obligations of the operator in respect of observers) 1. The operator and each member of the crew shall allow and assist any person identified as an observer under the regional observer programme to:

- (a) embark at a place and time agreed to;
 - (b) have full access to and use of all facilities and equipment on board which the observer may determine is necessary to carry out his or her duties, including full access to the bridge, fish on board, and areas which may be used to hold, process, weigh and store fish, and full access to the vessel's records including its logs and documentation for the purpose of records inspection and copying, reasonable access to navigational equipment, charts and radios, and reasonable access to other information relating to fishing;
 - (c) remove samples;
 - (d) disembark at an agreed place and time; and
 - (e) carry out all duties safely.
2. The operator or any crew member shall not assault, obstruct, resist, delay, refuse boarding to, intimidate or interfere with observers in the performance of their duties.
3. The operator shall provide the observer, while on board the vessel, at no expense to the observer or the observer's government, with food, accommodation and medical facilities of a reasonable standard equivalent to those normally available to an officer on board the vessel.

Article 4 (Regulation of transhipment) 1. The operator shall comply with any procedures established by the Commission to verify the quantity

and species transhipped, and any additional procedures and measures established by the Commission with respect to transhipment in the Convention Area.

2. The operator shall allow and assist any person authorized by the Commission or by the member of the Commission in whose designated port or area a transhipment takes place to have full access to and use of facilities and equipment which such authorized person may determine is necessary to carry out his or her duties, including full access to the bridge, fish on board and areas which may be used to hold, process, weigh and store fish, and full access to the vessel's records, including its log and documentation for the purpose of inspection and photocopying. The operator shall also allow and assist any such authorized person to remove samples and gather any other information required to fully monitor the activity. The operator or any member of the crew shall not assault, obstruct, resist, delay, refuse boarding to, intimidate or interfere with any such authorized person in the performance of such person's duties. Every effort should be made to ensure that any disruption to fishing operations is minimized during inspections of transhipments.

Article 5 (Reporting) The operator shall record and report vessel position, catch of target and non-target species, fishing effort and other relevant fisheries data in accordance with the standards for collection of such data set out in Annex I of the Agreement.

Article 6 (Enforcement) 1. The authorization issued by the flag State of the vessel and, if applicable, any licence issued by a coastal State Party to this Convention, or a duly certified copy, facsimile or telex confirmation thereof, shall be carried on board the vessel at all times and produced at the request of an authorized enforcement official of any member of the Commission.

2. The master and each member of the crew of the vessel shall immediately comply with every instruction and direction given by an authorized and identified officer of a member of the Commission, including to stop, to move to a safe location, and to facilitate safe

boarding and inspection of the vessel, its licence, gear, equipment, records, facilities, fish and fish products. Such boarding and inspection shall be conducted as much as possible in a manner so as not to interfere unduly with the lawful operation of the vessel. The operator and each member of the crew shall facilitate and assist in any action by an authorized officer and shall not assault, obstruct, resist, delay, refuse boarding to, intimidate or interfere with an authorized officer in the performance of his or her duties.

3. The vessel shall be marked and identified in accordance with the FAO Standard Specifications for the Marking and Identification of Fishing Vessels or such alternative standard as may be adopted by the Commission. At all times when the vessel is in the Convention Area, all parts of such markings shall be clear, distinct and uncovered.
4. The operator shall ensure the continuous monitoring of the international distress and calling frequency 2182 khz (HF) or the international safety and calling frequency 156.8 Mhz (channel 16, VHF-FM) to facilitate communication with the fisheries management, surveillance and enforcement authorities of the members of the Commission.
5. The operator shall ensure that a recent and up to date copy of the International Code of Signals (INTERCO) is on board and accessible at all times.
6. At all times when the vessel is navigating through an area under the national jurisdiction of a member of the Commission in which it does not have a licence to fish, and at all times when the vessel is navigating on the high seas in the Convention Area and has not been authorized by its flag State to fish on the high seas, all fishing equipment on board the vessel shall be stowed or secured in such a manner that it is not readily available to be used for fishing.

ANNEX . INFORMATION REQUIREMENTS

The following information shall be provided to the Commission in respect of each fishing vessel entered in the record required to be maintained under article 24, paragraph 4, of this Convention:

1. Name of fishing vessel, registration number, previous names (if known), and port of registry;
2. Name and address of owner or owners;
3. Name and nationality of master;
4. Previous flag (if any);
5. International Radio Call Sign;
6. Vessel communication types and numbers (Inmarsat A, B and C numbers and satellite telephone number);
7. Colour photograph of vessel;
8. Where and when built;
9. Type of vessel;
10. Normal crew complement;
11. Type of fishing method or methods;
12. Length;
13. Moulded depth;
14. Beam;
15. Gross register tonnage;
16. Power of main engine or engines;
17. The nature of the authorization to fish granted by the flag State;
18. Carrying capacity, including freezer type, capacity and number and fish hold capacity.